

November 20, 2019

Ms. Kelly Lewandowski, P.E.
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, New York 12233-7020

**Re: Brownfield Cleanup Program Application Package
Southside Plaza Site
Jamestown, New York**

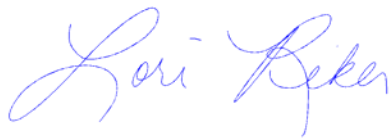
Dear Ms. Lewandowski:

Benchmark Environmental Engineering & Science, PLLC has prepared the enclosed Brownfield Cleanup Program (BCP) application package for your review. A full electronic copy is included on the enclosed CD.

A copy of the BCP application along with a Remedial Investigation Work Plan have been sent to Mr. Joshua Vaccaro in the NYSDEC Region 9 office.

Please do not hesitate to contact us with any questions.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC

A handwritten signature in blue ink that reads 'Lori E. Riker'.

Lori E. Riker, P.E.
Sr. Project Manager

Enc.

ec: Scott Laseter, Esq. (KMCL)
Helen Barnes, Esq. (KMCL)
Stan Radon (NYSDEC)
Joshua Vaccaro (NYSDEC)
Michael Lesakowski (Benchmark-TurnKey)

File: B0505-019-001

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**2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583**

Brownfield Cleanup Program Application

*Southside Plaza Site
Jamestown, New York*

November 2019

B0505-019-001

Prepared For:

Kazmarek Mowrey Cloud Laseter LLP



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

☐ Yes

☒ No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 10*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME LB-UBS 2007-C6 - Southside Station LLC

ADDRESS 1601 Washington Avenue, Suite 800

CITY/TOWN Miami Beach, FL

ZIP CODE 33139

PHONE 305-695-5600

FAX 305-695-5601

E-MAIL mmiller@lnrpartners.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 the New York State Department of Environmental Conservation (DEC) with the application to document that the requestor is authorized to do business in NYS. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment. **See Appendix A; Section I**

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.** **See Appendix A; Section I**

Section II. Project Description

1. What stage is the project starting at?

☒ Investigation

☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, a Remedial Investigation Report (RIR) at a minimum is required to be attached, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Work Plan are also attached (see DER-10 / Technical Guidance for Site Investigation and Remediation for further guidance) then a 45-day public comment period is required.

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No **Not Applicable**

3. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and **See Appendix A; Section II**
- the date the Certificate of Completion is anticipated. **See Figure 5**

Section III. Property's Environmental History**See Appendix A; Section III**

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit the information requested in this section in electronic format only***):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

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	Soil Gas
Petroleum			
Chlorinated Solvents	X	X	X
Other VOCs			
SVOCs			
Metals	X	X	
Pesticides			
PCBs			
Other*			

*Please describe: _____

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- SAMPLE LOCATION
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

See Appendix A; Section III**See Figure 6**

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

☒ Yes ☐ No

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

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Coal Gas Manufacturing | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input checked="" type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input checked="" type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Southside Plaza Site				
ADDRESS/LOCATION 704-744 Foote Avenue				
CITY/TOWN Jamestown		ZIP CODE 14701		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Jamestown				
COUNTY Chautauqua		SITE SIZE (ACRES) 5		
LATITUDE (degrees/minutes/seconds) 42 ° 4 ' 51.17 "		LONGITUDE (degrees/minutes/seconds) -79 ° 13 ' 47.28 "		
Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	See Appendix A; Section IV	Section No.	Block No.	Lot No.
704-744 Foote Avenue	404.07	8	3	5
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? See Figures 2, 3 & 4 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <div style="text-align: center; margin-top: 10px;"> Not Applicable If yes, identify census tract : _____ </div> <div style="margin-top: 10px;"> Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100% </div>				
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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? See Appendix A; Section IV <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. ☐ Yes ☒ No

Easement/Right-of-way Holder

Description

None/Unknown

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

Type

Issuing Agency

Description

None/Unknown

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.**

See Appendix A; Section IV

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**?

☒ Yes ☐ No

Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? ☐ Yes ☐ No

If yes, requestor must answer questions on the supplement at the end of this form.

Not Applicable

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ Yes ☐ No

Not Applicable

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? ☐ Yes ☐ No

Not Applicable

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

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

Initials of each Requestor: _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY	
BCP SITE NAME: _____		BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Mark Miller			
ADDRESS 1601 Washington Avenue, Suite 800			
CITY/TOWN Miami Beach, FL		ZIP CODE 33139	
PHONE 305-695-5600	FAX 305-695-5601	E-MAIL mmiller@lnrpartners.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Michael A. Lesakowski			
ADDRESS 2558 Hamburg Turnpike			
CITY/TOWN Buffalo		ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL mlesakowski@turnkeyllc.com	
NAME OF REQUESTOR'S ATTORNEY Scott Laseter, Kazmarek Mowrey Cloud Laseter LLP			
ADDRESS 1230 Peachtree Street, N.E., Suite 900			
CITY/TOWN Atlanta, GA		ZIP CODE 30309	
PHONE 404-812-0844	FAX 404-812-0845	E-MAIL slaseter@kmccllaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME Same as Requestor		OWNERSHIP START DATE: 12/31/2014	
ADDRESS Same as Requestor			
CITY/TOWN Same as Requestor		ZIP CODE Same as Requestor	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL Same as Requestor	
CURRENT OPERATOR'S NAME Same as Requestor			
ADDRESS Same as Requestor			
CITY/TOWN Same as Requestor		ZIP CODE Same as owner	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL Same as Requestor	
PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE". See Appendix B: Section VI			
IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407) See Appendix B; Section VII			
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 for the investigation, removal or remediation of 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? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing 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, DEC 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 DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ 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 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: **See Appendix B; Section VII**

☐ 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, 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.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

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 **Not Applicable**

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☐ Yes ☒ No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
Not Applicable
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information

See Appendix B; Section IX

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [*DER-23 / Citizen Participation Handbook for Remedial Programs*](#). 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. **See Figure 7**
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). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

Section X. Land Use Factors**See Appendix B; Section X**

1. What is the current municipal zoning designation for the site? Commercial

What uses are allowed by the current zoning? (Check boxes, below)

☒ Residential ☒ Commercial ☐ Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☐ Vacant ☐ Recreational (check all that apply)

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: ☐ Residential ☒ Commercial ☐ Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing?

☐ Yes ☐ No

Not Applicable

4. Do current historical and/or recent development patterns support the proposed use?

☒ Yes ☐ No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See Appendix B; Section X

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See Appendix B; Section X

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: _____ LNR PARTNERS, LLC, a Florida limited liability company, as manager of LB-UBS 2007 - C6 - PECO PORTFOLIO LLC, a Delaware limited liability company, the sole member and manager of LB-UBS 2007 - C6 - SOUTHSIDE STATION LLC, a Delaware limited liability company

(By a requestor other than an individual) I hereby affirm that I am Vice President (title) of _____ (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: 11-15-2019

Signature: _____

Print Name: Steven D. Ferreira

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in 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

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

BCP App Rev 10

Not Applicable

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input 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
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"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.</p> <p>From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)</p> <p>375-3.2:</p> <p>(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(c) there are no structures.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.</p>	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

- ☐ Project is an Affordable Housing Project - Regulatory Agreement Attached;
- ☐ Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a "pending" status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- ☐ This is Not an Affordable Housing Project.

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.

BCP Application Summary (for DEC use only)**Site Name:** Southside Plaza Site**City:** Jamestown**Site Address:** 704-744 Foote Avenue**County:** Chautauqua**Zip:** 14701**Tax Block & Lot****Section (if applicable):** 404.07 **Block:** 8 **Lot:** 3**Requestor Name:** LB-UBS 2007-C6 - Southside Station LLC **Requestor Address:** 1601 Washington Avenue, Suite 800**City:** Miami Beach, FL**Zip:** 33139**Email:** mmiller@lnrpartners.com**Requestor's Representative (for billing purposes)****Name:** Mark Miller**Address:** 1601 Washington Avenue, Suite 800**City:** Miami Beach, FL**Zip:** 33139**Email:** mmiller@lnrpartners.com**Requestor's Attorney****Name:** Scott Laseter, Kazmarek Mowrey Cloud Laseter LLP **Address:** 1230 Peachtree Street, N.E., Suite 900**City:** Atlanta, GA**Zip:** 30309**Email:** slaseter@kmcclaw.com**Requestor's Consultant****Name:** Mr. Michael A. Lesakowski **Address:** 2558 Hamburg Turnpike**City:** Buffalo**Zip:** 14218**Email:** mlesakowski@turnkeyllc.com**Percentage claimed within an En-Zone:** ☒ 0% ☐ <50% ☐ 50-99% ☐ 100%**DER Determination:** ☐ Agree ☐ Disagree**Requestor's Requested Status:** ☒ Volunteer ☐ Participant**DER/OGC Determination:** ☐ Agree ☐ Disagree

Notes:

For NYC Sites, is the Requestor Seeking Tangible Property Credits: ☐ Yes ☐ No**Does Requestor Claim Property is Upside Down:** ☐ Yes ☐ No**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Does Requestor Claim Property is Underutilized: ☐ Yes ☐ No**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

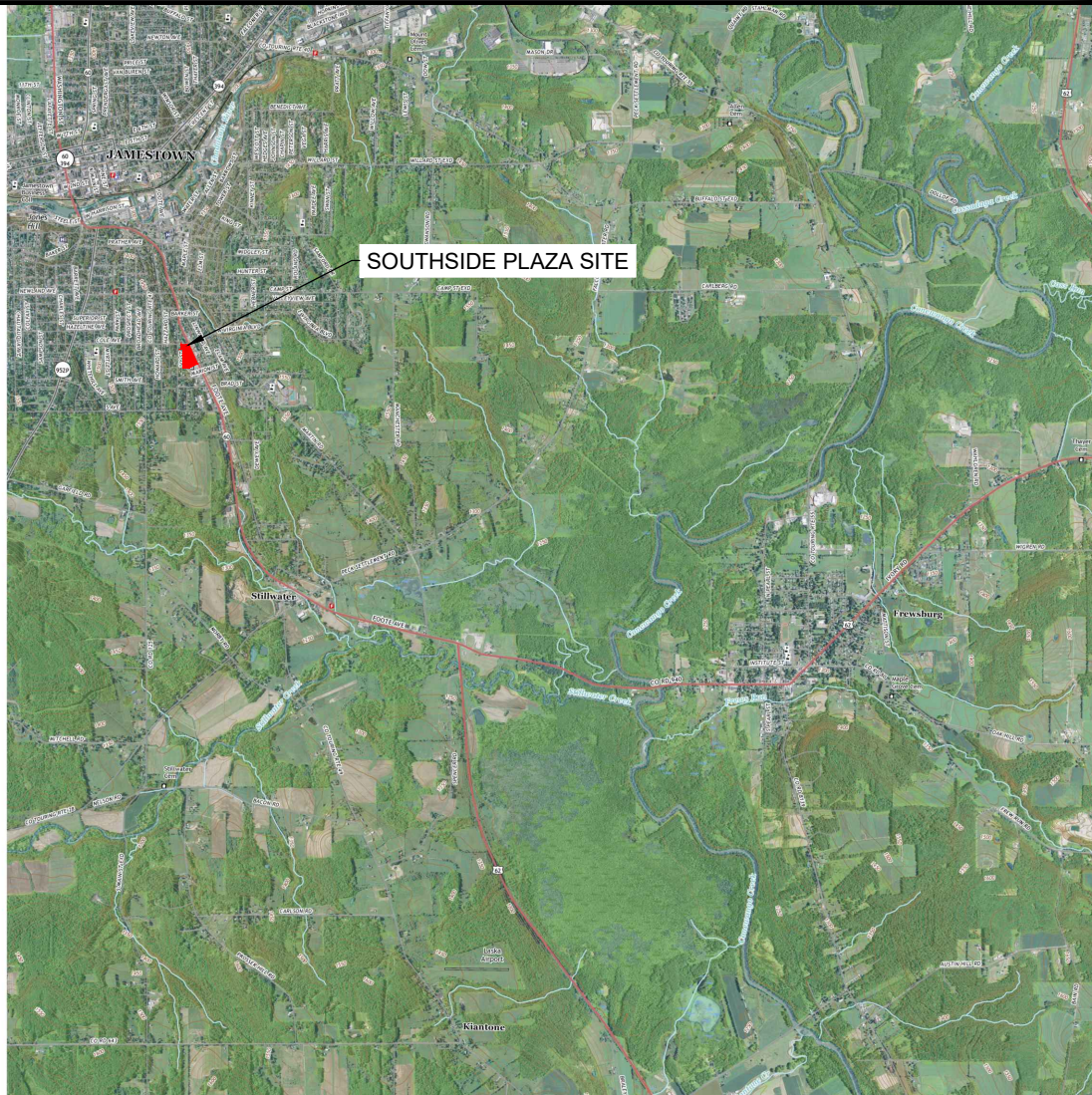
Does Requestor Claim Affordable Housing Status: ☐ Yes ☐ No ☐ Planned, No Contract**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

FIGURES

Figure 1	Site Location and Vicinity Map
Figure 2	Site Plan (Aerial)
Figure 3	Tax Map
Figure 4	Property Base Map (1,000' Setback)
Figure 5	Preliminary Project Schedule
Figure 6	Investigation Locations & Areas of Concern
Figure 7	Adjacent Property Owners
Figure 8	Zoning Map
Figure 9	USDA Soil Type Map
Figure 10	NYSDEC Wetlands Map

FIGURE 1



BASEMAP: USGS JAMESTOWN 2016 QUADRANGLE



SCALE: 1 INCH = 6000 FEET
SCALE IN FEET
(approximate)



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0505-019-001

DATE: OCTOBER 2019

DRAFTED BY: RFL

SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

PREPARED FOR

KAZMAREK MOWREY CLOUD LASETER LLP

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SCALE: 1 INCH = 100 FEET
SCALE IN FEET
(approximate)



LEGEND:

----- PROPERTY BOUNDARY

SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION
SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK
PREPARED FOR
KAZMAREK MOWREY CLOUD LASETER LLP

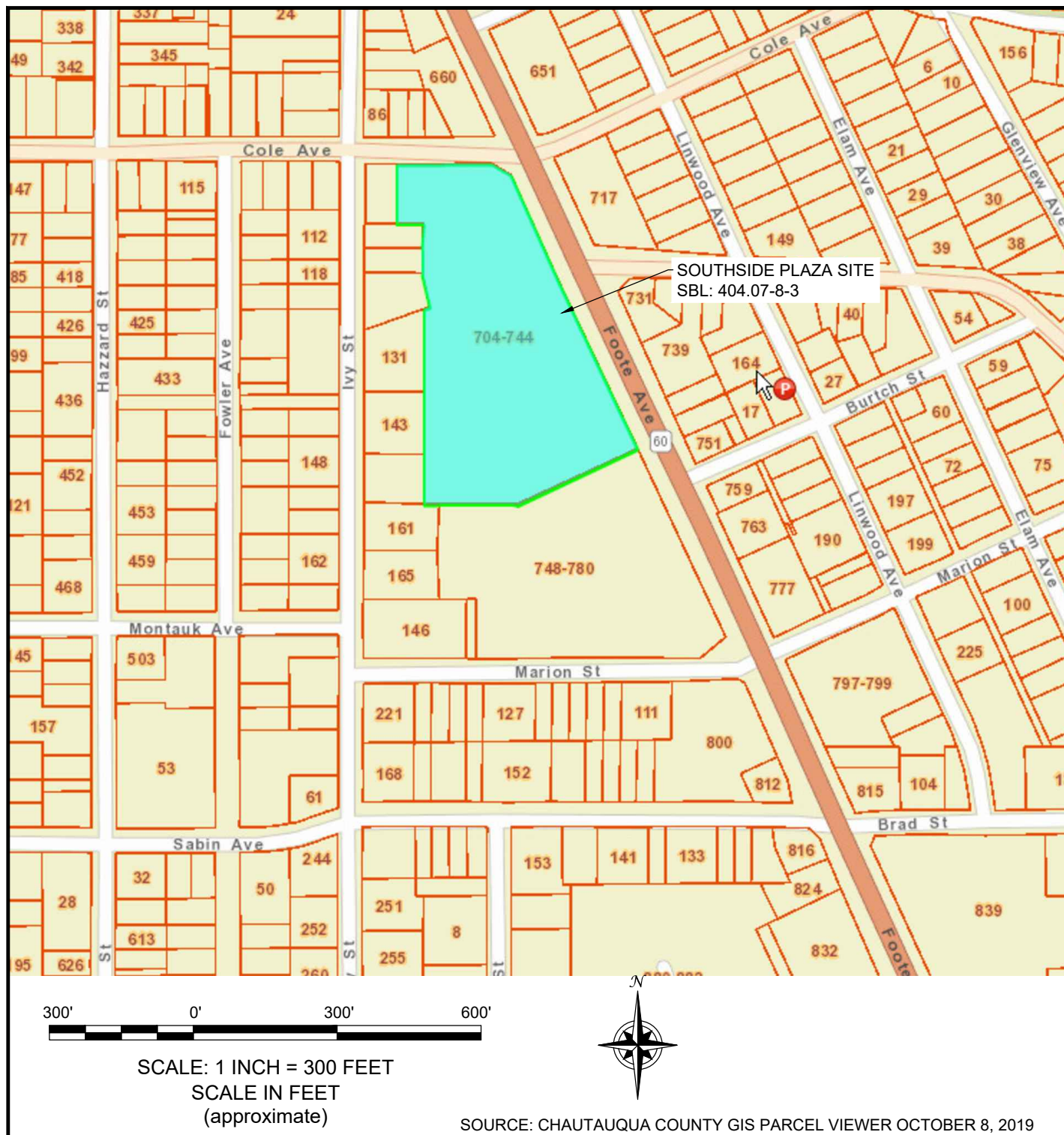
BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: 0505-019-001

FIGURE 2

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FIGURE 3



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

PROJECT NO.: 0505-019-001

DATE: OCTOBER 2019

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TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

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SCALE: 1 INCH = 400 FEET
SCALE IN FEET
(approximate)



LEGEND:

- PLANNED BCP BOUNDARY (SITE PROPERTY BOUNDARY)
- 1,000 FOOT SETBACK

NOTES:
1. BASE MAP GOOGLE EARTH DATED APRIL 2016.

PROPERTY BASE MAP (1,000 FT SETBACK)

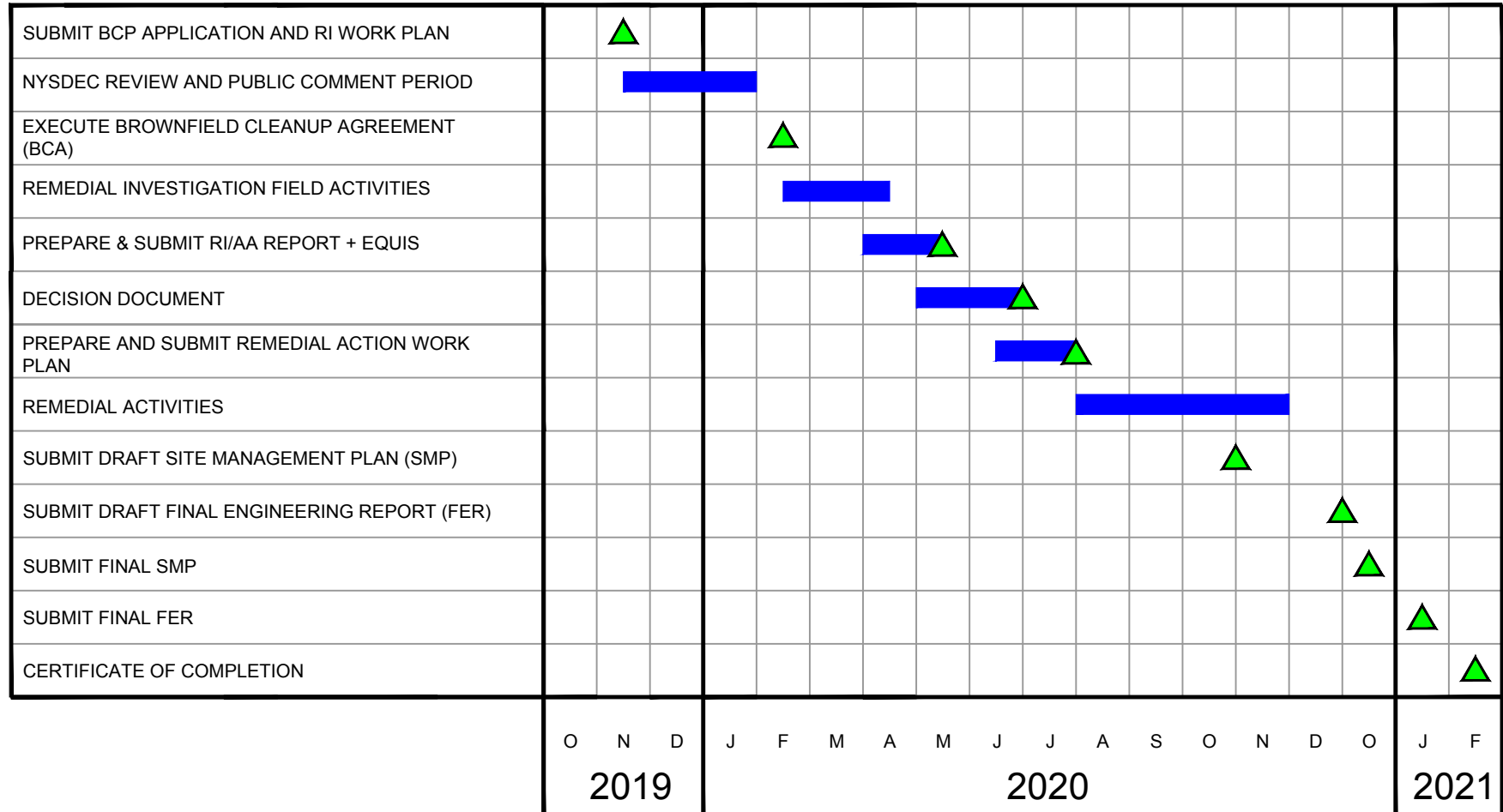
BROWNFIELD CLEANUP PROGRAM APPLICATION
SOUTHSIDE PLAZA SITE
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JOB NO.: 0505-019-001

FIGURE 4

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PROJECT TASKS:

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0505-019-001

DATE: NOVEMBER 2019

DRAFTED BY: CMC

PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

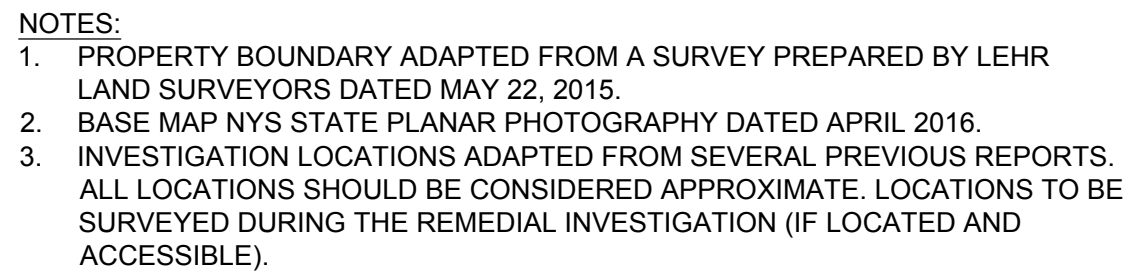
SOUTHSIDE PLAZA SITE
704-744 PLAZA SITE
JAMESTOWN, NEW YORK

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FIGURE 5

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[illegible]

SEAL

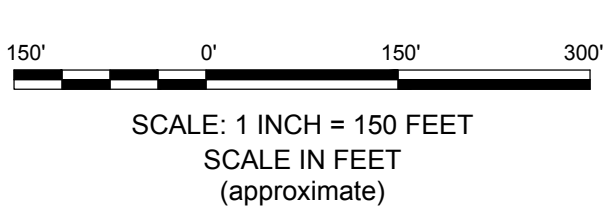
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DATE:	NOVEMBER 2019
CHECKED BY:	LR
APPROVED BY:	MAL
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**PREVIOUS INVESTIGATION LOCATIONS &
AREAS OF CONCERN**

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

PREPARED FOR
KAZMAREK MOWREY CLIVID IASETER LLP

FIGURE 6



Adjacent Property Address				
No	Street	S.B.L.	Property Description	Property Owner Mailing Address
86	Cole Avenue	387.19-9-45	Residential - One Family Year Round	Mary E. Haas P.O. Box 66 Dewittville NY 14728
82	Cole Avenue	387.19-9-44	Residential - One Family Year Round	Paul R. Genco 82 Cole Avenue Jamestown, NY 14701
80	Cole Avenue	387.19-9-43	Residential - One Family Year Round	Jerry and Anna Phillips 80 Cole Avenue Jamestown, NY 14701
78	Cole Avenue	387.19-9-42	Residential - One Family Year Round	Kathy Slagle 78 Cole Avenue Jamestown, NY 14701
660	Foote Avenue	387.19-9-41	Commercial - Professional Building	660 North, LLC 3739 Route 430 Bemus Point, NY 14712
651	Foote Avenue	387.19-9-40	Commercial - Fast Food Franchise	Heidner Suspenzi Properties II, LLC Lease Acctg/Carrols Corp. P.O. Box 6969 Syracuse, NY 13217
717	Foote Avenue	387.19-9-39	Commercial - Restaurant	Dixie Gardens Apartments Inc. 5839 SW 74 Terrace #304 S Miami, FL 33143
731	Foote Avenue	404.08-1-1	Commercial - Service and Gas Station	Dom's Mobil LLC 731 Foote Avenue Jamestown, NY 14701
739	Foote Avenue	404.08-1-3	Commercial - Drive-In Branch Bank	Manufacturers & Traders Trust Co. One M&T Plaza, 10th Floor 345 Main Street
745	Foote Avenue	404.08-1-56	Residential - One Family Year Round	Michael Giunta 745 Foote Avenue Jamestown, NY 14701
747	Foote Avenue	404.08-1-55	Residential with Incidental Commercial Use	Deborah A. Guiffrida 107 E. Virginia Boulevard Jamestown, NY 14701
751	Foote Avenue	404.08-1-54	Commercial - Office Building	Terri Wilcox 456 S. Main Street Jamestown, NY 14701
748-780	Foote Avenue	404.07-8-4.1	Commercial - Area or Neighborhood Shopping Center	Southside Foote Avenue Plaza LLC 766 Foote Avenue Jamestown, NY 14702
161	Ivy Street	404.07-8-56	Residential - One Family Year Round	Joseph Sebastiano 161 Ivy Street Jamestown, NY 14701
153	Ivy Street	404.07-8-57	Residential - One Family Year Round	Richard L. Didomenico 153 Ivy Street Jamestown, NY 14701
143	Ivy Street	404.07-8-58	Residential - One Family Year Round	RJ Frucella 143 Ivy Street Jamestown, NY 14701
131	Ivy Street	404.07-8-59	Residential - Two Family Year Round	Maria Bonfiglio 131 Ivy Street Jamestown, NY 14701
121	Ivy Street	404.07-8-60	Residential - One Family Year Round	Robert and Betty Swartz 121 Ivy Street Jamestown, NY 14701
--	Ivy Street	404.07-8-61	Residential Vacant Land	Robert A. Swartz 121 Ivy Street Jamestown, NY 14701
--	Ivy Street	404.07-8-62	Residential Vacant Land	Southside Station, LLC 1601 Washington Avenue Miami Beach, FL 33139
--	Cole Avenue	404.07-8-1	Residential Vacant Land	Southside Station, LLC 1601 Washington Avenue Miami Beach, FL 33139

NOTE: SBLs 404.07-8-62 & 404.07-8-1 CALLED OUT ON FIGURE BELONG TO THE REQUESTOR (LB-UBS2007-C6-SOUTHSIDE STATION LLC)

LEGEND:



BCP SITE BOUNDARY
PARCEL BOUNDARY



JOB NO.: 0505-019-001

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK
PREPARED FOR
KAZMAREK MOWREY CLOUD LASETER LLP

FIGURE 7

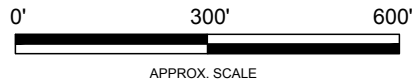
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LEGEND:

 PROPERTY BOUNDARY

-  Single Family Residential (210s)
-  Vacant Land (300's)
-  Rural, Estate, Seasonal, Mobile Residential (240-270s)
-  Two/Three Family Residential (220s); Three Family Residential (230s)
-  Commercial (400's)
-  Agricultural (100's)
-  Community/Public Services (600's, 800's)
-  Wild, Forested (900's)
-  Recreation & Entertainment (500's)
-  Industrial (700's)
-  Multi Use Residential (280s)
-  No Value

SOURCE: CHAUTAUQUA COUNTY, NEW YORK
WEB MAPPING



ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

PREPARED FOR

KAZMAREK MOWREY CLOUD LASETER LLP

FIGURE 8



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0505-019-001

DATE: OCTOBER 2019

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FIGURE 9



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0505-019-001

DATE: OCTOBER 2019

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SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

PREPARED FOR

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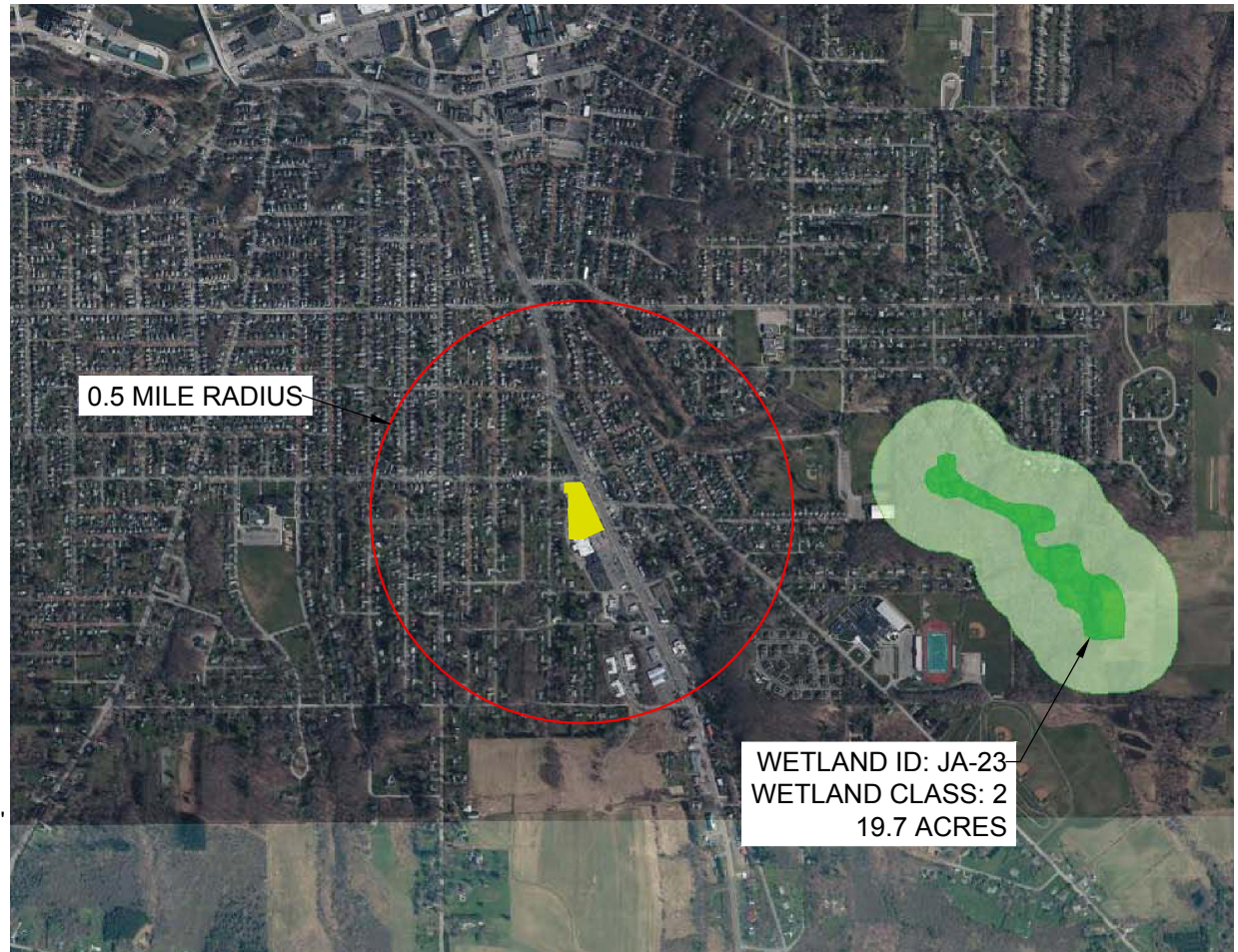
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LEGEND:

- PROPERTY BOUNDARY
- State Regulated Freshwater Wetlands
- State Regulated Wetland Checkzone



SCALE: 1 INCH = 2,400 FEET
SCALE IN FEET
(approximate)



RESOURCE: NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ENVIRONMENTAL RESOURCE MAPPER



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0505-019-001

DATE: OCTOBER 2019

DRAFTED BY: CMC

NYSDEC WETLANDS MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

SOUTHSIDE PLAZA SITE
704-744 FOOTE AVENUE
JAMESTOWN, NEW YORK

PREPARED FOR

KAZMAREK MOWREY CLOUD LASETER LLP

FIGURE 10

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APPENDIX A

BCP APPLICATION PART A – SECTIONS I - IV

SECTION I – REQUESTOR INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – PROPERTY'S ENVIRONMENTAL HISTORY

SECTION IV – PROPERTY INFORMATION

NYS DOS CORPORATION & BUSINESS ENTITY DATABASE INFORMATION

ORGANIZATIONAL CHART

AUTHORIZATION AND INCUMBENCY CERTIFICATE

SIGNATURE RESOLUTION

CHAUTAUQUA COUNTY PARCEL DETAIL REPORT

**ENVIRONMENTAL SITE REMEDIATION DATABASE BCP SITE RECORD
FOR FORMER SOUTHSIDE PLAZA SITE (C907043)**

APPENDIX A
BCP Application – Part A
Section I – Section IV
Southside Plaza Site

SECTION I – REQUESTOR INFORMATION

LB-UBS 2007-C6 – Southside Station LLC (Southside) is authorized to do business in New York State. LNR Partners, LLC (LNR), a Florida limited liability company, is manager of LB-UBS 2007 – C6 – PECO Portfolio, LLC, a Delaware limited liability company, which is the sole member of LB-UBS-2007 – C6 – Southside Station LLC, a Delaware limited liability company. Steven D. Ferreira is the Vice President and an authorized representative of LNR. The New York State Department of State (NYSDOS) Division of Corporations Entity Information for Southside is attached.

Benchmark Environmental Engineering & Science, PLLC (Benchmark), a registered New York State (NYS) engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) project.

SECTION II – PROJECT DESCRIPTION

Southside, acting as a Volunteer, is willing to complete additional investigation and remediate the Site (see Figures 1-4) under the NYS BCP and is submitting this application for eligibility acceptance into the BCP.

Southside has prepared a Remedial Investigation (RI) Work Plan for concurrent submittal with the BCP Application. Figure 5 is a preliminary project schedule.

The project will result in the remediation of an environmentally impacted Site located on Foote Avenue between Cole Avenue and Marion Street in the City of Jamestown, Chautauqua County, New York. The Site will remain a commercial retail plaza, with a restaurant out-building and associated asphalt parking.

APPENDIX A
BCP Application – Part A
Section I – Section IV
Southside Plaza Site

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the Southside Plaza Site (hereinafter, the “Site”) are provided below. Figure 6 shows the investigation locations of all prior investigations.

April 2007 – Phase I Environmental Site Assessment

EMG Corporation (EMG) completed a Phase I Environmental Site Assessment (ESA) for Lehman Brothers Bank, FSB in April 2007. EMG identified the following recognized environmental condition (REC):

- The Site was historically occupied by a dry cleaner (Anderson Cleaners/Triangle Cleaners), which was formerly located in the southern portion of the Site, from 1956 until at least 1976.

November 2008 – Limited Site Investigation Report

Apex Companies, LLC (Apex) completed site investigation activities for Phillips Edison & Company Limited (PECO) in August 2008 and submitted a report summarizing the results in November 2008. The investigation consisted of sub-slab vapor sampling at two locations (SS-01 & SS-02) inside the existing TOPS Friendly Markets (TOPS) and shallow soil gas sampling at two exterior locations (SV-01 & SV-02). Additionally, four soil borings were advanced to approximately 16 feet below ground surface (fbgs) (SB-01 through SB-04). Three soil borings were converted into temporary groundwater wells (SB-01 through SB-03). Findings are detailed below:

- Mitigation recommended for tetrachloroethene (PCE) at SV-01. Monitoring recommended for PCE and 1,1,1-trichloroethane (1,1,1-TCA) at SS-01, PCE at SS-02, and trichloroethene (TCE) and cis-1,2-dichloroethene (cis-1,2-DCE) at SV-01.
- Only PCE (62 ug/L) was detected above 1.1.1 TOGS Groundwater Quality Standards/Guidance Values (GWQS/GV) at SB-01; total lead was detected above GWQS/GV at all three temporary well locations, dissolved lead was less than the method detection limit (MDL).

APPENDIX A
BCP Application – Part A
Section I – Section IV
Southside Plaza Site

- No volatile organic compounds (VOCs) or semi-volatile organic compounds (SVOCs) were detected in the soil above MDLs.
- A discolored layer of soil at 1-2 fbg was observed at SB-02. Lead was detected in the soil at SB-02 above 6NYCRR Part 375 Unrestricted Soil Cleanup Objectives (USCOs) with a concentration of 125 mg/kg. Total lead was also detected in the groundwater from a temporary well point installed in soil boring SB-02 at a concentration (0.093 mg/L), which is above the GWQS/GV (0.015 mg/L).

March-May 2010 – Additional Site Investigation

Apex completed additional site investigation activities in March 2010 and submitted a report summarizing the results to PECO in May 2010. The investigation consisted of one interior sub-slab vapor investigation within the existing UPS store (SS-UPS) paired with one indoor air sample. Five soil borings were advanced and converted into temporary monitoring wells (SB-4/GW-4 through SB-9/GW-9). Findings are detailed below:

- No monitoring or mitigation recommended within the UPS store.
- Groundwater above GWQS/GV for PCE in all temporary wells except GW-7.
- Soil detected below MDLs except methylene chloride (MC), which was detected at all borings below USCOs. PCE detected at SB-8 below USCOs.

As a result of the groundwater contamination indicated in the November 2008 and May 2010 investigation reports submitted to PECO, Apex recommended the installation of five permanent monitoring wells to characterize groundwater contamination across the Site.

May-July 2010 – Site Investigation

Apex completed site investigation activities between May and June 2010 and submitted a report summarizing the results to PECO in July 2010. The investigation consisted of five soil borings/permanent monitoring wells (MW-1 through MW-5). Findings are detailed below:

- Groundwater flows northeast across the Site.
- Groundwater was detected above GWQS/GV for PCE at all wells except MW-4 and for TCE at all wells except MW-3 and MW-4. MC and vinyl chloride (VC) were also

APPENDIX A
BCP Application – Part A
Section I – Section IV
Southside Plaza Site

detected above GWQS/GV at MW-1. Maximum concentrations were observed in MW-2 (PCE at 2,300 ug/L and TCE at 39 ug/L). MW-2 is screened at 5.5-16 fbgs and water was observed at 6 fbgs. MW-2 is located downgradient of the former Anderson Cleaners.

- Soil detected below MDLs except MC, which was detected at all borings below USCOs and PCE and TCE at MW-3 (8-10 fbgs); PCE was detected below USCOs at 37 parts per billion (ppb) and TCE was detected below USCOs at 4 ppb. No elevated photoionization detector (PID) or visual/olfactory evidence of contamination observed.

February-May 2011 – Site Investigation

Apex completed site investigation activities between February and April 2011 and submitted a report summarizing the results to PECO in May 2011. The investigation consisted of two additional permanent monitoring wells, MW-6 and MW-7 along the southern and western borders. Findings are detailed below:

- Groundwater was detected above GWQS/GV for cis-1,2-DCE, MC, PCE, TCE, and VC at MW-6.
- The highest concentrations of PCE (2,300 ug/L) and TCE (39 ug/L) were detected at MW-2, located cross/downgradient of the former Anderson Cleaners.
- The second highest concentrations of PCE (1,200 ug/L) and TCE (28 ug/L) were detected at MW-6, located cross/downgradient of the former Whirley-Wash along the southern boundary of the Site.
- Soil was detected below MDLs except MC, which was detected at both borings below USCOs and PCE at MW-7 (12-14 fbgs) detected at 110 ppb below USCOs.

December 2011-January 2012 – Off-Site Investigation

Apex completed off-site investigation activities on the adjoining South Foote Avenue Plaza (SFAP) property, located south adjacent to the Site in December 2011 and submitted a report summarizing the results to the NYSDEC and Southside Station, Inc. in January 2012. The investigation consisted of four additional wells, MW-8, MW-9, MW-10A, and MW-11. Findings are detailed below:

APPENDIX A
BCP Application – Part A
Section I – Section IV
Southside Plaza Site

- PCE concentrations at the off-site wells were lower than PCE concentrations observed in on-site downgradient concentrations. Groundwater was detected above GWQS/GV for PCE at MW-8 and MW-11.
- Soil was detected below MDLs except MC, which was detected at all borings below USCOs and PCE at MW-8 (10-12 fbgs), detected at 9.7 ppb below USCOs.

March-April 2012 – Sub-Slab Vapor Assessment

Apex completed a sub-slab vapor assessment in March 2012 and submitted a letter report to the NYSDEC and Southside Station, Inc. in April 2012. The assessment consisted of five sub-slab vapor investigation locations inside TOPS (SS-1 through SS-5). The owners of the SFAP denied access to the property for proposed off-site sub-slab vapor sampling. Findings are detailed below:

- Mitigation recommended for 1,2-DCE at SS-5, PCE at SS-4 and SS-5, and TCE at SS-5. Monitoring recommended for TCE at SS-4.

July 2012 – Off-Site Sub-Slab Vapor Assessment at Southside Foote Avenue Plaza

Apex completed a sub-slab vapor assessment at the adjoining SFAP property and submitted a report summarizing the results to the NYSDEC and Southside Station, Inc. in July 2012. The assessment consisted of four sub-slab vapor sample locations, two in the Salon 1 tenant space (SS-6 and SS-7) and two in the US Postal Service tenant space (SS-8 and SS-9). Findings are detailed below:

- Mitigation recommended for PCE and TCE at SS-6, and PCE at SS-7. Monitoring recommended for PCE at SS-9.

December 2012 – Phase I Environmental Site Assessment

EBI Consulting (EBI) completed a Phase I ESA for Five Mile Capital Partners, LLC (FMCP) dated December 2012. EBI identified the following RECs:

- The Site was historically occupied by a gas station, which was formerly located in the northern portion of the Site (at the location of the existing McDonald's restaurant).

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- The Site was historically occupied by a dry cleaner, which was formerly located in the southern portion of the Site.
- The Site is listed as a Brownfield site. Groundwater at the Site is contaminated with PCE, TCE, and breakdown products. Several monitoring wells have been installed to characterize the extent of contamination.
- The Site is a Resource Conservation and Recovery Act (RCRA) non-generator, former RCRA-Large Quantity Generator (LQG), of halogenated solvents (including PCE and TCE).
- Six 55-gallon drums were observed along the rear wall of the strip mall.

May 2013 – Sub-Slab Depressurization System Installation Report

Apex submitted an Interim Remedial Measures (IRM) Work Plan to Southside Station, Inc. for the design, installation, and monitoring of a Sub-Slab Depressurization System (SSDS) within TOPS in February 2013. The SSDS was installed on February 26 and 27, 2013 in conformance with the New York State Department of Health (NYSDOH) Guidance for Evaluating Soil Vapor Intrusion in the State of New York, October 2006. The system was constructed with three suction points along the southern property boundary (SP-1, SP-2, and SP-3). A U-tube style manometer installed at SP-3 indicated a vacuum of 1.3 inches water column. Apex noted that action should be taken if this measurement dropped significantly below its initial value. Initial performance testing was also conducted at test points and indoor air sample locations surrounding the SSDS to verify the system's effectiveness. Apex concluded these results indicated the SSDS was providing adequate vacuum to mitigate potential vapor intrusion of dry-cleaning solvent vapors at the Site and on the adjoining SFAP property. An email to Apex from Anthony Lopes of the NYSDEC transmitting indoor and outdoor air sample results on May 7, 2013 confirms this conclusion. The SSDS Installation Report was submitted to Southside Station Inc. c/o PECO on May 1, 2013.

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August 2013 – Addendum to Phase I Environmental Site Assessment and New York State Department of Environmental Conservation Regulatory File Review

EBI completed an addendum to their December 2012 Phase I ESA for Kasowitz, Benson, Torres & Friedman LLP in August 2013. EBI updated their report by summarizing the activities completed at the Site by Apex (as discussed above) to date. No further conclusions or recommendations were made.

August 2013 – Environmental Review and Comments

Bell Oldow completed a review of EBI's "Addendum to Phase I Environmental Site Assessment and New York State Department of Environmental Conservation Regulatory File Review" for FMCP in August 2013. The purpose of the review was to summarize environmental conditions at the Site for any potential new owners.

October 2014 – Phase I Environmental Site Assessment

AEI Consultants (AEI) completed a Phase I ESA for Kazmarek Mowrey Cloud Laseter LLP (KMCL) and LNR dated October 2014. AEI did not identify any on-site RECs at the Site. AEI identified the following controlled REC (CRECs):

- The Site was formerly occupied by a dry cleaner located at 736 Foote Avenue (Triangle/Anderson Cleaners) from the 1960s to the late 1970s. A second dry cleaner was located at 750 Foote Avenue (Whirley-Wash, formerly Anderson Cleaners, which moved from 736 Foote Avenue to 750 Foote Avenue).
- PCE and TCE were observed at high concentrations in the sub-slab soil vapor. An SSDS was installed May 2013 in TOPS to mitigate PCE and TCE concentrations. Operation and Maintenance (O&M) requirements for the SSDS include periodic inspections and testing.
- PCE, TCE, cis-1,2-DCE, and VC were detected at concentrations exceeding GWQS/GV. The highest concentrations of TCE and PCE were observed directly downgradient of the former Whirley-Wash. At least seven wells were installed to characterize TCE and PCE contamination across the Site.
- The Site entered the NYS BCP, Site No. C907043.

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- The gas station formerly located at the northern portion of the Site in the location of the existing McDonald's was identified as a historical REC (HREC). The gas station was identified as Bish's South Side Service Station and Cuifolo's Service Center gas station. The former gas station was identified as a HREC as no petroleum constituents were observed in the soil/groundwater.

May 2015 – Potential Source Area Investigation

Apex submitted a Source Area Investigation Work Plan and a Groundwater Delineation Work Plan to the Southside Station, Inc. in November 2013 and February 2014, respectively. Apex completed source area investigation activities in April 2015 and submitted an investigation report to KMCL in May 2015. The investigation consisted of five soil borings (SB-9, SB-10, SB-12, SB-13, and SB-14). Three soil borings were converted into monitoring wells (MW-12, MW-13, and MW-14). Findings are detailed below:

- Groundwater was detected above GWQS/GV for PCE at all three locations, TCE at MW-12 and MW-13, and 1,1-Dichloroethene (1,1-DCE), 1,1,1-TCA, cis-1,2-DCE, and trans-1,2-Dichloroethene (trans-1,2-DCE) at MW-13.
- The highest concentrations of PCE in groundwater was observed in on-site well MW-13 (32,000 ug/L).
- Soil was detected above USCOs for PCE at SB-12 (4-8 fbgs) and above 6 NYCRR Part 375 Residential Soil Cleanup Objectives (RSCOs) for PCE at SB-13 (6-10 fbgs).
- The highest concentrations of PCE were observed in the soil on the former Whirley Wash subparcel; 1,300 ug/kg (SB-12; 4-8 ft interval) and 14,000 ug/kg (further downgradient SB-13; 6-10 ft interval).

July 2019 – Groundwater Sampling Results and Evaluation of Sub-Slab Depressurization System

ATC Engineering, LLP (ATC) submitted a Groundwater Investigation Work Plan to the NYSDEC on January 18, 2019 and January 30, 2019. ATC completed investigation activities in April 2019 and submitted an investigation report to LNR c/o KMCL in July 2019. ATC collected groundwater samples from previously installed MW-1, MW-2, MW-4, MW-6, MW-7, MW-9, MW-10A, MW-12, MW-13, and MW-14 and analyzed them for VOCs and

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emerging contaminants including 1,4-dioxane, and Perfluoroalkyl substances (PFASs). The investigation also included an inspection of the SSDS and installation of three sub-slab monitoring points (SV-01 through SV-03) proximate to the three previously installed suction points (SP-1 through SP-3), and one indoor air sample (IA-01) within TOPS. Findings are detailed below:

- The depth to groundwater ranged between 2.91 to 6.87 fbg.
- Groundwater flow direction was observed toward the northeast, consistent with previous investigations.
- Chlorinated VOCs (CVOCs) including cis-1,2-DCE, trans-1,2-DCE, PCE, and TCE were measured in groundwater samples retrieved from wells MW-1, MW-2, MW-6, MW-7, MW-12 and MW-13 at concentrations above the GWQS/GV of 5 µg/L.
- Former Whirley Wash Location: PCE concentrations at 621 ug/L (MW-12) and 27,100 ug/L (MW-13). Cross/downgradient well: PCE at 1,620 ug/L (MW-6).
- Former Anderson Cleaners Location: PCE concentration at 1,420 ug/L in cross/downgradient well (MW-2), and at 3,050 ug/L in further downgradient well (MW-1).
- 1,4-Dioxane was detected at one location and PFAS were detected at three locations at concentrations below the NYSDOH recommended maximum contaminant levels (MCLs).
- An adequate vacuum measurement was observed at SV-01 and SV-02; however, a vacuum measurement of 0.0 inches water column was observed at SV-03. Despite the potentially insufficient vacuum in the area of SV-03, the SSDS was observed to be operating within normal range, with the U-tube style manometer at SP-3 reading at 1.7 inches water column. No visual observations were observed suggesting there were any problems associated with the SSDS and no CVOCs were detected in the indoor air, confirming that the SSDS was sufficiently reducing sub-slab vapor concentrations to a level protective of public health.

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SECTION IV – PROPERTY INFORMATION

Legal Parcel Description

The Southside Plaza Site (Site), subject to this BCP application, is in a highly developed residential and commercial area in the City of Jamestown, Chautauqua County, New York (see Figures 1 - 3). The 5-acre Site consists of one tax parcel as follows:

- 704-744 Foote Avenue: SBL No. 404.07-8-3

Appendix A includes the Chautauqua County tax parcel detail report for the Site. According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is not located within an EN-Zone.

Previous BCP Activities

The Site was previously in the BCP (Site No. C907043) under the Site name “Southside Plaza” by Southside Station Inc., a previous owner that purchased the 704-744 Foote Avenue parcel in July 2007. The NYSDEC Environmental Site Remediation Database site record for Southside Plaza (C907043) is attached to this Appendix A. Site investigations indicated elevated levels of CVOCs in groundwater and sub-slab vapor samples. An SSDS was installed by Apex to remediate indoor air, and post-remedial sampling indicated that NYSDOH indoor air standards were achieved. However, no action was taken to remediate the observed groundwater contamination. The timeline of BCP activities conducted is as follows:

- October 10, 2012: Execution of Brownfield Cleanup Agreement (BCA) with prior owners (Southside Station, Inc., borrower to current owner), BCP Site No. C907043.
- February 15, 2013: NYSDEC approves IRM Work Plan for installation of SSDS.
- February 27, 2013: Prior borrower Southside Station Inc. installed SSDS, as approved in the IRM Work Plan, and Apex issued report dated May 1, 2013.
- December 31, 2014: Southside acquired title via deed in lieu of foreclosure.

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- March 12, 2015: Southside announces intent to voluntarily withdraw from BCP because contamination appeared to be migrating from neighboring property, supported by Apex Groundwater Delineation Work Plan dated February 5, 2014.
- March 29, 2017: NYSDEC terminates BCA with Southside Station, Inc.
- Late 2018-2019: Southside continues to cooperate with NYSDEC's efforts to investigate the extent of the impacts as shown in ATC Groundwater Investigation Work Plan dated January 18, 2019 and ATC Groundwater Sampling & SSDS Report dated July 11, 2019.
- May 2, 2019: Southside confirmed continuing effectiveness of the IRM as documented in ATC Groundwater Sampling & SSDS Report dated July 11, 2019.

Easements and Permits

Utilities are in the right-of-way along Foote Avenue. The Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water. Southside is not aware of any other easements or restrictions on the Site.

Southside is not aware of any other formal enforcement action, civil judicial or administrative enforcement cases in connection with the Site. In addition, based on information gathered to date, there are no institutional controls recorded for the Site.

Location

The Site is located on Foote Avenue between Cole Avenue and Marion Street in a highly developed residential and commercial area in the City of Jamestown, Chautauqua County, New York. The Site is bordered by Cole Avenue to the north, residential and commercial properties, including the adjoining SFAP to the south, residential properties to the west, and Foote Avenue to the east. Figure 7 identifies adjacent property owners and uses.

Site Features

The Site is developed with two structures. The existing structures include a retail strip mall (Building 1) and a separate restaurant tenant space north of the strip mall (Building 2).

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Building 1 is currently occupied by several commercial tenants including TOPS Friendly Markets (TOPS), KeyBank, Cellular One, Dollar Tree, Spa Nails, and The UPS Store. Building 2 is currently occupied by McDonald's. The Site also includes a paved parking lot east of the structures, a paved parking lot/access road west of the structures, and some vegetated areas.

Zoning and Land Use

The current use of the Site is commercial land. The property type class code is 452 – Area or Neighborhood Shopping Centers (see Figure 8). The surrounding parcel land uses are as follows:

- North – residential/commercial
- South – residential/commercial
- East – residential/commercial
- West – residential/vacant residential

Past Use of the Site

The Site was improved with several residential properties from at least the 1890s to 1955. A strip mall (Building 1) and a former separate structure north of the strip mall (former Building 2) were built between 1955-1958 and 1960. Two historical dry cleaners were present from 1956 to at least 1975 in Building 1 tenant space historically addressed as 736 Foote Avenue (Triangle Cleaners and Anderson Cleaners). In addition, two historical dry cleaners occupied the Building 1 tenant space historically addressed at 750 Foote Avenue from approximately 1980 to at least 1994 (Anderson Cleaners and Whirley-Wash Dry Cleaners). The dry cleaners will be referenced herein as the former Anderson Cleaners location (736 Foote Avenue) and the former Whirley-Wash location (750 Foote Avenue).

The Applicant owns the Subject Site referred to as the Southside Plaza Site, while others own the south adjoining property referred to as South Foote Avenue Plaza (SFAP). There has been some debate amongst these two property owners whether the former Whirley-

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Wash was located on-site (i.e., on the Southside Plaza Site) or off-site (i.e., the south adjoining SFAP property). However, a letter dated August 29, 2019 from Mr. Karim Abdulla of Barclay Damon, LLP (representing the SFAP property) submitted to Kazmarek Mowrey Cloud Laseter LLP (KMCL) (representing the Southside Plaza Site) and NYSDEC provides documentation that contends that both dry cleaners were located on the Southside Plaza Site and not the SFAP property. The letter contends that Whirley-Wash was located in a historic tenant address of 750 Foote Avenue, which fell within the addresses of the Southside Plaza Site (i.e., 704-750 Foote Avenue) at that time; the south adjoining SFAP property was historically addressed 752-778 Foote Avenue at the time and therefore “off-site”. No other former or current Building 1 tenants present a potential concern.

The former Building 2 was historically occupied by two former gas stations from the mid-1950s to the late 1970s; Bish’s South Side Service Station is known to have been located at the Site in 1969, and Cuifolo’s Service Center is known to have been located at the Site in 1975. The former Building 2 was demolished between 1975 and 1980. The existing Building 2 was constructed in 1980 for use as a McDonald’s. There is no evidence of underground storage tank (UST) usage at the former dry cleaner locations; however, two 500-gallon oil tanks and four 3,000-gallon gasoline tanks are known to be on-site per the City of Jamestown Fire Department. No information is available regarding petroleum bulk storage (PBS) registration or tank closure. Previous sampling in the area of the gas station did not identify petroleum impacts. A spill (Spill No. 342350) dated March 21, 2005 is documented at 738 Foote Avenue, the location of the former Quality Markets (and the existing TOPS), due to a 10-gallon diesel spill to the pavement from a leaking delivery truck. The spill was cleaned up with speedy dry/adsorbent pads and closed March 31, 2005.

Due to the presence of three historical dry cleaners at two on-site locations within Building 1, previous investigations have observed CVOCs in soil and groundwater at concentrations exceeding USCOs, RSCOs, and GWQS/GV. CVOCs were also observed in sub-slab vapor samples within the section of Building 1 currently occupied by TOPS, and in the south

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adjoining SFAP in tenant spaces occupied by the Post Office and Salon 1. Remedial activities have been completed to mitigate CVOCs in the soil gas vapor; however, no remedial activities have been completed to remediate CVOC soil and groundwater contamination. Although there were historically two gas stations at one on-site location in the area of Building 2, no evidence of elevated petroleum VOCs or SVOCs were observed.

Historic documents and previous investigation reports are provided electronically on the enclosed CD.

Site Geology and Hydrogeology

The Site is located within the glaciated Allegheny Plateau. The Allegheny Plateau is an eroded plateau typified by sharp relief with highly varied elevations ranging from 4,000 feet in the unglaciated Allegheny Plateau, to less than 100 feet in the glaciated Allegheny Plateau. The surficial geology of the glaciated Allegheny Plateau has developed from glacial till. The overburden geology is generally described as gray to brown sandy silt and clayey silt with some gravel. The overburden goes from the ground surface to approximately 6 to 11 fbs at the southwestern end of the Site and to approximately 16 to over 20 fbs at the northeastern end of the Site. The Site overlies the Conneaut group, which is identified as Upper Devonian-aged shale, sandstone, and siltstone with a thickness of 250-600 feet. Shale was encountered between 6-16 fbs during the previous investigations (References: Apex 2008 Limited Site Investigation, Apex 2010 Additional Site Investigation, Apex June 2010 Site Investigation, Apex April 2011 Site Investigation, Apex 2012 Off-Site Investigation, Apex 2015 Potential Source Area Investigation).

According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized primarily as Fremont silt loam (FmA) with a small portion of the Site soils characterized as Schuyler silt loam (ShC). Fremont silt loam is characterized as a somewhat poorly drained soil with 0 to 3 percent slopes. The Schuyler silt loam is characterized as a moderately well drained soil with 8 to 15 percent slopes (see Figure 9).

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Groundwater was encountered in the Site overburden from approximately 2 fbgs at the southern end to 10 fbgs at the northern end during previous investigations (References: Apex June 2010 Site Investigation, Apex April 2011 Site Investigation, Apex January 2012 Off-Site Investigation, Apex May 2015 Potential Source Area Investigation, ATC 2019 Groundwater Sampling Results and Evaluation of SSD). The groundwater was observed flowing northeast across the Site toward the Chadakoin River. Regional groundwater likely flows east/southeast toward the Allegheny River. Additional work is required to investigate groundwater flow direction and quality at the Site. Installation of additional monitoring wells to assess and characterize overburden and deep groundwater flow patterns and quality are planned for the Remedial Investigation.

Environmental Assessment Narrative

CVOCs were identified as the primary contaminants of concern due to impacts in on-site soil, groundwater, and soil gas resulting from three historical dry cleaners at two on-site locations. Figure 6 summarizes the sample locations and potential former source areas identified in the previous investigations.

Soil – Laboratory analytical results indicate elevated CVOCs in the soil at the Site. Specifically, PCE was detected at six on-site locations (MW-3, MW-7, SB-8, SB-10, SB-12, and SB-13) and one off-site location (MW-8). PCE was detected significantly above its RSCO of 5,500 ppb at SB-13 (14,000 ppb) and its USCO of 1,300 ppb at SB-12 (1,300 ppb). The concentrations at these locations represent the highest and second highest concentrations of PCE observed at the Site and underlie the former Whirley-Wash location. Additionally, lead was detected in a discolored layer of soil from 1-2 fbgs at one soil boring (SB-02) at a concentration of 125 mg/kg, which exceeds the USCO of 63 mg/kg. The lead exceedance was located within the vicinity of the former gasoline filling stations.

Groundwater – Laboratory analytical results indicate elevated CVOCs including PCE, TCE, and their degradation products in the groundwater across the Site. PCE was detected above

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its GWQS/GV of 5 ug/L at 8 of the 14 on-site permanent monitoring wells, 5 of the 8 on-site temporary monitoring wells, and 2 of the 4 off-site permanent monitoring wells sampled between August 2008 and April 2015. PCE was also detected above its GWQS/GV at 6 of the 8 on-site permanent monitoring wells sampled in April 2019. PCE was not detected above its GWQS/GV at the two off-site permanent monitoring wells sampled in April 2019. High concentrations of PCE significantly exceeding GWQS/GV were observed at MW-12 (4,200 ug/L; 621 ug/L) and MW-13 (32,000 ug/L; 27,100 ug/L). Both MW-12 and MW-13 are located at the former Whirley-Wash location. High concentrations of PCE significantly above GWQS/GV but to a lesser extent than observed at MW-12 and MW-13 were detected at MW-1 (210 ug/L; 3,050 ug/L), MW-2 (2,300 ug/L; 1,420 ug/L), and MW-6 (1,200 ug/L; 1,620 ug/L). MW-6 is located downgradient of the former Whirley-Wash, and upgradient of the former Anderson Cleaners; MW-2 is located downgradient of the former Anderson Cleaners (and further downgradient from the former Whirley-Wash); and MW-1 is located further downgradient of both former dry cleaners. The measured depth to groundwater, which ranges from approximately 2 fbs at the south end of the Site to 10 fbs at the north end of the Site, indicates the direction of groundwater flow is toward the northeast corner of the Site. Based on the established groundwater flow direction and observed concentrations, it appears that a CVOC plume in the groundwater is traveling toward the northeast in the direction of groundwater flow, with (or from) possibly two separate groundwater contaminant sources; one attributed to the former Anderson Cleaners location and a second to the former Whirley-Wash dry cleaner location. Lead was also detected in the groundwater at three former temporary well locations (SB-01, SB-02, and SB-03) exceeding its GWQS/GV (0.025 mg/kg) with concentrations of 4.15 mg/kg, 0.093 mg/kg, and 0.499 mg/kg, respectively. All three former temporary wells were drilled in the area of the former gasoline filling stations.

Soil Gas – Laboratory analytical results indicate elevated CVOCs in the soil gas at the Site. Mitigation was recommended for PCE at one exterior soil gas sample location (SV-01) and four interior sub-slab vapor sample locations (SS-4, SS-5, SS-6, and SS-7), and monitoring

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was recommended for three additional sub-slab vapor sample locations (SS-01, SS-02, and SS-9). TCE and cis-1,2-DCE were also observed above monitoring/ mitigation levels at several of the sample locations where PCE mitigation was recommended. The highest concentrations of PCE in sub-slab vapor were observed at SS-4 (7,000 ug/m³), SS-5 (65,000 ug/m³), SS-6 (88,000 ug/m³), and SS-7 (2,100 ug/m³), all sub-slab vapor samples taken from the vicinity of the former Whirley-Wash. An SSDS was installed in 2013 in the existing TOPS at the location of the former Whirley-Wash. Vacuum tests performed in 2013 and 2019 indicated adequate vacuum measurements except at one 2019 monitoring location, proximate to SP-3, where a vacuum measurement of 0.0 inches water column was observed. However, despite the potentially insufficient vacuum at SP-3, no CVOCs were observed in the TOPS indoor air, and the system was observed to be working as designed, confirming that the SSDS is effectively mitigating CVOC concentrations in the sub-slab vapor of Building 1.

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through October 3, 2019.

Selected Entity Name: LB-UBS 2007 - C6 - SOUTHSIDE STATION LLC

Selected Entity Status Information

Current Entity Name: LB-UBS 2007 - C6 - SOUTHSIDE STATION LLC

DOS ID #: 4817884

Initial DOS Filing Date: SEPTEMBER 10, 2015

County: CHAUTAUQUA

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C T CORPORATION SYSTEM

28 LIBERTY ST.

NEW YORK, NEW YORK, 10005

Registered Agent

C T CORPORATION SYSTEM

28 LIBERTY ST.

NEW YORK, NEW YORK, 10005

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
-------------	---------------	--------------------

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
SEP 10, 2015	Actual	LB-UBS 2007 - C6 - SOUTHSIDE STATION LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

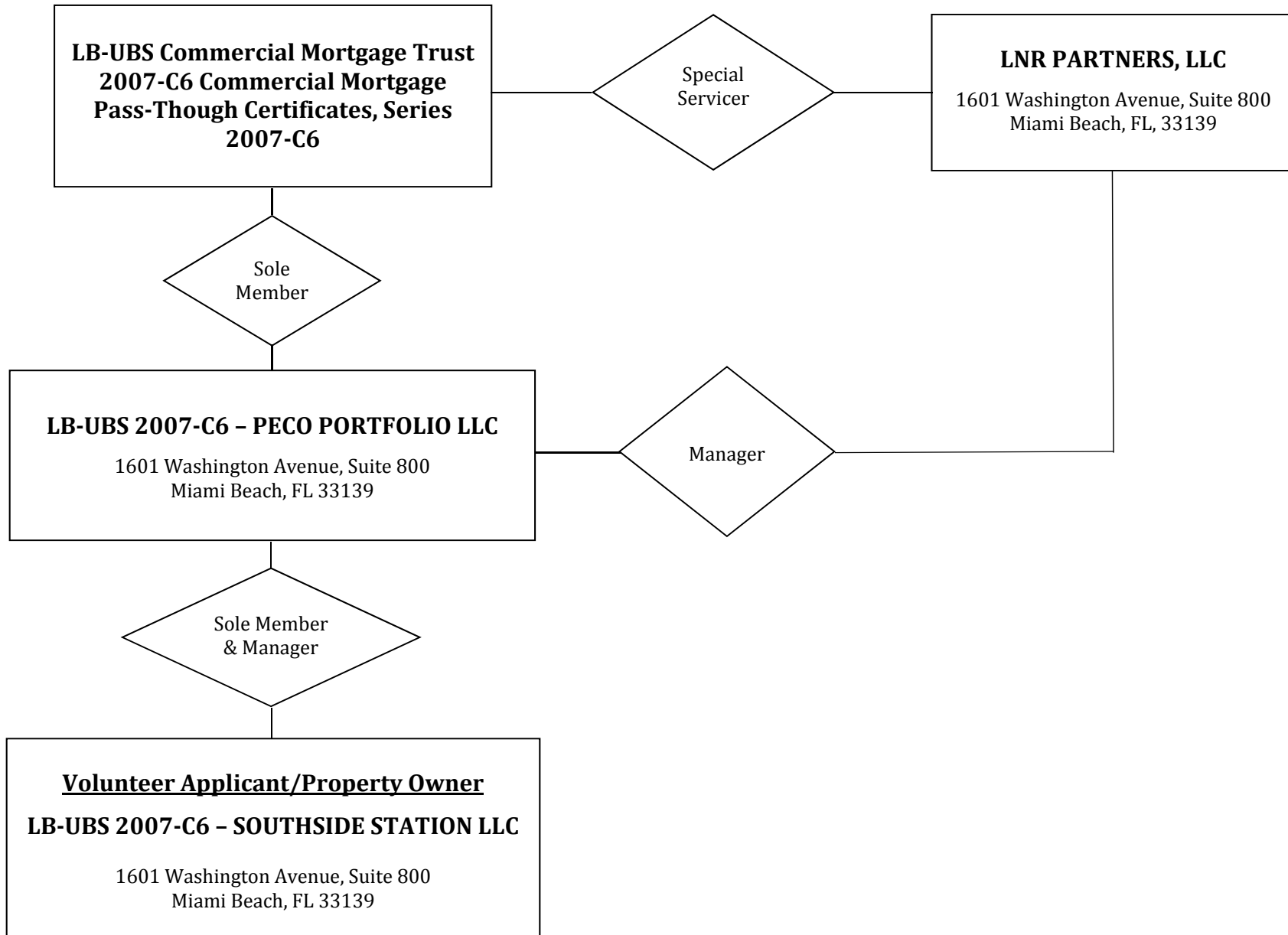
NOTE: New York State does not issue organizational identification numbers.

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SOUTHSIDE PLAZA SITE

ORGANIZATIONAL CHART



AUTHORIZATION AND INCUMBENCY CERTIFICATE

I, Heather M. Olson, Assistant Secretary of LNR Partners, LLC, a Florida limited liability company (the "Company"), do hereby certify that pursuant to the Company's constituent documentation, Steven D. Ferreira is a duly elected, qualified and acting Vice President of the Company, and is authorized to execute any agreement, instrument, certificate or other document required to be executed and delivered by or on behalf of the Company.

I further certify that the signature appearing opposite his name set forth below is his genuine signature.

Name:

Steven D. Ferreira

Signature:



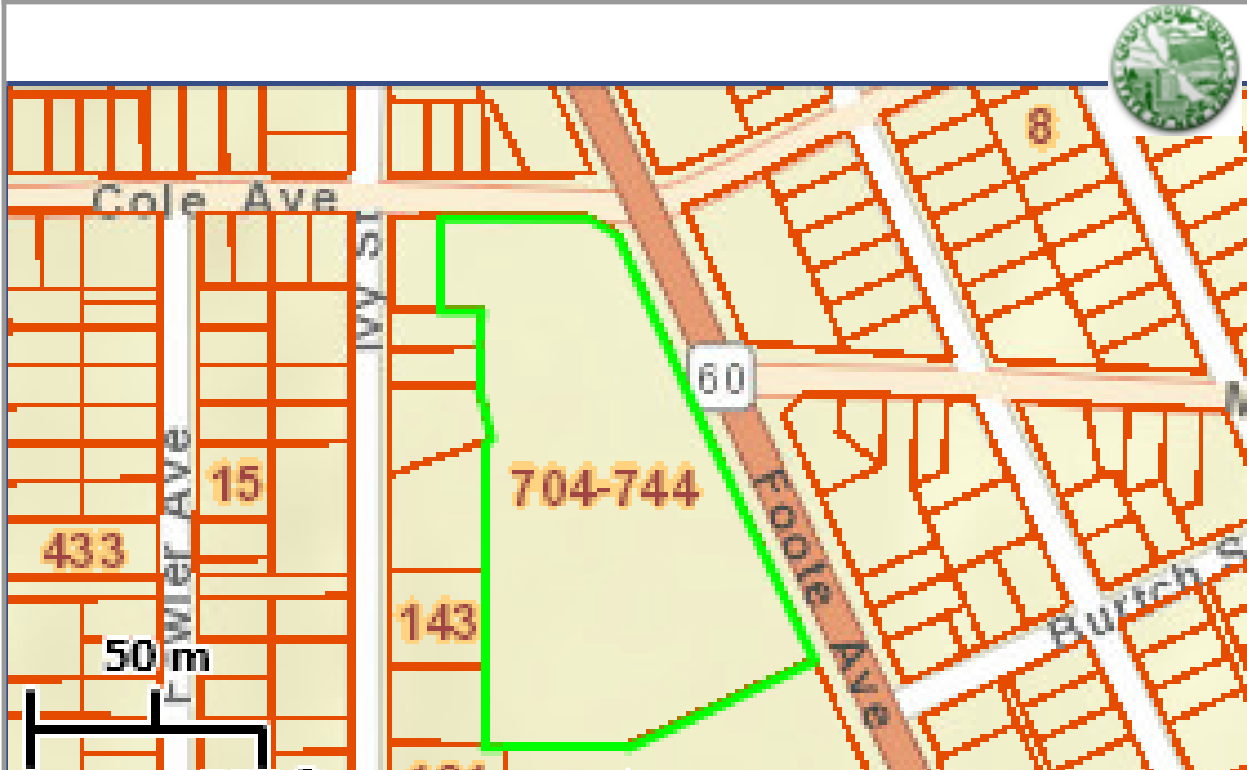
IN WITNESS WHEREOF, I do hereby certify that the foregoing is true and correct as of the date hereof.

Date: November 1, 2019

By: 

Name: Heather M. Olson

Title: Assistant Secretary



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Environmental Site Remediation Database Search Details

Site Record

Administrative Information

Site Name: Southside Plaza

Site Code: C907043

Program: Brownfield Cleanup Program

Classification: N *

EPA ID Number:

Location

DEC Region: 9

Address: 704-744 Foote Avenue

City: Jamestown Zip: 14701

County: Chautauqua

Latitude: 42.080899906

Longitude: -79.229763511

Site Type:

Estimated Size: 5 Acres

Site Owner(s) and Operator(s)

Current Owner Name: Southside Station Inc.

Current Owner(s) Address: 11501 Northlake Drive
Cincinnati, OH, 45249

Site Document Repository

Name: James Predergast Library Association

Address: 509 Cherry Street
Jamestown, NY 14701

Site Description

Location: The Southside Plaza Site is located in an urban area, at 708-744 Foote Avenue, in the Town of Jamestown, Chautauqua County. **Site Features:** The main site features are a contiguous retail strip mall with a paved parking lot along the west. The northern portion of a continuous strip mall (708-744 Foote Avenue) adjoins the Southside Foote Avenue Plaza (748-780 Foote Avenue). The site is surrounded by a mix of residential and commercial properties. **Current Zoning and Land Use:** The site is currently active and zoned for commercial use. The nearest residential area is adjacent to the west

side of the plaza. Past Use of the Site: Prior uses that may have led to site contamination include a former gasoline and service station in the northern portion of the strip mall from 1956 to 1971, and a dry cleaner at 736 Foote Avenue from about 1956 to 1979. Site Geology and Hydrogeology: Soils at the site are comprised of silt loam known as the Fremont silt loam, a poorly drained, fine textured soil with moderate to moderately slow permeability. Depth to groundwater is 20-40 feet below ground surface and flow direction is to the northeast of the property.

Contaminants of Concern (Including Materials Disposed)

Contaminant Name/Type

trichloroethene (TCE)

1,1 dichloroethene

tetrachloroethene (PCE)

vinyl chloride

Site Environmental Assessment

Nature and Extent of Contamination: Prior to Remediation (On-site): Based upon investigations conducted to date, the primary contaminants of concern are Tetrachloroethylene (PCE) and Trichloroethene (TCE) and their break down products. Soil - With the exception of low levels of PCE, TCE, and methylene chloride detected in six samples, no VOC's were detected in soil samples collected in past investigations. Groundwater - Concentrations of PCE ranged from 11.5 to 2,300 ug/L, exceeding the GW standard of 5 ug/L. Concentrations of TCE ranged from 6.4 to 39 ug/L, exceeding the GW standard of 5 ug/L. DCE was detected at 63 ug/L, exceeding the GW standard of 5 ug/L. Subslab Air Sampling - PCE (65,000), TCE (1,100), and DCE (4,300) were detected at concentrations above corresponding NYSDOH Mitigate Guidance Action concentrations of >1,000 for PCE/DCE and > 250 for TCE in samples collected along the southern property boundary adjoining the Southside Foote Avenue Plaza property. Prior to Remediation (Off-Site): Subslab Air Sampling - PCE (88,000) and TCE (1200) were detected at concentrations above corresponding NYSDOH Mitigate Guidance Action concentrations of >1,000 for PCE and > 250 for TCE in samples collected at 748 and 752 Foote Avenue. Post-Remediation Onsite Indoor Air: Indoor Air Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were PCE, TCE, and DCE in sub-slab vapor samples. Remedial actions have successfully achieved NYSDOH indoor air cleanup standards. Post Remediation Offsite Indoor Air: Indoor Air Remediation at the site is complete. Prior to remediation, the primary contaminants of concern were PCE, TCE, and DCE in sub-slab vapor samples. Remedial actions have successfully achieved NYSDOH indoor air cleanup standards. BCA Terminated, 3/29/17. See site #907043.

Site Health Assessment

Direct contact with contaminants in the soil is unlikely because the majority of the site is covered with buildings and pavement. Contaminated groundwater at the site is not used for drinking or other purposes and the site is served by a public water supply that obtains water from a different source not affected by this contamination. Volatile organic compounds in the groundwater may move into the soil vapor (air spaces within the soil), which in turn may move into overlying buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Sub slab depressurization systems (systems that ventilate/remove the air beneath the building) were installed in the on-site building to prevent the indoor air quality from being affected by the contamination in soil vapor beneath the site building and the adjacent tenant spaces in the Plaza.

*** Class N Sites:** "DEC offers this information with the caution that the amount of information provided for Class N sites is highly variable, not necessarily based on any DEC investigation, sometimes of unknown origin, and sometimes is many years old. Due to the preliminary nature of this information, significant conclusions or decisions should not be based solely upon this summary."

[For more Information: E-mail Us](#)

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SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Information for the previous and current owners/operators is provided in the table below, as available.

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
704-744 Foote Avenue (previously 704-750 Foote Avenue)			
Current Owners/Operators			
LB-UBS 2007-C6 – Southside Station LLC 1601 Washington Avenue Miami Beach, FL 33139	Commercial – Area or Neighborhood Shopping Centers	January 2015 to Present	Owner No relationship
McDonald's 704 Foote Avenue Jamestown, NY 14701	Commercial	1980 to present	Tenant No relationship
The UPS Store 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 2006 to present	Tenant No relationship
Spa Nails/Nail Hollywood 710 Foote Avenue Jamestown, NY 14701	Commercial	At least 2012 to present	Tenant No relationship
Dollar Tree 716 Foote Avenue Jamestown, NY 14701	Commercial	After 2012 to present	Tenant No relationship
CellOne 720 Foote Avenue Jamestown, NY 14701	Commercial	After 2012 to present	Tenant No relationship
KeyBank 730 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to present	Tenant No relationship
TOPS Friendly Markets 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 2012 to present	Tenant No relationship
Previous Owners/Operators			
A AAA1 Abuse & Addition Help 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 2012 to prior to 2019	Former Tenant No relationship

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CFI Certified Fraud Investigation 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 2012 to prior to 2019	Former Tenant No relationship
US News 712 Foote Avenue Jamestown, NY 14701	Commercial	At least 1994 to prior to 2019	Former Tenant No relationship
Radioshack 714 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 2019	Former Tenant No relationship
Gamerz Haven 720 Foote Avenue Jamestown, NY 14701	Commercial	At least 2012 to prior to 2019	Former Tenant No relationship
Southside Station Inc. 11501 Northlake Drive Cincinnati, OH 45249	Commercial	July 2007 to January 2015	Former Owner No Relationship
American General Home Equity 710 Foote Avenue Jamestown, NY 14701	Commercial	At least 2006 to prior to 2012	Former Tenant No relationship
Blockbuster Video 716 Foote Avenue Jamestown, NY 14701	Commercial	At least 2006 to prior to 2012	Former Tenant No relationship
Ronald W. Kohl 728 Foote Avenue Jamestown, NY 14701	Commercial	At least 2006 to prior to 2012;	Former Tenant No relationship
BG Southside LLC 704-744 Foote Avenue Jamestown, NY 14701	Commercial	May 2004 to July 2007	Former Owner No Relationship
American General Finance Management 710 Foote Avenue Jamestown, NY 14701	Commercial	At least 2000 to prior to 2006	Former Tenant No relationship
Quality Markets 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 2006	Former Tenant No relationship
Video Factory 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1994 to prior to 2006	Former Tenant No relationship
Benderson Development Co., Inc. 570 Delaware Avenue Buffalo, NY 14202	Commercial	At least 1979 to May 2004	Former Owner No Relationship

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Shoe Outlet 708-710 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 2000	Former Tenant No relationship
Ruslink Plaza Drugs Inc. 716 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 2000	Former Tenant No relationship
South Side Plaza Shopping Center 718 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 2000	Former Tenant No relationship
Price Cutters Beauty Salon 718 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 2000	Former Tenant No relationship
US Postal Service 720 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 2000	Former Tenant No relationship
The Resource Center 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1994 to prior to 2000	Former Tenant No relationship
Ross Shoes Inc./Roselle Shoes 748 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 2000	Former Tenant No relationship
Whirley-Wash Dry Cleaners 750 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 2000	Former Tenant No relationship
Whirley-Wash Laundromat 750 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 2000	Former Tenant No relationship
Southside Plaza News 712 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 1994	Former Tenant No relationship
Quality Market Inc. 724 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 1994	Former Tenant No relationship
Donald Levandoski 728 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 1994	Former Tenant No relationship
Fashion Barn 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1988 to prior to 1994	Former Tenant No relationship

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Clar-Vi Shoppe Inc. 744 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1994	Former Tenant No relationship
Outer Limits Penny Arcade 708-710 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 1988	Former Tenant No relationship
Towne Barbers Unltd 718 Foote Avenue Jamestown, NY 14701	Commercial	At least 1981 to prior to 1988	Former Tenant No relationship
Ronald W. Kohl 728 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1988	Former Tenant No relationship
Leo A. Wilcox 728 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1988	Former Tenant No relationship
Bankers Trust Co of Western New York 730-732 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1988	Former Tenant No relationship
Kelso J C & 10 Cent Store 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1988	Former Tenant No relationship
Hustler Hardware Paint Auto Inc. 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1988	Former Tenant No relationship
Anderson Cleaners Inc. 750 Foote Avenue Jamestown, NY 14701	Commercial	1979 to prior to 1988	Former Tenant No relationship
Cuifolo's Service Center 704 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1980	Former Tenant No relationship
John W. Wright 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1981	Former Tenant No relationship
Burroughs Corp. 712 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1981	Former Tenant No relationship
Business Forms & Sups Group (Div Burroughs Corp.) 712 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1981	Former Tenant No relationship

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Mrs. Mary G. Philbrick 712 ½ Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1981	Former Tenant No relationship
Hall Optical Co. 718 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1981	Former Tenant No relationship
Ruslink Plaza Drugs Inc. 724 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1981	Former Tenant No relationship
G G's of Jamestown Inc. 732 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1981	Former Tenant No relationship
California Jean Joint 734 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1981	Former Tenant No relationship
Anderson Cleaners 736 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1979	Former Tenant No relationship
Gifford's Coffee Shop 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 1975 to prior to 1981	Former Tenant No relationship
Loblaw's Inc. 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1981	Former Tenant No relationship
Alaric R. Bailey P.O. Box 133 Placida, FL 33946	Commercial	At least 1955 to prior to 1979	Former Owner No relationship
Bish's South Side Serv 704 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1975	Former Tenant No relationship
Rodney A. Vik 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1975	Former Tenant No relationship
Leo R. Barrett 710 ½ Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1975	Former Tenant No relationship
Peter C. Raffa 712 ½ Foote Avenue Jamestown, NY 14701	Commercial	At least 1969 to prior to 1975	Former Tenant No relationship
Plaza Cake Shop	Commercial	At least 1964 to	Former Tenant

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720 Foote Avenue Jamestown, NY 14701		prior to 1975	No relationship
Rouge Box 734 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1975	Former Tenant No relationship
Dolly Madison Coffee Shop 738 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1975	Former Tenant No relationship
Ronald R. Sellen & Mrs. Carol S. Westley 708 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Peter C. Raffa 710 ½ Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Todd Co. (Div of Burroughs Corp.) 712 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Plaza TV 718 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Loblaws Inc. 728 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Goodway Liquor Store 732 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Triangle Cleaners 736 Foote Avenue Jamestown, NY 14701	Commercial	1956 to prior to 1969	Former Tenant No relationship
Plaza Paint & Hardware Store 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
US PO (Plaza Sub Station) 740 Foote Avenue Jamestown, NY 14701	Commercial	At least 1964 to prior to 1969	Former Tenant No relationship
Various Unknown Tenants	Commercial	1955 to prior to 1964	Former Tenants No relationship
Various Unknown Owners	Residential	Prior to 1955	Former Owners No relationship

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SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, LB-UBS 2007-C6 – Southside Station LLC (Southside), qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2) based on the following:

- The CVOC contamination in soil and groundwater is reasonably attributable to the historic presence of multiple former dry cleaners at the Site.
- The Applicant became involved with the property after the disposal or discharge of contaminants.
- The Applicant acquired the property by deed in lieu of foreclosure.
- The Applicant has exercised appropriate care with respect to the known contamination and has taken reasonable steps to prevent or limit human, environmental, and natural resource exposure to contamination by operating the Sub-Slab Depressurization System (SSDS) and conducting subsequent environmental investigations.

Applicant Statement Supporting Volunteer Status in the BCP

Introduction and Summary

The chlorinated solvent contamination that LB-UBS 2007-C6 - Southside Station LLC (the “Applicant”) wishes to address as a volunteer under the Brownfield Cleanup Program (“BCP”) is the result of a former business known as the Whirley Wash (“WW”) that performed dry cleaning at 750 Foote Avenue in the 1980s and 1990s. The prior owner of the Subject Property (Southside Station, Inc.) entered the BCP in 2012. The current Applicant, a single asset entity owned by a lending trust, acquired the Subject Property by deed in lieu of foreclosure in December 2014. As shared with NYSDEC in 2015, the Applicant’s consultants concluded that the releases from the WW had occurred on the abutting property to the south. Therefore, since it appeared that the Subject Property did not qualify under the BCP, the Applicant voluntarily withdrew.¹

¹ NYSDEC terminated the BCP Agreement with the prior owner, Southside Station, Inc., in 2017.

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Although the Applicant withdrew from the BCP, it continued operation of the sub-slab depressurization system (“SSDS”) installed by the initial BCP applicant (Southside Station, Inc.) as an interim remedial measure. Further, the Applicant has continued to cooperate with NYSDEC in performing additional investigations and confirming that the SSDS was effectively abating any risks posed by vapor intrusion. The Applicant also pressed the abutting property owner on which the 750 Foote Avenue tenant space appeared to have been located to clean up the source area. However, in response to the Applicant’s demands, the abutting owner produced information it had apparently provided to NYSDEC in 2012 arguing that the historical location of the 750 Foote Avenue Suite was actually on the Subject Property and not where the current address numbering would suggest.

As the Applicant has discussed with NYSDEC, the information supplied by the abutting property owner is at best inconclusive about where WW may have conducted dry cleaning operations. However, in light of the combination of recent sampling results showing at least some soil impacts above relevant standards on the Subject Property’s side of the boundary and the possibility that WW may have been located on either side of that line (or perhaps both), the Applicant wishes to re-enter the BCP with the intent to characterize definitively any source area needing abatement and completing corrective action as efficiently as possible. As explained further herein, the Applicant continues to meet the relevant criteria and policy objectives for designation as a volunteer in the BCP because its liability arises only from its recent acquisition by deed in lieu of foreclosure roughly two decades after the last discharge of hazardous substances occurred and because it has exercised appropriate care with respect to the known contamination. *See, e.g.*, NY ECL § 27-1405(1)(b); 6 NYCRR 375-3.2(c)(2).

Foreclosure and Ownership History

As explained above, the Applicant’s situation is rather unique and underscores its status as a volunteer and not a participant. The Applicant’s status as an owner is the result of realizing on collateral for a mortgage loan on December 31, 2014, and not a traditional purchase for

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value. Prior to foreclosure proceedings, the Applicant conducted all appropriate inquiry within the meaning of the federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), which identified the groundwater plume beneath the Subject Property and the existing SSDS. (*See* Phase I Environmental Site Assessment on the Subject Property prepared by AEI Consultants, Inc. and dated October 20, 2014.) Immediately after taking title, the Applicant re-evaluated its eligibility for the BCP, and in March 2015, informed NYSDEC of its intent to withdraw voluntarily from the BCP in good faith reliance on information generated by the prior owner’s consultant showing that the contamination appeared to be migrating entirely from the abutting property. In order to confirm that assertion, the Applicant conducted source area investigation activities in April 2015 (including soil and groundwater sampling), which was shared with NYSDEC. (*See* Apex Source Area Investigation Report, dated May 4, 2015.) Perhaps due to personnel turnover, NYSDEC did not share the information previously submitted by the abutting property owner contesting the historical location of the WW operations, nor did the agency otherwise controvert the Applicant’s belief that the source area was located entirely on the abutting property.

Additionally, the Applicant’s ownership clearly post-dated WW’s dry cleaning operations, regardless of exactly where they may have been located. The Applicant’s research shows that the WW business last appeared in the Jamestown city directories covering the Subject Property and its immediate neighbor in 1994 and was absent by 2000. Therefore, the releases in question last occurred roughly two decades before the Applicant acquired title in December 2014.

Furthermore, the Applicant has no affiliation whatsoever with the owner or operator of the Subject Property at the time of the releases. As described above, the WW had ceased operations by the 2000 directory. Title records indicate that Benderson Development Co., Inc. was the owner of the Subject Property until 2003. The Applicant’s borrower was an

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unrelated purchaser. As such, the Applicant has no affiliations with any entity otherwise responsible for the releases.

Mitigation Measures and Environmental Investigations

Since acquiring the Subject Property by deed in lieu of foreclosure in December 2014, the Applicant has exercised appropriate care with respect to the known contamination and has taken reasonable steps to prevent or limit human, environmental, and natural resource exposure to that contamination by operating the SSDS and by conducting subsequent environmental investigations, both on its own and in response to requests from the NYSDEC.

In terms of mitigation, the Applicant has continued to operate and maintain the SSDS that was installed as an interim remedial measure in February 2013 in connection with the prior owner's BCP Agreement (approved by NYSDEC on February 15, 2013). On May 2, 2019, the Applicant's consultant evaluated the existing SSDS, including a visual inspection of the system components and vacuum testing through sub-slab monitoring points beneath the concrete slab of the affected tenant space (Tops Market), all in order to confirm the SSDS is maintaining proper vacuum beneath the concrete slab. As shared with NYSDEC, the results of the evaluation indicated that adequate mitigation was taking place to extract vapors, with no visual evidence of any significant cracks or penetrations. In addition, the Applicant's consultant collected an indoor air sample within the tenant space during the same investigation to confirm the absence of human exposure to vapor concerns. No chlorinated hydrocarbons were measured above the laboratory method detection limit. Therefore, the Applicant has taken reasonable steps to prevent and limit human exposure to any hazardous substances at the Subject Property.

The Applicant's efforts to limit human, environmental, and natural resource exposure to the site contamination also include extensive soil and groundwater investigations. As described above, the Applicant conducted soil and groundwater sampling at the Subject Property and

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the abutting property as part of source area investigation activities in April 2015 and shared the results with NYSDEC. (*See Apex Source Area Investigation Report*, dated May 4, 2015.) More recently, in response to a request from NYSDEC, the Applicant conducted a groundwater investigation on the Subject Property in April 2019. (*See ATC Groundwater Sampling & SSDS Report* dated July 11, 2019.) That investigation was conducted in accordance with the work plan approved by NYSDEC on February 4, 2019. As shared with the agency, this recent investigation showed concentrations of chlorinated solvents above potential action levels along the southern property boundary near where the WW is believed to have operated that prompted the Applicant to seek re-entry into the BCP.

As shown above, the Applicant has clearly exercised appropriate care with respect to site contamination by maintaining the SSDS that was installed as an interim remedial measure under the previous BCP Agreement and also by conducting extensive soil and groundwater investigations to better characterize the impacts at the site.

Exceptions to PRP Status

Finally, it should be noted that the Applicant meets at least two of the general exceptions to liability as a potentially responsible party applicable under the federal CERCLA structure, underscoring the policy justifications for its status as a volunteer under the BCP. First, the Applicant would qualify for the secured creditor exemption, because it is a foreclosing lender that has been trying to protect its security interest by positioning the Subject Property for resale at the earliest practicable, commercially reasonable time. *See* 42 U.S.C. § 9601(20)(A). Second, the Applicant completed all appropriate inquiry prior to becoming an owner of the Subject Property and could rely on the Bona Fide Prospective Purchaser (“BFPP”) defense. *See* 42 U.S.C. §§ 9601(40); 9607(r)(1). As described above, the Applicant qualifies as a BFPP because it did not cause the contamination, it is not affiliated with any party that would be liable for the contamination, it has complied with government requests in connection with site investigation, and it has exercised appropriate care with respect to the contamination.

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Therefore, the Applicant's compliance with these two exceptions to liability under CERCLA supports its treatment as a volunteer under the New York rules.

Based on the information herein, Southside is entitled to Volunteer status under NY ECL 27-1405(1)(b).

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SECTION IX – CONTACT LIST INFORMATION

Site Contact List

The following is the contact list for the Site. Each contact will be sent fact sheets throughout the project's duration.

Chautauqua County Contacts:

Honorable George Borrello
Chautauqua County Executive
3 N Erie Street
Mayville, NY 14757

Honorable Charles Nazzaro
Chautauqua County Legislator, District 9
236 Springdale Avenue
Jamestown, NY 14701

Mark Geise, Deputy County Executive
Chautauqua County Department of Planning
& Economic Development
CC Industrial Development Agency CEO
201 W Third Street, Suite 115
Jamestown, NY 14701

Don McCord, Planning Director
Chautauqua County Department of Planning
& Economic Development
201 W Third Street, Suite 115
Jamestown, NY 14701

David McCoy, Watershed Coordinator
Chautauqua County Department of Planning
& Economic Development
201 W Third Street, Suite 115
Jamestown, NY 14701

Mr. Mark Odell, Chair
Chautauqua County Planning & Economic
Development Committee
90 Old Mill Road
Brocton, NY 14716

Ms. Kathy Tampio
Chautauqua County Legislature Clerk
3 N Erie Street
Mayville, NY 14757

Brad Bentley, Director
Chautauqua County Department of Public
Facilities
454 N Work Street
Falconer, NY 14733

Commissioner Christine Schuyler, BSN, RN,
MHA
Chautauqua County Health Department
7 N Erie Street
Mayville, NY 14757

Director John Griffith
Chautauqua County Emergency Services
2 Academy Street
Suite A, Room 106
Mayville, New York 14757

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City of Jamestown Contacts:

Sam Teresi, Major
City of Jamestown
200 E Third Street
Jamestown, NY 14701

Maria B. Jones, Councilman
City of Jamestown, Forest Ward V
455 Broadhead Avenue
Jamestown, NY 14701

Greg Rabb, Chairman
City of Jamestown Planning Commission
200 E Third Street
Jamestown, NY 14701

Crystal Surdyk, Principal Planner
City of Jamestown Planning Commission
200 E Third Street
Jamestown, NY 14701

Supplier of Potable Water:

Jamestown Board of Public Utilities
Water Division
314-348 Buffalo Street
Jamestown, NY 14701

Local News Media:

Buffalo News
ATTN: Mr. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

The Post-Journal
ATTN: Mr. Michael Bird
P.O. Box 3386
Jamestown, NY 14702

Western New York News Now
ATTN: Newsroom
21 E. 3rd Street, Suite 221
Jamestown, NY 14701

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

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Spectrum News
ATTN: Buffalo Newsroom
355 Chicago Street
Buffalo, NY 14204

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy, Suite 200
Buffalo, NY 14226

Business First
ATTN: Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

WNED (WNJA), Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Leslie Melquist, Principal
Jefferson Middle School
195 Martin Road
Jamestown, NY 14701

Maria C. Dejoy MS
Milton J. Fletcher Elementary School
301 Cole Avenue
Jamestown, NY 14701

Other Interested Parties:

WNY Director
Citizens Environmental Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Annie Greene
James Prendergast Library
Chautauqua-Cattaraugus Library System
509 Cherry Street
Jamestown, NY 14701

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Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site is provided in the table below and shown on Figure 7.

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
86	Cole Avenue	Residential – One Family Year-Round	Mary E. Haas P.O. Box 66 Dewittville NY 14728
82	Cole Avenue	Residential – One Family Year-Round	Paul R. Genco 82 Cole Avenue Jamestown, NY 14701
80	Cole Avenue	Residential – One Family Year-Round	Jerry and Anna Phillips 80 Cole Avenue Jamestown, NY 14701
78	Cole Avenue	Residential – One Family Year-Round	Kathy Slagle 78 Cole Avenue Jamestown, NY 14701
660	Foote Avenue	Commercial – Professional Building	660 North, LLC 3739 Route 430 Bemus Point, NY 14712
651	Foote Avenue	Commercial – Fast Food Franchise	Heidner Suspenzi Properties II, LLC Lease Acctg/Carrols Corp. P.O. Box 6969 Syracuse, NY 13217
717	Foote Avenue	Commercial - Restaurant	Dixie Gardens Apartments Inc. 5839 SW 74 Terrace #304 S Miami, FL 33143
731	Foote Avenue	Commercial – Service and Gas Station	Dom's Mobil LLC 731 Foote Avenue Jamestown, NY 14701

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739	Foote Avenue	Commercial – Drive-in Branch Bank	Manufacturers & Traders Trust Co. One M&T Plaza, 10 th Floor 345 Main Street Buffalo, NY 14203
745	Foote Avenue	Residential – One Family, Year-Round	Michael Giunta 747 Foote Avenue Jamestown, NY 14701
747	Foote Avenue	Residential with Incidental Commercial Use	Deborah A. Guiffrida 107 E. Virginia Boulevard Jamestown, NY 14701
751	Foote Avenue	Commercial – Office Building	Terri Wilcox 456 S. Main Street Jamestown, NY 14701
748-780	Foote Avenue	Commercial – Area or Neighborhood Shopping Center	Southside Foote Avenue Plaza LLC 766 Foote Avenue Jamestown, NY 14702
161	Ivy Street	Residential – One Family, Year-Round	Joseph Sebastiano 161 Ivy Street Jamestown, NY 14701
153	Ivy Street	Residential – One Family, Year-Round	Richard L. Didomenico 153 Ivy Street Jamestown, NY 14701
143	Ivy Street	Residential – One Family, Year-Round	RJ Frucella 143 Ivy Street Jamestown, NY 14701
131	Ivy Street	Residential – Two Family, Year-Round	Maria Bonfiglio 131 Ivy Street Jamestown, NY 14701
121	Ivy Street	Residential – One Family, Year-Round	Robert and Betty Swartz 121 Ivy Street Jamestown, NY 14701

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Southside Plaza Site

--	Ivy Street ²	Residential Vacant Land	Robert A. Swartz 121 Ivy Street Jamestown, NY 14701
--	Ivy Street ²	Residential Vacant Land	Southside Station LLC 1601 Washington Avenue Miami Beach, FL 33139
--	Cole Avenue ²	Residential Vacant Land	Southside Station LLC 1601 Washington Avenue Miami Beach, FL 33139

Document Repository

The James Prendergast Library (Chautauqua-Cattaraugus Library System) has agreed to act as the document repository for the proposed BCP Site. Appendix B includes a letter of acknowledgement from the repository.

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current use of the Site is commercial land. The property type class code is 452 – Area or Neighborhood Shopping Centers.

2 – Current Use

The current use of the Site is commercial land. The Site is developed with two structures. The existing structures include a retail strip mall (Building 1) and a separate restaurant tenant space north of the strip mall (Building 2). Building 1 is currently occupied by several tenants including TOPS Friendly Markets, KeyBank, Cellular One, Dollar Tree, Spa Nails, and The UPS Store. Building 2 is currently occupied by McDonald's. The Site also includes a paved

² No address number is given for these vacant parcels. The parcels are listed in order starting with the parcel directly north of 121 Ivy Street and moving north toward Cole Avenue. Note that two of the vacant parcels are owned by the Applicant but are not included in this BCP application as both parcels are classified as residential and vacant land and have no historic or current use.

APPENDIX B
BCP Application – Part B
Section V – Section X
Southside Plaza Site

parking lot east of the structures, a paved parking lot/access road west of the structures, and some vegetated areas.

The Site was improved with several residential properties from at least the 1890s to 1955. A strip mall (Building 1) and a former separate structure north of the strip mall (former Building 2) were built between 1955-1958 and 1960. Two historical dry cleaners were present from 1956 to at least 1975 at Building 1 tenant space 736 Foote Avenue (Triangle Cleaners and Anderson Cleaners). In addition, two historical dry cleaners occupied the Building 1 tenant space 750 Foote Avenue from 1979 to at least 1994 (Anderson Cleaners and Whirley-Wash Dry Cleaners). The dry cleaners will be referenced herein as the former Anderson Cleaners location (736 Foote Avenue) and the former Whirley-Wash location (750 Foote Avenue). A letter dated August 29, 2019 from Mr. Karim Abdulla of Barclay Damon, LLP submitted to KMCL provides documentation that both dry cleaners were located on the Southside Plaza Site. The letter contends the address of Whirley-Wash, 750 Foote Avenue, fell within the original address of the Site, 704-750 Foote Avenue, and that the SFAP property (“off-site”), which is currently numbered 748-770 Foote Avenue was numbered 752-778 Foote Avenue at the time. No other former or current Building 1 tenants present a potential concern. The former Building 2 was historically occupied by two former gas stations from the Mid 1950s to the late 1970s; Bish’s South Side Service Station is known to have been located at the Site in 1969, and Cuifolo’s Service Center is known to have been located at the Site in 1975. The former Building 2 was demolished between 1975 and 1980. The existing Building 2 was constructed in 1980 for use as a McDonald’s.

There is no evidence of underground storage tank (UST) usage at the former dry cleaner locations. PCE was possibly disposed of through building floor drains leading to sewers and is a suspected source of contamination. Two 500-gallon oil tanks and four 3,000-gallon gasoline tanks are known to be on-site per the City of Jamestown Fire Department. No information is available regarding petroleum bulk storage (PBS) registration or tank closure. Previous sampling in the area of the gas station did not identify petroleum impacts or USTs.

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A spill (Spill No. 342350) dated March 21, 2005 is documented at 738 Foote Avenue, the location of the former Quality Markets (and the existing TOPS), due to a 10-gallon diesel spill to the pavement from a leaking delivery truck. The spill was cleaned up with speedy dry/adsorbent pads and closed March 31, 2005.

Due to the presence of three historical dry cleaners at two on-site locations within Building 1, previous investigations have observed CVOCs in soil and groundwater at concentrations exceeding USCOs, RSCOs, and GWQS/GV. CVOCs were also observed in sub-slab vapor samples within the section of Building 1 currently occupied by TOPS, and in the south adjoining SFAP in tenant spaces occupied by the Post Office and Salon 1. Remedial activities have been completed to mitigate CVOCs in the soil gas vapor; however, no remedial activities have been completed to remediate CVOC soil and groundwater contamination. Although there were historically two gas stations at one on-site location in the area of Building 2, no evidence of elevated petroleum VOCs or SVOCs were observed.

3, 4, 5 and 6 – Planned Future Use

The Site will remain a commercial retail plaza, with a restaurant out-building and associated asphalt parking. The existing development is consistent with the current and future land use (see Figure 8).

From: [Annie Greene](#)
To: [Chelsea N. Kanaley](#)
Subject: RE: Document Repository Request - Southside Plaza Site
Date: Monday, November 4, 2019 9:23:33 AM

Good Morning Chelsey,
Yes, the library will act as a repository for Benchmark Environmental Engineering & Science, PLLC.
You will need to provide a document holder such as a three ringed notebook. I had already notified my staff and didn't realize you were waiting for confirmation – my apologies.

Best,
Annie

Annie Greene, MSW, MLS
Library Manager
James Prendergast Library
509 Cherry St.
Jamestown, NY 14701
(716) 484-7135 Ext. 240
Fax: (716) 487-1148
www.prendergastlibrary.org

From: Chelsea N. Kanaley [mailto:CKanaley@Turnkeyllc.com]
Sent: Thursday, October 10, 2019 4:14 PM
To: Annie Greene <agreene@cclslib.org>
Subject: Document Repository Request - Southside Plaza Site

Dear Ms. Greene,

Thank you for your help this afternoon. Please see the attached document repository request for the Brownfield Cleanup Program.

Sincerely,

Chelsea N. Kanaley
Geologist
ckanaley@turnkeyllc.com

TurnKey Environmental Restoration, LLC
www.benchmarkturnkey.com
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
Phone: (716) 856-0635, Mobile: (716) 220-1093, Facsimile: (716) 856-0583

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DISCLAIMERS:

Confidentiality Notice: *The information contained in this message is intended only for the use*

October 10, 2019

Ms. Annie Greene
James Prendergast Library
509 Cherry Street
Jamestown, NY 14701

Re: Document Repository for Brownfield Cleanup Program
Southside Plaza Site
Jamestown, New York

Dear Ms. Greene:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Chautauqua-Cattaraugus Library System – James Prendergast Library to act as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact me if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC



Chelsea Kanaley
Geologist

File: B0505-019-001

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