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Separately Attached



NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



**BROWNFIELD CLEANUP PROGRAM (BCP)**

ECL ARTICLE 27 / TITLE 14

07/2010

DEPARTMENT USE ONLY  
BCP SITE #:

**Section I. Requestor Information**

NAME IFR Development, LLC

ADDRESS 323 North Tioga Street

CITY/TOWN Ithaca

ZIP CODE 14850

PHONE 607-273-1654

FAX 607-273-5382

E-MAIL ftravis@travishyde.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

-If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF REQUESTOR'S REPRESENTATIVE Frost Travis

ADDRESS 323 North Tioga Street

CITY/TOWN Ithaca

ZIP CODE 14850

PHONE 607-273-1654

FAX 607-273-5382

E-MAIL ftravis@travishyde.com

NAME OF REQUESTOR'S CONSULTANT Peter Grevelding, P.E., O'Brien & Gere Engineers, Inc.

ADDRESS 400 Andrews Street Suite 710

CITY/TOWN Rochester

ZIP CODE 14614

PHONE 585-295-7700

FAX 585-263-2869

E-MAIL Pete.Grevelding@obg.com

NAME OF REQUESTOR'S ATTORNEY Alan J. Knauf, Esq. Knauf Shaw LLP

ADDRESS 2 State Street, Suite 1125

CITY/TOWN Rochester, New York

ZIP CODE 14614

PHONE 585-546-8430

FAX 585-546-4324

E-MAIL aknauf@nyenvlaw.com

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other \_\_\_\_\_

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes ☐ No

-Proof of site access must be submitted for non-owners

RECEIVED

JAN 02 2013

BUREAU OF  
TECHNICAL SUPPORT

**Section II. Property Information**

Check here if this application is to request significant changes to property set forth in an existing BCA: ☐  
Existing BCP site number: \_\_\_\_\_

PROPERTY NAME **Former Ithaca Gun Factory**ADDRESS LOCATION **121-125 Lake Street**CITY/TOWN **Ithaca**ZIP CODE **14850**

MUNICIPALITY(IF MORE THAN ONE, LIST ALL)

**City of Ithaca**COUNTY **Tompkins**SITE SIZE (ACRES) **1.63**LATITUDE (degrees/minutes/seconds) **42 ° 27 ' 58.572 "**LONGITUDE (degrees/minutes/seconds) **-76 ° 29 ' 34.1874 "**HORIZONTAL COLLECTION METHOD: ☐ SURVEY ☐ GPS ☒ MAPHORIZONTAL REFERENCE DATUM: **WGS84**

COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address

Parcel No.

Section No.

Block No.

Lot No.

Acreage

**121-125 Lake St.****43.1****11****3****1.22****1.42****121-125 Lake St. (boiler stack location)****43.1****11****3****1.23****0.21**

1. Do the property boundaries correspond to tax map metes and bounds?

☒ Yes ☐ No

If no, please attach a metes and bounds description of the property.

2. Is the required property map attached to the application? (application will not be processed without map)

☒ Yes ☐ No

3. Is the property part of a designated En-zone pursuant to Tax Law § 21(b)(6)?

☐ Yes ☒ NoFor more information please see Empire State Development's [website](#).

If yes, identify area (name) \_\_\_\_\_

Percentage of property in En-zone (check one): ☐ 0-49% ☐ 50-99% ☐ 100%4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? If yes, identify name of properties in related BCP applications: ☐ Yes ☒ No

5. Property Description Narrative:

**See Property Description in Support Document Section II.5**

6. List of Existing Easements (type here or attach information)

Easement HolderDescription**City of Ithaca - The easement permits access to the Ithaca Falls Overlook Site. See Exhibit B Easement Map and Exhibit D.**

7. List of Permits issued by the NYSDEC or USEPA Relating to the Proposed Site (type here or attach information)

TypeIssuing AgencyDescription**N/A**

If any changes to Section II are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: ajt \_\_\_\_\_

**Section III. Current Property Owner/Operator Information**

OWNER'S NAME IFR Development, LLC

ADDRESS 323 North Tioga Street

CITY/TOWN Ithaca

ZIP CODE 14850

PHONE 607-273-1654

FAX 607-273-5382

E-MAIL ftravis@travishyde.com

OPERATOR'S NAME See Support Document Section III Operator Information; Land is Vacant

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Requestor Eligibility Information (Please refer to ECL § 27-1407)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

- |  |                              |  |
|--|------------------------------|--|
| 1. Are any enforcement actions pending against the requestor regarding this site?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the requestor subject to an existing order relating to contamination at the site?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Has the requestor been determined to have violated any provision of ECL Article 27?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Has the requestor previously been denied entry to the BCP?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department?  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

**Section V. Property Eligibility Information (Please refer to ECL § 27-1405)**

- |  |                              |  |
|--|------------------------------|--|
| 1. Is the property, or was any portion of the property, listed on the National Priorities List?<br>If yes, please provide relevant information as an attachment.   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the property, or was any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites?<br>If yes, please provide: Site # _____ Class # _____   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?<br>If yes, please provide: Permit type: _____ EPA ID Number: _____<br>Date permit issued: _____ Permit expiration date: _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the property subject to a cleanup order under navigation law Article 12 or ECL Article 17 Title 10?<br>If yes, please provide: Order # _____   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?<br>If yes, please provide explanation as an attachment.   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

**Section VI. Project Description**What stage is the project starting at? ☒ Investigation ☐ Remediation

Please attach a description of the project which includes the following components:

- Purpose and scope of the project
- Estimated project schedule



## Section VII. Property's Environmental History

To the extent that existing information/studies/reports are available to the requestor, please attach the following:

### 1. Environmental Reports

A Phase I environmental site assessment report prepared in accordance with ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), and all environmental reports related to contaminants on or emanating from the site.

If a final investigation report is included, indicate whether it meets the requirements of ECL Article 27-1415(2): ☐ Yes ☒ No

### 2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs		Benzene, TCE, Vinyl Chloride			
SVOCs					
Metals	Lead			Lead	
Pesticides					
PCBs					
Other*					

\*Please describe: \_\_\_\_\_

### 3. SUSPECTED CONTAMINANTS: INDICATE SUSPECTED CONTAMINANTS AND THE MEDIA WHICH MAY HAVE BEEN AFFECTED. PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs		Benzene, TCE, Vinyl Chloride			
SVOCs					
Metals	Lead			Lead	
Pesticides					
PCBs					
Other*					

\*Please describe: \_\_\_\_\_

### 4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS (CHECK ALL THAT APPLY). PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

- ☐ Above Ground Pipeline or Tank    ☐ Lagoons or Ponds    ☐ Underground Pipeline or Tank    ☐ Surface Spill or Discharge  
☒ Routine Industrial Operations    ☐ Dumping or Burial of Wastes    ☐ Septic tank/lateral field    ☒ Adjacent Property  
☐ Drums or Storage Containers    ☐ Seepage Pit or Dry Well    ☐ Foundry Sand    ☐ Electroplating  
☐ Coal Gas Manufacture    ☐ Industrial Accident    ☐ Unknown

Other: In addition to gun manufacturing, site was used as a shooting range.

### 5. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- ☐ Coal Gas Manufacturing    ☒ Manufacturing    ☐ Agricultural Co-op    ☐ Dry Cleaner    ☐ Salvage Yard    ☐ Bulk Plant  
☐ Pipeline    ☐ Service Station    ☐ Landfill    ☐ Tannery    ☐ Electroplating    ☐ Unknown

Other: Shooting range

### 6. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

## Section VIII. Contact List Information

Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). In addition, attach a copy of a letter sent to the repository acknowledging that it agrees to act as the document repository for the property.

## Section IX. Land Use Factors (Please refer to ECL § 27-1415(3))

1. Current Use: ☐ Residential ☐ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply)  
Provide summary of business operations as an attachment.

2. Intended Use Post Remediation: ☐ Unrestricted ☒ Residential ☐ Commercial ☐ Industrial (check all that apply)  
Provide specifics as an attachment.

- |  |   |
|--|---|
| 3. Do current historical and/or recent development patterns support the proposed use? (See #14 below re: discussion of area land uses) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|--|---|

- |   |   |
|---|---|
| 4. Is the proposed use consistent with applicable zoning laws/maps? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|---|---|

- |  |   |
|--|---|
| 5. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|--|---|

- |  |   |
|--|---|
| 6. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)). | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|--|---|

- |  |   |
|--|---|
| 7. Are there any federal or state land use designations relating to this site? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|--|---|

- |  |   |
|--|---|
| 8. Do the population growth patterns and projections support the proposed use? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|--|---|

- |   |   |
|---|---|
| 9. Is the property accessible to existing infrastructure? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|---|---|

- |   |   |
|---|---|
| 10. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|---|---|

- |   |   |
|---|---|
| 11. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|---|---|

- |  |   |
|--|---|
| 12. Are there floodplains within ½ mile? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|--|---|

- |  |   |
|--|---|
| 13. Are there any institutional controls currently applicable to the property? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|--|---|

14. Describe the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas in an attachment.

15. Describe the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas in an attachment.

16. Describe the geography and geology of the site in an attachment.

## Section X. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

(By an requestor other than an individual)

I hereby affirm that I am MANAGING PARTNER (title) of IFR DEVELOPMENT, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 12/27/12 Signature: A. Frost Travis Print Name: A. FROST TRAVIS

### SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

- One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices.

### FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: \_\_\_\_\_ LEAD OFFICE: \_\_\_\_\_

# **BROWNFIELD CLEANUP PROGRAM APPLICATION *SUPPORT DOCUMENT***

## **SECTION I - REQUESTOR INFORMATION**

The Requester, IFR Development, LLC is an active New York Domestic Limited Liability Company. *See Exhibit A.*

## **SECTION II - PROPERTY INFORMATION**

### **II.5: PROPERTY DESCRIPTION NARRATIVE:**

The “Site” that will be the subject of this application is made up of approximately 1.63 acres in the City of Ithaca, Tompkins County, New York. *See Exhibit B.* The original site consisted of approximately 2.6 acres. However, approximately 1 acre was granted to the City of Ithaca to be developed as a City park with a public walkway and overlook area for the adjacent Ithaca Falls. The remaining 1.63-acre Site is located in a residential area with the Ithaca Falls to the north, Cornell University to the east, Lake Street to the south and City of Ithaca residential neighborhood to the west. This is the well-known former Ithaca Gun Company site that operated as the Ithaca Gun manufacturing plant and test site for approximately one hundred years. Since its filing for bankruptcy in 1979, site redevelopment has been plagued by contamination. The Site is currently vacant, with primary buildings demolished in 2009, leaving only a small single-story building and Ithaca Gun boiler stack.

The Site is immediately surrounded by residential uses to the east, south and west. Directly adjacent to the east is the Sigma Nu fraternity house, housing about 55 members and overlooking the gorge and Cayuga Lake. To the south is Lake Street and residential apartment housing. To the west, and down the hill, is Fall Creek Elementary School and City of Ithaca residential homes. *See Exhibit B, Adjacent Use Map.*

The Site address is 121-125 Lake Street [Tax Map Nos. 11-3-1.22 and 11-3-1.23]; Note Tax Map No. 11-3-1.21 was conveyed by the Requestor to the City of Ithaca on December 30, 2008. *See Exhibit C, including address and tax parcel chart and Tax Map, and Exhibit D, deeds and legal property descriptions.*

## **SECTION III - CURRENT PROPERTY OWNER/OPERATOR INFORMATION**

The Site is currently owned by the Requestor, IFR Development, LLC. The Requestor is a newly formed entity that purchased the Site on June 28, 2012 in contemplation of taking the Site through the Brownfield Cleanup Program (BCP) and constructing a residential development.

There are no operators of the Site. The Site is currently vacant with all primary buildings being demolished in 2009, leaving only a small single story building and the former Ithaca Gun boiler stack. The Site has not been in use since 1988. *See* Exhibit G, Previous Owners and Operators.

## **SECTION IV – REQUESTOR ELIGIBILITY INFORMATION**

As set forth in the application, the Requestor is an eligible requestor in compliance with ECL§27-1407. Any contamination that occurred on the Site pre-dated the Requestor's ownership. The Requestor has no relation to the Ithaca Gun Company and was not involved in operation of the Ithaca Gun Factory.

## **SECTION V – PROPERTY ELIGIBILITY INFORMATION**

This application demonstrates this Site is a brownfield site in conformance with the statutory and regulatory definition that is eligible for the BCP. In addition to the responses on the application, the following information further demonstrates this Site's eligibility for the BCP.

A "brownfield site" is defined by statute as "real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant." ECL §27-1405(2). "There are two constituents to the definition: the presence or potential presence of a contaminant on the real property; and this presence or potential presence must complicate the property's redevelopment or reuse." *Lighthouse Pointe Property Associates, LLC v. NYSDEC*, 14 N.Y.3d 161, 176, 897 N.Y.S.2d 693, 702-3 (2010).

As set forth below, the Site meets each of these two criteria, since contamination at the Site has clearly complicated the Site's redevelopment. As such, the Site meets the brownfield site statutory definition in ECL§27-1405(2), and the regulatory eligibility definition in 6 NYCRR §375-3.3(a)(1).

### ***1. "Presence or potential presence of a contaminant on the real property."***

The Site clearly meets this first part of the eligibility test, which NYSDEC regulations restate as follows:

there must be confirmed contamination on the property or a reasonable basis to believe that contamination is likely to be present on the property;

6 NYCRR §375-3.3(a)(1)(i). According to the Court of Appeals, "a contaminant is present or potentially present on real property when it does or may exist or be found within the property's



limits.” *Lighthouse Pointe Property Associates, LLC v. NYSDEC*, 14 N.Y.3d 161, 176, 897 N.Y.S.2d 693, 703 (2010).

This application demonstrates contamination on the Site from multiple historic uses over a one hundred year time period, including the manufacturing and testing of guns with leaded ammunition at an on-site shooting range. Prior to being used as the Ithaca Gun manufacturing and testing plant, Sanborn Fire Insurance maps indicate the Site was used by the Ithaca Manufacturing Co., and the W.H. Baker Co. where structures included machine shops, wood working shops, a shooting gallery, and associated facilities. These historic uses were distributed throughout the Site such that it is reasonable to believe suspect contamination is present throughout the entire Site.

Following demolition of the buildings in 2009, approximately 1,700 tons of lead-contaminated soil mixed with coal ash was removed from the Site as part of a partial remediation under the Voluntary Cleanup Program (“VCP”). However, significant contamination remains on the Site in excess of the Recommended Soil Cleanup Objectives (SCO) of 400 ppm for lead for both residential and restricted residential use. 6 N.Y.C.R.R. §375-6.8(b).

XRF screening undertaken in 2011 after building demolition revealed widespread lead contamination exceeding the SCO in soils across the Site. *See* Exhibit J, 2011 Post-Demolition XRF Screening Results. Many XRF readings exceeded 1,000 ppm, particularly in the western and northeastern portions of the Site. Visual evidence of coal remains in portions of the Site where soils were previously tested and found to have lead concentrations far exceeding the SCO of 400 mg/Kg. *See* Exhibit E, Former Use/Recognized Environmental Conditions Map. *See also* Section VII “Property’s Environmental History” for additional details regarding the past uses for the Site.

The findings of significant contamination remaining at the Site are consistent with the VCP Remedial Investigation, which had estimated there were 2,440 tons of soil with lead contamination exceeding 400 ppm. *See* VCP Remedial Investigation Report. The VCP Remedial Investigation revealed actual lead contamination drastically exceeding SCO levels with lead levels up to 42,300 ppm in the Cyclone area, 6,030 ppm in the Asphalt area, 2,840 ppm in a bare area in the southern portion of the Site, 4,190 ppm in the basement oil room and 51,000 ppm in the western portion of the Site. *See* VCP Remedial Investigation Report. Further, Spill No. 9965014 was reported in April 1999 in relation to unknown petroleum deriving from the Site.

In addition, there are numerous potentially hazardous sites within one mile of the subject Site. Four sites are on the State Registry of Inactive Hazardous Waste Disposal Sites list, and one site on the Vapor Reopened list. There are six sites on the Leaking Storage Tanks list within half of one mile from the subject Site. There are five records of spill sites within 0.125 miles, one underground storage tank within one quarter mile, and two manufactured gas plants within one mile of the Site. Finally, the approximately one acre of land conveyed to the City of Ithaca is a brownfield being remediated under the Environmental Restoration Program.

The environmental history of the Site is described in more detail below in Section VII entitled “Property’s Environmental History.” Section VII, in conjunction with this entire application, and the Phase I Report and VCP Remedial Investigation report attached separately and

the 2011 Post-Demolition XRF Screening Results, collectively demonstrate that the past uses of this Site demonstrate that contamination is present on this Site, and as such, the Site meets the brownfield site statutory definition in Environmental Conservation Law §27-1405(2), and the regulatory eligibility definition in 6 NYCRR §375-3.3(a)(1).

**2. “Presence or potential presence of a contaminant... complicate the property’s redevelopment or reuse.”**

In addition to confirmed or suspect contamination:

there must be a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use or re-use of the property.

6 N.Y.C.R.R. §375-3.3(a)(1)(ii). Thus, there is a “low eligibility standard,” and “real property qualifies as a ‘brownfield site’ for purposes of acceptance into the BCP so long as the presence or potential presence of a contaminant within its boundaries makes redevelopment or reuse more complex, involved, or difficult in some way.” *Lighthouse Pointe Property Associates, LLC v. NYSDEC*, 14 N.Y.3d 161, 177, 897 N.Y.S.2d 693, 703 (2010). According to the Department’s March 3, 2005 *Revised Eligibility Guidance* ¶2.2(3):

In determining whether there is a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use or re-use of the property, the Department will consider the following factors, to the extent such factors are relevant to the proposed site:

- (A) whether the proposed site is idled, abandoned or underutilized;
- (B) whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination;
- (C) whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values; and/or
- (D) whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.

Clearly, contamination has complicated redevelopment of the Site. The Site is situated in a prime development location on the edge of Cornell University overlooking the Ithaca Falls and Cayuga Lake. However, financing is not available, zoning approvals cannot be obtained, and the Site cannot be safely occupied unless the contamination is properly

remediated. Requestor expects that if it proceeds through the BCP, and obtains approval from NYSDEC for a remedial plan that upon completion will result in a statutory release of liability, a lender provide construction financing for the Project. The Site meets each of the criteria set forth in the NYSDEC guidance:

**(A) “Whether the proposed site is idled, abandoned or underutilized.”** The Site has been vacant since the closing of Ithaca Gun in the 1980’s. As a result, the Site has been completely underutilized, in spite of its close proximity to one of the State’s most prestigious Finger Lakes, Cayuga Lake, one of Ithaca’s most visited gorges, the Ithaca Falls (Fall Creek) and to Cornell University. The highest and best use of this land is no longer for industrial use, but rather for a new residential development congruent with the uses surrounding it and Ithaca’s need for residential units. The highest and best use of this land is not being realized, therefore, the Site meets the first brownfield site eligibility factor as it is vacant, abandoned, idle and completely underutilized.

**(B) “Whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination.”** The Ithaca Gun Site is well-recognized in the community as a site of contamination and a sore within the City. Fall Creek Development, a prior investor, attempted to redevelop the Site, but its success was impeded by the presence of contamination. There is simply a well-known perception of contamination on this Site. To this day, the Ithaca Gun Site remains vacant and undeveloped due to the presence and perception of contamination. Lenders are currently unwilling to finance the Project due to concerns about the environmental risks, including undefined cleanup costs, stigma that might result in failure of residents to buy or rent units, and possible toxic tort claims for future residents.

While the Site is currently in the VCP, that does not disqualify the Site for the BCP or eliminate the complications that impede redevelopment of the Site. *East River Realty Company, LLC v. New York State Department of Environmental Conservation*, 22 Misc.3d 404, 866 N.Y.S.2d 537 (Sup. Ct. N.Y. Co. 2008), *aff’d* 68 A.D.3d 564, 891 N.Y.S.2d 359 (1<sup>st</sup> Dep’t 2009). Furthermore, the VCP does not offer the tax credits that are necessary to make the Project feasible by eventually offsetting at least some of the environmental response costs. Nor does the VCP offer a statutory liability release like the BCP. Lenders will desire the statutory release, especially in light of the statement by the Court of Appeals that a site release may be “impossible absent... completion of a cleanup under DEC’s auspices in the BCP.” *Lighthouse Pointe Property Associates, LLC v. NYSDEC*, 14 N.Y.3d 161, 178, 897 N.Y.S.2d 693, 704 (2010). Upon admission to the BCP, the existing VCP Agreement would be terminated.

Participation in the BCP enables lenders to proceed with financing due to NYSDEC and NYSDOH oversight of the remediation project and the issuance of a statutory liability release. Outside of the program, it is not clear any lender would take on this risk in this economy. All of the above have made the Site unattractive for redevelopment, particularly outside the context of the BCP. Thus, the Site meets the second brownfield site eligibility factor as it is unattractive for redevelopment due to not just perception of, but actual contamination.

**(C) “Whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values.”** The Site

is not located in an Environmental Zone area. However, the Site is located a mere 200 feet from an Environmental Zone area and suffers from some level of economic distress due to this proximity. The brownfield status of the property has prevented investment in the establishments on the Site. The former Ithaca Gun Site is one of the most well known areas in Ithaca, once because of the success of the company but now because of the vacancy, distress, and abandonment of the area. As noted above, this area is not desirable due to its long history of manufacturing and use as a shooting range resulting in significant contamination. Therefore, the Site meets the third brownfield site eligibility factor.

**(D) *“Whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.”***

With respect to the cost factor, while final costs are not yet available, the cost of remediation will be significant, and is expected to approach seven figures. The planned use for the Site is a residential development, and it will likely require extensive Site work, capping and institutional and engineering controls, since an unrestricted cleanup may not be feasible due to the geography and extent of contamination. The remedial measures will likely include a vapor barrier and/or subslab depressurization system for the buildings on the Site. Participation in the BCP is critical, since the program defines the limits of remediation for a volunteer, and promises certain forms of relief in exchange for the remedial efforts.

The future value of the land cannot be accurately predicted, particularly before the remaining remediation work is accomplished. However, the value after cleanup is likely to be close to the expected site preparation costs. Even after the remedial work is accomplished, the Site is not likely to achieve unrestricted Track 1 cleanup levels, and therefore, institutional and engineering controls will be required causing a permanent stigma impacting future value. The Requestor will do what it can to overcome this stigma by performing a comprehensive remediation with the goal of achieving the highest level of residential standards feasible in order to assure the safety of future residential and recreational users. However, it is clear that the fourth eligibility factor is satisfied in that the remedial cost will be significant, and is an upfront cost that will have to be expended to enhance the future value of the Site.

In sum, the currently known contamination is complicating development, so that both the contamination and complication elements of the eligibility test have been met.

## **SECTION VI - PROJECT DESCRIPTION**

### **1. PURPOSE AND SCOPE OF THE PROJECT**

A proposed residential development project has been planned for the Site. This was originally proposed to include 33 condominium units. However, the proposed condominium project is being reevaluated, and it is likely that instead the Site will be developed with residential apartment units, in order to ensure financing of the project. *See Exhibit F, Project Design Map*

### **2. ESTIMATED PROJECT SCHEDULE**

After the Brownfield Cleanup Program Application for the Site is approved, a remedial investigation work plan will be adopted taking into consideration the City of Ithaca remedial investigation of the adjacent one acre parcel. It is expected to include where necessary soil borings, groundwater sampling and/or vapor recovery tests. Such sampling will likely be on the North and West edges of the Site, the down-gradient side of the Site. This investigation process is estimated to take approximately 3 months. Following the investigation, necessary remedial action activities will be performed between July and October 2013. Remediation will likely include excavation of contaminated soils, and installation of the soil cover and asphalt and concrete caps. More specific timelines will follow in the work-plans.

Construction is expected to take approximately two years over a multiple phase period:

- Excavation and Foundation: Excavation and foundation work required for the new building(s) is expected to take approximately four months beginning in November 2013 and ending in February 2014.
- Building Construction: Erection and enclosure of the new structures is anticipated to begin March 2014 and would continue over approximately six months ending in September 2014.
- Interior Construction: Interior construction activities would begin September 2014 and continue through December 2014 requiring approximately three months.
- However, construction work will not proceed until the Site Investigation and Remedial Action Work Plan tasks are complete.

## **SECTION VII – PROPERTY ENVIRONMENTAL HISTORY**

### **1. Summary of Environmental Reports**

A copy of the Phase I Environmental Site Assessment is attached. The Phase I Report was prepared by O'Brien & Gere in June 2012, for IFR Development, LLC, in accordance with ASTM Practice E1527-05. In addition, a Voluntary Clean-up Program Remedial Investigation Report was prepared by Prescott Environmental Associates, Inc. in May 2002, for Dr. Wally Diehl, DVM.



**A. Phase I Environmental Site Assessment**

A Phase I Environmental Site Assessment was performed for the property in June 2012 by O'Brien & Gere for IFR Development, LLC for the possible redevelopment into multi-unit residential uses. The findings of the Phase I report are summarized below.

The Site was originally approximately 2.6 acres, but was subsequently subdivided with approximately one acre located along Fall Creek being conveyed to the City of Ithaca. The remaining approximately 1.63 acres, the subject property of this BCP application, is vacant with all primary buildings being demolished in 2009. A very small one story building and the old Ithaca Gun boiler stack remains on the property. The Site is not currently in use and has not been in use for approximately 30 years due to actual and potential contamination. From approximately 1880 to 1980, the Site was used as the Ithaca Gun manufacturing facility. In addition to producing the famous guns, the Site also contained a shooting range in which the guns were tested with lead ammunition. Prior to being used as the Ithaca Gun Co., the Site was used as the Ithaca Manufacturing Co. In 2003, under ownership of Dr. Wally Diehl, prior owner, the 2.6 acre site was entered into the VCP program due primarily to significant lead contamination. The United States Environmental Protection Agency oversaw a partial remediation of the 2.6 acres.

The vicinity is characterized by residential uses. Current adjoining properties are occupied as follows: vacant land (i.e. Ithaca Falls, Ithaca Falls Nature Area and Fall Creek) to the north, Sigma Nu fraternity house and other Cornell University housing to the east, Lake Street and multi-unit residential housing to the south and Lake Street, single family housing, and Fall Creek Elementary School to the west.

The Phase I concluded that the Site revealed evidence of Recognized Environmental Conditions ("RECs"), including a finding that the Site had historical industrial uses. Specifically, the Site's historical use includes a gun manufacturing facility and shooting range. The Phase I also noted that a prior VCP Remedial Investigation found exceedances for both VOCs and lead.

**B. VCP Remedial Investigation**

The VCP Remedial Investigation report was completed following the submittal and approval of a VCP Work Plan to NYSDEC. The limited investigation was conducted in November and December 2001 to address RECs based upon previous assessment work and concerns of NYSDEC. *See Exhibit E.* Numerous soil borings were completed by direct push, hand pounding or by hand auger, and surface samples were also collected. Soil samples were initially taken from a depth of 0-1 foot. If lead was reported exceeding 400 ppm at the initial sample, additional samples were taken from depths of 4 to 8 feet or from just above the bedrock.

In addition to the soil samples, three groundwater samples were collected. Laboratory assessment work and reporting met and/or exceeded the New York State guidelines for VCP program, Technical Requirements, and any other pertinent state regulation. Results were as follows:

## Soil Samples

- Cyclone area – All ten soil borings contained lead exceeding 400 ppm. In the northern cyclone area, lead contamination ranged from 7,850 to 42,300 ppm. In the southern cyclone area, lead contamination ranged from 450 to 8,210 ppm. A surface soil collection from the southern cyclone area contained 1,550 ppm lead.
- Asphalt area – Three of the four soil boring were refused just below the surface. The one sample obtained contained 6,030 ppm lead.
- Forge/Shop Building – None of the samples collected in this area had lead above the 400 ppm limit. However, one sample contained 107 ppm chromium.
- Bare Soil next to Quonset Hut – Two direct push boring were completed and three surface collections were tested. The sample collected from the south east corner of the Quonset Hut had 2,840 ppm lead.
- Drains/Sumps in Basement of Forge/Shop Building – Three drains were located in this area containing visible contaminated water and sediment. Drain 1, located in the compressor room, had 2,950 ppm lead in the sediment and 433 ppb in the standing water. Drain 2, located in one of the shooting ranges, contained 413,000 ppm lead in the sediment and 160 ppb in the water. Drain 3, located in the oil room, contained 870 ppm lead in the sediment and a low concentration in the water. Sediment from an exterior trench contained 14,400 ppm lead and 191 ppm chromium.
- Service Road – Soil samples from this road, running north south along the eastern side of the parcel, did not contain any exceedances.
- Basement Oil Room – Two samples were tested from this area with one containing 524 ppm lead and the other 4,190 ppm lead.
- Bare Soil Area Above Barn Building – Surface collections in this area in the northeastern portion of the Site did not contain any exceedances.
- Westerly Parcel – Although 10 borings were initially scheduled, 13 additional borings were completed at the direction of the NYSDEC. This area had the highest soil concentration of lead, containing 51,000 ppm. Exceedances were also found at all levels of the boring. Further, chromium and barium were reported in several samples ranging from 52 to 274 ppm and 328 to 1,710 ppm respectively.
- New Well Area – Two surface soil levels were collected from this area with sample results of 1,170 and 1,070 ppm lead.

## **Groundwater Samples**

- MW 1 - Did not contain any exceedances.
- MW 2 - Did not contain any exceedances.
- MW 3 – This well, located south of the Boiler Building, contained TCE at 6 ppb (MCL – 5 ppb) and vinyl chloride at 5 ppb (MCL – 2 ppb).
- MW 4 – Contained benzene at 2 ppb (MCL – 0.7 ppb).

### **2. Sampling Data.**

*See Application and Information above.*

### **3. Suspected Contaminants.**

*See Chart in the Application and data discussed above from the Remedial Investigation Report. Suspected contaminants include VOCs (benzene, TCE, vinyl chloride) and lead. The primary contaminant on the Site is lead.*

### **4. Known or Suspected Sources of Contamination.**

*See Application and information throughout this narrative Support Document, indicating the primary source is manufacturing and use as shooting range.*

### **5. Past Land Uses.**

*See Application and information above in Sections V and VII.*

### **6. Previous Owners and Operators:**

*A list of previous owners and operators was compiled from the abstracts of title, the Phase I Reports, a review of historical uses, and based on Sanborn Maps, and has been summarized in Exhibit G.*

## **SECTION VIII - CONTACT LIST INFORMATION**

### **1. The Chief Executive Officer:**

Tompkins County Administrator  
Joe Mareane  
125 E. Court Street

Third Floor  
Ithaca, NY 14850

Mayor of the City of Ithaca  
Svante L. Myrick  
City of Ithaca  
108 East Green Street  
Ithaca, New York 14850

**2. Tompkins County Planning Board/ City of Ithaca Zoning Bureau:**

Edward C. Marx  
Tompkins County  
Commissioner of Planning  
121 E. Court Street  
Ithaca, NY 14850

JoAnn Cornish  
City of Ithaca  
Director of Planning and Development  
108 East Green Street  
Ithaca, New York 14850

**3. Residents, owners, and occupants of the site and properties adjacent to the site:**

Site: IFR Development LLC  
323 North Tioga Street, Ithaca, NY 14850

106 Lake St.: Lake St. ASC  
P.O. Box 6531, Ithaca, NY 14850

107 Lake St.: Eugene & Irene Dynkin  
107 Lake St., Ithaca, NY 14850

109 Lake St.: Glenn Evershed & Jacob Lilley  
1 Charles ST S, Unit 1412, Boston, MA 02116

111 Lake St.: Kathleen Lilley  
111 Lake St., Ithaca, NY 14850

112 Lake St.: Lake St. ASC  
P.O. Box 6531, Ithaca, NY 14850

113 Lake St.: Kathleen Lilley  
111 Lake St., Ithaca, NY 14850

115 Lake St.: William & Mary Ann Erickson  
115 Lake St., Ithaca, NY 14850

116 Lake St.: Timothy & Jennifer Terpening  
404 N Wilbur Ave., Sayre, PA 18840

202 Lake St.: Geneva Street Ventures, LLC  
413 N. Geneva St., Ithaca, NY 14850

210 Lake St.: Morgan Gun Hill LLC  
P.O. Box 1480  
1170 Pittsford-Victor Road, Rochester, NY 14534

423 E. Lincoln St.: Robert Terry  
312 Washington St., Ithaca, NY 14850

210 Willard Way Loop: Peter Bloom & Janet Greenfield  
292 Hicks St., Brooklyn, NY 11201

230 Willard Way: Sigma Nu Lodge  
C/O Daniel Galusha  
P.O. Box 421, Homer, NY 13077

Tax Block & Lot # 11-1-2.1: City of Ithaca  
Svante L. Myrick  
Mayor  
108 East Green Street  
Ithaca, New York 14850

**4. Local news media from which the community typically obtains information:**

Ithaca Journal  
123 West State Street  
Ithaca, New York 14850  
607-272-2321

**5. The public water supplier that services the area where the site is located:**

Water and sewer services in the area are provided by the City of Ithaca.

Superintendent of Public Works:  
William J. Gray, P.E.  
Second Floor - City Hall  
108 East Green Street Room 202  
Ithaca, New York 14850

**6. Any person who has requested to be placed on the site contact list:**

No person has yet requested to be placed on the site contact list. Interested parties include:



City of Ithaca Planning Department  
Third Floor - City Hall  
108 East Green Street  
Ithaca, New York 14850

City of Ithaca City Council  
City Hall  
108 East Green Street  
Ithaca New York 14850

City of Ithaca Department of Public Works  
Second Floor - City Hall  
108 East Green Street Room 202  
Ithaca, New York 14850

City of Ithaca Building Department  
Fourth Floor, City Hall  
108 East Green Street  
Ithaca, New York 14850

Tompkins County Planning Department  
Third Floor - City Hall  
108 East Green Street  
Ithaca, New York 14850

New York State DOT  
NYSDOT Main Office  
50 Wolf Road  
Albany, New York 12232

New York State DEC  
625 Broadway  
Albany, New York 12233

New York State Department of Health  
Corning Tower  
Empire State Plaza  
Albany, New York 12237

Federal Emergency Management Agency  
500 C Street Southwest  
Washington, DC 20472

**7. The administrator of any school or day care facility located on or near the site:**

The closest school and day care facility is located 0.155 miles away, Fall Creek Elementary School.

Michael Simons  
Principal  
Fall Creek Elementary School  
202 King Street  
Ithaca, NY 14850

**8. The location of a document repository for the project (e.g., local library):**

Tompkins County Public Library  
101 East Green Street  
Ithaca, New York 14850  
Phone: 607-272-4557  
Fax: 607-272-8111

Hours: Mon-Thurs 10am-8:15pm, Fri and Sat 10am-5pm

The library has accepted status as the repository. *See Exhibit H, library letter.*

## SECTION IX - LAND USE FACTORS

### 1. Current Use:

*See* Response to Section III. There are no current uses on the Site. There have been no operations at the Site since 1988. *See* Exhibit G, Previous Owners and Operators.

### 2. Intended Use Post Remediation:

The Requestor anticipates that the Site will be used for multi-family housing, most likely apartments, so the remedial goal will be restricted residential use through a Track 2 approach.

### 3. Do current historical and/or recent development patterns support the proposed use? (*See* #14 below re: discussion of area land uses)

Yes. All surrounding developable areas are used as single/multi-family residences. To the north is the only undeveloped adjacent area since it is the site of the Ithaca Falls and Fall Creek. Therefore, current historical and/or recent development patterns in the City support further redevelopment and improvement of properties on Gun Hill.

### 4. Is the proposed use consistent with applicable zoning laws/maps?

No. Currently, the Site is zoned industrial. However, the previous owner that sought to redevelop the Site successfully obtained a use variance in 2003. Since this variance has likely expired, the Requestor will either re-file for a use variance or seek to amend the zoning code congruent with the goals of the comprehensive plan to allow multi-family housing.

### 5. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans?

Yes. The City's Comprehensive Plan, as updated in 2003, *see* Exhibit I, specifically addresses the Site confirming the planned Project is consistent with the Comprehensive Plan. The Comprehensive Plan highlights an economic development plan adopted in 2003 which recommended that the Site be rehabilitated and reoccupied with new construction including apartments, townhouses or office suites. However, it also "acknowledge[ed] that constraints, such as lead contamination, ...would make redevelopment difficult." With the strong desire for redevelopment of this historic area and the significant presence of contamination, the comprehensive plan asserts that it is the "City's first goal for the Gun Hill area ...to insure that its contamination is properly remediated." The City's second goal for redevelopment of the Site is to ensure that the Ithaca Falls and Fall Creek natural area not be disturbed. This

goal was ensured when approximately an acre of land between the development area and the Ithaca Falls and Fall Creek was conveyed to the City. The final goal of the City is to address the current inconsistent zoning of the Gun Hill area. All surrounding uses are residential and the presence of the lone industrial Site would negatively impact these surrounding areas. The proposed development includes residential uses congruent with the surrounding area.

**6. Are there any Environmental Justice Concerns (See §27-1415(3) (p)).**

There are no Environmental Justice Concerns pursuant to §27-1415(3)(p)

**7-10. Answered as “yes” or “no” on the application form itself.**

**11. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats or endangered or threatened species within one-half mile?**

Yes. Fall Creek and the Ithaca Falls are located to the north of the Site, as illustrated in Exhibit B.

**12. Are there floodplains within one-half mile?**

Yes. North of the Site is Fall Creek containing a 100 year floodplain with an elevation of 399 feet above sea level according to the Flood Emergency Rate Map (FIRM), map number 360850 0001 B, effective date September 30, 1981. The Project area itself is not within a floodplain, as it is 513 feet above sea level.

**13. Are there any institutional controls currently applicable to the property?**

The Site is subject to a City of Ithaca easement described in Section II.6 of the application.

**14. Describe the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.**

*See Exhibit B, Adjacent Use Map.* The Subject Property is located south of Fall Creek and the Ithaca Falls and the Ithaca Falls Natural Area. There are no adjacent agricultural or commercial uses and the surrounding residential uses are depicted in Exhibit B, Adjacent Use Map.

**15. Describe the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge on an attachment.**

Based on the currently known conditions at the Site, it is possible groundwater could migrate from the site. However, no active municipal water supply wells are located within half a mile of the subject property. Off-Site ground water issues are outside the scope of this volunteer's responsibility pursuant to the BCP.

**16. Describe the geography and geology of the site on an attachment.**

According to the United State Geological Survey (USGS) Ithaca, New York quadrangle (dated 1978) and Ithaca East, New York (dated 1978) information regarding site topography and physical setting, the Site is 513 feet above sea level and the topography slopes to the west. There are no surface water bodies on the Site. Based on a preliminary review of the topographic maps, the Phase I Report concluded that regional groundwater in the area appears to flow west north-west toward Fall Creek, located approximately 150 feet north of the property boundary.

The Phase I Report, with respect to geology of the site, describes the rock stratigraphic unit as Upper Devonian with dominant soil composition being urban land consisting of both Devonian bedrock and variable soil consisting of silt loam, loam, and loamy fine sand.

## Exhibit A



***STATE OF NEW YORK***

***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of  
the Department of State, at the City of  
Albany, on May 18, 2012.

A handwritten signature in black ink, appearing to read "Daniel E. Shapiro".

Daniel E. Shapiro  
First Deputy Secretary of State

120517000822

**ARTICLES OF ORGANIZATION  
OF  
IFR DEVELOPMENT, LLC**  
*Under Section 203 of the Limited Liability Company Law*

**THE UNDERSIGNED**, natural person of at least eighteen years of age and acting as the organizers of the limited liability company ("**Company**") hereby being formed under Section 203 of the New York Limited Liability Company Law ("**Act**"), each certify that:

**FIRST:** The name of the Company is **IFR DEVELOPMENT, LLC**.

**SECOND:** The county within New York State in which the office of the Company is to be located is **TOMPKINS County**.

**THIRD:** The Secretary of State is designated as agent of the Company upon whom process against the Company may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Company served upon him/her is 323 N. Tioga Street, P.O. Box 6531, Ithaca, New York 14851.

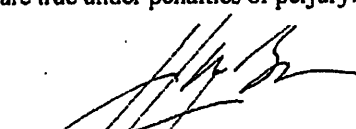
**FOURTH:** Management of the Company shall be vested in one or more managers.

**FIFTH:** No member of the Company, solely by reason of being a member, is an agent of the Company for any purpose. No member shall have authority to act for the Company solely by virtue of being a member.

**SIXTH:** No member, manager or agent of the Company shall be liable for any debts, obligations or liabilities of the Company or each other, solely by reason of being a member, manager or agent acting, or omitting to act, in such capacities or otherwise participating in the conduct of the Company's business.

**SEVENTH:** These Articles shall be deemed to be the Operating Agreement of the Company, unless and until the members shall have otherwise adopted additional or inconsistent provisions in connection with any matters permitted to be addressed in an operating agreement.

**IN WITNESS WHEREOF**, these Articles of Organization have been signed as of May 15, 2012, by the undersigned who affirms that the statements made herein are true under penalties of perjury.

  
\_\_\_\_\_  
Hayden R. Brainard, Jr.  
Organizer

202 East State Street  
Ithaca, New York 14850

120517000822

120517000822

ARTICLES OF ORGANIZATION  
OF  
IFR DEVELOPMENT, LLC

*Pursuant to §203 of the Limited Liability Company Law*

Filed by:

Hayden R. Brainard, Jr., Esq.  
Miller Mayer, LLP  
202 East State Street, Suite 700  
Ithaca, NY 14850

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STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED MAY 17 2012

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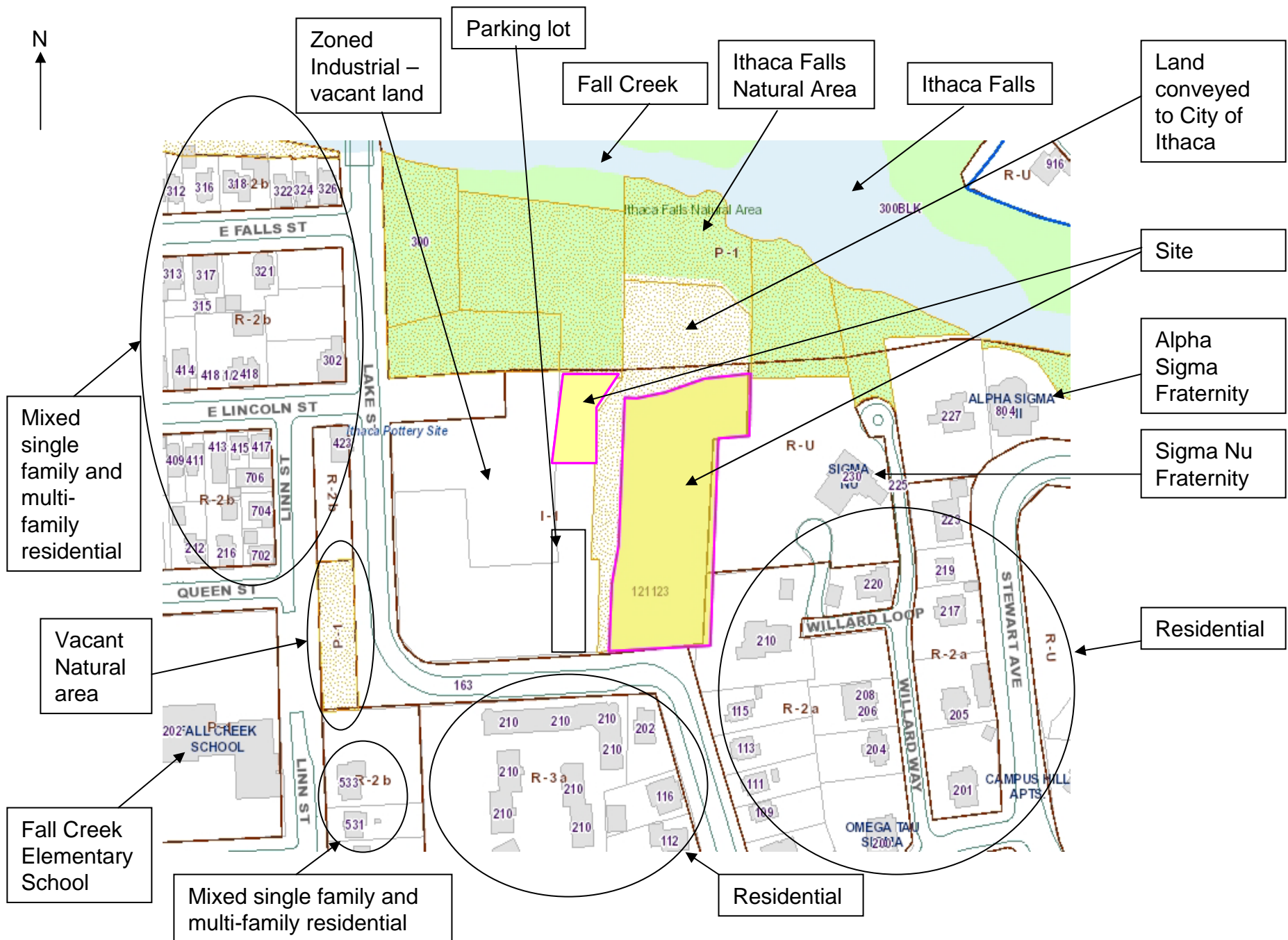
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Tompkins

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## Exhibit B



***Exhibit B - Adjacent Use Map - Former Ithaca Gun Co.***

"FALL CREEK" GORGE

TAX MAP # 11-3-1  
CITY OF ITHACA (R.O.)  
818/450

S 86°34'50" E

TAX MAP # 11-3-1  
CITY OF ITHACA (R.O.)  
818/450

CITY OF ITHACA (R.O.)  
536781-001

"THE ISLAND"

CONCRETE PAD

BRIDGE

OLD ARCHWAY

TAX MAP # 12-7-3  
CITY OF ITHACA (R.O.)  
870/41

N 01°28'32" E

NEAR TOP OF HILL

"BOILER BUILDING SUBPARCEL"  
IFR DEVELOPMENT, LLC  
INSTR. # 593472-001  
TAX MAP No. 11-3-1.23  
AREA= 0.214 ACRES

THIS PARCEL NOT  
SURVEYED AT THIS  
TIME. SITE CONDITIONS  
NOT VERIFIED

N 02°37'12" E

TAX MAP # 12-7-4  
N/T CORNELL UNIVERSITY (R.O.)  
370/127

EAST LINCOLN  
STREET EXT.

UNOPENED STREET

PARCELS SUBJECT TO AN EASEMENT AGREEMENT DATED DEC. 2008 AND  
FILED AT INST. NO. 238791-003. SAID AGREEMENT PROVIDES FOR  
SPECIFIC RIGHTS TO BENEFIT PARCEL A & B RELATING TO MUTUAL USE  
FOR A PROPOSED PUBLIC WALK RUNNING FROM LAKE STREET TO "THE ISLAND"  
GRADING & SUPPORT FOR THE SAID WALK AND FOR THE CONSTRUCTION &  
MAINTENANCE OF RESIDENTIAL UNITS ON PARCEL B, NEW UTILITY CONNECTIONS,  
STORMWATER MANAGEMENT, JOINT ACCESS RIGHTS ETC.

NO. 230 WILLARD WAY  
TAX MAP PARCEL 11-3-2.2  
SIGMA NW LODGE (R.O.)  
188/134

IFR DEVELOPMENT, LLC  
INSTR. # 593472-001  
TAX MAP # 11-3-1.22  
AREA= 1.417 ACRES

CITY OF ITHACA (R.O.)  
536781-001

N 02°32'12" E

ASPHALT  
PARKING

NOTE:

1) ALL UTILITIES SHOWN HEREON ARE APPROXIMATE  
LOCATION ONLY. VERIFY EXISTENCE AND LOCATION OF  
ALL UTILITIES PRIOR TO DESIGN OR CONSTRUCTION.

2) CONTOUR INFORMATION SHOWN OUTSIDE TAX  
MAP NO. 11-3-1.22 IS SHOWN FOR INFORMATIONAL  
PURPOSES ONLY AND ARE APPROXIMATE.

NO. 210 WILLARD WAY LOOP  
TAX MAP PARCEL 11-3-11  
BLOOM & GREENFIELD (R.O.)  
2810/10119

NAO 83

REFERENCE MAPS

- 1) REFERENCE SURVEY MAP ENTITLED "SURVEY MAP LANDS  
OF ITHACA GUN COMPANY LOCATED NORTH OF LAKE STREET."  
DATED JANUARY 11, 1988 AND LAST REVISED SEPTEMBER  
12, 1988 BY T.G. MILLER P.C.
- 2) REFERENCE SURVEY MAP ENTITLED "SURVEY MAP LANDS  
OF ITHACA GUN COMPANY LOCATED SOUTH OF LAKE STREET."  
DATED JANUARY 4, 1988 AND LAST REVISED AUGUST 24, 1988  
BY T.G. MILLER P.C.
- 3) REFERENCE SURVEY MAP ENTITLED "ALTA/ACSM MAP SHOWING  
LANDS OF STATE STREET ASSOCIATES, L.P." DATED 9/16/99  
AND REVISED 9/21/99 BY T.G. MILLER P.C.

LEGEND

- ▲ - COMPUTED POINT
- ⊗ - PIN FOUND WITH T.G. MILLER CAP
- ⊖ - PIN/PIPE FOUND, LABELED
- - - - - FIRE HYDRANT
- ⊕ - WATER VALVE

PIPE FOUND

CHAIN LINK FENCE

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

CONCRETE WALL

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**T. G. MILLER P.C.**  
ENGINEERS AND SURVEYORS  
2013 NORTH ALBION STREET  
P.O. BOX 777  
ITHACA, NEW YORK 14851

**TITLE:**  
**BOUNDARY & TOPOGRAPHIC MAP**  
SHOWING LANDS OF  
**IFR DEVELOPMENT, LLC**  
LOCATED AT NO. 121-125 LAKE STREET  
CITY OF ITHACA, TOMPKINS COUNTY, NEW YORK

DATE:  
8/8/2012

12506

SCALE: 1"=30'

REVISED



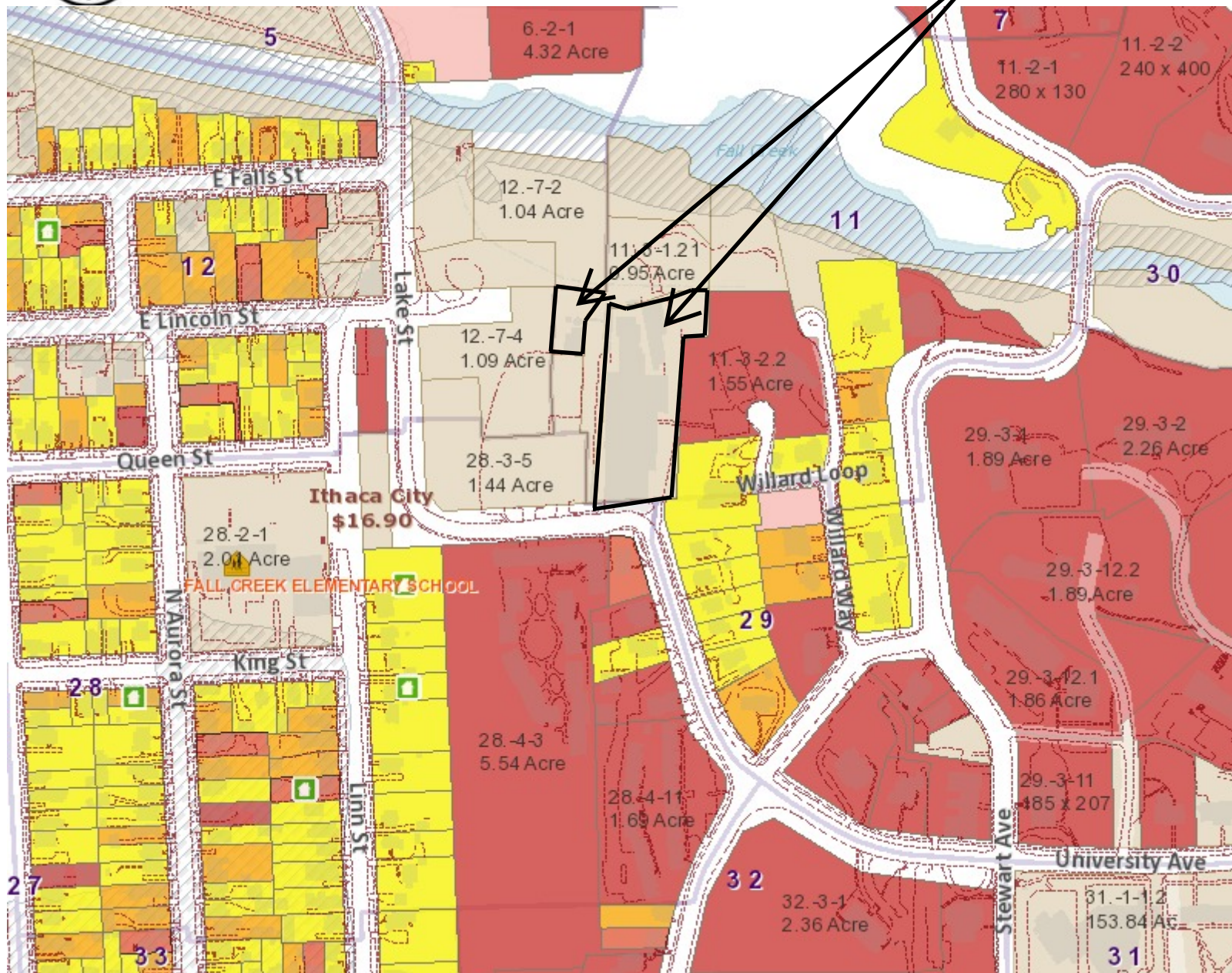




# Tompkins County Property Viewer

Site

Exhibit B - Adjacent use map



## Legend



- Sales 2010 to 2012
- Address
- Police Stations
- FireEMS
- Schools
- Curbs
- Stroutes
- Stroads
- Roads
- Buildings
- Res Properties**
  - 1 Family Res
  - 2 Family Res
  - 3 Family Res
  - Apts, Inns, Frats, Sororities
  - Mobile Res
  - Multiple Res
  - Res Vac; Res Vac Land
  - Res w/Comuse
  - Rural Res
  - Seasonal Res
- Parcels Shaded
- School District Local
- Tax Map
- Floodzones**
  - 100 Year
  - 500 Year
  - Not Included in Flood Map

731.8 0 365.89 731.8 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Tompkins County GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION OR CONVEYANCE

## Exhibit C





**FOR TAX PURPOSES ONLY**  
**NOT TO BE USED FOR CONVEYANCE**

All tax maps are referenced to the New York State Plane Central Coordinate System using the 1983 North American Datum. Property lines have been registered to 1991-92 Tompkins County Digital Planimetric Base Map, and, as a result, dimensions and acreages may vary from legal descriptions. For complete legal descriptions or conveyances, please refer to the appropriate deeds and surveys.

**NOTICE OF DISCLAIMER**

This map represents a compilation of graphical and textual information from deeds and surveys, a digital planimetric base map, and digital conversion of hand-drawn mylar maps. Errors and omissions can occur from each of these sources; each source represents a large number of records and originators of information. As a practical matter, the County does not warrant the accuracy or completeness of the information portrayed. The end user of these maps agrees to accept the data "as is" with the full knowledge that errors and omissions may exist, and to hold harmless the County for any damages that may result from an inappropriate use of these maps.

**SPECIAL DISTRICT INFORMATION**

Ithaca City School District

- Building Footprint (1991-2009)
- Curb/Pavement Line
- Railroad
- Hydrography
- Special District
- Municipality
- Military Tract/Watkins & Flint Lot Number

**LEGEND**

- Parcel Connector
- Property Line
- Former Property Line
- Current Year Changes
- Block Limit
- External Tax Map
- Block Number

<b>43.1</b>	Parcel Lot Number
<b>5 12</b>	Previous Lot Number
<b>4 3</b>	Subdivision Lot Number
<b>5.6 Ac</b>	Deed/Survey Acreage
<b>2.11 Ac C</b>	Computed Acreage
<b>18.50 Ac G</b>	Grouped (Total) Acreage
<b>100s</b>	Scaled (Calculated) Acreage
<b>100d</b>	Deed Dimension

**CITY OF ITHACA**  
TOMPKINS COUNTY, N.Y.



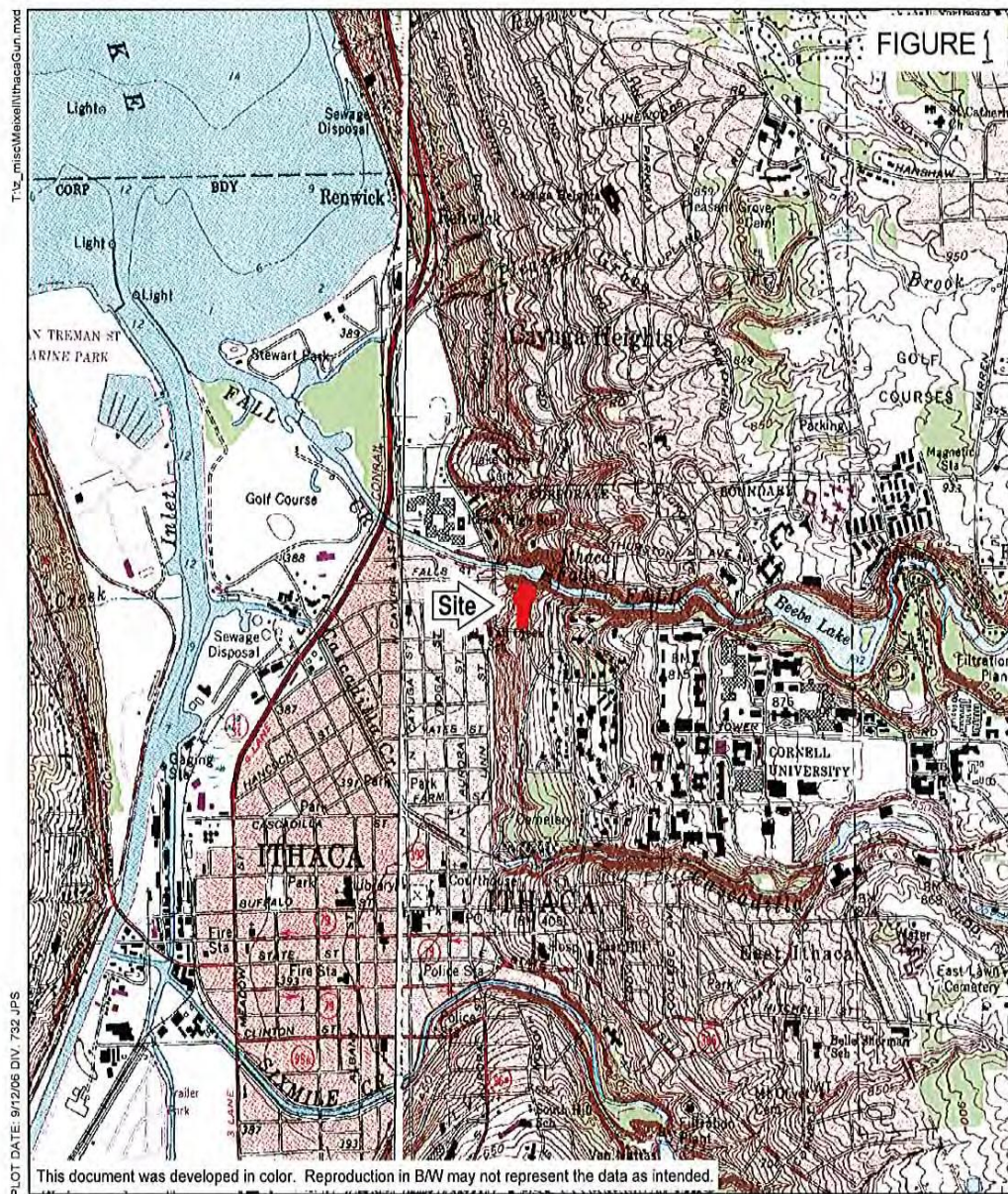
MAP: **11**

SCALE: **1" = 75'**

(When plotted on Arch D Media)  
11 x 17" (475s), scale is 1" = 425'

MAP REVISED: 1-JULY-2012  
MAP PRINTED: 1-JULY-2012

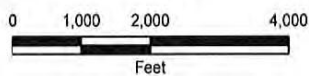




FORMER ITHACA GUN  
COMPANY PROPERTY  
121 - 125 LAKE STREET  
ITHACA, NY

QUADRANGLE LOCATION

## SITE LOCATION



FILE NO. (6)  
SEPTEMBER 2006

1:24,000



## Exhibit D



**Aurora R. Valenti**  
**TOMPKINS COUNTY CLERK**

320 North Tioga Street  
Ithaca, NY 14850  
(607) 274-5431  
Fax: (607) 274-5445

**Instrument Number**  
**\*593472-001\***

No. of Pages: 4  
(including this  
cover page)

Receipt No. 593472

Date: 06/26/2012

Time: 03:46 PM

Document Type: DEED

Parties  
To Transaction: FALL CREEK REDVLPMT LLC - IFR DVL

Town/City: CITY OF ITHACA

Delivered By:  
MILLER MAYER, LLP

Return To:  
MILLER MAYER, LLP

**Deed Information**

Taxable Consideration: \$803,200.00

State Transfer Tax: \$3,214.00

County Transfer Tax: \$1,607.00

RETT No.: 01841

State of New York  
Tompkins County Clerk

**Mortgage Information**

Taxable Mortgage Amount:

Basic Mortgage Tax:

Special Mortgage Tax:

Additional Mortgage Tax:

Local Mortgage Tax:

Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real Property Law of the State of New York.

*Aurora R. Valenti*

Tompkins County Clerk

***Please do not remove this page.***



Bargain and Sale Deed

THIS INDENTURE, made the 23<sup>rd</sup> day of May 2012

BETWEEN FALL CREEK REDEVELOPMENT, LLC a New York limited liability company with an address at 20 Hawley Street, 7<sup>th</sup> Floor East, Binghamton, New York 13902

Grantor

and

IFR DEVELOPMENT LLC, a New York limited liability company with offices at 323 North Tioga Street, Ithaca, New York 14850

Grantee

WITNESSETH, that the Grantor, in consideration of One Dollar and 00/100 (\$1.00) and other good and valuable consideration paid by the Grantee, hereby grants and releases unto the Grantee, the heirs or successors and assigns of the grantee forever, that tract of land more particularly described in Schedule "A" annexed hereto and made a part hereof.

Subject to easements, covenants and restrictions of record.

Intending to convey hereby part of the same premises conveyed to Fall Creek Redevelopment, LLC by Bargain & Sale Deed dated November 15, 2005 from State Street Associates, L.P. If recorded in the Tompkins County Clerk's Office November 17, 2005 as Instrument #482204-001.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, the heirs or successors and assigns of the Grantee forever.

AND the Grantor covenants that the Grantor has not done or suffered anything whereby the same premises have been encumbered in any way whatever. This deed is subject to the trust fund provisions of Section 13 of the Lien Law. The words "grantor" and "grantee" shall be construed to read in the plural whenever the sense of this deed so requires.

IN WITNESS WHEREOF, the Grantor has executed this deed the day and year first above written.

FALL CREEK REDEVELOPMENT, LLC

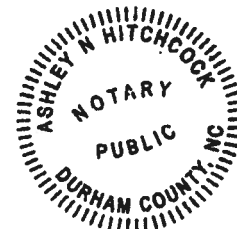
BY Wally J. Diehl  
Wally J. Diehl, Manager

State of North Carolina ss.:  
County of Durham )

On the 23 day of May in the year 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared Wally J. Diehl personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individuals, or the persons upon behalf of which the individuals acted, executed the instrument.

Ashley N Hitchcock  
Notary Public

Expires 8/10/16



**SCHEDULE "A"**

**Parcel 1:**

**ALL THAT TRACT OR PARCEL OF LAND situate in the City of Ithaca, County of Tompkins, State of New York, being bounded and described as follows:**

**BEGINNING at a point marking the deflection point of the north line of Lake Street and the corresponding east line of Lake Street, also being the westerly most corner of lands now or formerly owned by Bloom & Greenfield, as described in Liber 2501 at Page 10119;**

**RUNNING THENCE North 86° 55' 12" East along lands reputedly of Bloom & Greenfield (2501/10119) for a distance of 38.0 feet to an iron pipe found;**

**RUNNING THENCE North 02° 19' 18" East along lands reputedly of Bloom & Greenfield (2501/10119) for a distance of 104.99 feet to a point;**

**RUNNING THENCE North 02° 19' 18" East along lands reputedly of Sigma Nu Lodge (188/134) for a distance of 200.44 feet to an existing fence post;**

**RUNNING THENCE North 85° 38' 19" East along lands reputedly of Sigma Nu Lodge (188/134) for a distance of 48.20 feet to a pipe found;**

**RUNNING THENCE North 01° 28' 24" East for a distance of 91.75 feet to a point:**

**RUNNING THENCE South 84° 03' 39" West along lands reputedly of the City of Ithaca, as described in Instrument 536781-001 for a distance of 72.19 feet to a point;**

**RUNNING THENCE South 71° 27' 26" West along said lands of the City for a distance of 63.71 feet to a point;**

**RUNNING THENCE South 78° 53' 42" West along said lands of the City for a distance of 44.98 feet to a point;**

**RUNNING THENCE North 87° 32' 15" West along said lands of the City for a distance of 18.73 feet to a point;**

**RUNNING THENCE South 02° 28' 49" West along said lands of the City for a distance of 218.05 feet to a point;**

**RUNNING THENCE South 10° 33' 13" West along said lands of the City for a distance of 56.74 feet to a point;**

**RUNNING THENCE South 02° 33' 08" West along said lands of the City for a distance of 99.87 feet to a point;**

**{111780927.2}**

RUNNING THENCE North 86 55' 12" East along the north line of Lake Street for a distance of 118.76 feet to the point and place of beginning.

Said parcel containing approximately 1.417 acres.

Parcel II:

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Ithaca, County of Tompkins, State of New York, being bounded and described as follows:

BEGINNING at a point marking the southeast corner of lands reputedly of the City of Ithaca, as described in Liber 870 at Page 41, said point being also located South 01 25' 32" West a distance of 144.20 feet from a point located on the south top of bank for the "Fall Creek Gorge":

RUNNING THENCE South 37 45' 42" West for a distance of 62.73 feet to a point:

RUNNING THENCE South 02 32' 12" West for a distance of 71.66 feet to a point, said course being along or near the east face of a "boiler building";

RUNNING THENCE South 87 05' 40" East running in part along the south face of said "boiler building" for a distance of 60.91 feet to a point;

RUNNING THENCE North 02 37' 12" East for a distance of 128.64 feet to a point;

RUNNING THENCE easterly along the top of bank for a distance of approximately 105 feet to the point and place of beginning, said course having a chord tie of South 83 50' 12" East 97.00 feet.

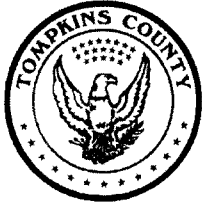
Said parcel containing approximately 0.214 acres.

For a more particular description thereof, reference is hereby made to a survey map entitled "Survey Map Showing Lands of Fall Creek Redevelopment, LLC Located at No. 121-125 Lake Street, City of Ithaca, Tompkins County, New York," dated June 27, 2008, revised December 29, 2008, prepared by T.G. Miller, P.C., Engineers and Surveyors, Ithaca, New York and filed in the Tompkins County Clerk's Office on January 23, 2009 as Instrument #536781-003.

TOGETHER WITH AND SUBJECT TO the terms and conditions of that certain agreement by and between Fall Creek Redevelopment, LLC and the City of Ithaca dated December 30, 2008, and recorded in the Tompkins County Clerk's Office on January 23, 2009 as Instrument #536781-002.

111780927.2;





**Aurora R. Valenti**  
**TOMPKINS COUNTY CLERK**

320 North Tioga Street  
Ithaca, NY 14850  
(607) 274-5431  
Fax: (607) 274-5445

**Instrument Number**

**\*536781-001\***

No. of Pages      2

Delivered By      CITY OF ITHACA

Receipt No      536781

Return To:  
CITY OF ITHACA

DATE      01/23/2009

Time:      11:41 AM

Document Type:      DEED

Parties To Transaction:      FALL CREEK - CITY

**Deed Information**

**Mortgage Information**

Consideration:      \$0.00

Mortgage Amount:

Transfer Tax:      \$0.00

Basic Mtge. Tax:

RETT No:      01056

Special Mtge. Tax:

County Transfer Tax:      \$0.00

Additional Mtge. Tax:

State of New York  
Tompkins County Clerk

Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real Property Law of the State of New York DO NOT DETACH

*Aurora R. Valenti*

**Tompkins County Clerk**





THIS INDENTURE, made the 26<sup>th</sup> day of December, 2008

**BETWEEN** **FALL CREEK REDEVELOPMENT, LLC** a New York limited liability company with an address at 20 Hawley Street, 7<sup>th</sup> Floor East, Binghamton, New York 13902

Grantor

and

**CITY OF ITHACA** a municipal corporation with offices at City Hall, 108 East Green Street, Ithaca, New York 14850

Grantee

**WITNESSETH**, that the Grantor, in consideration of One Dollar and 00/100 (\$1.00) and other good and valuable consideration paid by the Grantee, hereby grants and releases unto the Grantee, the heirs or successors and assigns of the grantee forever,

**See Schedule "A" attached hereto and made a part hereof.**

EXCEPTING AND RESERVING an easement for vehicular and pedestrian ingress and egress across the property conveyed herein to and from the following parcels created by this conveyance and retained by Grantor: a 1.419± acre parcel located to the south and east of the property being conveyed herein and a 0.214± acre landlocked parcel located to the west of the property conveyed herein.

Subject to easements, restrictions and covenants of record, if any, as the same were in full force and effect.

Intending to convey hereby part of the same premises conveyed to Fall Creek Redevelopment, LLC by Bargain & Sale Deed dated November 15, 2005 from State Street Associates, L.P. II recorded in the Tompkins County Clerk's Office November 17, 2005 as Instrument #482204-001.

**TOGETHER** with the appurtenances and all the estate and rights of the Grantor in and to said premises.

**TO HAVE AND TO HOLD** the premises herein granted unto the Grantee, the heirs or successors and assigns of the Grantee forever.

**AND** the Grantor covenants that the Grantor has not done or suffered anything whereby the same premises have been encumbered in any way whatever. This deed is subject to the trust fund provisions of Section 13 of the Lien Law. The words "grantor" and "grantee" shall be construed to read in the plural whenever the sense of this deed so requires.

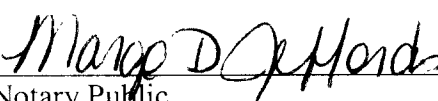
**IN WITNESS WHEREOF**, the Grantor has executed this deed the day and year first above written.

FALL CREEK REDEVELOPMENT, LLC

BY   
Wally J. Diehl, Manager

State of NC )ss.:  
County of Durham )

On the 26 day of December in the year 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared Wally J. Diehl personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individuals, or the persons upon behalf of which the individuals acted, executed the instrument.

  
Notary Public

SCHEDULE A  
Legal Description

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Ithaca, County of Tompkins, State of New York, being bounded and described as follows:

BEGINNING at a point in the north line of Lake Street, said point being located South 86° 55' 12" West 156.76 feet from the southeast corner of lands of Fall Creek Redevelopment, LLC, as described in Instrument No.: 482204-001,

RUNNING THENCE South 86° 55' 12" West along the north line of Lake Street for a distance of 17.64 feet to a point;

RUNNING THENCE North 01° 22' 34" East for a distance of 135.73 feet to a point;

RUNNING THENCE North 87° 27' 48" West for a distance of 13.29 feet to a point;

RUNNING THENCE North 02° 32' 12" East 217.66 feet to a point;

RUNNING THENCE North 37° 45' 42" East for a distance of 62.73 feet to a point;

RUNNING THENCE North 01° 25' 32" East for a distance of 144.20 feet to a point;

RUNNING THENCE South 86° 34' 50" East for a distance of 150.25 feet to a point;

RUNNING THENCE South 45° 39' 52" East for a distance of 66.20 feet to a fence post at the top of bank of the "Fall Creek Gorge;"

RUNNING THENCE South 01° 28' 24" West for a distance of 82.33 feet to a point;

RUNNING THENCE South 84° 03' 39" West for a distance of 72.19 feet to a point;

RUNNING THENCE South 71° 27' 26" West for a distance of 63.71 feet to a point;

RUNNING THENCE South 78° 53' 42" West for a distance of 44.98 feet to a point;

RUNNING THENCE North 87° 32' 15" West for a distance of 18.73 feet to a point;

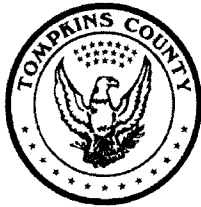
RUNNING THENCE South 02° 28' 49" West for a distance of 218.05 feet to a point;

RUNNING THENCE South 10° 33' 13" West for a distance of 56.74 feet to a point;

RUNNING THENCE South 02° 33' 08" West for a distance of 99.87 feet to the point and place of beginning.

Said parcel containing 0.948 acres.

For a more particular description thereof, reference is hereby made to Parcel "A" on a survey map entitled "Survey Map Showing Lands of Fall Creek Redevelopment, LLC, Located at No. 121-125 Lake Street, City of Ithaca, Tompkins County, New York," dated June 27, 2008, and revised December 29, 2008, prepared by T.G. Miller, P.C., Engineers and Surveyors, Ithaca, New York.



**Aurora R. Valenti**  
**TOMPKINS COUNTY CLERK**

320 North Tioga Street  
Ithaca, NY 14850  
(607) 274-5431  
Fax: (607) 274-5445

**Instrument Number**  
\*536781-002\*

No. of Pages: 7

Delivered By: CITY OF ITHACA

Receipt No 536781

Return To:  
CITY OF ITHACA

DATE: 01/23/2009

Time: 11:42 AM

Document Type: EASEMENT/LEASE

Parties To Transaction: FALL CREEK - CITY

**Deed Information**

Consideration: \$0.00

Transfer Tax: \$0.00

RETT No 01057

County Transfer Tax \$0.00

State of New York  
Tompkins County Clerk

**Mortgage Information**

Mortgage Amount:

Basic Mtge. Tax:

Special Mtge. Tax:

Additional Mtge. Tax:

Mortgage Serial No.:

This sheet constitutes the Clerk endorsement required by Section 316-A(5) & Section 319 of the Real Property Law of the State of New York. DO NOT DETACH

*Aurora R. Valenti*

**Tompkins County Clerk**



## EASEMENTS

THIS INDENTURE, made this 30<sup>th</sup> day of Dec., 2008, between Fall Creek Redevelopment, LLC ("party of the first part"), a New York limited liability company with offices at 1703 Legion Road, Suite 205, Chapel Hill, NC 27517 and the City of Ithaca, a municipal corporation with offices at 108 East Green Street, Ithaca, New York, ("party of the second part" or "City"),

WITNESSETH THAT:

WHEREAS, party of the first part owns real property, known as the Ithaca Gun Factory, at 121 Lake Street, in the City of Ithaca, New York, constituting tax map parcel number 11-2-1.2 (the "Property"), as shown on "Survey Map Showing Lands of Fall Creek Redevelopment, LLC, Located at 121-125 Lake Street, City of Ithaca, Tompkins County, New York," dated June 27, 2008, revised December 29, 2008, by T.G. Miller P.C., Engineers and Surveyors (referred to herein as the "Survey"), which Survey is intended to be filed in the Office of the Tompkins County Clerk concurrently herewith and which Survey is incorporated herein by reference; and

WHEREAS, by deed of even date recorded concurrently herewith, the party of the first part is conveying to the City a portion of the Property shown on the Survey as "Parcel A" and as described on the attached Schedule A, which portion is referred to herein as the "Donated Land;" and

WHEREAS, party of the first part is retaining the balance of the Property, shown on said Survey as "Parcel B" (consisting of two, non-contiguous sections) and as described on the attached Schedule B, which retained portion is referred to herein as the "Development Parcel;" and

WHEREAS, the parties desire to provide for their mutual benefit easements over and across the Property, to facilitate public and City of Ithaca access to the northerly portion of the Donated Land known as the "Island" (and including the Ithaca Falls Overlook) as well as to other City of Ithaca park land which adjoins the Donated Land, and to support the future development of the Property;

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

### 1. GRANT OF COMMUNITY WALKWAY EASEMENT TO PARTY OF THE FIRST PART

1.1 Grant of Easement to Construct and Maintain Walkway. The City hereby grants, transfers and conveys to party of the first part, its successors and assigns, a non-exclusive permanent easement to construct and maintain a continuous community walkway (the "Walkway") across that portion of the Donated Land running alongside the easterly edge of the narrow portion of the Donated Land that runs north from Lake Street, and along the southerly edge of the portion of the Donated Land that includes the so-called "Island," and to the bridge that crosses the old raceway, as referenced on the Survey, together with the right of ingress and egress over and across the Donated Land as may be reasonably necessary for the proper use of the rights granted herein. The Walkway is intended to enhance local walking and recreational opportunities for the general public by providing an attractive and scenic means to enjoy views of the Ithaca Falls and Cayuga Lake

Notwithstanding anything to the contrary contained herein, the actual party of the first part (to wit, Fall Creek Redevelopment, LLC) shall have no obligation to construct the Walkway and nothing in this easement shall be construed as requiring party of the first part to construct the Walkway. It is understood and agreed by both parties hereto that the requirements regarding the Walkway that are set

forth herein shall apply only in the event that the Walkway is constructed by party of the first part or a successor in title thereto or an assignee thereof, and shall not apply in the event that the Walkway is constructed by the City, upon the failure of party of the first part (or its successor or assign) to do so within 36 months of the execution of this agreement. In the event of such failure, the easement described in this Subparagraph 1.1 shall be null and void, unless the parties have agreed upon an extension thereof.

1.2 Specifications of Walkway; Hours of Public Use. In the event that the Walkway is constructed by party of the first part or its successors or assigns, the Walkway shall consist of a suitable firm travel surface at least five (5) feet wide and shall be compliant with any applicable provisions of the Americans with Disabilities Act and its associated regulations. Upon construction of the planned, adjacent residential units, the Walkway may be used by the public, between 8:00 a.m. and one-half hour after sunset, and by the City, for official purposes, at any time.

1.3 Reservation to Party of the First Part. Pursuant to the easement described above, party of the first part and its successors and assigns shall have non-exclusive use of the Walkway for the purpose of providing pedestrian access to the Development Parcel. Said use shall not be limited to the hours stated above.

1.4 Treatment as Recreational Land. The City shall treat and use the Donated Land as public recreational land, for quiet, low-impact use, for a period of at least 20 years from the date hereof. The City shall take reasonable steps to regulate the use of the Donated Land such that the public use does not unreasonably disturb the peace and quiet enjoyment of the residents of the Development Parcel.

1.5 Responsibility for Maintenance of Donated Land.

- (a) As for the portion of the Donated Land known as the Island (and including the bridge thereto), the City shall be responsible for all maintenance thereof, including groundskeeping and removal of litter and debris; snow removal from this portion shall be optional, in the discretion of the City.
- (b) As for the Walkway, if built by party of the first part (or its successors or assigns), party of the first part (or its successors or assigns) shall be responsible for all maintenance and repair, including groundskeeping, removal of litter and debris, and snow and ice removal to the same standards as are applicable to City sidewalks, and for ensuring that the Walkway is not infringed upon or obstructed, during the hours of public use, by parked or standing motor vehicles.

If either party fails to comply reasonably with the requirements assigned to it by this subsection, the other party may provide thirty (30) days written notice to the non-compliant party, identifying the failure. If the party so notified fails to refute or to correct the deficiency, within thirty (30) days of receipt of such notice, the party that provided the notice may do so and may provide a bill to the other party for the work performed.

1.6 Suspension of Use. The following conditions shall apply if the Walkway has been constructed by party of the first part or its successors or assigns. The City or its designee, in that party's sole discretion, shall have the right to suspend public use of the Walkway, from time-to-time, for any reason, but not its use by party of the first part for access to the Development Parcel. However, in the event that it reasonably believes that all or any portion of the Walkway is no longer in a condition to allow safe use of the Walkway, the City may send a written notice, to party of the first part (or its successor or assign), identifying the unsafe condition and stating that the Walkway shall be closed to all use until necessary repairs are made. If such repairs are not made by party of the first part (or its successor or assign) within 30 days of notice from the City, the City may, in its sole discretion, close or restrict use of the Walkway. Thereafter, the City may correct the deficiency and may provide a bill to

party of the first part (or its successor or assign) to correct the deficiency for the work performed, which bill if not timely discharged, shall become a lien against the Development Parcel. .

1.7 Indemnification. The City shall defend, indemnify and hold harmless party of the first part (or its successors or assigns) from any claims, damages, costs and expenses arising from the public use of the Walkway and the Donated Land, except for claims which arise from negligent acts or omissions of party of the first part (or its successors or assigns) with respect to the maintenance or repair of the Walkway, if built by party of the first part or its successors or assigns, or from operation of the Development Parcel.

## 2 GRANT OF EASEMENT TO CITY FOR VEHICULAR ACCESS TO "THE ISLAND"

Party of the first part hereby grants, transfers and conveys to the City a non-exclusive permanent easement across the Development Parcel, over the as-constructed driveway and parking areas, so as to provide a clear, safe route for motor vehicles to reach the "Island" portion of the Donated Land, for maintenance during daylight hours, and for security or emergency purposes at any time. This easement shall be for access only and shall not include the right to park vehicles or store equipment on the Development Parcel. It is understood and agreed that this easement will be located as laid out on the final site plan for the Development Parcel, as approved through the City of Ithaca's Site Plan Review process. Until such time as the construction on the Development Parcel is completed, the party of the first part hereby grants, transfers and conveys to the party of the second part a non-exclusive temporary easement for emergency and maintenance vehicular access to the Donated Land in such safe manner as may be effected at the time and as is reasonably necessary for proper maintenance and safety of the Donated Land.

## 3. GRANT OF EASEMENT TO PARTY OF THE FIRST PART FOR GRADING AND SUPPORT

The City hereby grants, transfers and conveys to party of the first part and its successors and assigns a permanent easement for and the right to construct, alter, replace, install, repair and maintain earth-grading and support improvements for the benefit of the Development Parcel, which grading and support will extend over the easterly line of the Donated Property running from Lake Street to the south bank of the old raceway, and over the southerly line of the Donated Property along said bank, together with the right of ingress and egress over and across such property of the City as may be necessary for the proper use of the rights granted herein. Party of the first part hereby agrees to restore any property of the City entered to exercise the rights granted herein, to substantially the same condition as at the time of such access in so far as is reasonably possible following completion of the construction, repair, replacement or maintenance of said grading and support.

## 4. GRANT OF MUTUAL EASEMENTS FOR STORM WATER MANAGEMENT

The parties each to the other hereby grant, transfer and convey a permanent easement and the right to construct, alter, replace, install, repair and maintain a storm water management facility and water quality management structure on the property of the other as shown conceptually on the drawing attached hereto as Exhibit A, together with the right of ingress and egress over and across each other's property as may be necessary for the proper use of the rights granted herein. The parties hereby agree to restore any area of the other party's property that is entered to exercise the rights granted herein, to substantially the same condition as at the time of such access in so far as is reasonably possible following completion of construction, repair, replacement or maintenance of said stormwater management facility. The design of said stormwater management facility shall be sensitive to aesthetic considerations of its proximity to public parkland, and shall be subject the City of Ithaca's Site Plan Review process. The parties agree to

record a easement specifying the actual as built location of the storm water management facilities upon the request of either party.

#### 5. GRANT OF EASEMENTS TO PARTY OF THE FIRST PART FOR CONSTRUCTION AND MAINTENANCE

The City hereby grants, transfers and conveys to party of the first part (and its successors and assigns) a temporary easement on and over the Donated Land as is reasonably necessary to facilitate the initial construction of the residential units contemplated for the Development Parcel, and a permanent easement, as is reasonably necessary to facilitate the maintenance and repair of said residential units. To the extent that such maintenance and repair reasonably requires obstruction or temporary closure of the Walkway, party of the first part shall notify the Mayor of the City of Ithaca, in writing, of such anticipated obstruction or closure, at least ten (10) days in advance. Party of the first part (and its successors and assigns) hereby agrees to restore any area of the Donated Property entered to exercise the rights granted herein to substantially the same condition as at the time of such access in so far as is reasonably possible.

#### 6 GRANT OF EASEMENT TO PARTY OF THE FIRST PART FOR ACCESS TO BOILER BUILDING SUBPARCEL

The City hereby grants, transfers and conveys to party of the first part a permanent easement for vehicular access, via a driveway not more than 15 feet wide, to the parcel of land identified on the Survey as the "Boiler Building Subparcel." Such easement shall be in a location to be determined by the parties, within the narrow portion of the Donated Land. Where such driveway crosses the Walkway, the party of the first part shall erect and maintain warning signs on either side of such crossing, on both the Walkway and the driveway, together with STOP signs and traffic-slowing devices for the driveway, on either side of the crossing. The location of this easement and the design of the driveway it is intended to accommodate shall be subject to the City of Ithaca's site plan review process and any other applicable regulations.

#### 7 GRANT OF MUTUAL EASEMENTS FOR UTILITIES

The party of the first part and the party of the second part each to the other hereby grant, transfer and convey a blanket easement upon, across, over and under all each of their respective properties for ingress, egress, installation, replacement, repair, and maintenance of all utilities, including but not limited to water, storm water, sewers, gas, telephone, electricity and cable television.

#### 8. MISCELLANEOUS

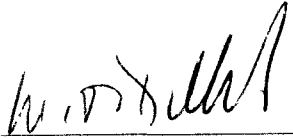
8.1 Subject to Exceptions. The above Easements are subject to any and all restrictions, reservations, easements, rights of way and exceptions as may be filed in the Tompkins County Clerk's Office relating to the Property.

8.2. Binding Effect. These Easements shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

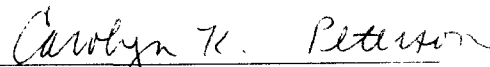
8.3 Governing Law. This Agreement shall be governed by the laws of the state of New York. The Supreme Court of Tompkins County shall have exclusive jurisdiction and venue over any action or proceeding arising from or related to this Agreement, and the parties consent to jurisdiction and venue in such Court. If any legal proceeding is commenced regarding this agreement, the losing party shall pay to the prevailing party the prevailing party's attorneys' fees and expenses.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals.

FALL CREEK REDEVELOPMENT, LLC

By   
Wally Diehl, Member

CITY OF ITHACA

By   
Carolyn K. Peterson, Mayor

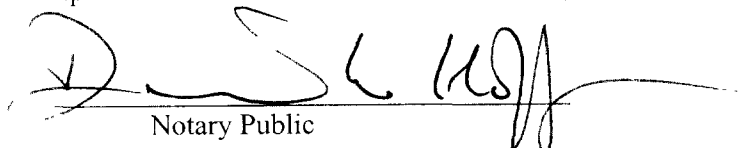
STATE OF NC )  
COUNTY OF Durham ss.:

On the 26 day of December in the year 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared WALLY DIEHL, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

STATE OF NEW YORK )  
COUNTY OF TOMPKINS ) ss.:

On the 30th day of Dec in the year 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared CAROLYN K. PETERSON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

DANIEL L. HOFFMAN  
Notary Public, State of New York  
No. 02H05027243  
Qualified in Tompkins County  
Commission Expires 12/31/2011

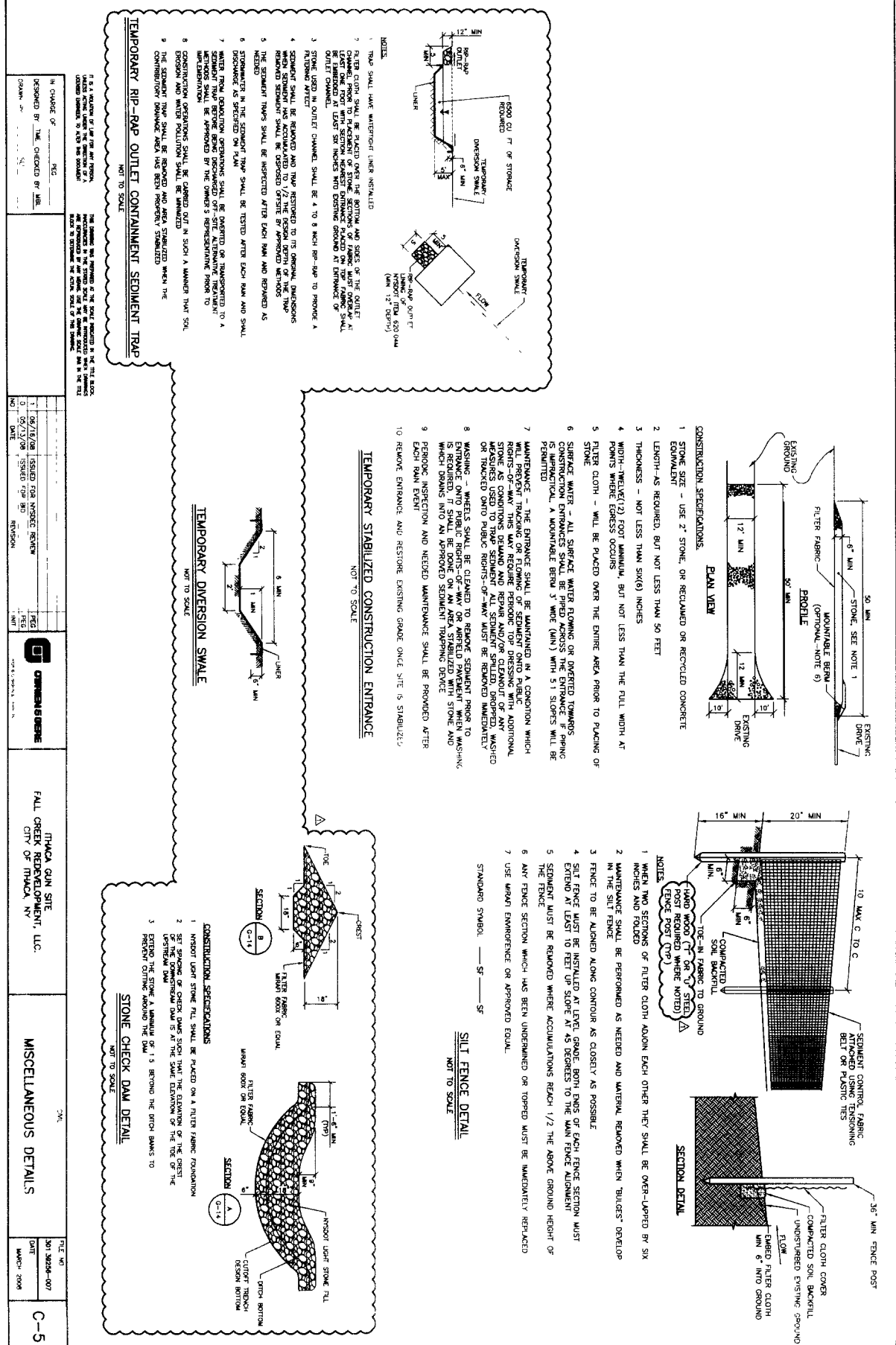


EROSION AND SEDIMENT CONTROL FACILITIES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE NEW YORK STATE STANDARDS AND SPECIFICATIONS FOR EROSION AND SEDIMENT CONTROL AND IN ACCORDANCE WITH THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP). SOIL EROSION AND SEDIMENT CONTROL FACILITIES SHALL BE CONSTRUCTED PRIOR TO SITE DISTURBANCE AND MAINTAINED BY THE CONTRACTOR DURING CONSTRUCTION.

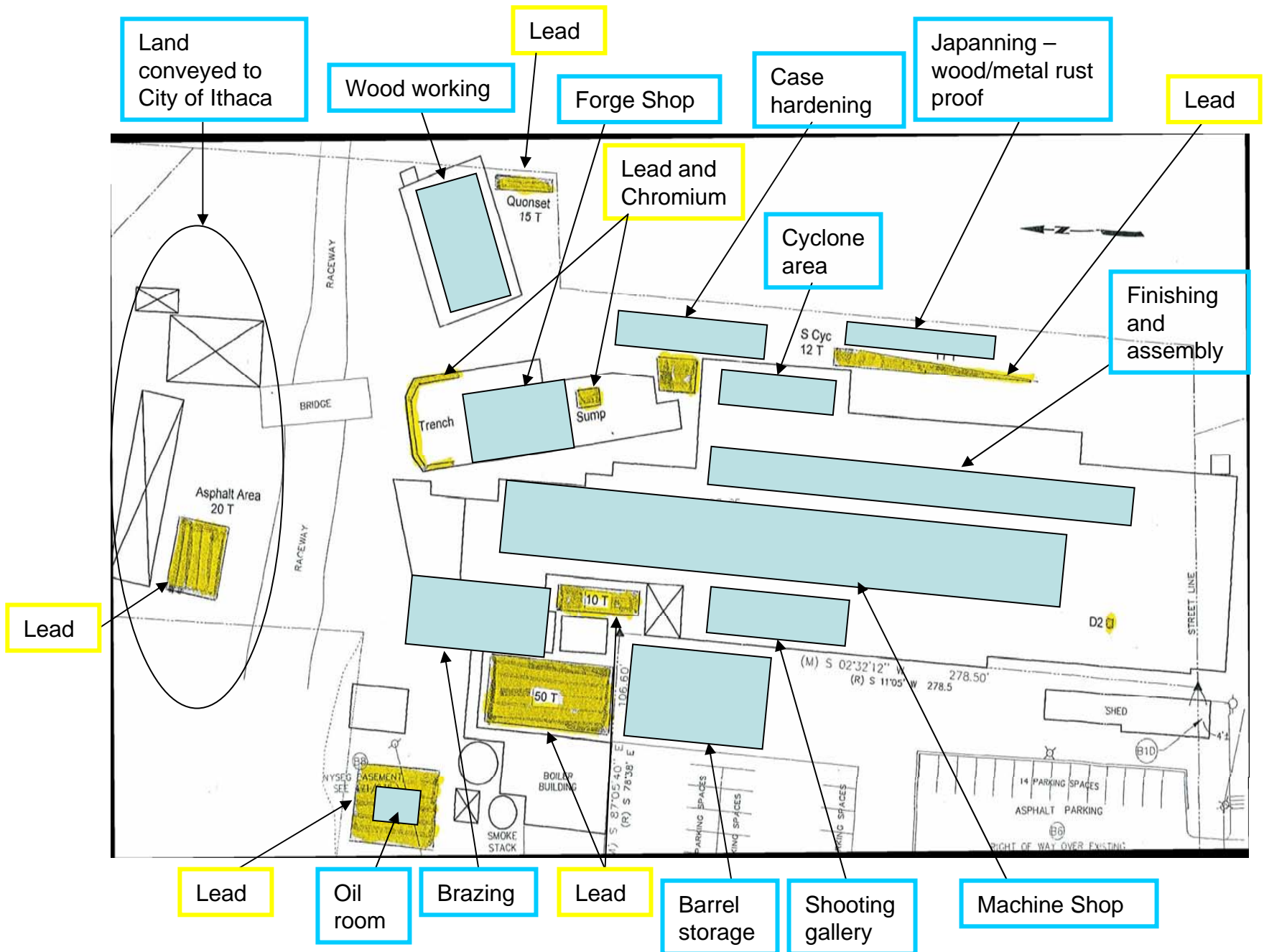
- [illegible]



C-3

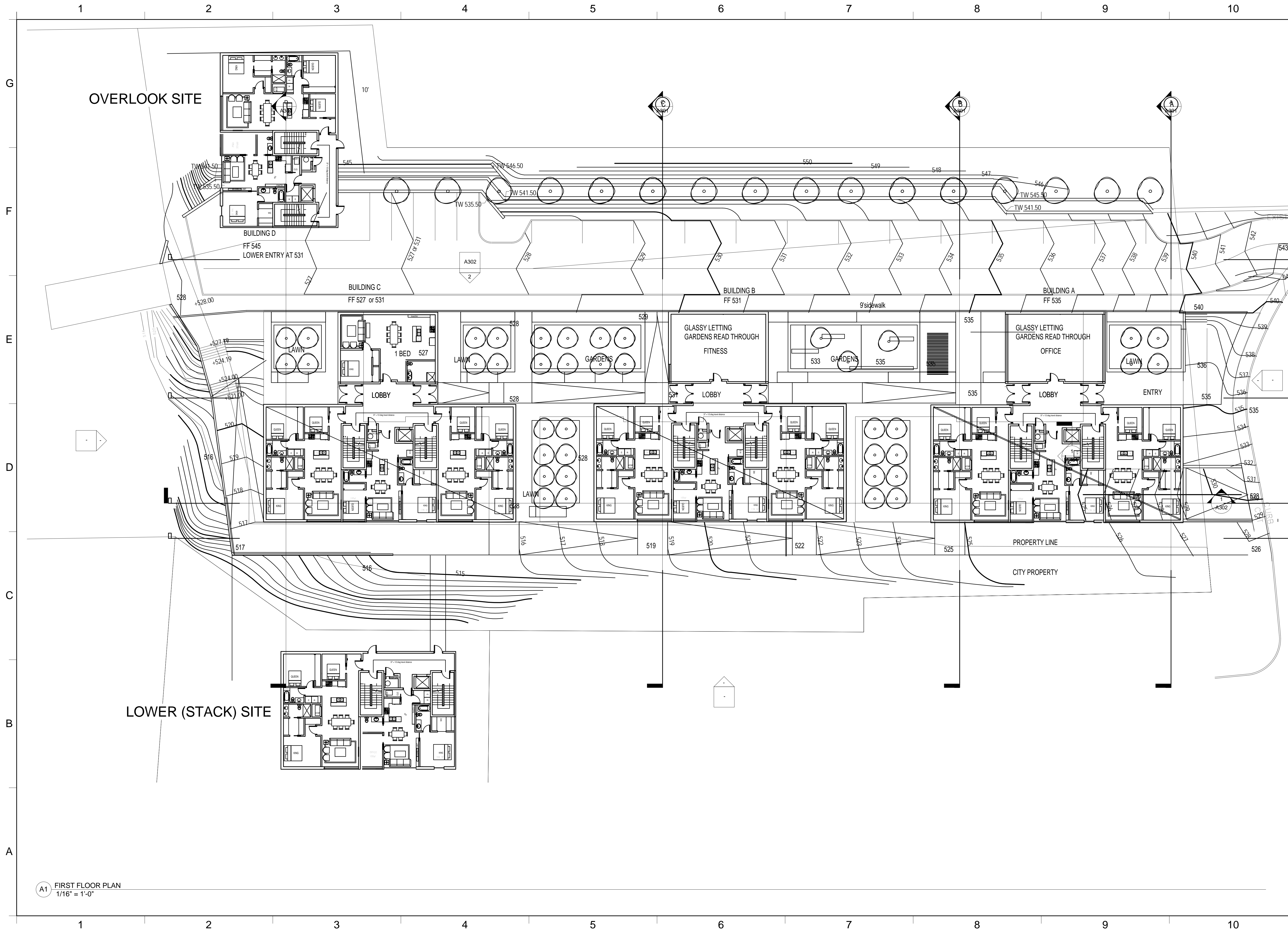


## Exhibit E



**Exhibit E - Former Use/Recognized Environmental Conditions Map**

## Exhibit F



HOLTARCHITECTS

Architecture  
Planning  
Interior Design  
217 North Aurora Street  
Ithaca NY 14850  
p 607.273.7600 f 607.273.0475

**WARNING:** It is a violation of New York State Law for any person, unless acting under the direction of a licensed Architect, to alter this document in any way. If a document bearing the seal of an Architect is altered, the altering Architect shall affix to such document his seal and the notation "altered by" followed by his signature, the date of such alteration, and a specific description of the alteration.

50% SCHEMATIC DESIGN PROGRESS SET

**ITHACA FALLS RESIDENCES**

TRAVIS HYDE PROPERTIES  
LAKE STREET, ITHACA NEW YORK 14850

DATE:	10/26/2012
PROJECT:	2012010
OTHER:	
DRAWN BY:	Author

FIRST FLOOR  
PLAN

A101

A1 FIRST FLOOR PLAN  
1/16" = 1'-0"

## Exhibit G

# PREVIOUS OWNERS & OPERATORS

Former Ithaca Gun Co., 121-125 Lake St.  
Ithaca, NY 14850

<b>Year</b>	<b>Owner</b>	<b>Operator</b>	<b>Address</b>	<b>Requestor Relationship</b>
2005-2012	<i>Previous Owner</i> – Fall Creek Redevelopment, LLC – Site vacant	None – Site is vacant	20 Hawley Street, 7 <sup>th</sup> Floor East Binghamton, NY 13902	None.
2008- Present	<i>Tax Lot 1.21</i> – Fall Creek Redevelopment, LLC grant to the City of Ithaca	None – Site is vacant	121-125 Lake St. Ithaca, New York 14850	None.
1988-2005	State Street Associates, L.P II	None – Site is vacant	210 Lake St. Ithaca, New York 14850	None.
1883-1988	Ithaca Gun Co. – manufacturing and testing of guns	Ithaca Gun Co	121-125 Lake St. Ithaca, New York 14850	None.



## Exhibit H

 KNAUF

August 15, 2012

SHAW

LLP

Ms. Susan Currie  
Director  
Tompkins County Public Library  
101 East Green Street  
Ithaca, NY 14850

**Re: Brownfield Cleanup Program Application**  
**Applicant: Ithaca Falls Redevelopment, LLC**  
**Site Name: Former Ithaca Gun Property**  
**Site Address: 121-125 Lake Street, Ithaca, New York**

Dear Ms. Currie:

We represent Ithaca Falls Redevelopment, LLC in its anticipated Brownfield Cleanup Program application for the above-referenced site at 121-124 Lake Street, Ithaca, New York. NYS Department of Environmental Conservation requires that we supply them with a letter certifying that the local library is willing and able to serve as a public repository for all documents pertaining to the cleanup of this property. Please sign below if you are able to certify that your library is willing and able to act as the temporary public repository for this Brownfield Cleanup Program project.

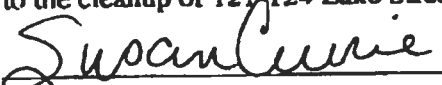
Thank You.

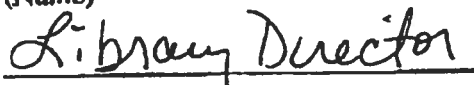
Sincerely,

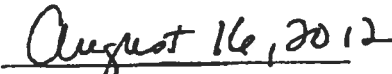
KNAUF SHAW LLP

  
ALAN J. KNAUF

Yes, the Tompkins County Public Library is willing and able to act as a public repository for documents related to the cleanup of 121-124 Lake Street, Ithaca, New York under the NYS Brownfield Cleanup Program.

  
(Name)

  
(Title)

  
(Date)

## Exhibit I

# THE GUN HILL AREA:

## An Amendment to the City of Ithaca Comprehensive Plan

Amended to Comprehensive Plan by Common Council on November 5, 2003

### **The Area (see attached map)**

For the purposes of this report, the Gun Hill Area is bounded on the north by the northern edge of the industrial zone abutting the Fall Creek Gorge, Lake Street on the west, Lake Street on the south, and the current (as of January 1, 2003) zoning boundary between the I-1 Industrial zone and the abutting R-U and R-2a Residential zones on the east. This area includes tax parcels 12.-7-4, 28.-3-5, and a large portion of 11.-3-1.2

### **History**

A summary of the history of the development of the Gun Hill area, including the site of the former Ithaca Gun Factory, is provided in Ithaca's Neighborhoods: The Rhine, The Hill, and the Goose Pasture.

As Ithaca grew commercially, a variety of enterprises that contributed significantly to local prosperity flourished along Fall Creek. The powerful flow of water over the Ithaca Falls made possible the close location of mills one above another on the southern bank of Fall Creek. Precise details of industries along the creek are not always clear, but grist, plaster, oil, and woolen mills, and iron foundries were all established there. The mills processed local and imported raw materials, producing enough not only for local needs but for shipment outside the region. In 1828 Ithaca exported enough to load 396 canal boats with locally manufactured products such as lumber (5,210,414 board feet), oil (17 barrels), flour (2,626 bushels), and whiskey (1,723 barrels). Other businesses developed nearby, among them coopering, hostelry, and a pottery. The Fall Creek House opened in the mid-1800s as a stagecoach inn and is still in business today. Across Lincoln Street, Ezra Cornell and his brother Elijah built their father a pottery that began producing glazed redware in 1842. Pottery was made there until 1890. The renovated building now contains apartments.”<sup>1</sup>

Sanborn Insurance Maps from 1888 show the Ithaca Manufacturing Company occupying the upper part of the hill on Lake Street and the Ithaca Falls Paper Mill on the lower half. Sanborn maps from 1893 show five dwelling units, each two stories tall, facing south along Lake Street. The Ithaca Gun Company, which took over the W. H. Baker and Co. gun factory in the Ithaca Manufacturing Company site in the early 1890s, had expanded from one building to four buildings by 1917. In 1989, when the factory moved its operations out of the city, the building above the falls was closed and has stood vacant ever since.

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<sup>1</sup> Sisler, Carol U., Margaret Hobbie, and Jane Marsh Dieckmann, eds. *Ithaca's Neighborhoods: The Rhine, The Hill, and the Goose Pasture*. Ithaca, NY: DeWitt Historical Society, 1988.

## **Previous Planning**

To date there has been very little formal planning for the Gun Hill Area. The two plans that discuss the area are the 1971 City of Ithaca General Plan and the 1998 City of Ithaca Economic Development Plan.

The City of Ithaca General Plan, which was written in 1971 and adopted as the City's comprehensive land use plan, said little about the area. A map entitled Existing Land Use, 1969 shows that at the time the upper part of the area was zoned for industrial use while the lower half of the area was zoned for recreational/green space and institutional, including utilities. A second map, Projected Land Use, 1990, depicts the area as entirely in an industrial use, including warehousing. There is no further reference to the area in any of the descriptions of neighborhood conditions or envisioned future land uses.

An Economic Development Plan for the City of Ithaca was written in 1998 and was accepted by the City in March of 2003. This plan addressed the Ithaca Gun factory buildings in the Gun Hill Area, recommending that the site be rehabilitated and reoccupied, but acknowledging that constraints, such as the lead contamination and the poor building conditions, would make redevelopment difficult. The Ithaca Gun factory site is described as having a commanding site overlooking Fall Creek and the lake, located adjacent to attractive apartment complexes and in close proximity to the Cornell campus. The plan states that "light industry or distinctive offices might be effective uses of existing floor space; new construction could include apartments, townhouses or office suites, all of which would fit into this historic environment if parking could be provided. The city's ability to affect the disposition of this site is limited at present."

## **Existing Conditions**

USES - Currently, the area is made up of three uses. First, the former Ithaca Gun Factory site stands abandoned and empty. It is currently undergoing a clean up of contaminated and hazardous materials (see picture at right). Second, a parking lot, just below (west of) the old factory, is used by the Gun Hill apartments, which are located across the street to the south (see picture at right below). Third, an open, grassy slope extends below the parking lot down to the bottom of the hill, where the City has recently planted some trees.



**ZONING** – The area is currently zoned I-1, Industrial. This zone is one of the most permissive in the City of Ithaca, with the exception that no residential uses are allowed. The following uses are permitted as of right:

1. Any commercial use allowed in zones B-1, B-2, B-4, and B-5
2. Industrial, warehousing, wholesaling, storage and handling of bulk goods (not including rubbish as defined in Section 196.1 of the City Code), lumberyards, and agriculture except that no animals may be kept within 50 feet of any property line;
3. Transfer station for recyclable materials

Any use not permitted in any other zoning district can be located in the I-1 zone, subject to the issuance of a special permit of the Board of Zoning Appeals in accordance with Section 325-9 of the City Code and the concurrence of Common Council.

**SURROUNDING USES** – The northern edge of the area is a steep slope running down into the Ithaca Falls gorge to Fall Creek. The falls, downstream creek and surrounding lands were recently designated a City Park. Together, the gorge, creek and falls are a unique natural area, a great source of joy for Ithaca residents and visitors. The soils in this area are currently being remediated by the United States Environmental Protection Agency, which states on its website<sup>2</sup>, “EPA’s assessment of the situation calls for the removal of an estimated 2,370 tons of lead-contaminated soil on the rocky slope between the gun factory buildings and the falls, backfilling the excavated area with clean soil and final site restoration. EPA will begin the cleanup, backfilling and site restoration at the highest point of the former factory property prior to moving downhill along Ithaca Falls Creek. EPA will install slope stabilization areas adjacent to the falls and creek to create a safe working environment and control erosion during the excavation work”. Fall Creek, from Cayuga Lake to the footbridge between the Thurston Avenue Bridge and Beebe Lake, is designated as a Recreational River under Article 15, Title 27 of the New York State Environmental Conservation Law.

To the east of the area, or uphill, there is a mix of public (a sliver of a gorge tax parcel, 11.-3-2.1), university, and residential uses. A small, privately owned falls overlook is directly uphill from the site. A fraternity building and several grand houses line Willard Way.

To the south of the area stands the Gun Hill Apartments, 210 Lake Street, a mix of 93 dwelling units, a small retail convenience store and an office space (see picture at right). The

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<sup>2</sup> <http://www.epa.gov/region2/news/2002/02020.htm>



five building complex, ranging from three to five stories, is home primarily, if not exclusively, to students.

The western edge of the area is the bottom of Lake Street hill. There is a small patch of trees sloping down on the west side of Lake Street into the abutting Fall Creek neighborhood. The surrounding neighborhood is predominantly two and three story houses, which are primarily owner occupied residences with some rental properties. The Fall Creek Elementary School is a block away.

### **Envisioned Future**

The former Ithaca Gun Factory is a major visual landmark on East Hill and a major part of Ithaca's industrial past. It is located on a commanding site that has major redevelopment potential; however, in order for a developer to be able to successfully reuse this site, there are several obstacles that need to be overcome. The site has lead contamination as well as some other possible contaminants. A developer will first have to deal with the environmental clean up of the site and then will need to develop a project that will be in harmony with the surrounding area and that will not have a negative effect on the adjacent gorge. The City's first goal for the Gun Hill Area should be to insure that its contamination is properly remediated.

Since the Ithaca Gun Factory has been vacant for such a long time, it has become a target for graffiti and vandalism. Despite its beautiful location and historic buildings, the site has become an eyesore to the nearby residential uses. It is in the City's interest to work toward development of the site, but any development of the site should be sensitive to its history and to the extraordinary natural beauty of its setting.

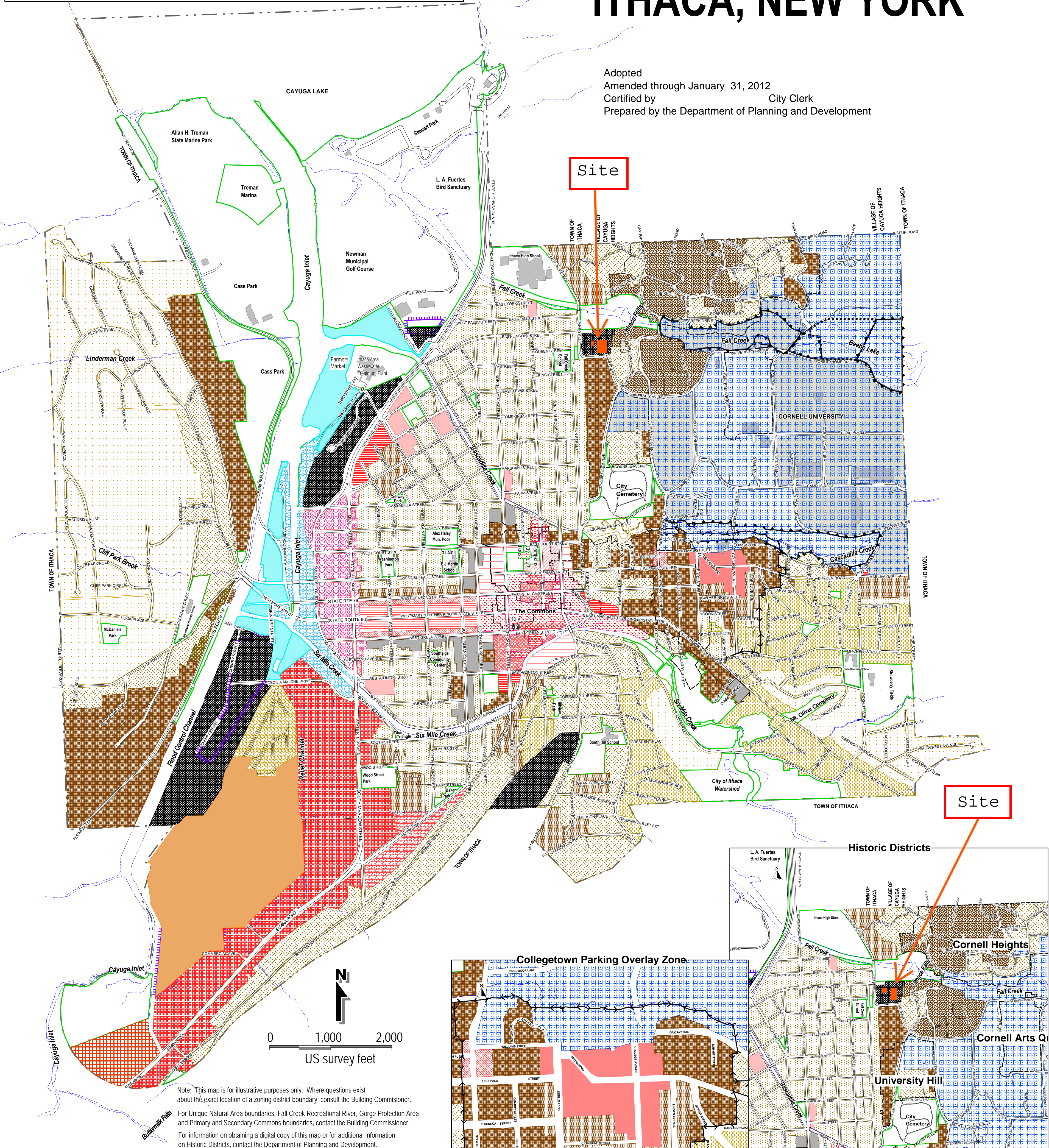
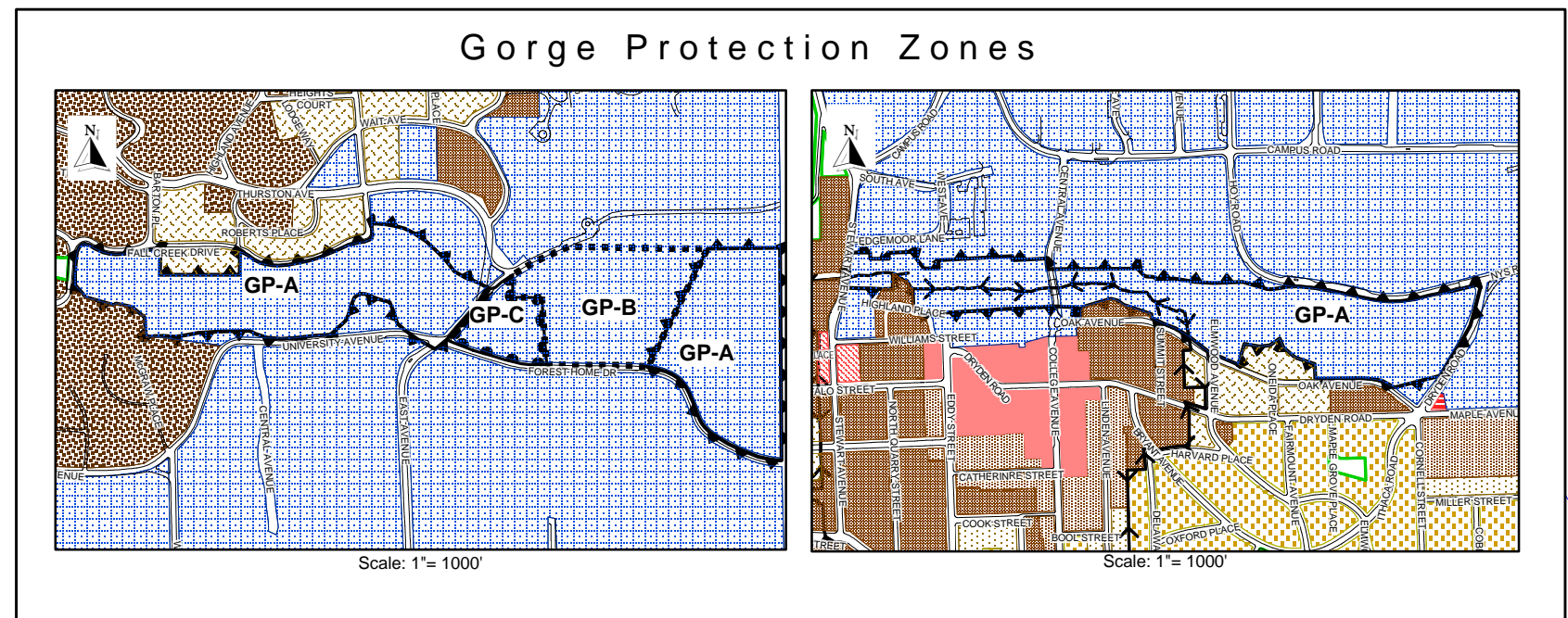
The City of Ithaca Conservation Advisory Council commented at their July 14, 2003 meeting that the site of the Ithaca Gun factory and the surrounding area is perhaps the most unique and environmentally significant building site within City limits, due to its proximity to Ithaca Falls and the adjacent natural area. They further commented that they support mixed-use redevelopment of the existing, abandoned factory, but that they urge that great care be taken to ensure that any new development on this site respect the adjacent natural features and not intrude upon them or diminish their quality. This should be a second goal for the area.

The Gun Hill area is zoned industrial, which has clearly become inconsistent with the surrounding uses. The surrounding residential uses would be negatively impacted by industrial uses at this location. In order to be compatible with the surrounding land uses, a mix of residential and low impact commercial uses should be considered for the redevelopment of this area. This is a third City goal for the area.



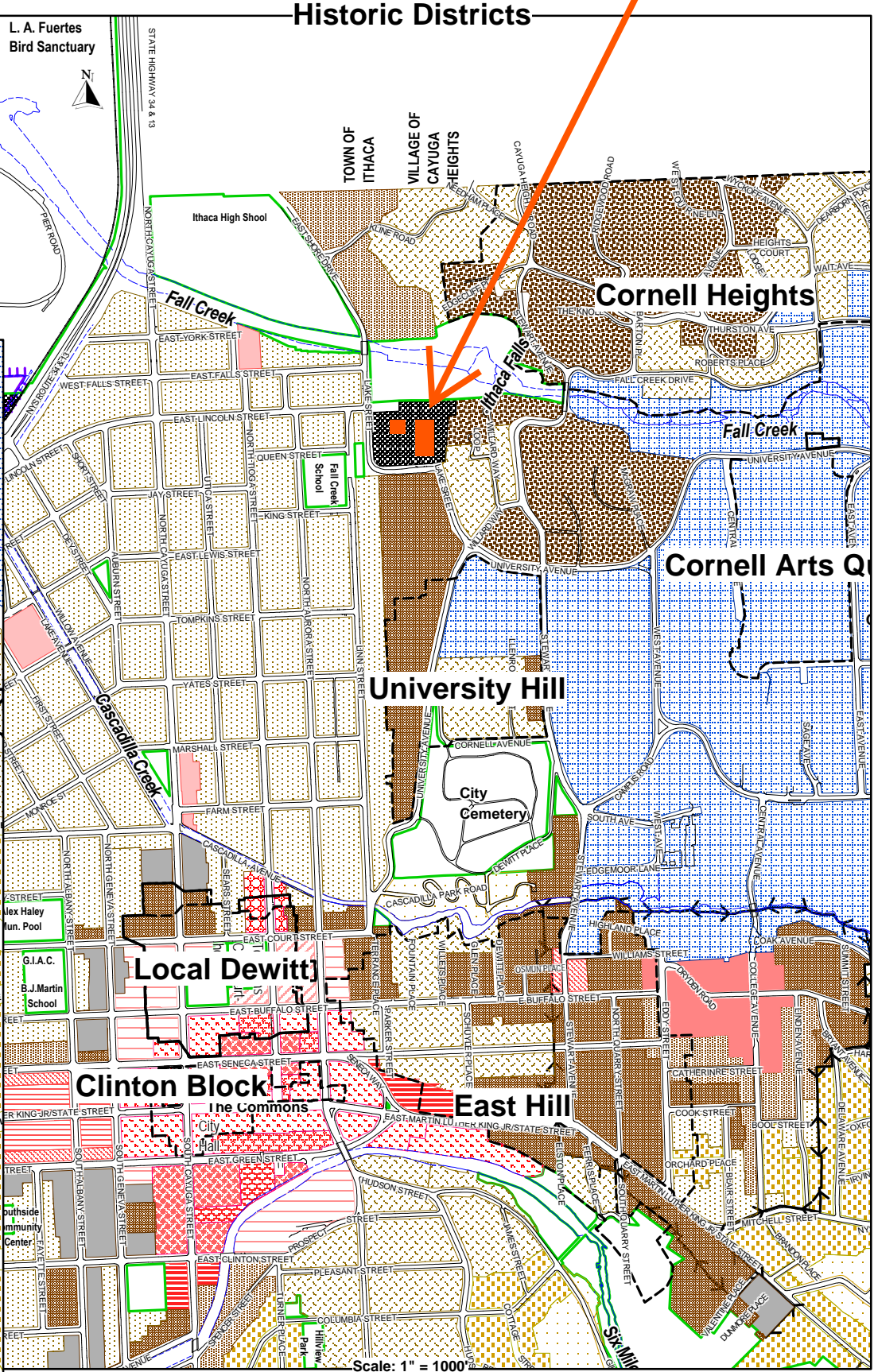
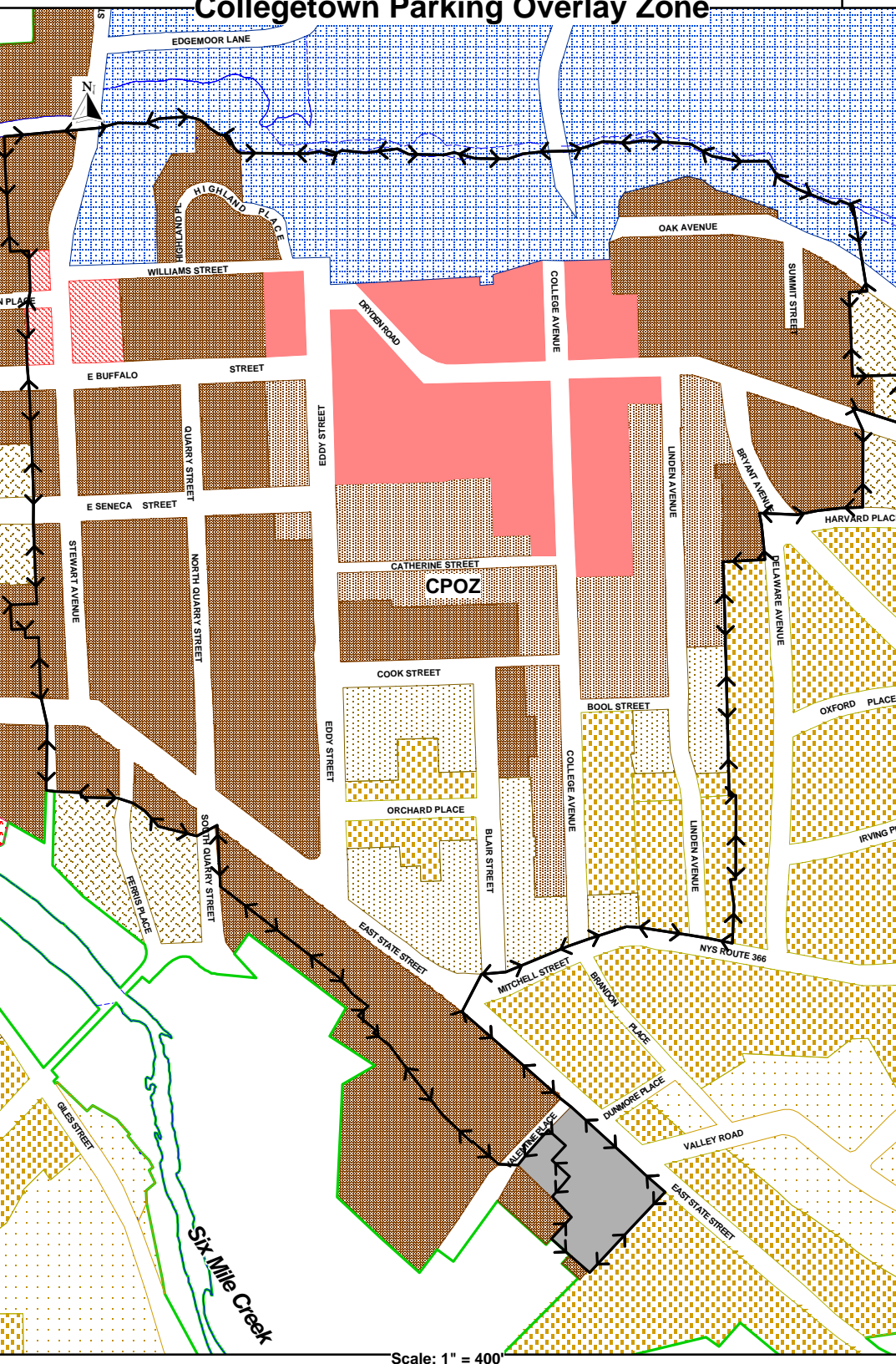
# OFFICIAL ZONING MAP OF THE CITY OF ITHACA, NEW YORK

Adopted  
Amended through January 31, 2012  
Certified by City Clerk  
Prepared by the Department of Planning and Development



## Legend for Zoning Districts

R-1a	B-1a	CBD-85	WEDZ-1b	Historic District
R-1b	B-1b	CBD-100	SW-1	CPOZ
R-2a	B-2a	CBD-120	SW-2	Adult Uses
R-2b	B-2b	MH-1	SW-3	
R-2c	B-2c	C-SU	WF-1	
R-3a	B-2d	I-1	WF-2	
R-3aa	B-4	P-1	GP-A	
R-3b	B-5	U-1	GP-B	
R-U	CBD-60	WEDZ-1a	GP-C	





## Exhibit J

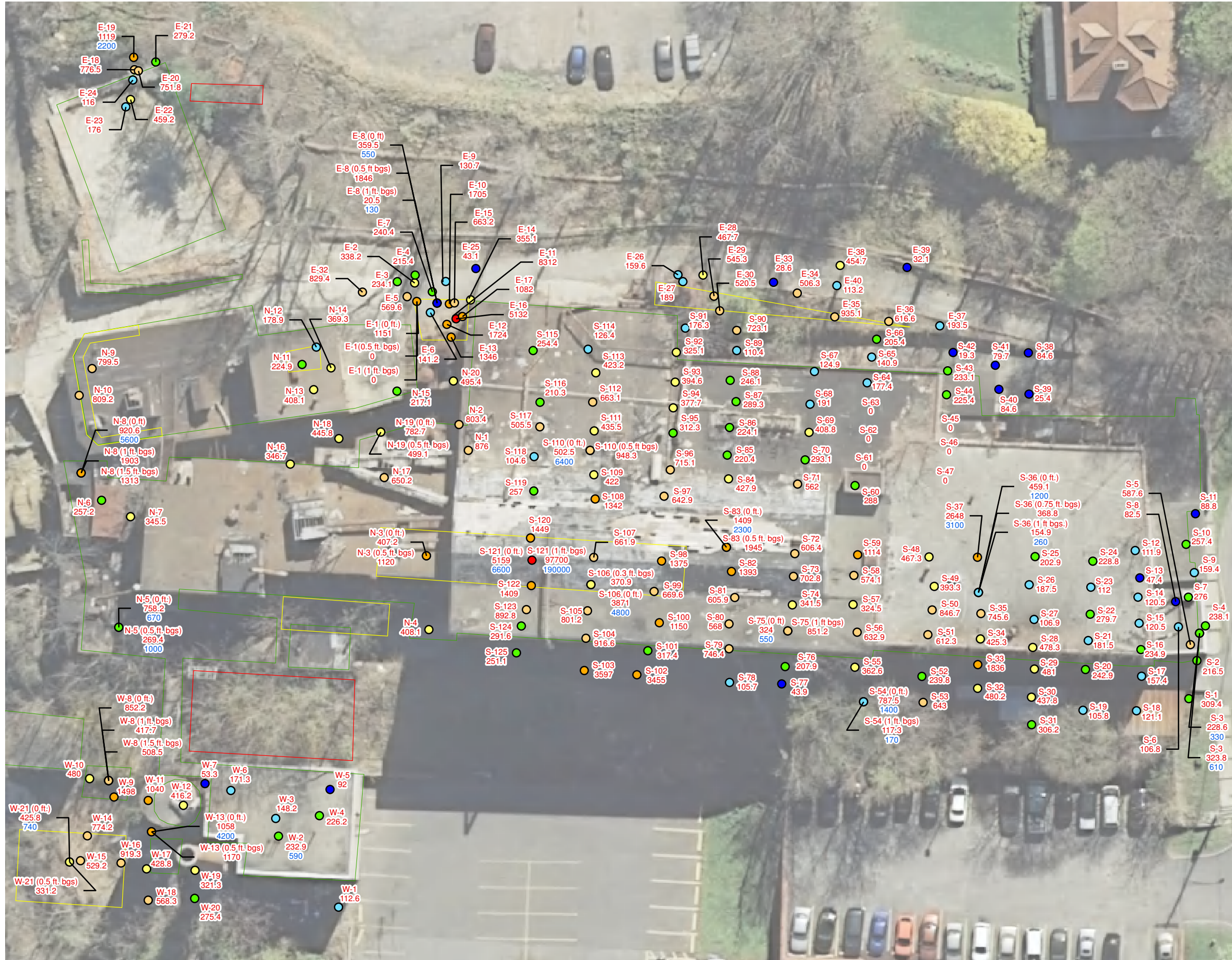


FIGURE 3



LEGEND

XRF Lead Screening Data

- 19.3 - 100 ppm
- 100 - 200 ppm
- 200 - 320 ppm
- 320 - 500 ppm
- 500 - 1000 ppm
- 1000 - 4000 ppm
- >4000 ppm

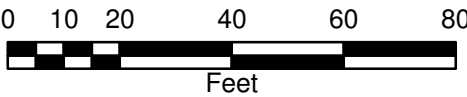
- S-117 XRF SAMPLE SCREENING POINT
- 140.9 LEAD CONCENTRATION (XRF)
- 3100 LEAD CONCENTRATION (LAB)

Structural Outlines

- KNOWN CONTAMINATED SOILS
- SOIL TO BE REMOVED UNDER IRM
- TO BE DEMOLISHED

ITHACA GUN SITE  
ITHACA, NY

POST-DEMOLITION XRF  
SCREENING RESULTS



FEBRUARY 2011  
4152/39256