

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**BROWNFIELD CLEANUP PROGRAM (BCP)  
APPLICATION FORM, Revision 12**

**FEDDER LOFTS  
71 TONAWANDA STREET  
BUFFALO, ERIE COUNTY, NEW YORK**



Submitted For:



**Fedder Lofts, LLC**  
950 Delaware Avenue  
Buffalo, NY 14209

Prepared By:



960 Busti Avenue, Suite B-150  
Buffalo, NY 14213  
716.249.6880 [be3corp.com](http://be3corp.com)

December 2021

<b>Prepared By:</b> Jesse Zientek	<b>Signature:</b> 	<b>Date:</b> 12/8/2021	<b>Title:</b> Engineer
<b>Reviewed By:</b> Jason Brydges, P.E.	<b>Signature:</b> 	<b>Date:</b> 12/8/2021	<b>Title:</b> PM

## TABLE OF CONTENTS

BCP Application Form – Completed

Pages 1-10

### ATTACHMENTS – ELECTRONIC VERSION ONLY ON DVD – FILE 1

#### Part A

- A – Section I: Requestor Information – NYSDOS Printout & LLC Members
- B – Section II: Project Description – Short Description of Development
- C – Section III & IV: Env. History & Property Information – Tax Map, Data Tables, Figure, & Deed
- D – Section IV: Environmental History & Property Information – Property Base Maps
- E – Section IV: Environmental History & Property Information – Property Description and Environmental Assessment

#### Part B

- F – Section VI: Current Property Owner/Operator Information – Previous Owners
- G – Section VII: Requester Eligibility Information – Volunteer Statement
- H – Section IX: Contact List Information – Site Contact List and Doc Repository Letter
- I – Section X: Land Use Factors – Current Use
- J- Section XI: Proof of Access

### RI-AAR– ELECTRONIC VERSION ONLY ON DVD – FILE 2

Part A - Section II: Project Description - Stage of Project



## 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 12*

#### Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY  
BCP SITE #:

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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 Attachment A**

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.**

#### 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

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

- the date that the remedial program is to start; and **See Attachment B**
- the date the Certificate of Completion is anticipated.

**Section III. Property's Environmental History** Refer to Exhibit C and Exhibit I - Attached Electronic Report Copies

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that the site requires remediation and 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). Please do not submit paper copies of supporting documents.**

2. **SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED, WITH LABORATORY REPORTS REFERENCED AND ALSO INCLUDED.** See Tables in Attachment C and RI-AAR on DVD

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum			
Chlorinated Solvents			
Other VOCs			
SVOCs			
Metals			
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

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):

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

Other: \_\_\_\_\_



Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME				
ADDRESS/LOCATION				
CITY/TOWN		ZIP CODE		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY		SITE SIZE (ACRES)		
LATITUDE (degrees/minutes/seconds) ° ' "		LONGITUDE (degrees/minutes/seconds) ° ' "		
<b>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. See Maps in Attachment C or RI-AAR on DVD</b>				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site.			Yes	No
2. Is the required property map attached to the application? (application will not be processed without map) See Maps in Attachment D			Yes	No
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information)			Yes	No
If yes, identify census tract : _____				
Percentage of property in En-zone (check one):      0-49%                  50-99%                  100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)?      Yes      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?			Yes	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? If yes, attach relevant supporting documentation.			Yes	No
7. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.			Yes	No

#### 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

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

Type

Issuing Agency

Description

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

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

**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)**

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S CONSULTANT			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF REQUESTOR'S ATTORNEY			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b>			
CURRENT OWNER'S NAME		OWNERSHIP START DATE:	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
CURRENT OPERATOR'S NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<b>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".</b> <b>See Attachment F and Requestor is owner</b>			
<b>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.</b>			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b>			
If answering "yes" to any of the following questions, please provide an explanation as an attachment.			
1. Are any enforcement actions pending against the requestor regarding this site? Yes No			
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes 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. Yes 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:

### 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. **See Attachment G**

**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

**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. Not Applicable

Yes No
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

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: **See Attachment H**

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **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 <span style="color: red;">Refer to Exhibit H</span>	
<p>1. What is the current municipal zoning designation for the site? _____</p> <p>What uses are allowed by the current zoning? (Check boxes, below)</p> <p style="text-align: center;">Residential      Commercial      Industrial</p> <p>If zoning change is imminent, please provide documentation from the appropriate zoning authority.</p>	
<p>2. Current Use:    Residential    Commercial    Industrial    Vacant    Recreational    (check all that apply)</p> <p style="text-align: center;"><span style="color: red;">See Attachments B, E, and I</span></p> <p><b>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.</b></p>	
<p>3. Reasonably anticipated use Post Remediation:    Residential    Commercial    Industrial    (check all that apply) <b>Attach a statement detailing the specific proposed use.</b></p> <p>If residential, does it qualify as single family housing? <span style="color: red;">See Attachment B, E, and I</span> <span style="float: right;">Yes    No</span></p>	
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
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



## 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: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am \_\_\_\_\_ Member/Owner \_\_\_\_\_ (title) of \_\_\_\_\_ FEDDER LOFTS, LLC \_\_\_\_\_ (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: 10/6/2021

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

Print Name: Evan Epstein

### SUBMITTAL INFORMATION:

- Two (2) copies, one paper copy of the application form with original signatures and table of contents, and one complete electronic copy in final, non-fillable Portable Document Format (PDF), must be sent to:
  - Chief, Site Control Section
  - New York State Department of Environmental Conservation
  - Division of Environmental Remediation
  - 625 Broadway
  - Albany, NY 12233-7020

**PLEASE DO NOT SUBMIT PAPER COPIES OF SUPPORTING DOCUMENTS.** Please provide a hard copy of ONLY the application form and a table of contents.

**FOR DEC USE ONLY**

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

**BCP Application Summary (for DEC use only)****Site Name:****City:****Site Address:****County:****Zip:****Tax Block & Lot****Section (if applicable):****Block:****Lot:****Requestor Name:****City:****Requestor Address:****Zip:****Email:****Requestor's Representative (for billing purposes)****Name:****Address:****City:****Zip:****Email:****Requestor's Attorney****Name:****Address:****City:****Zip:****Email:****Requestor's Consultant****Name:****Address:****City:****Zip:****Email:****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:

## ATTACHMENT A

### SECTION I: REQUESTOR INFORMATION

#### NYSDOS Printout & LLC Members

Entity Details	
ENTITY NAME: FEDDER LOFTS, LLC	DOS ID: 5182952
FOREIGN LEGAL NAME:	FICTITIOUS NAME:
ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY	DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: 203 LLC - LIMITED LIABILITY COMPANY LAW	ENTITY STATUS: Active
DATE OF INITIAL DOS FILING: 08/08/2017	REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 08/08/2017	INACTIVE DATE:
FOREIGN FORMATION DATE:	STATEMENT STATUS: PAST DUE DATE
COUNTY: Erie	NEXT STATEMENT DUE DATE: 08/31/2019
JURISDICTION: New York, United States	NFP CATEGORY:

ENTITY DISPLAY	NAME HISTORY	FILING HISTORY	MERGER HISTORY	ASSUMED NAME HISTORY
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Service of Process Name and Address

Name: FEDDER LOFTS, LLC

Address: 950 DELAWARE AVENUE, BUFFALO, NY, United States, 14209

#### MEMBERS/OWNERS OF LLC

Epstein Enterprises, LLC  
950 Delaware Avenue  
Buffalo, New York 14209  
Phone: 716-200-1700 x703  
Fax: 716-568-8271  
Email: eran@escllc.com

Jacobs Enterprises, LTD  
3132 5th ST  
Boulder CO 80304  
Phone: 720-289-5947  
Email: chris@elementproperties.com

# **ACKNOWLEDGEMENT COPY**

## **ARTICLES OF ORGANIZATION OF Fedder Lofts, LLC**

Under Section 203 of the Limited Liability Company Law

**FIRST:** The name of the limited liability company is:

**Fedder Lofts, LLC**

**SECOND:** To engage in any lawful act or activity within the purposes for which limited liability companies may be organized pursuant to Limited Liability Company Law provided that the limited liability company is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.

**THIRD:** The county, within this state, in which the office of the limited liability company is to be located is ERIE.

**FOURTH:** The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

Fedder Lofts, LLC  
950 Delaware Avenue  
Buffalo, NY 14209

**FIFTH:** The existence of the limited liability company shall begin upon filing of these Articles of Organization with the Department of State.

**SIXTH:** The limited liability company shall have a perpetual existence.

**SEVENTH:** The limited liability company shall defend, indemnify and hold harmless all members, managers, and former members and managers of the limited liability company against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) incurred in connection with any claims, causes of action, demands, damages, liabilities of the limited liability company, and any pending or threatened action, suit, or proceeding. Such indemnification shall be made to the fullest extent permitted by the laws of the State of New York, provided that such acts or omissions which gives rise to the cause of action or proceedings occurred while the Member or Manager was in performance of his or her duties for the limited liability company and was not as a result of his or her fraud, gross negligence, willful misconduct or a wrongful taking. The indemnification provided herein shall inure to the benefit of successors, assigns, heirs, executors, and the administrators of any such person.

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

Eran Epstein, Co-Managing Member (signature)

---

Eran Epstein , ORGANIZER  
950 Delaware Avenue  
Buffalo, NY 14209

**Filed by:**

Eran Epstein  
950 Delaware Avenue  
Buffalo, NY 14209

ONLINE FILING RECEIPT

=====

ENTITY NAME: FEDDER LOFTS, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM. LLC)

COUNTY: ERIE

=====

FILED:08/08/2017 DURATION:\*\*\*\*\* CASH#:170808010235 FILE#:170808010235  
DOS ID:5182952

FILER:

EXIST DATE

-----

-----

ERAN EPSTEIN  
950 DELAWARE AVENUE  
BUFFALO, NY 14209

08/08/2017

ADDRESS FOR PROCESS:

-----

FEDDER LOFTS, LLC  
950 DELAWARE AVENUE  
BUFFALO, NY 14209

REGISTERED AGENT:

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The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the Biennial Statement is due will only be made via email. Please go to [www.email.ebiennial.dos.ny.gov](http://www.email.ebiennial.dos.ny.gov) to provide an email address to receive an email notification when the Biennial Statement is due.

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SERVICE COMPANY: \*\* NO SERVICE COMPANY \*\*  
SERVICE CODE: 00

FEE:	200.00	PAYMENTS	200.00
	-----		-----
FILING:	200.00	CHARGE	200.00
TAX:	0.00	DRAWDOWN	0.00
PLAIN COPY:	0.00		
CERT COPY:	0.00		
CERT OF EXIST:	0.00		

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DOS-1025 (04/2007)

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## ATTACHMENT B

### **Purpose of the Project**

The purpose is to complete a remediation of the former industrial property into mixed income housing (residential) reuse. The proposed remedy is intended to reduce the potential exposure to volatile organics associated with vapor migration into the proposed buildings and exposure to PAHs and metals; to enhance public and environmental health and reduce potential impacts to groundwater.

Current and past use of the Site and adjacent properties has been industrial/commercial which has impacted environmental media. The housing re-use will require remediation of these impacts. The BCP program will help support the significant remediation costs necessary to redevelop the property for the intended re-use.

### **Date Remedial Action to Start**

Remedial Action and renovation is anticipated to start in Spring of 2022.

### **Date of Anticipated Certificate of Completion**

The anticipated date of certificate of completion is Fall of 2022.

## ATTACHMENT C

### SECTION III & IV: ENV. HISTORY & PROPERTY INFORMATION

Tax Map, Data Tables, Figures, & Deed

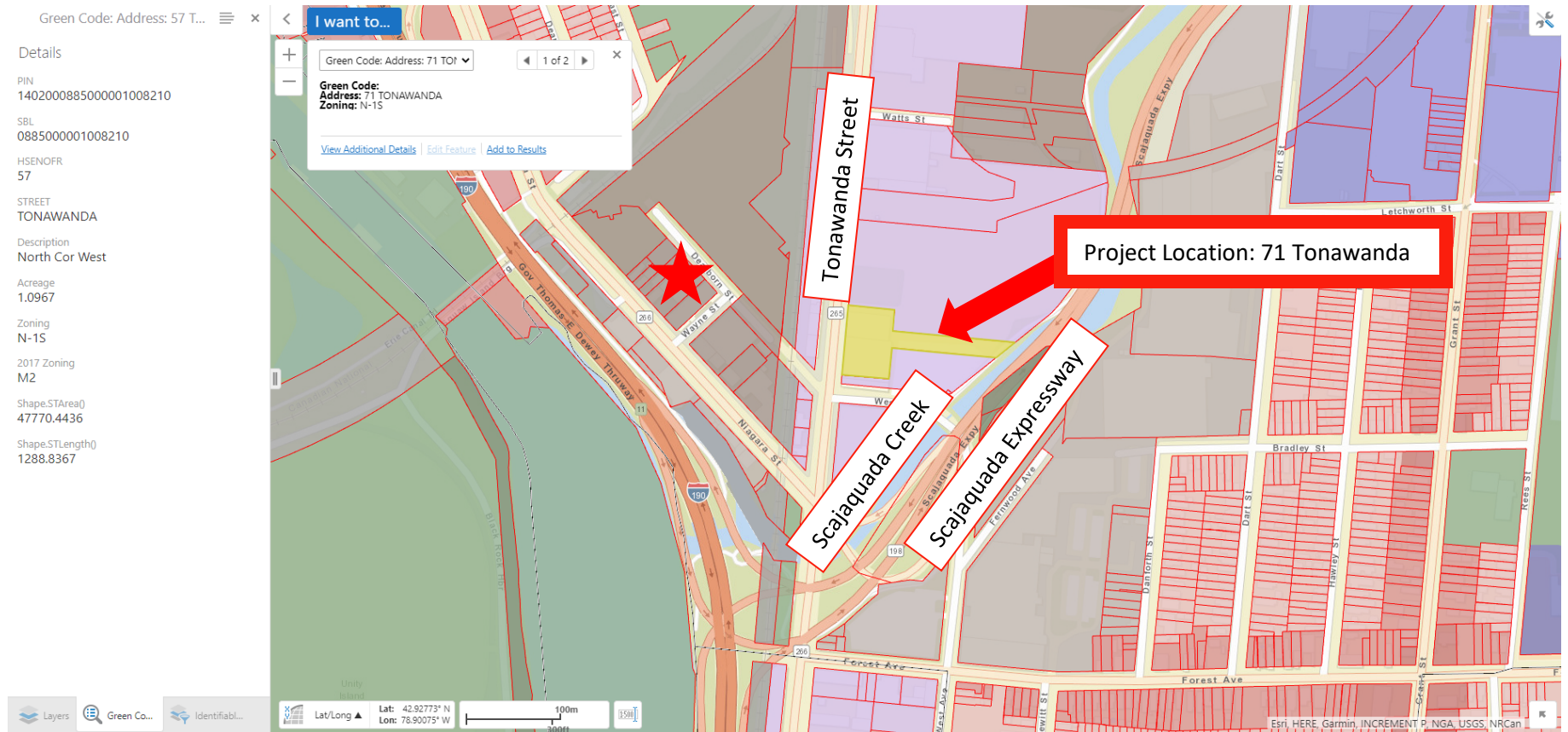



Image provided by City of Buffalo Property Viewer

<http://gis.city-buffalo.com/cobapps/publicapps/HTML5/HTML5PublicLaunch.aspxbuffalo.com/cobapps/publicapps/HTML5/HTML5PublicLaunch.aspx>

	Figure – Project Tax Map	Revisions
	Fedder Lofts 71 Tonawanda Street Hempstead, New York	1
09-01-2021		SHEET 1 of 1

**TABLE 1**  
**57-71 TONAWANDA STREET - RI SOIL BORING/TEST PIT SAMPLE ANALYTICAL RESULTS SUMMARY**

Pg 1 of 2

Contaminants	Sample Identification										PART 375 Soil Cleanup Objectives		
	BH-01 (1-4')	BH-01 (6-8')	BH-02 (1-2')	BH-03 (1-4')	BH-04 (1-3')	BH-05 (1-4')	BH-06 (1-4')	BH-08 (1-3')	BH-08 (10-12')	BH-10 (1-2')	Unrestricted Use	Residential	Restricted Residential
Sample Date	12/17/2019	12/17/2019	12/18/2019	12/18/2019	12/17/2019	12/18/2019	12/18/2019	12/17/2019	12/17/2019	12/18/2019			
METALS													
Arsenic	2.56	3.10	6.18	3.22	14.4	9.25	4.78	16.80	1.28	6.98	13	16	16
Barium	188.00	95.0	57.70	30.00	87.9	65.00	59.40	89.6	156	114	350	350	400
Beryllium	2.14	0.590	0.77	0.27	1.13	0.41	0.38	0.718	1.17	1.05	7.2	14	72
Cadmium	4.49	1.80	0.76	1.21	1.36	2.14	1.03	1.76	1.33	1.71	2.5	2.5	4.3
Chromium	82.10	17.3	25.90	12.20	17.6	35.70	14.60	29.9	32.4	37	30	36	180
Copper	86.90	14.3	55.40	92.70	23.2	1090.00	151.00	129	16.9	190	50	270	270
Lead	97.20	9.46	71.30	1390.00	160	273.00	161.00	152	9.76	185	63	400	400
Manganese	15000.00	465	1430.00	483.00	594	2150.00	661.00	578	1010	6360	1600	2,000	2,000
Total Mercury	0.04	0.01	0.28	0.07	0.167	0.22	0.05	0.128	0.0212	0.856	0.18	0.81	0.81
Nickel	44.10	19.4	13.50	11.60	8.49	27.40	11.10	17.8	32.0	14.2	30	140	310
Selenium	3.51	ND	1.00	ND	1.59	0.93	ND	1.49	2.93	1.05	3.9	36	180
Silver	4.75	0.50	0.39	10.00	0.53	1.20	0.48	0.80	ND	1.41	2	36	180
Zinc	287.00	57.3	270.00	157.00	1810	394.00	218.00	1350	72.0	956	109	2200	10,000
Cyanide	ND	0.704	101.00	4.30	188	ND	ND	26.1	ND	19.2	27	27	27
PCBs													
PCB-1254	ND	ND	ND	ND	ND	ND	0.034	ND	ND	ND	0.1	1	1
PCB-1260	ND	ND	ND	0.031	ND	ND	ND	ND	ND	ND	0.1	1	1
PESTICIDES													
4,4-DDT	ND	ND	ND	0.006	0.004	0.010	0.007	0.009	ND	ND	0.0033	1.7	7.9
4,4-DDD	ND	ND	ND	ND	0.007	0.011	ND	0.007	ND	ND	0.0033	2.6	13
4,4-DDE	ND	ND	ND	ND	ND	0.002	ND	ND	ND	ND	0.0033	1.8	8.9
delta-BHC	ND	ND	ND	ND	0.003	ND	ND	ND	ND	ND	0.04	100	100
Endosulfan II	ND	ND	0.003	ND	0.002	0.002	ND	ND	ND	ND	2.4	4.8	24
Endosulfan Sulfate	ND	ND	0.004	0.003	0.004	0.014	0.002	0.001	ND	0.001	2.4	4.8	24
Lindane	ND	ND	ND	ND	ND	ND	ND	0.003	ND	ND	0.1	0.28	1.3
Endrin	ND	ND	ND	0.002	ND	0.003	ND	0.004	ND	ND	0.014	2.2	11
SEMIVOLATILE ORGANIC COMPOUNDS													
Acenaphthene	ND	ND	ND	1.83	ND	3.61	ND	0.525	ND	ND	20	100	100
Acenaphthylene	ND	ND	0.48	ND	0.204	ND	ND	0.833	ND	ND	100	100	100
Anthracene	ND	ND	0.69	0.76	0.291	8.9	0.31	2.28	ND	0.32	100	100	100
Benz(a)anthracene	0.152	ND	2.65	2.58	1.27	16.6	1.05	6.09	ND	1.68	1	1	1
Benzo(a)pyrene	ND	ND	2.11	2.25	1.01	12.5	0.97	4.71	ND	1.19	1	1	1
Benzo(b)fluoranthene	ND	ND	2.45	2.44	0.978	10.9	1.08	5.74	ND	1.42	1	1	1
Benzo(g,h,i)perylene	ND	ND	1.27	1.32	0.702	6.23	0.71	2.89	ND	0.71	100	100	100
Benzo(k)fluoranthene	ND	ND	1.46	1.43	1.116	10.1	0.6	3.29	ND	0.92	0.8	1	3.9
Chrysene	ND	ND	2.6	2.17	1.34	13.9	1.05	5.74	ND	1.53	1	1	3.9
Dibenz(a,h)anthracene	ND	ND	0.59	0.41	ND	1.85	ND	0.704	ND	0.24	0.33	0.33	0.33
Fluoranthene	0.367	ND	6.46	5.01	2.4	37	2.38	16.6	ND	2.73	100	100	100
Fluorene	ND	ND	0.24	0.2	ND	4.02	ND	1.08	ND	ND	30	100	100
Indeno(1,2,3-cd)pyrene	ND	ND	1.96	1.55	0.761	7.71	0.71	3.35	ND	0.89	0.5	0.5	0.5
Naphthalene	ND	ND	0.73	0.23	1.117	1.71	ND	0.828	ND	0.79	12	100	100
Phenanthrene	0.358	ND	5.05	2.57	1.94	36.2	1.44	9.85	ND	1.68	100	100	100
Pyrene	0.234	ND	4.27	3.32	1.84	25.1	1.55	12.1	ND	2.2	100	100	100
VOLATILE ORGANIC COMPOUNDS													
Acetone	ND	ND	ND	ND	ND	ND	ND	0.016	0.03	ND	0.05	100	100
Toluene	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	0.7	100	100
Ethylbenzene	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	1	30	41
m,p-Xylene	ND	ND	ND	ND	ND	ND	ND	ND	ND	0.75	0.26	100	100
Methylene chloride	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	0.05	51	100
cis-1,2-Dichloroethene	ND	0.022	66.1	0.038	8.39	ND	ND	ND	ND	4.6	0.25	59	100
Trichloroethene	0.01	0.008	189	0.077	1.36	0.089	0.004	ND	ND	8.12	0.47	10	21
trans-1,2-Dichloroethene	ND	ND	ND	0.043	ND	0.043	0.007	ND	ND	0.44	0.19	100	100
Vinyl chloride	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	0.02	0.21	0.9
1,2,4-Trimethylbenzene	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	3.6	47	52
1,3,5- Trimethylbenzene	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	8.4	47	52

ND - Non-Detect NA - Not Applicable J - The analyte was positively identified; the associated numerical value is the approximate concentration of the analyte in the sample.

>/= to Residential/Restricted-Residential SCO and Unrestricted Use SCO

All values in ppm

>Unrestricted Use SCO but <Residential/Restricted-Residential SCO.

>Unrestricted Use & Residential SCO but <Restricted-Residential SCO

## 57-71 TONAWANDA STREET - RI SOIL BORING/TEST PIT SAMPLE ANALYTICAL RESULTS SUMMARY

Contaminants	Sample Identification							PART 375 Soil Cleanup Objectives		
	BH-11 (1-4')	BH-11 (6-8')	BH-12 (1-2')	BH-13 (1-2')	TP-14 (8-9')	TP-16 (1-3')	TP-17 (3-4')	Unrestricted Use	Residential	Restricted Residential
	12/19/2019	12/19/2019	12/19/2019	12/18/2019	1/8/2020	1/8/2020	1/8/2020			
METALS										
Arsenic	4.1	5.15	5.17	3.45	2.97	2.55	3.55	13	16	16
Barium	248	132	130	17.9	33.8	44.4	171	350	350	400
Beryllium	0.246	0.972	1.61	0.173	ND	0.181	0.897	7.2	14	72
Cadmium	2.07	1.6	3.01	0.698	0.467	0.248	0.523	2.5	2.5	4.3
Chromium	27.5	26.9	63	10.4	5.82	7.95	25.1	30	36	180
Copper	84.4	21.6	179	345	297	21.8	23.3	50	270	270
Lead	825	9.7	863	165	52.5	74.5	11.7	63	400	400
Manganese	832	555	8640	187	133	175	520	1600	2,000	2,000
Total Mercury	0.217	0.0178	0.239	0.023	0.0638	0.0332	0.0145	0.18	0.81	0.81
Nickel	18.1	31.5	12	11.6	7.02	8.43	28.8	30	140	310
Selenium	0.646	0.994	ND	ND	1.94	1.08	0.673	3.9	36	180
Silver	1.22	0.727	3.22	ND	ND	ND	ND	2	36	180
Zinc	1660	83.6	4240	0.86	92.4	129	64.5	109	2200	10,000
Cyanide	ND	ND	10.3	ND	ND	ND	ND	27	27	27
PCBs										
PCB-1254	ND	ND	0.0486	ND	ND	ND	ND	0.1	1	1
PCB-1260	ND	ND	ND	ND	ND	ND	ND	0.1	1	1
PESTICIDES										
4,4-DDT	ND	ND	0.007	ND	0.004	0.004	ND	0.0033	1.7	7.9
4,4-DDD	ND	ND	ND	ND	ND	ND	ND	0.0033	2.6	13
4,4-DDE	0.003	ND	0.002	ND	ND	ND	ND	0.0033	1.8	8.9
delta-BHC	ND	ND	ND	ND	ND	ND	ND	0.04	100	100
Endosulfan II	ND	ND	0.003	ND	ND	ND	ND	2.4	4.8	24
Endosulfan Sulfate	ND	ND	ND	0.002	0.003	0.004	ND	2.4	4.8	24
Lindane	0.005	ND	ND	ND	0.005	ND	ND	0.1	0.28	1.3
Endrin	ND	ND	ND	ND	ND	ND	ND	0.014	2.2	11
SEMIVOLATILE ORGANIC COMPOUNDS										
Acenaphthene	1.92	ND	ND	ND	ND	ND	ND	20	100	100
Acenaphthylene	ND	ND	ND	ND	0.23	0.5	ND	100	100	100
Anthracene	8.25	0.72	0.55	ND	0.31	0.96	ND	100	100	100
Benz(a)anthracene	27.9	3.34	2.67	2.46	0.71	1.95	ND	1	1	1
Benzo(a)pyrene	23.3	2.84	2.42	2.48	0.94	1.6	ND	1	1	1
Benzo(b)fluoranthene	25.7	2.94	2.59	3.26	0.87	1.63	ND	1	1	1
Benzo(g,h,i)perylene	13.4	1.98	1.61	ND	0.73	1.05	ND	100	100	100
Benzo(k)fluoranthene	13.4	1.83	1.48	ND	0.7	1.28	ND	0.8	1	3.9
Chrysene	23.3	2.7	2.22	2.67	0.77	1.78	ND	1	1	3.9
Dibenz(a,h)anthracene	4.6	0.61	0.43	ND	0.22	0.36	ND	0.33	0.33	0.33
Fluoranthene	58.4	7.17	5.56	5.53	1.4	4.55	ND	100	100	100
Fluorene	2.2	ND	ND	ND	ND	0.27	ND	30	100	100
Indeno(1,2,3-cd)pyrene	16.7	2.64	2.14	ND	0.59	0.9	ND	0.5	0.5	0.5
Naphthalene	ND	ND	ND	ND	ND	ND	ND	12	100	100
Phenanthrene	29.6	3.24	2.39	2.57	0.65	2.94	ND	100	100	100
Pyrene	41.5	4.81	3.75	4	1.1	3.12	ND	100	100	100
VOLATILE ORGANIC COMPOUNDS										
Acetone	0.015	ND	ND	0.022	ND	ND	ND	0.05	100	100
Toluene	ND	ND	ND	ND	ND	ND	ND	0.7	100	100
Ethylbenzene	ND	ND	0.58	ND	ND	ND	ND	1	30	41
m,p-Xylene	0.003	ND	0.11	ND	ND	ND	ND	0.26	100	100
Methylene chloride	ND	ND	ND	ND	ND	ND	ND	0.05	51	100
cis-1,2-Dichloroethene	ND	ND	ND	0.004	ND	ND	ND	0.25	59	100
Trichloroethene	ND	ND	ND	0.014	ND	ND	0.038	0.47	10	21
trans-1,2-Dichloroethene	0.005	ND	ND	0.01	0.003	0.003	ND	0.19	100	100
1,2,4-Trimethylbenzene	0.003	ND	0.13	ND	ND	ND	ND	3.6	47	52
1,3,5- Trimethylbenzene	ND	ND	ND	ND	ND	ND	ND	8.4	47	52

ND - Non-Detect NA - Not Applicable

J - The analyte was positively identified; the associated numerical value is the approximate concentration of the analyte in the sample.

&gt;= to Residential/Restricted-Residential SCO and Unrestricted Use SCO. All values in ppm

&gt;Unrestricted Use SCO but &lt;Residential/Restricted-Residential SCO.

&gt;Unrestricted Use &amp; Residential SCO but &lt;Restricted-Residential SCO

**TABLE 2**  
**57-71 TONAWANDA STREET - RI SURFACE SOIL SAMPLE ANALYTICAL RESULTS SUMMARY**

Contaminants						PART 375 Soil Cleanup Objectives		
	SS-01 (1) (0-0.5')	SS-02 (1) (0-0.5')	SS-03 (1) (0-0.5')	SS-04 (1) (0-0.5')	SS-05 (1) (0-0.5')	Unrestricted Use	Residential	Restricted Residential
	12/18/2019	12/18/2019	12/18/2019	12/19/2019	12/19/2019			
METALS								
Arsenic	10	2.61	5.02	6.21	5.81	13	16	16
Barium	140	33.5	157	69	112	350	350	400
Beryllium	0.647	ND	ND	0.463	0.758	7.2	14	72
Cadmium	1.99	0.83	5.26	1.76	2.22	2.5	2.5	4.3
Chromium	22.5	16.1	68.3	32.6	22.9	30	36	180
Copper	73.3	41.4	243	343	105	50	270	270
Lead	353	50.5	442	244	350	63	400	400
Manganese	337	551	808	464	786	1600	2,000	2,000
Total Mercury	0.206	0.0222	0.104	0.178	0.142	0.18	0.81	0.81
Nickel	22.7	15.5	61.9	17.2	23.9	30	140	310
Selenium	0.727	ND	6.1	0.683	0.984	3.9	36	180
Silver	0.472	0.387	2.27	0.798	1.4	2	36	180
Zinc	322	469	1100	473	342	109	2200	10,000
Cyanide	ND	ND	0.952	ND	ND	27	27	27
PCBs								
PCB-1254	ND	ND	ND	ND	ND	0.1	1	1
PCB-1260	ND	ND	ND	ND	0.0381	0.1	1	1
PESTICIDES								
4,4-DDT	0.007	0.003	ND	0.004	0.008	0.0033	1.7	7.9
4,4-DDD	0.002	0.002	ND	0.007	0.003	0.0033	2.6	13
4,4-DDE	0.005	ND	ND	ND	0.006	0.0033	1.8	8.9
Dieldrin	0.002	ND	ND	ND	ND	0.005	0.039	0.2
delta-BHC	ND	0.002	ND	0.004	ND	0.04	100	100
Endosulfan II	ND	ND	ND	ND	ND	2.4	4.8	24
Endosulfan Sulfate	ND	0.005	0.006	0.012	ND	2.4	4.8	24
Lindane	0.002	0.002	0.009	0.002	0.003	0.1	0.28	1.3
Endrin	ND	ND	ND	0.003	ND	0.014	2.2	11
SEMIVOLATILE ORGANIC COMPOUNDS								
Acenaphthene	ND	ND	ND	ND	ND	20	100	100
Acenaphthylene	ND	ND	ND	ND	0.27	100	100	100
Anthracene	ND	1.27	2.07	1.74	1.87	100	100	100
Benz(a)anthracene	0.33	6.71	14.8	9.56	1.79	1	1	1
Benzo(a)pyrene	0.31	8.35	16.8	10.9	1.69	1	1	1
Benzo(b)fluoranthene	0.37	9.97	21.3	12.5	1.75	1	1	1
Benzo(g,h,i)perylene	ND	6.52	13.6	9.22	1.06	100	100	100
Benzo(k)fluoranthene	ND	4.24	11.3	7.49	0.997	0.8	1	3.9
Chrysene	0.32	7.31	17.6	10.4	1.6	1	1	3.9
Dibenz(a,h)anthracene	ND	1.99	4.32	2.61	0.36	0.33	0.33	0.33
Fluoranthene	0.63	15.6	36.3	21.2	3.51	100	100	100
Fluorene	ND	ND	ND	ND	ND	30	100	100
Indeno(1,2,3-cd)pyrene	ND	7.98	14.3	11.3	1.45	0.5	0.5	0.5
Naphthalene	ND	ND	ND	ND	0.3	12	100	100
Phenanthrene	0.32	6.35	11.9	7.7	1.94	100	100	100
Pyrene	0.39	10.7	0.78	14.7	2.4	100	100	100

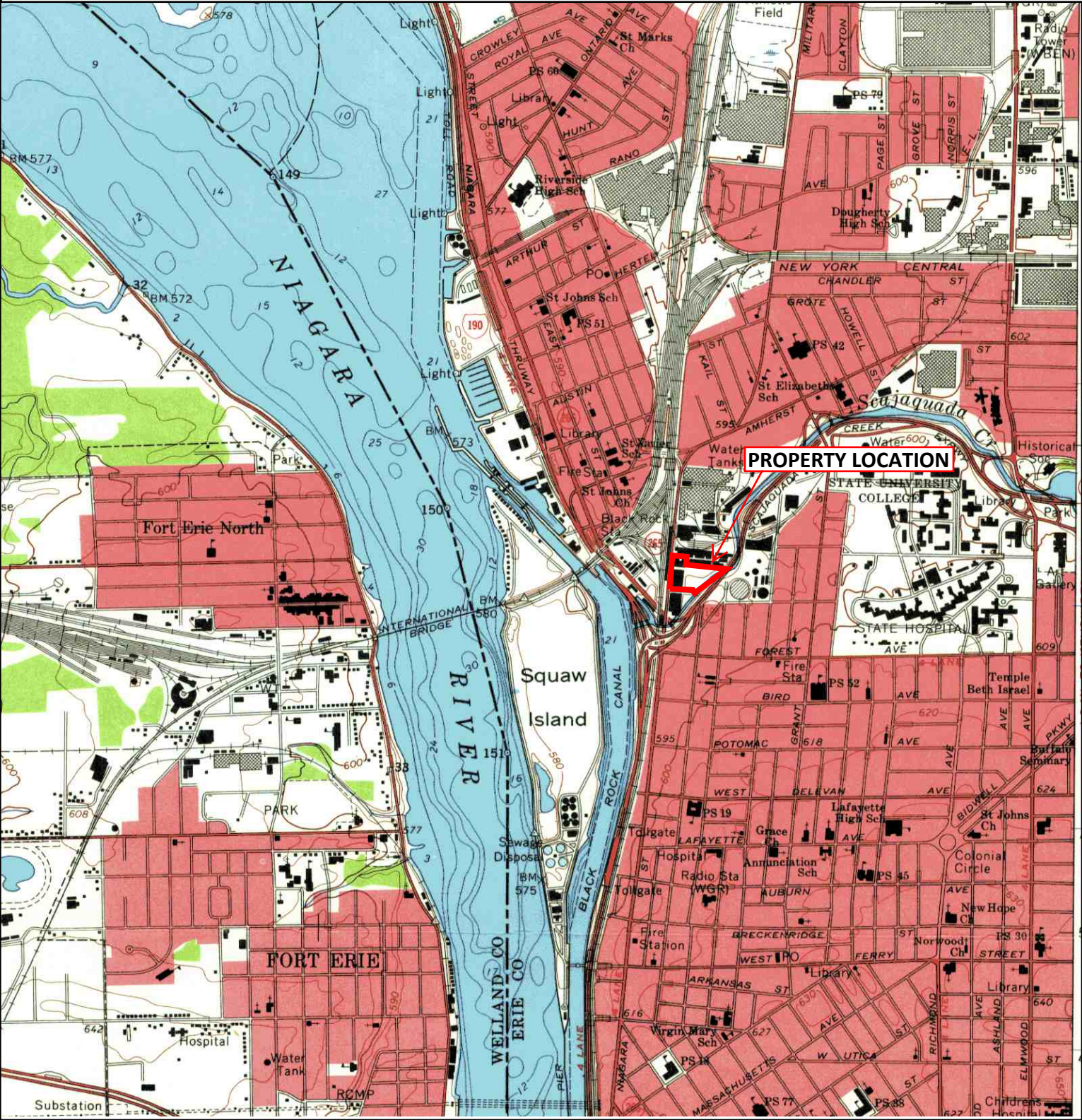
ND - Non-Detect NA - Not Applicable

All values in ppm

(1) SS-01 - Surface soil sample collected with shovel

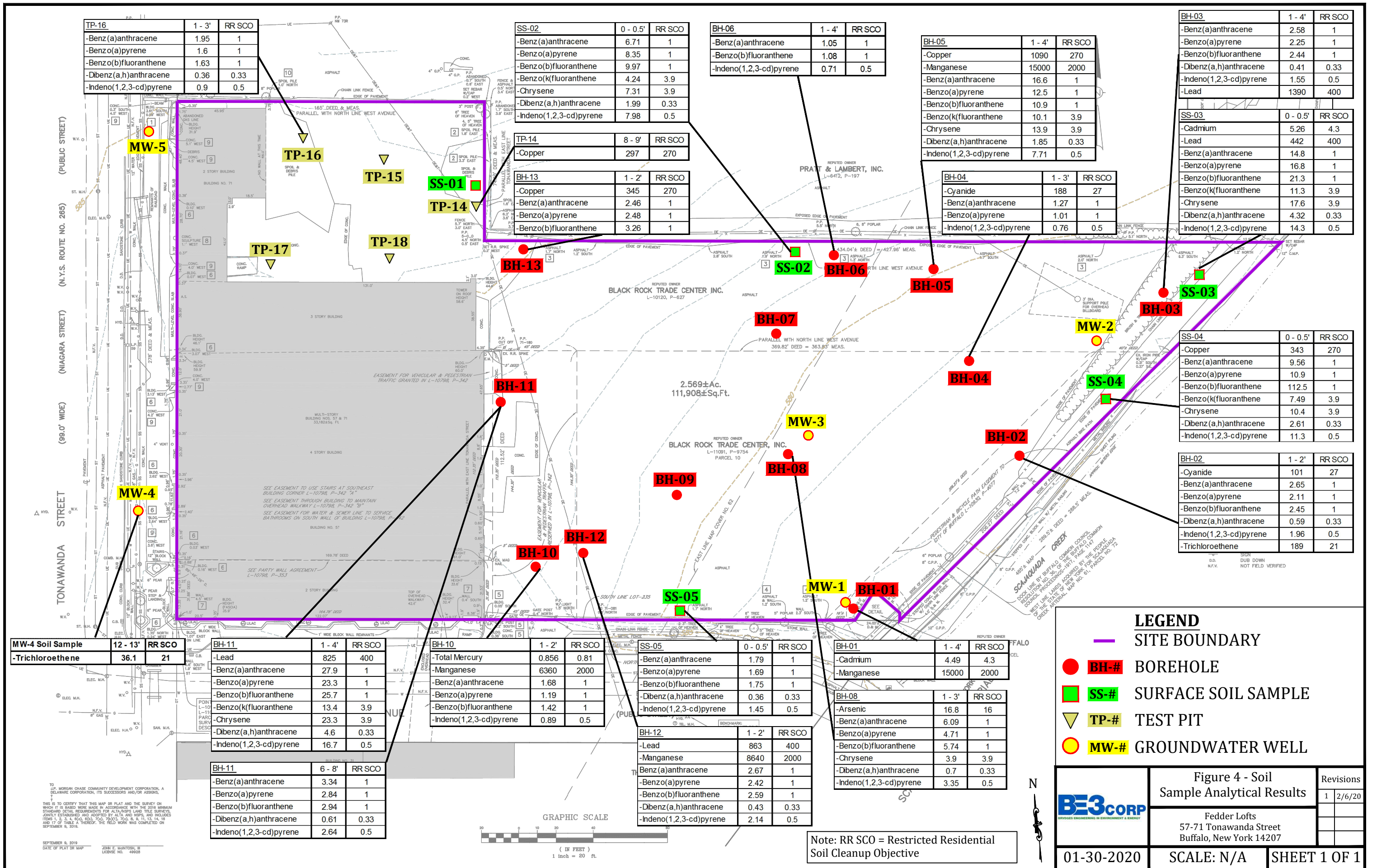


Figure 2a: Property Location - Topo Map



<div><div>N</div><div></div></div>	TARGET QUAD	SITE NAME:	Scajaquada Creek Corridor Parcels	CLIENT:	Panamerican Environmental, Inc
	NAME: BUFFALO NW	ADDRESS:	Scajaquada Creek Corridor Parcels	CONTACT:	Peter
	MAP YEAR: 1965			INQUIRY#:	2894932.4
	SERIES: 7.5		Buffalo, NY 14207	RESEARCH DATE:	10/15/2010
	SCALE: 1:24000	LAT/LONG:	42.9312 / -78.8965		







MW-05	Value	TOG GA
Manganese	321	300

MW-03 -GW EL. 577.49'	Value	TOG GA
Lead	42.7	25
Manganese	2690	300
Selenium	18.3	10
Acetone	157	50
1,4-Dioxane	1.36	1

MW-02 -GW EL. 575.27'	Value	TOG GA
Manganese	694	300
Selenium	15.4	10
Acetone	408	50
1,1,1-Trichloroethane	14.7	5
cis-1,2-Dichloroethene	55.4	5
1,4-Dioxane	52.1	1
Trichloroethene	22.5	5
Vinyl chloride	35.3	2

MW-04 -GW EL. 578.64'	Value	TOG GA
Manganese	321	300
Selenium	16.3	10
Acetone	409	50
Trichloroethene	7370	5

MW-01 -GW EL. 573.95'	Value	TOG GA
-Trichloroethene	13	5

Note: MW-5 extremely slow recharging well. Groundwater elevation not representative and not used for contours.

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LEGEND

SITE BOUNDARY

BH-# BOREHOLE

SS-# SURFACE SOIL SAMPLE

TP-# TEST PIT

MW-# GROUNDWATER WELL

GROUNDWATER CONTOUR

TO J.P. MORRIS CHAIR COMMUNITY DEVELOPMENT CORPORATION, A DELAWARE CORPORATION, ITS SUCCESSORS AND/OR ASSIGNS, THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2018 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND ASPS AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11, 13, 14, 18 AND 17 OF TABLE THEREOF. THE FIELD WORK WAS COMPLETED ON SEPTEMBER 9, 2018.

SEPTEMBER 9, 2019  
DATE OF PLAN OR MAP  
JOHN E. MONTOSH, III  
LICENSE NO. 49969

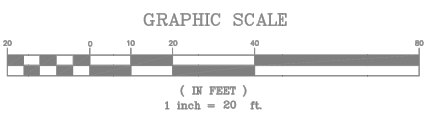


Figure 6- RI GW Analytical Results and Contours

Fedder Lofts  
57-71 Tonawanda Street  
Buffalo, New York 14207

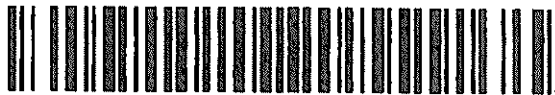
02-03-2020

SCALE: N/A

SHEET 1 OF 1

Revisions


ERIE COUNTY CLERK'S OFFICE



County Clerk's Recording Page

Return to:  
BOX 51

Party 1:  
BLACK ROCK TRADE CENTER INC

Party 2:  
FEDDER LOFTS LLC

**Book Type: D Book: 11353 Page: 9494**

Page Count: 8

Doc Type: DEED

Rec Date: 12/10/2019

Rec Time: 02:47:13 PM

Control #: 2019272408

UserID: Jennifer

Trans #: 19208402

Document Sequence Number  
TT2019010038

**Recording Fees:**

RECORDING	\$40.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 CNTY \$9	\$9.00
RP5217 ST-NON RES \$241	\$241.00
TP584	\$10.00

**Consideration Amount: 28000.00**

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$112.00
ROAD FUND TT	\$140.00

---

**Total: \$572.00**

STATE OF NEW YORK  
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED  
BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW  
YORK. DO NOT DETACH. THIS IS NOT A BILL.

Michael P. Kearns  
Erie County Clerk

# WARRANTY DEED WITH FULL COVENANTS

Box 51

*THIS INDENTURE*, made the 6th day of December 2019, between

*BLACK ROCK TRADE CENTER, INC.*  
*Having a principal place of business at*

party of the first part, and

*FEDDER LOFTS, LLC*  
*Having a principal place of business at*

party of the second part,

*WITNESSETH*, that the party of the first part, in consideration of One and 00/100 More Dollars (\$1.00 and More), lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

## LEGAL DESCRIPTION:

*SEE ATTACHED SCHEDULE "A"*

Commonly known as <sup>57</sup>~~7~~ Tonawanda, Buffalo

*TOGETHER* with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, *TOGETHER* with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

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

*AND* the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

*That this transfer is made in the ordinary course of business and not to defraud creditors.*

*AND* the party of the first part covenants as follows:

*FIRST.* That said party of the first part is seized of the said premises in fee simple, and has good right to convey the same;

DEED - 7  
272408224

**SECOND.** That the party of the second part shall quietly enjoy the said premises;

**THIRD.** That the said premises are free from encumbrances, except as aforesaid;

**FOURTH.** That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

**FIFTH.** That said party of the first part will forever warrant the title to said premises.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF,** the party of the first part has duly executed this deed the day and year first above written.

**IN THE PRESENCE OF:**


BLACK ROCK TRADE CENTER, INC. BY:

  
BRIAN HOGLE, PRESIDENT

STATE OF NEW YORK  
COUNTY OF ERIE

} SS:

On the 6th day of December in the year 2019 before me, the undersigned, a Notary Public in and for the State, personally appeared, BRIAN HOGLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within/attached instrument and acknowledged to me that he/she executed the same in her/his capacity, and that by his/her signature on the instrument, the individual or the person on behalf of which the individual acted, executed the instrument.

  
Notary Public

SARAH E. HONAN  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires Sept. 17, 2022



**EXHIBIT A**

to

**Bargain and Sale Deed**

**Legal Description**

**PARCEL 1**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 235 of the Parish Tract, so-called and bounded and described as follows:

3 COMMENCING at a point in the easterly line of Tonawanda Street distant 31.65 feet northerly  
/ from the south line of said Lot No. 235 of the Parish Tract, so-called; running thence northerly  
1 along the said easterly line of Tonawanda Street 107.35 feet; thence easterly at right angles 165  
0 feet; thence at right angles southerly and parallel with Tonawanda Street 139 feet to the south  
/ line of Lot No. 235; thence westerly along the south line of said Lot No. 235, 10 feet; thence  
/ northerly parallel with Tonawanda Street, 31.65 ; thence westerly parallel with the south line of  
0 said Lot No. 235, 155 feet to the easterly line of Tonawanda Street, at the place of beginning.

6 ALSO ALL THAT OTHER PIECE OR PARCEL OF LAND situate in the City, County and  
5 State aforesaid and being part of said Lot No. 235 of the Parish Tract, so called, and bounded as  
follows:

1 BEGINNING at a point in the easterly line of Tonawanda Street 139 feet northerly from the  
3 point of intersection of the south line of said Lot with the easterly line of said street; running  
4 thence northerly along the east line of said street, 106 feet; thence easterly at right angles with  
9 said street 165 feet; thence southerly parallel with Tonawanda Street 106 feet; thence westerly  
165 feet to the easterly line of Tonawanda Street, to the place of beginning.

ALSO ALL THAT OTHER PIECE OR PARCEL OF LAND situate in the City, County and State aforesaid and being part of Lot No. 235 of the Parish Tract, so-called, and bounded as follows:

BEGINNING at a point in the easterly line of Tonawanda Street 109 feet south of the north line of said Lot 235; thence southerly on the easterly line of Tonawanda Street, 33 feet; thence easterly at right angles with Tonawanda Street 165 feet; thence northerly at right angles 33 feet; thence westerly at right angles 165 feet to the easterly line of Tonawanda Street, at the place of beginning.

**PARCEL 2**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, known and distinguished as a part of Lot No. 270 of the Parish Tract and bounded and described as follows:

BEGINNING at a point in the easterly line of Tonawanda Street where the same is intersected by the southerly line of West Avenue and which point of beginning is also 66 feet southerly from the northerly line of said Lot No. 270; running thence southerly along said easterly line of Tonawanda Street 50 feet; thence easterly parallel with West Avenue 100 feet; thence northerly parallel with Tonawanda Street 50 feet to the southerly line of West Avenue; thence westerly along the southerly line of West Avenue 100 feet to the place of beginning.

PARCEL 3

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot 270 of the Parish Tract formerly in the Village of Black Road, now in the City of Buffalo, bounded and described as follows:

BEGINNING at a point in the east line of Tonawanda Street distant 50 feet southerly from its intersection with the south line of West Avenue; thence easterly along a line parallel with said line of West Avenue 100 feet; thence southerly along a line parallel with said line of Tonawanda Street 75 feet; thence easterly along a line parallel with said line of West Avenue to the Scajaquada Creek; thence southerly along Scajaquada Creek to its intersection with a line drawn at right angles to the east line of Tonawanda Street from a point therein distant 321 feet, 9 inches south of the north line of said Lot 270, measuring along the east line of Tonawanda Street, said north line of Lot 270 being the north line of West Avenue; thence westerly on said right angle line to the said east line of Tonawanda Street; thence northerly along said line of Tonawanda Street, 205.75 feet to the point of beginning.

EXCEPTING AND RESERVING FROM the above described lands that portion which lies easterly of the Dock Line of the Scajaquada Creek as established by Resolution No. 36 of the Buffalo Common Council set forth in the Common Council Proceedings of the City of Buffalo of 1917 at page 1147.

PARCEL 4

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, and being part of Lot No. 235, of the Parish Tract, so called and bounded and described as follows:

BEGINNING at a point in the southerly line of said Lot 235 at the distance of 90 feet easterly from the point of intersection of said line of said Lot 235 with the easterly line of Tonawanda Street; thence easterly along the southerly line of said lot, 65 feet; thence northerly and parallel to Tonawanda Street 30 feet; thence westerly and parallel to the first mentioned line 65 feet; thence southerly, parallel to Tonawanda Street, 30 feet to the southerly line of said Lot No. 235, to the place of beginning.

PARCEL 5

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, bounded and described as follows to wit: Part of Lot No. 235 of the Parish Tract (so called) and bounded as follows:

BEGINNING at the intersection of the easterly line Tonawanda Street with the southerly line of Lot No. 235; running thence easterly along the southerly line of said Lot No. 235, 90 feet; thence northerly parallel to Tonawanda Street, 31.65 feet; thence westerly parallel to the southerly line of said Lot No. 235, 90 feet to the easterly line of Tonawanda Street; thence southerly on the easterly line of Tonawanda Street 31.65 feet to the place of beginning.

PARCEL 6

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 235 of the Parish Tract and bounded and described as follows:

BEGINNING at a point distant 90 feet easterly from the east line of Tonawanda Street measured on a line drawn parallel with the south line of said Lot No. 235, and distant 30 feet north of the north line of West Avenue; running thence northerly parallel with Tonawanda Street 1.65 feet; thence easterly parallel with the south line of Lot No. 235, 65 feet; thence southerly parallel with Tonawanda Street 1.65 feet; thence westerly parallel with the south line of Lot No. 235, 65 feet to the place of beginning.

PARCEL 7

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, briefly described as follows: Known and distinguished as part of Lot 270 of the Parish Tract, so called, and bounded and described as follows:

BEGINNING at a point in the southerly line of West Avenue 100 feet easterly from the intersection with the easterly line of Tonawanda Street and the northeast corner of lands conveyed by Charlotte E. Georger to Philip Adams, by deed dated September 6, 1906 recorded in Erie County Clerk's Office in Liber 1060 of Deeds at page 489; running thence southerly along the east line of the lands so conveyed to Philip Adams and on a continuation thereof and on a line parallel with the east line of Tonawanda Street and 100 feet distant easterly therefrom, 125 feet; running thence easterly on a line parallel with West Avenue about 120 feet to the margin of Scajaquada Creek; running thence northeasterly and along the margin of Scajaquada Creek to the intersection of the margin line of said creek with the south line of West Avenue; running thence westerly along the south line of West Avenue about 175 feet to the place of beginning.

EXCEPTING AND RESERVING FROM the above described lands that portion which lies easterly of the Dock Line of the Scajaquada Creek as established by Resolution No. 36 of the Buffalo Common Council set forth in the Common Council Proceedings of the City of Buffalo of 1917 at page 1147.

ALSO EXCEPTING AND RESERVING FROM the above described lands that portion conveyed to the City of Buffalo by deed recorded in Liber 4239 of Deeds at page 455.

PARCEL 8

ALL THAT TRACT OR PARCEL OF LAND together with the improvements thereon, situate in the City of Buffalo, County of Erie and State of New York, briefly described as follows:

Being part of Lot No. 270 in the Parish Tract, so called, bounded and described as follows:

Beginning at a point in the easterly line of Tonawanda Street, 321 feet and 9 inches south of the north line of said Lot No. 270; thence at right angles with Tonawanda Street easterly 140 feet to Scajaquada Creek; thence southwesterly along the margin of said creek to a point distance 112 feet and 1-4/5 inches in a direct line from the first mentioned line; thence westerly and parallel with the said first mentioned line to the easterly line of said Tonawanda Street; and thence northerly along said easterly line of Tonawanda Street 112 feet, 1-4/5 inches to the place of beginning.

EXCEPTING AND RESERVING FROM the above described lands that portion which lies easterly of the Dock Line of the Scajaquada Creek as established by Resolution No. 36 of the Buffalo Common Council set forth in the Common Council Proceedings of the City of Buffalo of 1917 at page 1147.

PARCEL 9

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

BEGINNING at a point in the northerly line of West Avenue where the same is intersected by the easterly line of certain premises conveyed to Fedders Manufacturing Company, Inc. by Theodore C. Fedders and Matilda Fedders, his wife, by deed dated April 15, 1913, and recorded in the Office of the Clerk of the County of Erie, State of New York, in Liber 1270 of Deeds at page 372, on April 22, 1913, the said easterly line being a line drawn and parallel with the easterly line of Tonawanda Street and distant 165 feet easterly therefrom, measured at right angles thereto; running thence northerly along the said easterly line of the said premises so conveyed by the said Theodore C. Fedders and Matilda Fedders, his wife, to Fedders Manufacturing Company, Inc. as aforesaid 203-1/2 feet to a point in said easterly line distant 183-1/2 feet southerly from the northerly line of Lot No. 235 of the Parish Tract, so called measured on a line drawn at right angles to the said northerly line; running thence easterly on a line drawn parallel with the said northerly line of said Lot No. 235 of the said Parish Tract and distant 183-1/2 feet southerly therefrom measured at right angles thereto Scajaquada Creek; running thence southwesterly along said Scajaquada Creek to the said northerly line of West Avenue; and running thence westerly along the said northerly line of West Avenue to the place of beginning.

EXCEPTING AND RESERVING FROM the above described lands that portion which lies easterly of the Dock Line of the Scajaquada Creek as established by Resolution No. 36 of the Buffalo Common Council set forth in the Common Council Proceedings of the City of Buffalo of 1917 at page 1147.

ALSO EXCEPTING AND RESERVING FROM the above described lands that portion conveyed to the City of Buffalo by Deed recorded in Liber 4239 of Deeds at page 455.

PARCEL 10

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements thereon erected, situate, lying and being situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 235, of the Parish Tract, bounded and described as follows:

BEGINNING at the intersection of the north line of West Avenue with the east line of Tonawanda Street; thence northerly along the east line of Tonawanda Street a distance of 31.88 feet to a point; thence easterly at an interior angle of 89 degrees 48 minutes 26 seconds a distance of 169.78 feet to a point; thence northerly on a line parallel with the east line of Tonawanda Street a distance of 112.52 feet to a point; thence easterly along a line parallel to the north line of West Avenue a distance of 369.82 feet to a point in the dock line of Scajaquada Creek as established by Resolution No. 36 of the Buffalo Common Council set forth in Common Council Proceedings-1917, Page 1147; thence southwesterly along the said dock line of Scajaquada Creek a distance of 206.27 feet to a point on the north line of West Avenue; thence westerly along the north line of West Avenue a distance of 368.25 feet more or less to the east line of Tonawanda Street, being the point or place of beginning.

EXCEPTING THEREFROM those premises conveyed to the City of Buffalo by deed recorded in the Erie County Clerk's Office in Liber 4239 of Deeds at Page 455.

EXCEPTING THEREFROM those portions of the above described premises acquired by The People of the State of New York by Notice of Appropriation recorded in Liber 6370 of Deeds at page 471 on December 22, 1958 on Map No. 22, Parcel No. 26; Liber 6400 of Deeds at page 161 on March 16, 1959 on Map No. 584, Parcel No. 584 and Map No. 585, Parcel No. 585 and in Liber 8000 of Deeds at page 557 on October 15, 1973 on Map No. 90, Parcel No. 127.

FOR COUNTY USE ONLY

INSTRUCTIONS(RP-5217-PDF-INS): www.orps.state.ny.us

C1. SWS Code

140230

C2. Date Deed Recorded

12/16/19

C3. Book

111353

C4. Page

9494

New York State Department of  
Taxation and Finance

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

## PROPERTY INFORMATION

1. Property  
Location

51

STREET NUMBER

Tonawanda

STREET NAME

Buffalo

CITY OR TOWN

VILLAGE

14207

ZIP CODE

2. Buyer  
Name

Feddler Lofts

LAST NAME/COMPANY

FIRST NAME

LAST NAME/COMPANY

FIRST NAME

3. Tax  
Billing  
AddressIndicate where future Tax Bills are to be sent  
if other than buyer address(at bottom of form)

LAST NAME/COMPANY

FIRST NAME

STREET NUMBER AND NAME

CITY OR TOWN

STATE

ZIP CODE

4. Indicate the number of Assessment  
Roll parcels transferred on the deed

1 # of Parcels

OR

☐ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:

4A. Planning Board with Subdivision Authority Exists

☐

4B. Subdivision Approval was Required for Transfer

☐

4C. Parcel Approved for Subdivision with Map Provided

☐5. Deed  
Property  
Size

12.66

X

3189

OR

0.00

ACRES

6. Seller  
Name

Hogie

LAST NAME/COMPANY

Brian

FIRST NAME

LAST NAME/COMPANY

FIRST NAME

7. Select the description which most accurately describes the  
use of the property at the time of sale:

710 Manufacture

Check the boxes below as they apply:

8. Ownership Type is Condominium

☐

9. New Construction on a Vacant Land

☐

10A. Property Located within an Agricultural District

☐10B. Buyer received a disclosure notice indicating that the property is in an  
Agricultural District☐

## SALE INFORMATION

11. Sale Contract Date

12-10-19

12. Date of Sale/Transfer

12-06-19

13. Full Sale Price

28,000.00

(Full Sale Price is the total amount paid for the property including personal property.  
This payment may be in the form of cash, other property or goods, or the assumption of  
mortgages or other obligations.) Please round to the nearest whole dollar amount.14. Indicate the value of personal  
property included in the sale

.00

15. Check one or more of these conditions as applicable to transfer:

☐ A. Sale Between Relatives or Former Relatives☐ B. Sale between Related Companies or Partners in Business☐ C. One of the Buyers is also a Seller☐ D. Buyer or Seller is Government Agency or Lending Institution☐ E. Deed Type not Warranty or Bargain and Sale (Specify Below)☐ F. Sale of Fractional or Less than Fee Interest (Specify Below)☐ G. Significant Change in Property Between Taxable Status and Sale Dates☐ H. Sale of Business is Included in Sale Price☐ I. Other Unusual Factors Affecting Sale Price (Specify Below)☒ J. None

Comment(s) on Condition:

## ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YR)

19

17. Total Assessed Value

43,500

18. Property Class

710

19. School District Name

Buffalo Schools

20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))

88.50-1-8.22

## CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful  
false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

## SELLER SIGNATURE

Brian Hogie

SELLER SIGNATURE

DATE

## BUYER SIGNATURE

X [Signature]

BUYER SIGNATURE

DATE

## BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or  
entity that is not an individual agent or fiduciary, then a name and contact information of an individual responsible  
party who can answer questions regarding the transfer must be entered. Type or print clearly.)

Epstein

LAST NAME

Eran

FIRST NAME

PHONE NUMBER

TELEPHONE NUMBER (if different)

950

Delaware Ave

STREET NUMBER

STREET NAME

Buffalo

CITY OR TOWN

NY

STATE

14209

ZIP CODE

## BUYER'S ATTORNEY

Yots

LAST NAME

Jason

FIRST NAME

(716)

AREA CODE

725-6411

TELEPHONE NUMBER (if different)

## ATTACHMENT D

### SECTION IV: ENV. HISTORY & PROPERTY INFORMATION

#### Property Base Maps



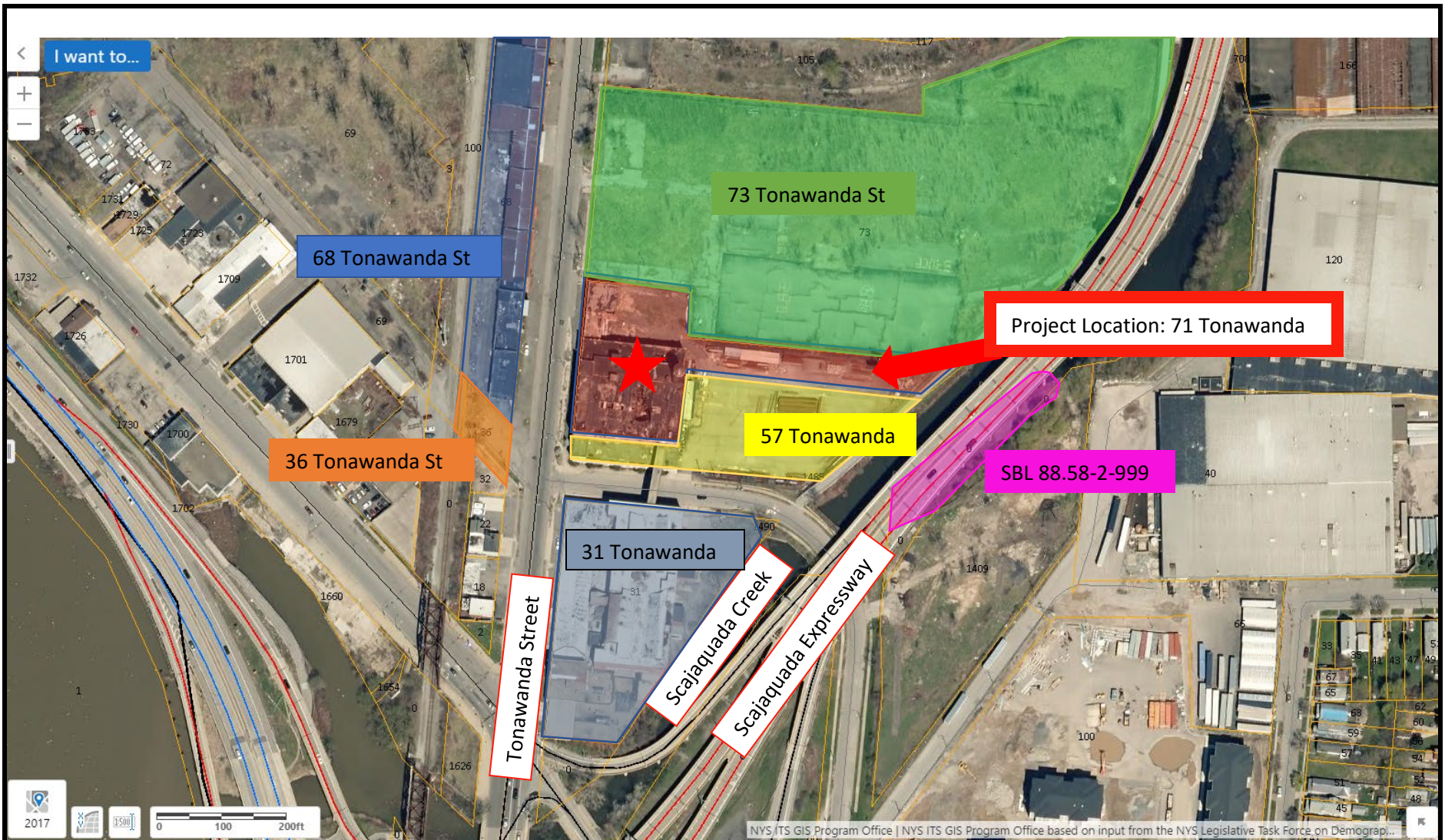



Image provided by Erie County Mapper  
(see Section IX for Contact info)

[Mapping Erie County HTML5 4.13.3](#)

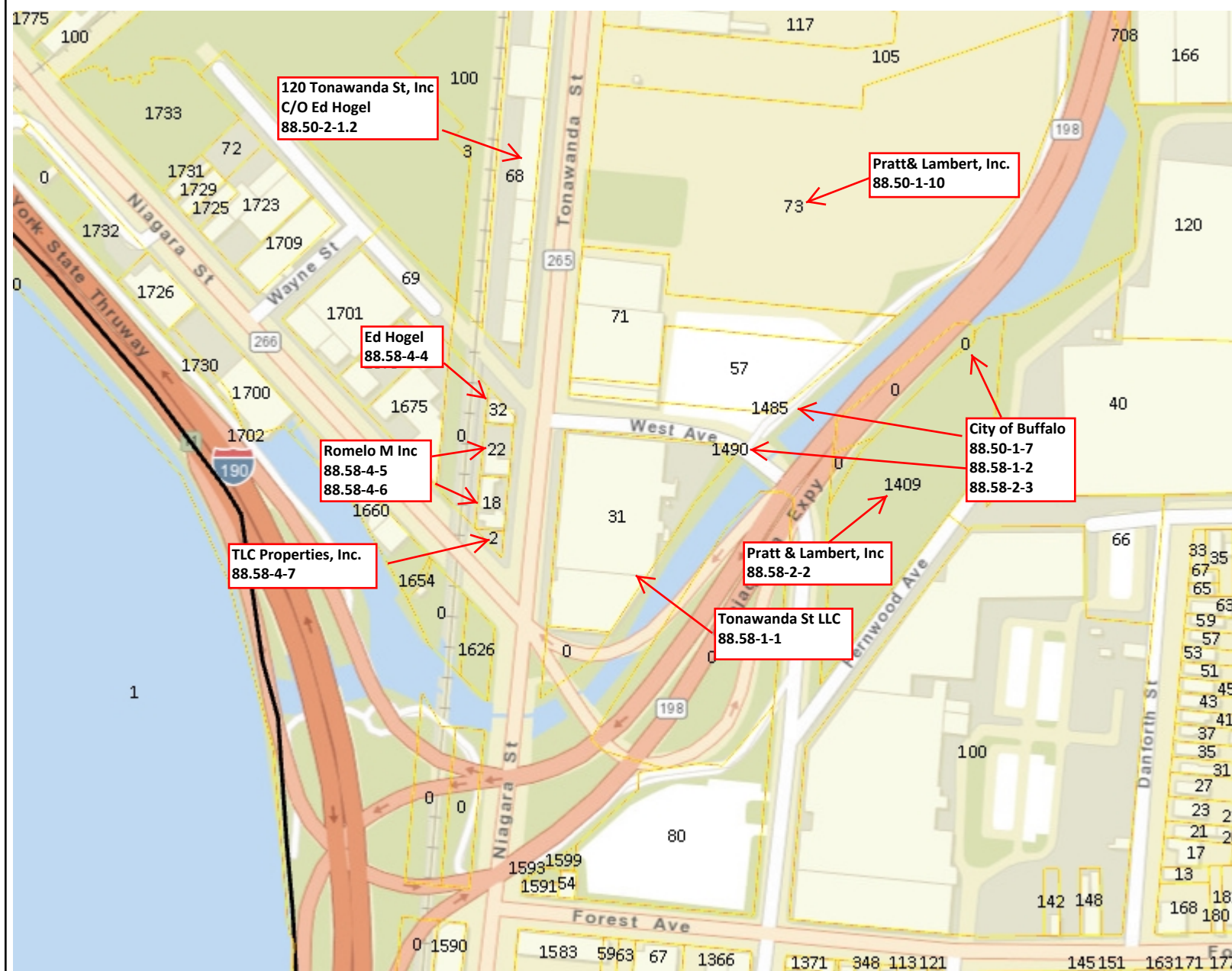
	Figure – Project Basemap	Revisions
	Fedder Lofts 71 Tonawanda Street Hempstead, New York	1
	10-01-2021	SHEET 1 of 1



**Figure 8: 57-71 Tonawanda Street Proposed Brownfield Property Boundary Lines & Adjacent Property Owners**



## Erie County On-Line Mapping Application



### Legend

- Parcels
- Municipal Boundaries

0 376.17 752.3 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS

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

1: 4,514



## ATTACHMENT E

### SECTION IV: ENV. HISTORY & PROPERTY INFORMATION

#### Property Description and Environmental Assessment

##### Location

The project site is located at the northeast corner of West and Tonawanda Street; a 1.50-acre site comprised of a 2-4 story irregularly shaped building that is approximately 115,000-square feet, with access off of West Street.

##### Site Features

The main site feature is a 2-4 story irregular-shaped building that runs the entire west lot line, along Tonawanda Street. The 115,000-square foot building is currently vacant and deteriorated, with the roof caved in at the southern end and the northern end having significant fire damage. There is an asphalt covered parking lot that takes up the eastern half of the lot that runs east towards Scajaquada Creek.

##### Current Zoning and Land Use

The 71 Tonawanda Street Site is currently a vacant industrial/manufacturing facility. The City of Buffalo has recently adopted a revised Unified Development Ordinance that designates the area containing both parcels as N-1S (Secondary Employment Area). The past zoning for the property was M2 – General Industrial district. Surrounding properties are similarly zoned. Historically, the majority of the immediate area and the subject parcel were used for industry and rail transportation as far back as the mid-1800s. These properties are located in a Brownfield Opportunity Area (BOA) – the City of Buffalo Tonawanda Street Corridor BOA – which has completed the nomination stage of the BOA process. The anticipated planned use of the property is residential. The planned re-development/re-use plan for the property fits within the land use plan described in the BOA nomination document. The BOA document anticipates this area as “flex commercial”.

##### Past Use of the Site

Fedders began as a metalworking shop started by Theodore C. Fedders in 1896. At first Fedders made milk cans and kerosene tanks for Standard Oil Co. and bread pans for National Biscuit Co. Shortly after the turn of the century Fedders converted the plant to making radiators for such automobile makers. During World War I the company also made radiators for airplanes and manufactured appliances for heating and electrical refrigeration. Westinghouse Electric Corp. began distributing the company's refrigerator coils and accessories in 1936. During World War II Fedders received contracts to make links and clips for machine-gun belts and Garand-rifle bullets. In 1949 Fedders family sold a majority interest in the firm to Frank J. Quigan, Inc. (world's leading manufacturer of

handbag frames) and the company was renamed Fedders-Quigan Corp. In the late 1940's, Fedders-Quigan started making room air conditioners and electric water coolers. The company also made heaters, radiators, and radiator cores for Chrysler Corporation automobiles and home radiators, convectors, hot-water boilers and women's handbag frames. Fedders-Quigan shortened its name to Fedders in 1958. By 1964 Fedders products included air conditioners; automobile radiators, heater cores, and oil coolers (still principally for Chrysler); and heat-transfer equipment, including convectors, condensers, evaporators, and dehumidifiers. The manufacture of frames for women's handbags and pocketbooks was discontinued in 1966. In 1987 Fedders spun off the compressor and automotive-components divisions into a company named NYCOR, Inc. This company remained under Fedders management until it sold the automotive-components business (FEDCO) in 1990. FEDCO manufactured automobile heating equipment.

### Site Geology and Hydrogeology

In general, the more than a century of intense industrialization has altered the natural setting throughout the property and the area can best be described as highly disturbed. Soil borings indicate that urban fill material (fill) exists to a depth that varies from about two (2) to seven (7) feet (bgs). The backfill consists of miscellaneous dark brown and gray-brown gravel, sand and silty clay type soils, including trace amounts of organics, concrete, brick, rock, wood and other materials. Reddish-Brown clay or silty clay was observed below the fill level. Bedrock beneath the project area is Onondaga limestone, consisting of Middle Devonian age limestone and chert. It lies deeply buried beneath glacial deposits and no rock outcroppings are visible on the ground surface. Soils within the project area are classified as Urban Land (Ud) - highly developed for commercial, industrial or residential use, and much of the ground surface, in general, is covered by impervious features (e.g., buildings, streets, and paved parking lots).

Based on measured groundwater depths from the monitoring wells installed, groundwater flows from the northwest to the southeast toward the Creek.

### Environmental Assessment

A 1978 site inspection report suggested that in 1936-1942 a building housing furnace kilns was demolished and used as fill for the parking lot. Additionally, reportedly waste oils – hydraulic fluids and lube oils possibly containing PCBs – and possibly solvent still bottoms were spread over the parking area for dust suppression. In 1981 the lot was covered with gravel. The NYSDEC included the site on the Registry of inactive Hazardous Waste disposal sites based on results of the inspection as a Class 3 site which documented disposal of hazardous waste (F001 – mixture of waste oil and solvent still bottoms). Environmental investigations conducted between 1985 and 1990 found elevated concentrations of VOCs in groundwater and PCBs in soil. Soil samples collected in 1990-1991 resulted in the following findings: PCB - 4.4-34.2 ppm, Ethylbenzene - 0.47ppm, Toluene - 0.29-0.47 ppm, Styrene - 5.6 ppm, Ethylene Chloride - 0.6 ppm, xylene - 1.34 ppm, Cadmium 2.2-7.0 mg/kg, Lead 380-456 mg/kg, and cyanide 1.2-89.5.

The results of the RI and Phase 2 ESA soils investigations indicate that a number of SVOCs (PAHs) and metals were detected throughout soil/fill material at variable levels above Restricted-residential SCOs. In no sample did the total PAH concentrations exceed the 500 ppm NYSDEC criteria. No PCB/Pesticide compounds were detected above Restricted Residential SCOs in any of the RI or Phase 2 samples. Only one VOC from two RI samples (BH-02 -Trichloroethene –189 ppm versus 21 ppm RR and MW-4 soil sample -Trichloroethene – 36.1 ppm versus 21 ppm RR) exceeded its Restricted Residential SCO and no VOCs exceeded Restricted Residential SCOs in the Phase 2 samples.

Soil samples were analyzed for 1,4-Dioxane by Method 8270D and the list of PFAS compounds by Method 537. The NYSDEC guideline for 1,4-Dioxane is 1 ppm and all 1,4-Dioxane concentrations in soil samples were Non-Detect (ND).

### **Sub-Slab Building Soils**

A total of five (5) additional borings (SSB-1 to SSB-5) were installed through the concrete basement floor slab of the site building. One (1) soil sample was collected from each boring with the exception of SSB-2 where two (2) samples were collected. With the agreement of the NYSDEC, site. The SSB-1 sample was analyzed for the complete list of Part 375 constituents and PFAS compounds.

Three (3) Metals were detected in sample SSB-1 at concentration levels exceeding Restricted Residential (RR) SCOs. SSB-2 to SSB-5 were only analyzed for VOCs, the primary contaminant of concern (solvents) at the

In sample SSB-1 no concentrations of PCBs, pesticides, SVOCs or VOCs exceeded Restricted Residential SCOs.

Only one (1) VOC (Trichloroethene – 1980 ppm versus 21 ppm RR) exceeded its Restricted Residential SCO in sample SSB-4.

No other VOCs exceeded restricted Residential SCOs in any of the other SSB samples.

### **Groundwater**

Manganese concentrations exceeded TOGs in MW-2 through MW-5 and Selenium concentrations exceeded TOGs in MW-2, 3 and 4. The concentration of Lead slightly

exceeded TOGs only in MW-3. No SVOCs or Pesticides/PCBs exceeded TOGs Guideline values in any of the monitoring wells.

VOCs were detected in all of the GW samples. Several Solvent related VOCs were detected at concentrations that exceeded TOGs guidance values.

Groundwater samples were analyzed for 1,4-Dioxane by Method 8270D and the list of PFAS compounds by Method 537. No PFAS and 1,4-Dioxane compounds were detected from RI samples above NYSDEC guidelines for emerging contaminants in groundwater.

### **Sub-Slab Vapors**

Six (6) sub-slab vapor samples were collected from on-site building and analyzed in accordance with the approved work plan. Samples were submitted to a NYSDEC certified contract laboratory and analyzed for TCL VOCs by EPA method TO-15. The TO-15 VOC compounds detected in the samples collected are discussed in detail below.

The goals of collecting sub-slab vapor samples were to identify potential impacts from soil vapor on the indoor building air. New York State currently does not have any standards, criteria or guidance values for concentrations of compounds in sub-slab vapor. Additionally, there are no databases available of background levels of volatile chemicals in subsurface vapors. However, the NYSDOH has developed in their guidance document decision matrices as a risk management tool to provide guidance on a case-by-case basis about actions that should be taken to address current and potential exposures related to soil vapor intrusion. The matrices are intended to be used when evaluating the results from buildings with full slab foundation. The NYSDOH has developed guideline values for acceptable background levels for eight specific VOCs in ambient air. Because of the condition of the building as noted in Section 2.4 indoor air samples were not collected at this time, therefore, the matrices cannot be used at this time to directly assess mitigation requirements.

However, Matrix A in the NYSDOH guidance, used to assess trichloroethene (TCE), states that a sub-slab vapor sample concentration of TCE that exceeds 60 ug/m<sup>3</sup> requires mitigation no matter what the concentration of TCE is detected in the indoor air once the building is completely enclosed. Four (4) of the sub-slab vapor sample concentrations of TCE exceed the 60 ug/m<sup>3</sup> as noted below.



## ATTACHMENT F

### SECTION VI: CURRENT PROPERTY OWNER/OPERATOR INFORMATION

#### Section VI. Current Property Owner/Operator Information

The Current Owner  
Fedder Lofts, LLC  
Eran Epstein  
950 Delaware Ave  
Buffalo, NY 14209

Relationship of requestor to current and previous owners and operators – NONE. The requestor has no relationship to the current or previous owners or current or past operators of the property.

#### Previous Owners and Operators

71 Tonawanda

<u>Liber</u>	<u>Page</u>	<u>Sale Date</u>	<u>From</u>	<u>To</u>
3265	342	6-30-1942	Fedders	Fedders Manufacturing Company, Inc.
10036	578	6-20-1989	Fedders Manufacturing Company, Inc.	Fedco Auto Comp Co INC
10120	627	12-22-1989	Buffalo Holding Company (Formerly Fedco Automotive Components Company)	Black Rock Trade Center

#### Historic Ownership/Operators

Last known addresses and phone numbers for the previous owners/operators

#### \*Chronology of Fedders-Fedders Quigan-FEDCO

**1896-1945** - Fedders - began as a metalworking shop started by Theodore C. Fedders in 1896 in Buffalo

**1917** – Fedders obtained ownership of portion subject property which later expanded to the entire property

**1947-58** - Fedders-Quigan – merger

**1958** - Fedders - Fedders-Quigan shortened its name to Fedders in 1958

**1987** - Fedders spun off the compressor and automotive-components divisions into a company named NYCOR, Inc. This company remained under Fedders management

**1988** - Salvatore Giordano, Jr. succeeded his father as chief executive officer of both Fedders and NYCOR

**1989** - NYCOR sold its compressor subsidiary, Rotorex Corp., back to Fedders. It sold the automotive-components business (FEDCO) in 1990 and became for a time a shell company.

**1989** – FEDCO acquired the subject property from Rotorex Corp. (Fedders)

**1992** – Fedders sold Rotorex back to NYCOR

**1996** – Fedders reintegrate itself with NYCOR

### **Last Known Address and Telephone numbers of the previous Owners/Operators**

#### **Black Rock Trade Center, Inc. Operating as Atlas Steel and Steel Crazy Art.**

Mr. Edward Hogle (prior owner and operator)

495 Niagara Street

Tonawanda, New York 14150

716-876-0900

And

Mr. Brian Hogel (prior owner and operator)

33 East Girard Street

Kenmore, NY 14150

**BUFFALO HOLDING COMPANY (Formerly FEDCO)** - (prior owner/operator) current address

1551 Wewatta St

Denver, CO 80202-6173

303-744-5042

**FEDDERS MANUFACTURING COMPANY** (prior owner and operator) current address 505

Martinsville Road

P.O. Box 813

Liberty Corner, New Jersey 07938

Telephone: 908-604-8686

Fax: 908-604-9715

**Rotorex Company** (prior owner/operator as part of Fedders)

8301-B Retreat Road

Walkersville, MD 21793

301-898-4480

Fax 301-898-3476

**NYCOR, Inc** (prior owner/operator as part of Fedders)

287 Childs Road

Basking Ridge, NJ 07920  
United States  
908-953-8200

### **Property Historical Use Summary**

120 Tonawanda Street, Inc. – Atlas Steel and Steel Crazy Iron Art  
–1907-2003

The existing entire building complex was initially constructed in the early 1900's as Fedder Manufacturing Company (building permits indicate that brick factories were constructed from 1907-1916). Based on the historical records, it appears that the 57 Tonawanda Street building was added to the Fedders complex sometime after 1916. Prior to that there were individual residential and small store front properties at the location. The eastern part of the property, now a large asphalt parking lot, was the former location of Hall & Son Fire Brick factory complex that operated from about 1866 to about the early 1940's.



## ATTACHMENT G

### SECTION VII: REQUESTOR ELIGIBILITY INFORMATION

#### Volunteer Statement

The answers to Section VII are “NO”.

The requestor is certifying that they are volunteers and their liability arises solely because of their eventual ownership and development of the Site. The requestor will exercise appropriate care and perform reasonable steps to mitigate any (1) continuing discharge of, (2) threatened future release of, and (3) human or environmental exposure to hazardous materials from the Site.

The requestor should be considered as a volunteer, as it is anticipated hazardous material mitigation will be achieved at the site by utilizing the following approach:

- Knowing the potential historical site environmental impacts via previous assessments, identify extent of recognized environmental conditions performing a thorough investigation of the site including soil, water, and air.
- Utilizing results of investigation, perform remedial measures that could include soil removal, construction and demolition debris removal, soil vapor mitigation, groundwater treatment, abatement of building materials, installation of barriers, etc.
- Establish administrative controls at the site, as necessary, to protect human health and the environment during future activities and occupation at the site.

Furthermore, it should be noted that the requestor has not initiated any operations or property use that would contribute to environmental impacts, and was not the owner of the site at the time of release of any contamination.

## ATTACHMENT H

### SECTION IX: CONTACT LIST INFORMATION

#### Site Contact List and Document Repository Letter

#### **1. Chief executive officer and planning board chairperson for municipalities property is located**

##### **Erie County**

**County Executive:** Mark C. Poloncarz  
County Government Office  
95 Franklin Street Suite 1600  
Buffalo, NY 14202  
Phone: (716) 858-8500

**County Environment and Planning Commissioner:** Thomas R. Hersey, Jr.  
Erie County Environment & Plan  
95 Franklin Street, Suite 1000  
Buffalo, NY 14202  
(716) 858-8390

##### **City of Buffalo**

**Mayor –** Byron Brown  
Buffalo City Hall  
65 Niagara Square  
Buffalo, NY 14202  
716-851-4841

**Principal Planner: Mark Rountree**  
Erie County Environment & Plan  
95 Franklin Street, Suite 1000  
Buffalo, NY 14202

#### **2. Residents, owners, and occupants of the property and properties adjacent to the property.**

**Property**  
Fedder Lofts, LLC  
950 Delaware Avenue  
Buffalo, NY 14209

##### **Adjacent Properties**

31 Tonawanda Street LLC (88.58-1-1)  
31 Tonawanda Street  
Buffalo, NY 14207

Black Rock Trade Center Inc. (88.50-1-8.21)  
57 Tonawanda Street  
Buffalo, NY 14207

Buffalo Freight House (88.50-2-1.2)  
68 Tonawanda Street  
Buffalo, NY 14207

Pratt & Lambert, Inc. (73 Tonawanda Street – 88.50-1-10)  
C/O Tax Department  
P.O. Box 6027  
Cleveland, OH 44115

City of Buffalo (1490 and 1485 West Street – 88.50-1-7)  
323 City Hall  
Buffalo, New York 14202

Niagara Mohawk Power Corporation (Niagara Mohawk Property - 1626 Niagara – 88.58-4-10)  
Real Estate Tax Dept  
300 Erie Blvd West  
Syracuse, NY 13202

TLC Properties (2 Tonawanda St. – 88.58-4-7)  
TLC Properties, Inc.  
289 Exchange St.  
Buffalo, NY 14204

Golf and Recreation Facilities, Inc. (69 Dearborn Street – 88.49-2-1.2 and 189 Tonawanda Street – 88.42-1-2.13)  
P.O. Box 869  
Warren MI 48090

105 Tonawanda Street (105 Tonawanda Street – 88.50-1-11)  
Black Rock Rail, LLC  
148 Middlesex Road  
Buffalo, New York 14216  
Note this property is vacant land.

Pratt & Lambert, Inc. (73 Tonawanda Street – 88.50-1-10 and 1409 West Street – 88.58-2-2)  
C/O Tax Department  
P.O. Box 6027  
Cleveland, OH 44115

William David Lyons (117 Tonawanda Street – 88.50-1-1.1)  
111 Tonawanda Street  
Buffalo, New York 14207

CSX Trans. Inc (100 & 174 Tonawanda – 88.50-2-1.11 & 88.42-2-4.1)  
Unit C-910  
500 Water Street  
Jacksonville, FL 19103

Canadian National Railway Co Trans/International Bridge Trans (119 Tonawanda Street – 88.42-2-3)  
PO Box 8100  
Montreal, Quebec H3C 3N4, Canada

Ed Hogel (32 Tonawanda Street – 88.58-4-4)  
120 Tonawanda Street  
Buffalo, New York 14207

Lewmar Properties, LLC (1701 Niagara and 69 Wayne – 88.49-2-5.1 and 88.49-2-14)  
1721 Niagara Street  
Buffalo, New York 14207

Fred C Rumsey (1679 Niagara – 88.49-2.6)  
1679 Niagara Street  
Buffalo, New York 14207

Romelo M Inc (18 & 22 Tonawanda Street - 88.58-4-6 and 88.58-4-5)  
15 Skillen Street Buffalo New York 14207  
700 Military Road Buffalo, New York 14207

Buffalo State Ventures, LLC (80 Forest Street – 88.58-2-8)  
6225 Carmel Road  
Charlotte, NC 28277

Dival Safety (1701 Niagara Street – 88.49-2-5.1)  
1701 Niagara Street  
Buffalo New York 14207

### **3. Local news media from which the community typically obtains information**

WIVB/WNLO-TV (Channel 4)  
2077 Elmwood Avenue  
Buffalo, NY 14207

WKBW (7 Eyewitness News)  
7 Broadcast Plaza  
Buffalo, NY 14202

WGRZ-TV (Channel 2)  
259 Delaware Avenue  
Buffalo, NY 14202

### **4. The public water supplier which services the area in which the property is located.**

Buffalo Water Department  
281 Exchange Street  
Buffalo, NY 14202

Erie County Water Authority  
295 Main Street Suite 350  
Buffalo, NY 14203

**5. Any person requested to be placed on the list**

Site Control Section  
Attn: Lexy Servis  
New York State Department of Environmental Conservation  
Bureau of Technical Support  
625 Broadway, 11th Floor  
Albany, NY 12233-7020

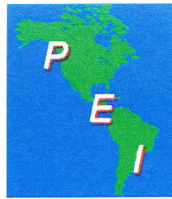
**6. The administrator of any school or day care facility located on or near the property.**

Right Start Childcare  
26 Dart Street  
Buffalo, NY 14213

SUNY Buffalo State College  
1300 Elmwood Avenue  
Buffalo, NY 14222

**7. The location of a document repository for the project (e.g., local library). In addition,  
attach a copy of a letter sent to the repository acknowledging that it agrees to act as the  
document repository for the property.**

Riverside Branch Library  
820 Tonawanda Street  
Buffalo, NY 14207



Brydges – environment engineering and  
energy, Panamerican Environmental Inc.  
1270 Niagara Street  
Buffalo, New York 14213  
(716) 249 - 6880  
[www.BrydgesE3.com](http://www.BrydgesE3.com)  
A Full Service Environmental Small Business

August 18, 2017

Ms. Patti Foley  
Library Manager  
Riverside Branch Library  
820 Tonawanda St  
Buffalo, NY 14207

Subject: BCP Application – 57-71 Tonawanda Street – Buffalo, New York

Dear Ms. Foley,

FEDDER LOFTS, LLC., is in the process of applying to the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) for a project at two adjacent parcels - 57 and 71 Tonawanda Street, Buffalo, New York. On behalf of the project applicant, FEDDER LOFTS, LLC, I am requesting that the Riverside Branch Library function as the document repository for the public documents associated with this project. The project documentation may include the application, work plans, investigation reports and management plans etc. associated with the project. Currently the project is anticipating initiating activities this year with the application and ending in 2019.

The process requires that we receive formal acknowledgement that your library agrees to function as a document repository for this project. Your acceptance of the use of the Riverside Branch Library as a document repository for the project may be indicated by signing in the space provided below or by providing a letter indicating acceptance.

Thank you for agreeing to function in this capacity. If you have any question, please call me at 716-308-8220.

Sincerely,  
Peter J. Gorton  
President  
Panamerican Environmental, Inc.

Riverside Branch Library accepts the role of Public Repository  
Accepted by:

Pattie S. Foley  
Name

Riverside Branch  
Library Name

Manager  
Title

8/21/2017  
Date

# ATTACHMENT I

## SECTION X: LAND USE FACTORS

### Current Use

A “Brownfield Site” is defined under New York Environmental Conservation Law Section 27-1405(2) as “any real property where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the department that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations”. The 71 Tonawanda Street properties meet the definition of a brownfield site under ECL Section 27-1405(2) because it is real property where a contaminant is present at levels exceeding the soil cleanup objectives adopted by the New York State Department of Environmental Conservation.

Further, past industrial operations at the property and nearby properties have impacted the site’s environmental media. The on-site confirmed contamination is both impacting and complicating the development and re-use of the property. The chlorinated solvents found during the limited investigations to date have the potential to impact the property in two ways; (i) as a potential vapor hazard to workers and users of the existing structure, and (ii) as an impact to the adjacent creek. The recent Scajaquada Creek Initiative by local stakeholders involves a Restoration Strategy for the Creek and surrounding communities which includes a prioritized action to restore water quality for Scajaquada Creek.

As shown by the limited investigation to date, the contaminants are present at levels that exceed recommended soil clean-up levels. Additionally, the limited investigations suggest that the property area along the creek contains historic fill containing foundry sand material which may have originated from the nearby former metal works which exceeds background levels. The presence of contaminants exceeding soil cleanup objectives has prevented the Requestor from obtaining commercial bank financing that is necessary in order to fund site re-development and re-use, thus complicating the use of the site.

The confirmed contamination is both impacting and complicating the development and re-use of the property. The metals and PAHs as well as the solvent contamination found during the limited investigations to date and the history of industrial also includes the potential for past chlorinated solvent and petroleum releases have the potential to impact the property in two ways; one as a potential vapor hazard and two as an exposure hazard to metals and PAHs to workers and users of the structures.

As shown by the limited investigation to date, the contaminants found are present at levels that exceed recommended clean-up levels. Additionally, the limited investigations suggest that the property area contains historic fill which exceeds background levels. The estimated costs of the remedial actions are impacting the ability to arrange for the financing for site re-development and re-use.

Currently the 71 Tonawanda Street building is a vacant former manufacturing facility. Currently there are no significant possible contaminant source areas associated with the current use. The potential contaminant source areas are all associated with previous use. The historic use and dates are detailed in the attached electronic copies of the Phase I and II Environmental Site Assessment reports which also include dates and documentation when the previous operations



ceased. To date, specific potential contaminant sources have not been isolated as the original manufacturing equipment and processes have been removed. However, the facility used various chemicals, oils, solvents and other materials in their manufacturing process.

The project area and scope fits well within The Buffalo Green Codes' Land Use Plan as it meets the expanding area need to support residential and student needs and for cross border traffic. The Land Use Plan serves as a bridge between the city's comprehensive plan and zoning code by recommending the appropriate type, intensity, and character of development. It envisions a future for Buffalo built around the restoration of walkable, mixed-use, transit-served neighborhoods and economic centers. The plan focuses on three core strategies: fuel economic generators, restore neighborhoods, and repair environmental assets.

This project will help the area capitalize on its strategic assets; an opportunity to start a process aimed at repairing neighborhood edges that have been disproportionately impacted by industrial uses over time and creating new opportunities for working and living within the area. The population and growth in Western NY and in the Black Rock section of Buffalo has been declining and or remaining static in recent years. The planned re-development should enhance the potential growth as it will offer residential living with water views and access to water recreational areas in a designated BOA area.



## ATTACHMENT J

### SECTION XI: Proof of Access

### CERTIFICATION

Date: October 1, 2017

Property Address: 57 & 71 Tonawanda Street, Buffalo NY 14207

Property Owner: Black Rock Trade Center, inc.

Property Owner Address: 120 Tonawanda Street, Buffalo NY

BCP Applicant: Fedder Lofts, LLC

BCP Project Number:

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The undersigned hereby certifies as follows:

- 1) I am duly authorized to furnish this certification on behalf of Black Rock Trade Center, Inc. ("Owner")
- 2) As of the date hereof, the Owner is the fee simple owner of the property located at 57 & 71 Tonawanda Street, Buffalo NY 14207 ("Property").
- 3) The Owner is aware that (a) Fedder Lofts, LLC ("Applicant") is filing a Brownfield Cleanup Program Application ("BCPA") related to the Property.
- 4) The Owner has no objection to the Applicant filing the BCPA with the New York State Department of Environmental Conservation.
- 5) This will confirm that the Applicant has been granted legal access to the Property for the purpose of the BCPA and will be granted all necessary legal access, including an easement, if required, to complete the remediation of the Property.

IN WITNESS WHERE OF, this Certification has been duly executed and delivered as of the date set forth above.

Black Rock Trade Center, Inc.

By: E. Hogle

Name: E. HOGLE

Title: PRESIDENT