



Department of  
Environmental  
Conservation

## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

#### 1. Check the appropriate box(es) below based on the nature of the amendment modification requested:

☐ Amendment to modify the existing BCA: [check one or more boxes below]

- ☐ Add applicant(s)
- ☐ Substitute applicant(s)
- ☐ Remove applicant(s)
- ☐ Change in Name of applicant(s)

☐ Amendment to reflect a transfer of title to all or part of the brownfield site

1a. A copy of the recorded deed must be provided. Is this attached? ☐ Yes ☐ No

1b. ☐ Change in ownership ☐ Additional owner (such as a beneficial owner)

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

☒ Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

☒ Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

☐ **Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

☐ Other (explain in detail below)

#### 2. Required: Please provide a brief narrative on the nature of the amendment:

The original BCP Site consisted of Tax Lots ## 120.36-2-2 and 2-1.1 [NOTE: this tax lot was incorrectly referred to as former Tax Lot 2-1 but should have been 2-1.1] but excluded a small unnamed alley off of Wiley Street. These tax lots have been merged into one new tax lot # 120.36-2-1.002, and the 0.02 acre alley has been added to the Site. The Site is now slightly larger - 1.72 acres - as opposed to 1.7 acres as stated in the original BCA. See attach new City Tax Map reflecting these changes, the blow up of the new Tax Map showing the consolidated Site and the lot resubdivision application approved by the City of Rochester in support of this Amendment.

**\*Please refer to the attached instructions for guidance on filling out this application\***

**\*Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves a non-insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.\***

<b>Section I. Current Agreement Information</b>		
BCP SITE NAME: Canal Street Manufacturing Site		BCP SITE NUMBER: C828206
NAME OF CURRENT APPLICANT(S): East House Canal Street LLC		
INDEX NUMBER OF AGREEMENT: C828206-06-18		DATE OF ORIGINAL AGREEMENT: 07/26/2018
<b>Section II. New Requestor Information</b> (complete only if adding new requestor or name has changed)		
NAME		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> 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 (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.		
NAME OF NEW REQUESTOR'S REPRESENTATIVE		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No		
3. Describe Requestor's Relationship to Existing Applicant:		

**Section III. Current Property Owner/Operator Information (only include if new owner/operator)**  
**Owner below is:** ☐ Existing Applicant ☐ New Applicant ☐ Non-Applicant

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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? ☐ Yes ☐ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☐ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☐ No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☐ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☐ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☐ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☐ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? ☐ Yes ☐ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(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? ☐ Yes ☐ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☐ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☐ No

THE NEW REQUESTOR MUST CERTIFY THAT IT 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 contamination 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 contamination.

☐ 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, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site 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; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**

12. Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☐ Other \_\_\_\_\_

13. If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☐ Yes ☐ No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

1. Property information on current agreement:

ADDRESS 67 Canal Street and 89 Canal Street

CITY/TOWN Rochester, NY

ZIP CODE 14608

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: 1.7

Parcel Address	Section No.	Block No.	Lot No.	Acreage
67 Canal Street	120	36	2-2	0.78
89 Canal Street	120	36	2-1.1	0.92

2. Check appropriate boxes below:



Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

2a. PARCELS ADDED:

Parcel Address	Section No.	Block No.	Lot No.	Acreage Added by Parcel
Wiley Street Alley	120.36	2	p/o 1.002	0.02

Total acreage to be added: 0.02

Reduction of property

2b. PARCELS REMOVED:

Parcel Address	Section No.	Block No.	Lot No.	Acreage Removed by Parcel

Total acreage to be removed: \_\_\_\_\_



Change to SBL (e.g. merge, subdivision, address change)

2c. NEW SBL INFORMATION:

Parcel Address	Section No.	Block No.	Lot No.	Acreage
67-89 Canal Street	120.36	2	1.002	1.72

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

**3. TOTAL REVISED SITE ACREAGE:** 1.72

# Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>From ECL 27-1405(31):</b>  "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From 6 NYCRR 375- 3.2(a) as of August 12, 2016:  (a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.  (1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.  (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.  (3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

## PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Canal Street Manufacturing Site	BCP SITE NUMBER: C828206
NAME OF CURRENT APPLICANT(S): East House Canal Street LLC	
INDEX NUMBER OF AGREEMENT: C828206-06-18	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 07/26/2018	

### Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

### Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am (title \_\_\_\_\_) of (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; and 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.

\_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_



**Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)**

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am Manager (title) of East House Canal Street LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Kim Brumber's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/4/2021 Signature: 

Print Name: Kim Brumber

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Please see the following page for submittal instructions.

**NOTE: Applications submitted in fillable format will be rejected.**

Status of Agreement:

☐

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.

☒

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 contamination.

**Effective Date of the Original Agreement: 07/26/2018**

**Signature by the Department:**

DATED: January 28, 2022

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By: Susan Edwards

Acting Director, DER

Michael J. Ryan, P.E., Director  
Division of Environmental Remediation



**SUBMITTAL INFORMATION:**

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in final, non-fillable Portable Document Format (PDF) 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

- **NOTE: Applications submitted in fillable format will be rejected.**

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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** Region 8

**PROJECT MANAGER:** Todd Caffoe

# **EXHIBIT A**



City of Rochester, NY

[FOR OFFICE USE ONLY]

FEE: \_\_\_\_\_ FILE NUMBER: \_\_\_\_\_

CHECKED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

## RESUBDIVISION Minor Transfers of Land and Lot Combinations

BUREAU OF BUILDINGS AND ZONING  
CITY HALL, 30 CHURCH STREET, ROOM 125-B  
ROCHESTER, NEW YORK 14614  
(585) 428-7043


### INSTRUCTIONS TO APPLICANT

Applications **MUST** be submitted by appointment. Please call or email Mary Kerr at (585) 428-6590 or at [mary.kerr@cityofrochester.gov](mailto:mary.kerr@cityofrochester.gov).

Office Use	<u>APPLICATION REQUIREMENTS and INSTRUCTIONS:</u>
<input type="checkbox"/>	1. Two (2) copies of this completed application.
<input type="checkbox"/>	2. Obtain two (2) copies a Tax Map showing all of the parcels involved from Maps & Survey, City Hall, Room 225B. They will assist you in preparing this application and the required map.
<input type="checkbox"/>	3. Two (2) sets of City Tax Certificates for <u>each</u> of the parcels showing that the taxes are paid in full for the current tax season. City Treasurer, City Hall, Room 100A.
<input type="checkbox"/>	4. Two (2) sets of County Tax Certificates for <u>each</u> of the parcels showing that the taxes are paid in full for the current tax season. County Treasurer, County Office Building, 39 W. Main Street, Room B-2.
<input type="checkbox"/>	5. Fee: \$50.00.

1. **APPLICANT:** KIM BRUMBER **COMPANY NAME:** EAST HOUSE CANAL STREET LLC  
**ADDRESS:** 259 MONROE AVE., SUITE 200 **CITY:** ROCHESTER **ZIP CODE:** 14607  
**PHONE:** 585-238-4800 **FAX:** 585-238-4899  
**E-MAIL ADDRESS:** kbrumber@easthouse.org

**INTEREST IN PROPERTY:** Owner \_\_\_\_\_ Lessee \_\_\_\_\_ Other X  
 2. **OWNER:** 67-89 CANAL LLC c/o BUCKINGHAM PROPERTIES  
**ADDRESS:** 259 ALEXANDER ST. **CITY:** ROCHESTER **ZIP CODE:** 14607  
**PHONE:** 585-295-9500 x5851 **FAX:** \_\_\_\_\_  
**E-MAIL ADDRESS:** rfinley@buckprop.com

3. PROPERTY ADDRESS(ES)	CITY TAX ACCT. NO.
67 CANAL STREET	120.36-2-2
89 CANAL STREET	120.36-2-1.1
 Certificate of Zoning Compliance # <u>6648</u> Issued and Filed in the Division of Zoning	

4. The parcel(s) is/are presently held by the owner under deed(s) recorded in the Monroe County Clerk's Office as follows:

Date: 9/30/2011 Liber: 11047 Page: 384

Date: \_\_\_\_\_ Liber: \_\_\_\_\_ Page: \_\_\_\_\_

5. ZONING DISTRICT (SEE ZONING MAP) CCD-C Center City Cascade-Canal Preservation District

6. ARE THERE BUILDINGS OR IMPROVEMENTS ON THE PARCEL(S)? YES X NO \_\_\_\_\_

ADDRESS(S)	TYPE OF BUILDING (single family, garage, etc.)
<u>67 - 89 CANAL STREET</u>	<u>5 STORY MANUFACTURING BLDG.</u>
_____	<u>GARAGE/SHOP</u>
_____	<u>LOADING DOCK</u>

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: [Signature] DATE: 2/25/2020

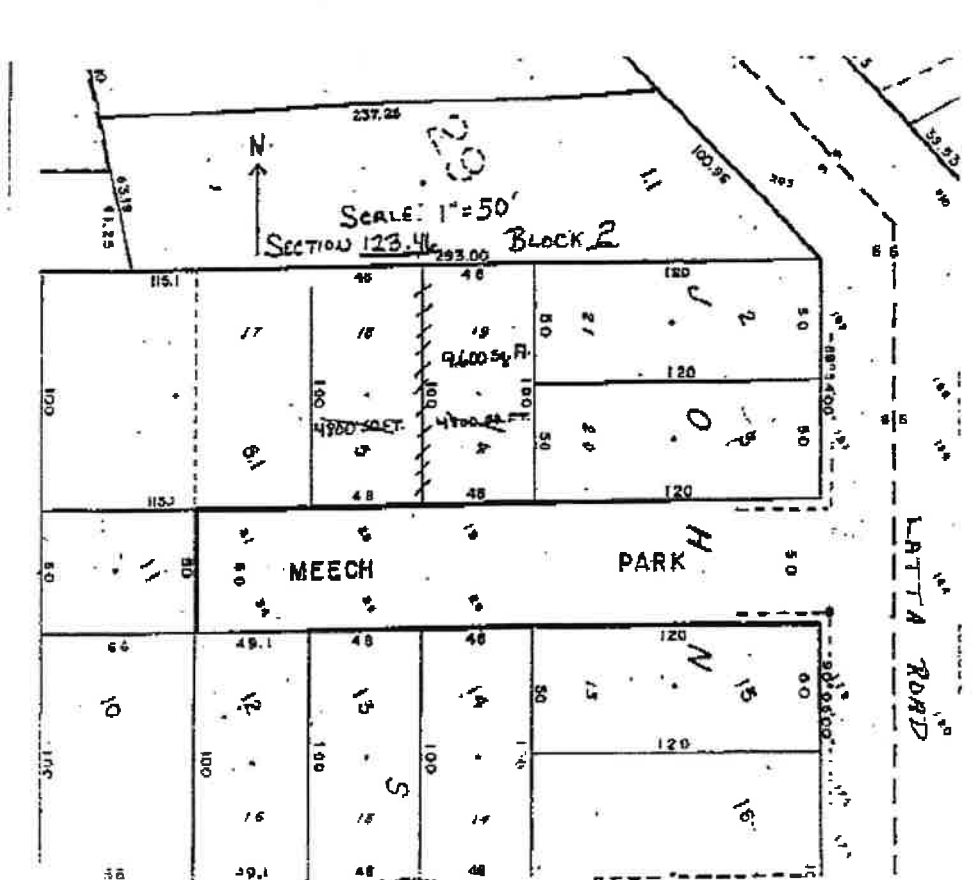
OWNER (if other than above): I have read and familiarized myself with the content of this application and do hereby consent to its submission and processing.

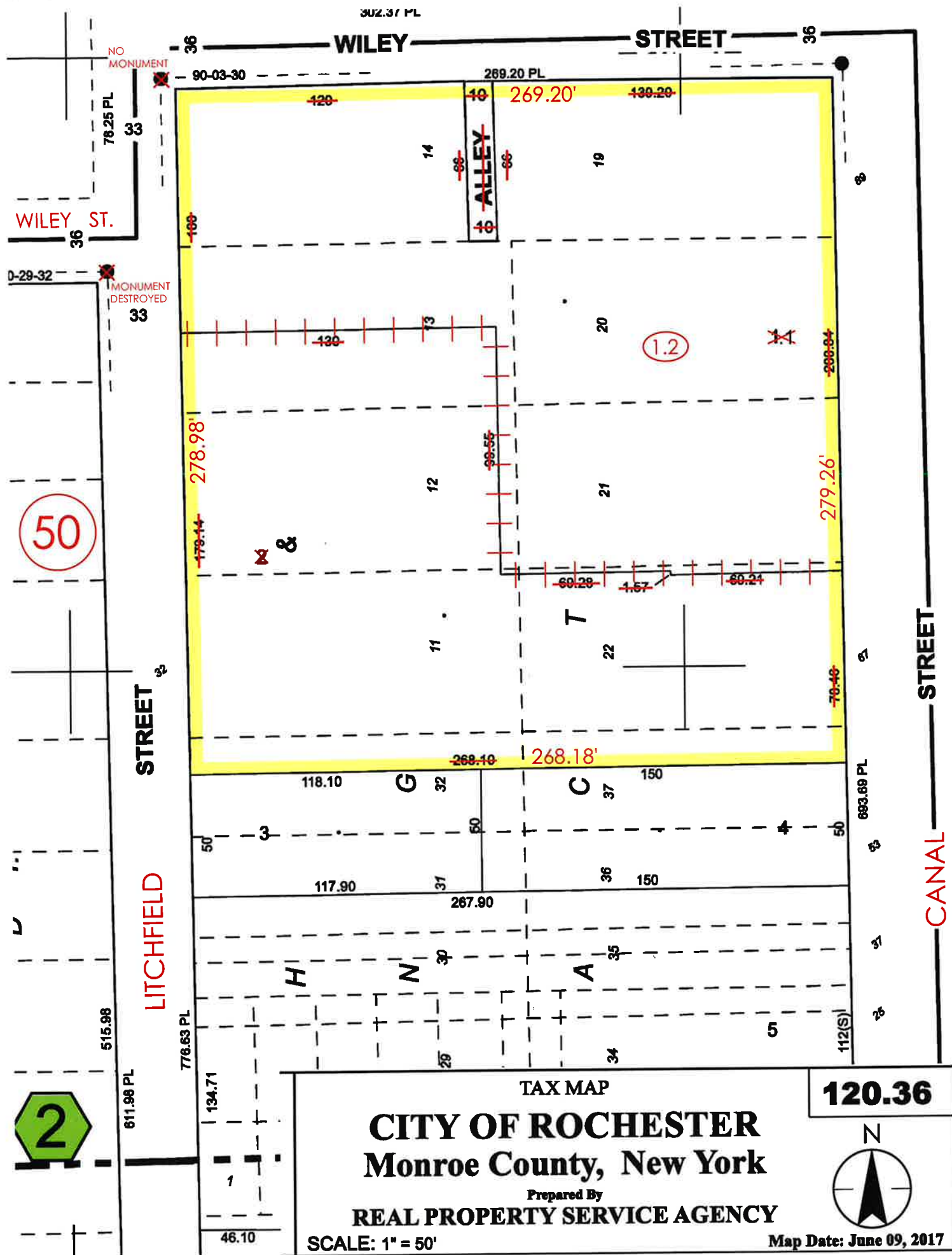
SIGNATURE: [Signature] DATE: 2/25/2020

DocuSigned by:

4570C0DEB8E843A...

### SAMPLE MAP





Canal

Address Owner SBL

St

AL PROPERTY

120.36-2-1.002  
12036000020010020000

Address: 67-89 Canal St

Site: 67-89 Canal St Llc

Address: 259 Alexander St  
Rochester, NY 14607

710

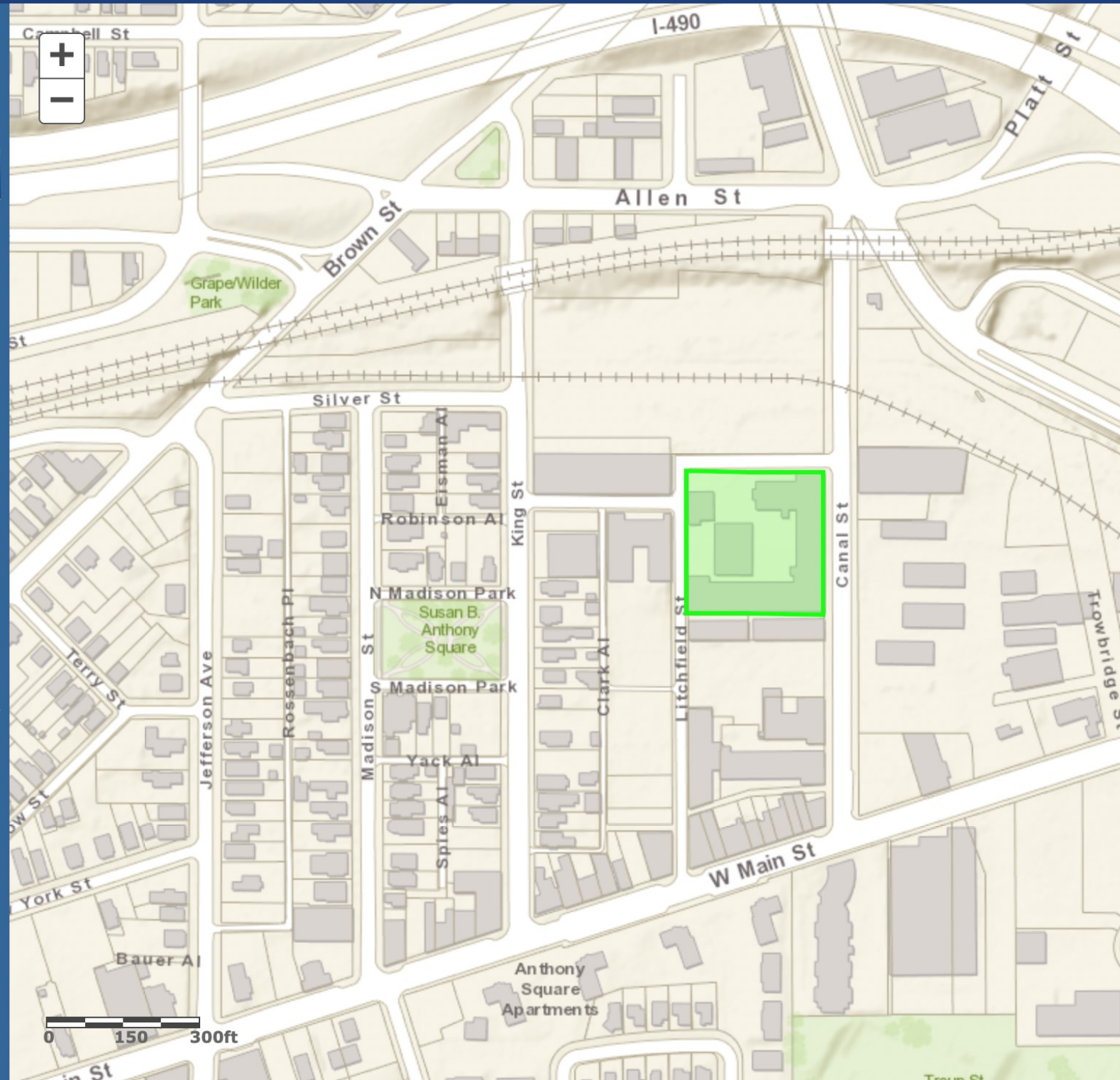
Manufacture

Units: 0

Size: 279.26 ft.  
269.2 ft.

Age: 1.72 acres

City	Assessment	Tax
Photos	Water	
Zoning	Code Enforcement	
Tax Exemptions		





# **EXHIBIT B**

**EAST HOUSE CANAL STREET LLC  
WRITTEN CONSENT**

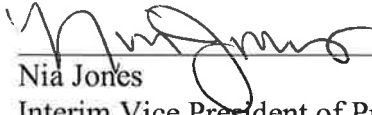
The undersigned, being the members of East House Canal Street LLC, does hereby certify as follows:

1. East House Canal Street LLC is the volunteer for the Brownfield Cleanup Program (BCP) Site located at 67 & 89 Canal Street, Rochester, New York 14608 (BCP Site No. C828206).

2. The following person, Kim Brumber, the manager of East House Canal Street MM LLC, which encompasses all members of East Canal House Street LLC, has been authorized to execute any documents required by the New York State Department of Environmental Conservation on behalf of Brownfield Site Volunteer East House Canal Street LLC in relation to the BCP Site.

3. All actions herefore taken and all documents herefore executed and all present and future actions taken in connection with the above and/or these resolutions, are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on this 29<sup>th</sup> day of November, 2021.

  
\_\_\_\_\_  
Nia Jones  
Interim Vice President of Programs  
For East House Canal Street MM LLC