



NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



**BROWNFIELD CLEANUP PROGRAM (BCP)**

ECL ARTICLE 27 / TITLE 14

7/06

DEPARTMENT USE ONLY  
BCP SITE #: \_\_\_\_\_

**Section I. Requestor Information**

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF REQUESTOR'S 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

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

**PARTICIPANT**

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

**VOLUNTEER**

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

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

Requestor Relationship to Property (check one):

☒ Previous Owner

☐ Current Owner

☐ Potential /Future Purchaser

☐ Other \_\_\_\_\_

If requestor is not the site owner, requestor will have access to the property throughout the BCP project.

Yes

No

(Note: proof of site access must be submitted for non-owners)

**Section II. Property Information Summary Sheet**

PROPERTY NAME: NIAGARA CERAMICS

ADDRESS/LOCATION 51 HAYES PLACE

CITY/TOWN BUFFALO

ZIP CODE 14210

MUNICIPALITY(IF MORE THAN ONE, LIST ALL): CITY OF BUFFALO

COUNTY ERIE

SITE SIZE (ACRES) 10 ACRES

LATITUDE (degrees/minutes/seconds) 42 ° 52 ' 8 "

LONGITUDE (degrees/minutes/seconds) 78 ° 49 ' 36 "

HORIZONTAL COLLECTION METHOD: ☐ SURVEY ☐ GPS ☒ MAP

HORIZONTAL REFERENCE DATUM:

FOR EACH PARCEL, FILL OUT THE FOLLOWING TAX MAP INFORMATION (if more than three parcels, attach additional information)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
----------------	------------	-------------	-----------	---------	---------

SEE ATTACHED BCP T.1					

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ NoFor more information go to: [http://www.nylovesbiz.com/BrownField\\_Redevelopment/default.asp](http://www.nylovesbiz.com/BrownField_Redevelopment/default.asp).

If yes, identify area (name) 0020000

☐ 50% ☒ 100% of the site is in the En-zone (check one)

PROPERTY DESCRIPTION NARRATIVE:

SEE ATTACHED BCP A.1

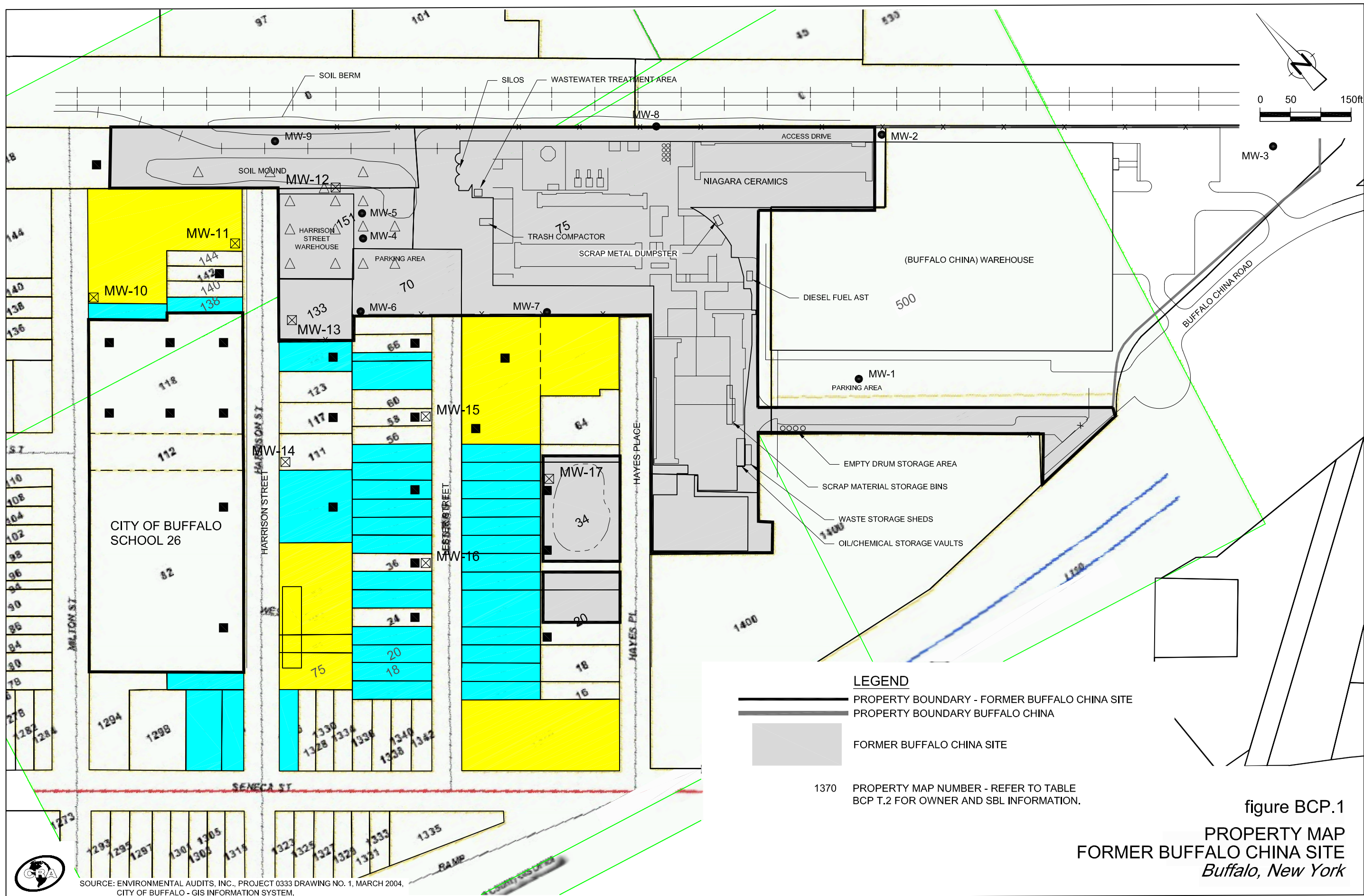
List of Existing Easements (type here or attach information)

Easement Holder	Description
N/A	

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

Type	Issuing Agency	Description
N/A		

Initials of each Requestor: CAS



BCP T.1  
SECTION II. PROPERTY INFORMATION SUMMARY SHEET  
BROWNFIELD CLEANUP PROGRAM

<i>Parcel Address</i>	<i>Parcel No.</i>	<i>Section No.</i>	<i>Block No.</i>	<i>Lot No.</i>	<i>Acreage</i>
<u><i>Niagara Ceramics Parcels (Former Buffalo China Site)</i></u>					
51 Hayes Place, Buffalo NY, 14210	123	9	4	2	0.499
75 Hayes Place, Buffalo NY, 14210	123	9	4	17	6.961
55 Hayes Place, Buffalo NY, 14210	123	9	4	16.2	0.909
151 Harrison Street, Buffalo NY, 14210	123	38	3	1	0.644
133 Harrison Street, Buffalo NY, 14210	123	38	2	39	0.276
70 Lester St, Buffalo NY, 14210	123	38	2	1.1	0.456



**BCP A.1**  
**BROWNFIELD CLEANUP PROGRAM**

**Section II. Property Information Summary Sheet**

**Property Description Narrative:**

The Former Buffalo China Site (Site) is located at 51 Hayes Place in Buffalo, New York. The Site comprises approximately 10 acres and is bounded on the north by Conrail railroad tracks, on the east by the adjoining Buffalo China Warehouse and other commercial/industrial facilities, and on the south and west by residential properties. Interstate I-190 is located nearby to the south of the Site, while the City of Buffalo School #26 and adjacent playground is located a few hundred feet to the southwest. The nearest body of water is the Buffalo River, located approximately 1/4 to 1/2 mile south and east of the Site.

The Site includes buildings, outdoor storage silos, a rail spur, and roadways and parking areas. The manufacturing building is a multi-story structure covering approximately 4 acres. The building is connected to the Buffalo China Warehouse to the east. Another smaller building referred to as the Harrison Street warehouse is located in the northwest end of the Site, and covers an area of approximately 0.5 acres. The primary access to the Site is through the east side of the Site, near the Buffalo China Warehouse and via the City of Buffalo street named Hayes Place. The property has been used for the manufacture of china for the past 100 plus years. During that time period, the manufacturing facility expanded to adjacent industrial properties which included the Standard Mirror Co. and Atlas Wrecking. The Harrison Street Warehouse was once a part of the Standard Mirror facility.

### Section III. Current Site Owner/Operator Information

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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

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

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

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

### Section VI. Project Description

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

- Purpose and scope of the project
- Estimated project schedule

SEE ATTACHED SITE INVESTIGATION WORK PLAN

## Section VII. Property's Environmental History

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

### 1. Environmental Reports

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

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

### 2. Sampling Data: Indicate known contaminants and the media which are known to have been affected:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

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

### 3. Suspected Contaminants: Indicate suspected contaminants and the media which may have been affected:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

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

### 4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS:

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

### 5. INDICATE PAST LAND USES:

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

### 6. Owners

A list of previous owners with names, last known addresses and telephone numbers (describe requestor's relationship, if any, to each previous owner listed. If no relationship, put "none").      SEE ATTACHED BCP A. 2

### 7. Operators

A list of previous operators with names, last known addresses and telephone number (describe requestor's relationship, if any, to each previous operator listed. If no relationship, put "none").

**BCP A.2**  
**BROWNFIELD CLEANUP PROGRAM**

**Section VII. Property's Environmental History**

6. Owners

Buffalo China was established in the late 1800s. The Site was primarily used for china manufacturing.

In March 2004, Buffalo China sold a portion of the property (approximately 10 acres) to Niagara Ceramics.

The warehouse in the northwest corner of the Buffalo China property was previously owned and operated by the Standard Mirror Co. The Standard Mirror Co. closed down operation in the 1960s. The warehouse may have been used by American Oil Refinery Transports for a short time before it was acquired by Buffalo China in the mid-1980s.

For Further information see the following Deeds (attached) and Property Title:

- Deed Roll 1
- Deed Book 11070
- Deed Page 6624, 6613, 6585

7. Owners/Operators

A list of past operators was not currently available.

According to the Phase I Report completed by Environmental Audits, Inc in February 2004, a listing of previous owners and operators was incomplete. Based on the limited information available, it appears that Buffalo China has been the primary owner/operator since its inception in the late 1800s. Additional properties added over the years include property formerly owned by Standard Mirror Co.

In 2004, Buffalo China sold a portion of the property (approximately 10 acres) to Niagara Ceramics.

For further information, see attached Schedule of Real Estate Acquisition.

ERIE COUNTY CLERKS OFFICE  
County Clerk's Recording Page

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BOX 197

Index DEED LIBER

Book 11070 Page 6585

No. Pages 0007

Instrument DEED

Date : 3/16/2004

Time : 3:25:38

Control # 200403161315

OLDTT

TT# TT 2003 019266

Employee ID FG

BUFFALO CHINA INC

NIAGARA CERAMICS CORPORATION

COUNTY	\$	38.00
STATE E&A	\$	41.00
COE STATE	\$	4.75
TRANSFER	\$	26.00
NFTA TT	\$	32.50
COUNTY E&A	\$	9.00
COE COUNTY	\$	1.00
COE ST GEN	\$	14.25
	\$	.00

Total: \$ 166.50

STATE OF NEW YORK  
ERIE COUNTY CLERKS OFFICE

TRANSFER TAX

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

CONSIDERATN \$ 6,227.00

TRANSFER TAX \$ 58.50

DAVID J SWARTS  
COUNTY CLERK



D110706585

BARGAIN AND SALE DEED

THIS BARGAIN AND SALE DEED, made this 12 day of March, 2004, between BUFFALO CHINA, INC., a New York corporation having an address at c/o Oneida Ltd., 163-181 Kenwood Avenue, Oneida, New York 13421 ("Grantor") and NIAGARA CERAMICS CORPORATION, a New York corporation having an address at 75 Hayes Place, Buffalo, New York ("Grantee").

WITNESSETH:

That the Grantor, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, does hereby grant and release unto the Grantee, his successors and assigns forever, all right title and interest of the Grantor in and to the following:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, as more particularly described on SCHEDULE A attached hereto and made a part hereof (the "Property").

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

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, for so long as the Property is owned by the Grantee only. In the event the Property is ever sold, conveyed or transferred, whether outright or by operation of law, while Grantor is the owner of the land described on SCHEDULE B, the Property shall revert back to the Grantor, its successors or assigns. Upon any such reversion of title, the Grantee shall retain a perpetual easement for itself and its successors and assigns across the southernmost ten (10) feet of the Property, as shown on SCHEDULE C attached hereto and made a part hereof for the sole purpose of vehicular ingress and egress to and from the real property described on SCHEDULE D attached hereto and made a part hereof, in which event the Grantee shall assign to Grantor, or its successors or assigns, the contracts for any billboards then situated on the Property.

AND THE GRANTOR COVENANTS that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever. The Grantor covenants further that, in compliance with Section 13 of the Lien Law, the Grantor 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 cost 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.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed and delivered as of the day and year first above written.

BUFFALO CHINA, INC.

By: Catherine H. Suttmeier
Catherine Suttmeier, Vice President

STATE OF NEW YORK )
) SS.
COUNTY OF ERIE )

On the 12 day of March, in the year 2004, before me, the undersigned personally appeared Catherine Suttmeier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NICHOLAS ROBERT SPAMPATA
No. 028P8094263
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 16, 2011

Nicholas R. Spampata
Notary Public

F1315
6227.00
CTY - 48
DIB-6-0

# **SCHEDULE A**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lots Nos. 15 and 18, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Indian Reservation, bounded and described as follows:

Beginning at a point of intersection of the northwest line of Bailey Avenue (also known as New Bailey Avenue) as previously laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at Page 682;

Thence northwesterly along the northeast lines of Lots Nos. 15 and 18, a distance of 766.81 feet to a point;

Thence southeasterly at an interior angle of  $90^{\circ} 07' 26''$  and in part along the face of a concrete block and metal building known as Building "L", a distance of 133.44 feet to the southeast corner of Building "L";

Thence northwesterly at an exterior angle of  $90^{\circ} 03' 25''$  and along the southwest wall of said building, a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W";

Thence southwesterly at an interior angle of  $89^{\circ} 59' 42''$  and along the northwest face of said Building "W" and its extension southwesterly, a distance of 309.47 feet to the true point of beginning;

Thence southeasterly at an exterior angle of  $90^{\circ} 03' 25''$ , a distance of 566.93 feet to a point in the northwest line of Buffalo China Road, formerly New Bailey Avenue;

Thence southwesterly along the northwest line of said Buffalo China Road, a distance of 32.92 feet to a point in the north line of the lands owned by the New York State Thruway and formerly owned by the Lehigh Valley Railroad;

Thence westerly along the lands of the New York State Thruway, a distance of 163.88 feet to a point in the northwest line of the Erie County Industrial Development Agency as recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682;

Thence northeasterly at an interior angle of  $46^{\circ} 46' 20''$  and along the northwest line of said Erie County Industrial Development Agency, a distance of 82.29 feet to a point;

Thence northwesterly at an exterior angle of  $90^{\circ} 05' 01''$  and along the southwest line of said Erie County Industrial Development Agency, a distance of 447.34 feet to a point

Thence northeasterly at an interior angle of  $90^{\circ} 10' 13''$  and along the line created by the southwesterly extension of the northwest face of said Building "W", a distance of 61.92 feet to the true point of beginning.



## SCHEDULE B

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lots Nos. 15 and 18, Township 10, Range 7, and Township 10, Range 8, sometimes referred to as Range 8 of the Buffalo Creek Indian Reservation, bounded and described as follows:

Beginning at a point of intersection of the northwest line of Bailey Avenue (also known as New Bailey Avenue) as previously laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at Page 682;

Thence northwesterly along the northeast lines of Lots Nos. 15 and 18 a distance of 766.81 feet to a point;

Thence southeasterly at an interior angle of  $90^{\circ}07'26''$  and in part along the face of a concrete block and metal building known as Building "L" a distance of 133.44 feet to the southeast corner of Building "L";

Thence northwesterly at an exterior angle of  $90^{\circ}03'25''$  and along the southwest wall of said building a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W";

Thence southwesterly at an interior angle of  $89^{\circ}59'43''$  and along the northwest face of said Building "W" and its extension southwesterly a distance of 309.47 feet to a point;

Thence southeasterly at an interior angle of  $90^{\circ}03'25''$  a distance of 566.93 feet to a point in the northwest line of Buffalo China Road, formerly New Bailey Avenue as previously laid out;

Thence northeasterly along the northwest line of said Buffalo China Road a distance of 3.68 feet to a point of curve;

Thence northeasterly along the northwest line of said Buffalo China Road through a curve to the right having a radius of 125.84 feet an arc distance of 102.38 feet to a point of tangency;

Thence northeasterly along the northwest line of said Buffalo China Road a distance of 457.30 feet to an angle point;

Thence northeasterly along the northwest line of New Bailey Avenue as previously laid out a distance of 39.47 feet to the point of beginning.

Future Easement Description  
**NEW WAREHOUSE FACILITY**

FINISH FLOOR ELEVATION 22.00' (+/-) 11.000 SE

SCHEDULE C

563'

EXISTING GUARD HOUSE TO BE REMOVED

EXISTING PAVEMENT TO BE REMOVED

EXISTING CONCRETE SIDEWALK TO BE REMOVED

EXISTING CONCRETE PIERS TO BE REMOVED

EXISTING CONCRETE SIDEWALK TO BE REMOVED

EXISTING STEEL SUPPORT FOR EQUESTRIAN RING TO BE REMOVED

20' RIGHT OF FRANKLIN STREET 10.12 P. 2

EXISTING METAL BUILDING

EXISTING BRICK & CONCRETE BLOCK BUILDING

TRANSVERSE SECTION

SCHEDULE C

NEW MAINTENANCE ROAD

## SCHEDULE D

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lots Nos. 15, 18, 19 and 22, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Indian Reservation, more particularly described as Subdivision Lot Nos. 26, 27, 49, 50, 101 and 102, Bayard Street and parts of Lester Street and Hayes Place (formerly Thompson Street) as shown on a map filed in the Erie County Clerk's Office under Cover No. 552, and more, bounded and described as follows:

Beginning at a point of intersection of the northwest line of Bailey Avenue as now laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682;

Thence northwesterly along the northeast lines of Lots Nos. 15 and 18 which is the southwest line of the lands of Conrail, formerly the Pennsylvania Railroad or the Penn-Central Railroad a distance of 766.81 feet to the true point of beginning;

Thence southwesterly at an exterior angle of  $90^{\circ} 07' 26''$  and in part along the face of a concrete block and metal building known as Building "L" a distance of 133.44 feet to the southeast corner of Building "L";

Thence northwesterly at an interior angle of  $90^{\circ} 03' 25''$  and along the southwest wall of said building a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W";

Thence southwesterly at an exterior angle of  $89^{\circ} 59' 42''$  and along the northwest face of said Building "W" and its extension southwesterly a distance of 309.47 feet to a point;

Thence southeasterly at an exterior angle of  $90^{\circ} 03' 25''$  a distance of 566.93 feet to a point in the northwest line of Buffalo China Road, formerly New Bailey Avenue;

Thence southwesterly along the northwest line of said Buffalo China Road a distance of 32.92 feet to a point in the north line of the lands owned by the New York State Thruway and formerly owned by the Lehigh Valley Railroad;

Thence westerly along the lands of the New York State Thruway a distance of 163.88 feet to a point in the northwest line of the Erie County Industrial Development Agency as recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682;

Thence northeasterly at an interior angle of  $46^{\circ} 46' 20''$  and along the northwest line of said Erie County Industrial Development Agency, a distance of 82.29 feet to a point;

Thence northwesterly at an exterior angle of  $90^{\circ} 05' 01''$  and along the southwest line of said Erie County Industrial Development Agency, a distance of 467.81 feet to a point in the northwest line of Frank Lenahan and Sons as recorded in Erie County Clerk's Office in Liber 4049 of Deeds at page 561;

Thence southwesterly at a measured exterior angle of  $89^{\circ} 51' 46''$  and along said northwest line of Frank Lenahan and Sons, a distance of 147.60 feet to a point;

Thence southeasterly at right angles a distance of 22.31 feet to a point;

Thence southwesterly at right angles and along said northwest line of Frank Lenahan and Sons a distance of 50.0 feet to a point in the northeast line of Frank Lenahan and Sons as recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209;

Thence northwesterly at right angles and along said northeast line of Frank Lenahan and Sons a distance of 199.0 feet to the southeast line of Hayes Place, formerly Thompson Street, as shown on a map filed in Erie County Clerk's Office under Map Cover 552;

7

Thence northeasterly along the southeast line of said Hayes Place a distance of 391.61 feet to the intersection of the extension southeasterly of the southwest line of Subdivision Lot No. 50 on said Map Cover 552;

Thence northwesterly at an exterior angle of  $89^{\circ} 45' 04''$  and along the southwest lines of Subdivision Lots Nos. 50, 101 and 26 a distance of 487.99 feet to the southwest corner of Subdivision Lot No. 26 which is on the west line of Lot No. 19;

Thence southwesterly along the west line of Lot No. 19 a distance of 39.71 feet to a point;

Thence northwesterly at right angles to Harrison Street a distance of 123.59 feet to the southeast line of Harrison Street as shown on Map Cover 552;

Thence northeasterly along the southeast line of Harrison Street a distance of 251.04 feet to a point in the southwest line of Penn-Central Railroad as recorded in Erie County Clerk's Office in Liber 8758 of Deeds at page 266;

Thence northwesterly along the southwest line of said Penn-Central Railroad a distance of 275.74 feet to a point;

Thence northeasterly at right angles, a distance of 100.0 feet to a point in the northeast line of Lot No. 22;

Thence southeasterly at right angles and along the northeast lines of Lots Nos. 18, 19 and 22, which is the southwest line Conrail, a distance of 1273.63 feet to the true point of beginning.

ERIE COUNTY CLERKS OFFICE  
County Clerk's Recording Page

Return To:

BOX 197

ONEIDA FOOD SERVICE INC  
NIAGARA CERAMICS CORPORATION

COUNTY	\$	29.00
STATE E&A	\$	41.00
COE STATE	\$	4.75
TRANSFER	\$	1,820.00
NFTA TT	\$	2,275.00
COUNTY E&A	\$	9.00
COE COUNTY	\$	1.00
COE ST GEN	\$	14.25
	\$	.00

Total: \$ 4,194.00

STATE OF NEW YORK  
ERIE COUNTY CLERKS OFFICE

TRANSFER TAX

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

CONSIDERATN	\$	454,885.00
TRANSFER TAX	\$	4,095.00

DAVID J SWARTS  
COUNTY CLERK



D110706613

Index DEED LIBER

Book 11070 Page 6613

No. Pages 0004

Instrument DEED

Date : 3/16/2004

Time : 3:33:13

Control # 200403161341

OLDTT

TT# TT 2003 019270

Employee ID FG

## BARGAIN AND SALE DEED

**THIS BARGAIN AND SALE DEED**, made this 12 day of March, 2004, between **ONEIDA FOOD SERVICE, INC.**, a New York corporation having an address at c/o Oneida Ltd., 163-181 Kenwood Avenue, Oneida, New York 13421 ("Grantor"), and **NIAGARA CERAMICS CORPORATION**, a New York corporation having an address at 75 Hayes Place, Buffalo, New York ("Grantee").

**WITNESSETH:**

That the Grantor, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, does hereby grant and release unto the Grantee, his successors and assigns forever, all right title and interest of the Grantor in and to the following:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, as more particularly described as Parcels B and C on **SCHEDULE A** attached hereto and made a part hereof.

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

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

**AND THE GRANTOR COVENANTS** that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever. The Grantor covenants further that, in compliance with Section 13 of the Lien Law, the Grantor 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 cost 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.


**IN WITNESS WHEREOF**, the Grantor has caused this instrument to be executed and delivered as of the day and year first above written.

**ONEIDA FOOD SERVICE, INC.**

By: Catherine Suttmeier  
Catherine Suttmeier, Vice President

STATE OF NEW YORK )  
 )  
 ) ss.  
COUNTY OF ERIE )

On the 12 day of March, in the year 2004, before me, the undersigned personally appeared Catherine Suttmeier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

**NICHOLAS ROBERT SPAMPATA**  
No. 028P0094285  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires June 18, 2007

K/341  
CTY-454 PPR.CO  
DIB-20-38

## SCHEDULE A

### PARCEL B

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lot Nos. 15, 18, 19 and 22, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the intersection of the westerly line of Bailey Avenue, as now laid out, and the northeasterly line of said Lot No. 15; thence northwesterly along the northeasterly lines of said Lot Nos. 15, 18, 19 and 22, 2040.44 feet to a point; thence southwesterly at right angles, 100 feet to a point; thence southeasterly at right angles, 500 feet to a point; thence southwesterly at right angles 101.54 feet to a point on the northeasterly line of Bayard Street, 50 feet wide, as shown on a map filed in the Erie County Clerk's Office under Cover No. 552; thence southeasterly at right angles and along said northeasterly line of Bayard Street, 79.34 feet to a point which is the intersection of the northeasterly line of Bayard Street and the southeasterly line of Lester Street, 50 feet wide, extended northeasterly; thence southwesterly at right angles and along said extension of the southeasterly line of Lester Street and along the southeasterly line of Lester Street, 110 feet to the southwesterly corner of Subdivision Lot No. 101 as shown on a map filed under Cover No. 552; thence southeasterly along the southwesterly lines of Subdivision Lot Nos. 101 and 50 as shown on a map filed under Cover No. 552 and along the extension southeasterly of the southwesterly line of said Subdivision Lot No. 50, 308.66 feet to a point on the southeasterly line of Hayes Place, 50 feet wide; thence southwesterly along said southeasterly line of Hayes Place, 259.01 feet to a point, said point being distant 488.45 feet northeasterly from the northeasterly line of Seneca Street as measured along said southeasterly line of Hayes Place; thence southeasterly at right angles, 75 feet to a point; thence southwesterly at right angles 30 feet to a point; thence southeasterly at right angles, 101.69 feet to a point; thence northeasterly at right angles, 95 feet to a point; thence southeasterly at right angles, 467.81 feet to a point; thence southwesterly at right angles 82.29 feet to a point on the northwesterly line of the lands formerly owned by the Lehigh Valley Railroad; thence northeasterly along said northwesterly line of the Lehigh Valley Railroad, 163.88 feet to a point on the westerly line of Bailey Avenue, as now laid out; thence northeasterly along the various courses of the westerly line of Bailey Avenue, as now laid out, 633.84 feet to the point or place of beginning.

EXCEPTING THEREFROM ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lots Nos. 15 and 18, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the point of intersection of the northwesterly line of Bailey Avenue (also known as New Bailey Avenue) as previously laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the lands conveyed to Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682; thence northwesterly along the northeast lines of Lots Nos. 15 and 18 a distance of 766.81 feet to a point; thence southeasterly at an interior angle of  $90^{\circ} 07' 26''$  and in part along the face of a concrete block and metal building known as Building "L" a distance of 133.44 feet to the southeast corner of said Building "L"; thence northwesterly at an exterior angle of  $90^{\circ} 03' 25''$  and along the southwest wall of said Building "L" a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W"; thence southwesterly at an interior angle of  $89^{\circ} 59' 42''$  and along the northwest face of said Building "W" and its extension southwesterly a distance of 371.39 feet to a point on the southwesterly line of said lands of Erie County Industrial Development Agency by deed aforesaid; thence southeasterly at an interior angle of  $90^{\circ} 10' 13''$  and along the southwesterly line of said lands of Erie County Industrial Development Agency a distance of 447.34 feet to a corner of said lands; thence southwesterly at an exterior angle of  $90^{\circ} 05' 01''$  and along the southwesterly line of said lands of Erie County Industrial Development Agency a distance of 82.29 feet to a point on the northwesterly line of the lands now owned by the New York State Thruway and formerly owned by the Lehigh Valley Railroad; thence northeasterly at an interior angle of  $46^{\circ} 46' 20''$  and along the northwesterly line of the lands now owned by the New York State Thruway a distance of 163.88 feet to a point on the northwesterly line of Buffalo China Road, formerly Bailey Avenue as previously laid out; thence northeasterly along the northwesterly line of Buffalo China Road a distance of 36.60 feet to a point of curve; thence continuing northeasterly along the northwesterly line of Buffalo China



Road on a curve to the right having a radius of 125.84 feet an arc distance of 102.38 feet to a point of tangency; thence continuing northeasterly along the northwesterly line of Buffalo China Road and also along the northwesterly line of Bailey Avenue as previously laid out a distance of 457.30 feet to an angle point; thence continuing northeasterly along the northwesterly line of Bailey Avenue as previously laid out a distance of 39.47 feet to the point or place of beginning.

#### PARCEL C

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. 18. Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the point of intersection of the easterly line of Hayes Place with the northerly line of lands heretofore conveyed to Frank Lenahan & Sons, Inc. by deed recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209, said point being 355.85 feet northerly from the point of intersection of said line of Hayes Place with the northerly line of Seneca Street; running thence northerly along the easterly line of Hayes Place 132.60 feet; thence easterly at right angles to Hayes Place 75 feet; thence southerly at right angles 30 feet; thence easterly at right angles 101.69 feet to a westerly line of lands conveyed to Frank Lenahan & Sons, Inc. by deed recorded in Erie County Clerk's Office in Liber 4049 of Deeds at page 561; thence southerly at right angles and along said westerly line of lands so conveyed to Frank Lenahan & Sons, Inc., 52.60 feet; thence easterly at right angles and along a line of lands so conveyed to Frank Lenahan & Sons, Inc. 22.31 feet; thence southerly at right angles and along a westerly line of lands so conveyed to Frank Lenahan & Sons, Inc. 50 feet to the northerly line of lands conveyed to Frank Lenahan & Sons, Inc. by said deed recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209; thence westerly at right angles and along said northerly line of land so conveyed to Frank Lenahan & Sons, Inc. 199 feet to the easterly line of Hayes Place at the point or place of beginning.

ERIE COUNTY CLERKS OFFICE  
County Clerk's Recording Page

Return To:

BOX 197

3  
2  
8  
7  
BUFFALO CHINA INC

NIAGARA CERAMICS CORPORATION  
0  
0  
4

8  
5  
COUNTY \$ 29.00  
STATE E&A \$ 41.00  
COE STATE \$ 4.75  
TRANSFER \$ 156.00  
NFTA TT \$ 195.00  
COUNTY E&A \$ 9.00  
COE COUNTY \$ 1.00  
COE ST GEN \$ 14.25  
\$ .00

Total: \$ 450.00

STATE OF NEW YORK  
ERIE COUNTY CLERKS OFFICE

TRANSFER TAX

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

CONSIDERATN \$ 38,888.00  
TRANSFER TAX \$ 351.00

DAVID J SWARTS  
COUNTY CLERK



D110706624

Index DEED LIBER

Book 11070 Page 6624

No. Pages 0004

Instrument DEED

Date : 3/16/2004

Time : 3:36:10

Control # 200403161346

OLDTT

TT# TT 2003 019272

Employee ID FG

**BARGAIN AND SALE DEED**

**THIS BARGAIN AND SALE DEED**, made this 12 day of March, 2004, between **BUFFALO CHINA, INC.**, a New York corporation having an address at c/o Oneida Ltd., 163-181 Kenwood Avenue, Oneida, New York 13421 ("Grantor") and **NIAGARA CERAMICS CORPORATION**, a New York corporation having an address at 75 Hayes Place, Buffalo, New York ("Grantee").

**WITNESSETH:**

That the Grantor, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, does hereby grant and release unto the Grantee, his successors and assigns forever, all right title and interest of the Grantor in and to the following:

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, as more particularly described as Parcels D, E, F, G and H on **SCHEDULE A** attached hereto and made a part hereof.

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

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

**AND THE GRANTOR COVENANTS** that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever. The Grantor covenants further that, in compliance with Section 13 of the Lien Law, the Grantor 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 cost 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.

**IN WITNESS WHEREOF**, the Grantor has caused this instrument to be executed and delivered as of the day and year first above written.

**BUFFALO CHINA, INC.**

By: Catherine Suttmeier  
Catherine Suttmeier, Vice President

STATE OF NEW YORK )  
 )  
 ) ss.  
COUNTY OF ERIE )

On the 12 day of March, in the year 2004, before me, the undersigned personally appeared Catherine Suttmeier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Nicholas R. Spampata  
Notary Public

NICHOLAS ROBERT SPAMPATA  
No. 02SP6094265  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires June 16, 2007

K/1346  
CTY-3888.00  
-39  
DIB-30

## SCHEDULE A

### PARCEL D:

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. 19, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Nos. 59 to 64, inclusive, as shown on a map filed in the Erie County Clerk's Office under Cover No. 552.

### PARCEL E:

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. 19, Township 10, Range 8 of the Buffalo Creek Reservation and according to map filed in the Erie County Clerk's Office under Cover No. 552 is known as Subdivision Lots Nos. 66, 67 and 68, and together being 90 feet front and rear by 129.33 feet in depth, situate on the west side of Hayes Place, commencing 207.46 feet north of Seneca Street, as shown on said map.

### PARCEL F

#### 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 19, Township 10 and Range 8 of the Buffalo Creek Reservation and being a portion of Lester Place as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the westerly line of Lester Place with the southerly line of Bayard Street; thence southerly 60 feet to a point; thence easterly at right angles to the westerly line of Lester Place 50 feet to a point on the easterly line of Lester Place; thence northerly along the easterly line of Lester Place 60 feet to a point on the southerly line of Bayard Street extended easterly; thence westerly along the easterly extension of the south line of Bayard Street 50 feet to the point or 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, being part of Lot No 19, Township 10 and Range 8 of the Buffalo Creek Reservation and being a portion of Bayard Street as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the easterly line of Lester Place with the former southerly line of Bayard Street abandoned by C.C.P., September 28, 1965, Res. No. 168; running thence northerly along the easterly line of Lester Place extended northerly 50 feet to its intersection with the northerly line of Bayard Street; thence westerly along last mentioned line to its intersection with the easterly line of Farm Lot 22 of the Buffalo Creek Reservation; running thence southerly along said easterly line of Farm Lot 22, 50 feet to a point on the southerly line of Bayard Street; running thence easterly along the southerly line of Bayard Street 179.33, more or less, feet to the point or 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 No. 19, Township 10 and Range 8 of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Nos. 26 and 27 as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the southerly line of former Bayard Street with the westerly line of former Lester Street; running thence westerly along the former southerly line of Bayard Street 129.33 feet, more or less, to the northwesterly line of said Lot 19; thence southerly along the said line of Lot 19, 60 feet to a point; thence easterly parallel with the northerly line of Seneca Street 129.33 feet to the former westerly line of Lester Street; thence

northerly along the former westerly line of Lester Street 60 feet to the point or place of beginning.

#### PARCEL G

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. 22, Township 10 and Range 8 of the Buffalo Creek Reservation more particularly bounded and described as follows:

BEGINNING at a point in the easterly line of Harrison Street 155.21 feet north of the intersection of the said line of Harrison Street with the north line of former Wescott Street; running thence northerly along the east line of Harrison Street 100.00 feet; running thence easterly along the westerly extension of the southerly line of Bayard Street 119.00 feet, more or less, to the easterly boundary line of said Lot 22; thence southerly along the easterly line of said Lot 22 to its intersection with a line drawn at right angles to Harrison Street and through the point of beginning; thence westerly on a direct line 119.00 feet to the point of beginning.

#### PARCEL H

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lots Nos. 19 and 22, Township 10, Range 8 of the Buffalo Creek Reservation bounded and described as follows:

BEGINNING at a point in the easterly line of Harrison Street distant 255.21 feet northerly from its intersection with the northerly line of Wescott Street; running thence northerly along the easterly line of Harrison Street 150 feet to the lands of the Western New York and Pennsylvania Railroad Company; thence easterly along the southerly line of said Railroad Company's lands 124.26 feet to the easterly line of said Lot No. 22; thence northerly along the easterly line of said Lot No. 22 a distance of 1.04 feet to the northwest corner of Subdivision Lot No. 31 as shown on map filed in Erie County Clerk's Office under Cover No. 552; thence easterly along the southerly line of said Railroad Company's lands 100 feet to the northeast corner of lands conveyed to Standard Mirror Company by deed recorded in Erie County Clerk's Office in Liber 1530 of Deeds at page 90; thence southerly along the easterly line of said lands conveyed to Standard Mirror Company by deed aforesaid 101.44 feet to the northerly line of Bayard Street; thence westerly along the northerly line of Bayard Street 100 feet to the easterly line of said Lot No. 22; thence southerly 49.50 feet to the southeast corner of Subdivision Lot No. 9 in Block 13 as shown on a map filed in Erie County Clerk's Office under Cover No. 167; and thence westerly along the southerly line of said Subdivision Lot No. 9 a distance of 123.86 feet to the point of beginning.

**MONROE TITLE INSURANCE CORPORATION**

130 PEARL STREET, BUFFALO, NEW YORK 14202-4068

**FIRST AMENDED****COMMITMENT FOR TITLE INSURANCE**Applicant: Zdarsky, Sawicki &  
Agostinelli

Title No.: 201-032745

Attention: Guy J. Agostinelli

Property: 500 Bailey Ave.

UPON EXAMINATION OF TITLE to the premises described in Schedule "A" we find the same as of January 16, 2004, vested in fee simple in Erie County Industrial Development Agency (fee estate) and Buffalo China, Inc. (leasehold estate) as to Parcel A; Oneida Food Service, Inc. as to Parcels B and C; and Buffalo China, Inc. as to Parcels D, E, F, G and H.

UPON receipt of its scheduled premium, this Corporation covenants to issue its Policy in the amount of \$500,000.00 (fee) subject to the conditions of Schedule "B" herein. This Commitment shall constitute a binder to issue said Policy to Niagara Ceramics Corporation.

THIS Commitment is preliminary to the issuance of such policy or policies of title insurance and shall become null and void and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

**MONROE TITLE INSURANCE CORPORATION**

*Peter Iannini* 3/11/04  
Authorized Signatory Date

\_\_\_\_\_  
Authorized Signatory Redated

Exceptions appearing herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this report. Title insurance companies may not act as legal advisors.

Address Inquiries to: Peter Iannini

Telephone No. (716) 852-0737

**PARCEL B**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lot Nos. 15, 18, 19 and 22, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the intersection of the westerly line of Bailey Avenue, as now laid out, and the northeasterly line of said Lot No. 15; thence northwesterly along the northeasterly lines of said Lot Nos. 15, 18, 19 and 22, 2040.44 feet to a point; thence southwesterly at right angles, 100 feet to a point; thence southeasterly at right angles, 500 feet to a point; thence southwesterly at right angles 101.54 feet to a point on the northeasterly line of Bayard Street, 50 feet wide, as shown on a map filed in the Erie County Clerk's Office under Cover No. 552; thence southeasterly at right angles and along said northeasterly line of Bayard Street, 79.34 feet to a point which is the intersection of the northeasterly line of Bayard Street and the southeasterly line of Lester Street, 50 feet wide, extended northeasterly; thence southwesterly at right angles and along said extension of the southeasterly line of Lester Street and along the southeasterly line of Lester Street, 110 feet to the southwesterly corner of Subdivision Lot No. 101 as shown on a map filed under Cover No. 552; thence southeasterly along the southwesterly lines of Subdivision Lot Nos. 101 and 50 as shown on a map filed under Cover No. 552 and along the extension southeasterly of the southwesterly line of said Subdivision Lot No. 50, 308.66 feet to a point on the southeasterly line of Hayes Place, 50 feet wide; thence southwesterly along said southeasterly line of Hayes Place, 259.01 feet to a point, said point being distant 488.45 feet northeasterly from the northeasterly line of Seneca Street as measured along said southeasterly line of Hayes Place; thence southeasterly at right angles, 75 feet to a point; thence southwesterly at right angles 30 feet to a point; thence southeasterly at right angles, 101.69 feet to a point; thence northeasterly at right angles, 95 feet to a point; thence southeasterly at right angles, 467.81 feet to a point; thence southwesterly at right angles 82.29 feet to a point on the northwesterly line of the lands formerly owned by the Lehigh Valley Railroad; thence northeasterly along said northwesterly line of the Lehigh Valley Railroad, 163.88 feet to a point on the westerly line of Bailey Avenue, as now laid out; thence northeasterly along the various courses of the westerly line of Bailey Avenue, as now laid out, 633.84 feet to the point or place of beginning.

EXCEPTING THEREFROM ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being parts of Lots Nos. 15 and 18, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the point of intersection of the northwesterly line of Bailey Avenue (also known as New Bailey Avenue) as previously laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the lands conveyed to Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682; thence northwesterly along the northeast lines of Lots Nos. 15 and 18 a distance of 766.81 feet to a point; thence southeasterly at an interior angle of  $90^{\circ} 07' 26''$  and in part along the face of a concrete block and metal building known as Building "L" a distance of 133.44 feet to the southeast corner of said Building "L"; thence northwesterly at an exterior angle of  $90^{\circ} 03' 25''$  and along the southwest wall of said Building "L" a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W"; thence southwesterly at an interior angle of  $89^{\circ} 59' 42''$  and along the northwest face of said Building "W" and its extension southwesterly a distance of 371.39 feet to a point on the southwesterly line of said lands of Erie County Industrial Development Agency by deed aforesaid; thence southeasterly at an interior angle of  $90^{\circ} 10' 13''$  and along the southwesterly line of said lands of Erie County Industrial Development Agency a distance



of 447.34 feet to a corner of said lands; thence southwesterly at an exterior angle of  $90^{\circ} 05' 01''$  and along the southwesterly line of said lands of Erie County Industrial Development Agency a distance of 82.29 feet to a point on the northwesterly line of the lands now owned by the New York State Thruway and formerly owned by the Lehigh Valley Railroad; thence northeasterly at an interior angle of  $46^{\circ} 46' 20''$  and along the northwesterly line of the lands now owned by the New York State Thruway a distance of 163.88 feet to a point on the northwesterly line of Buffalo China Road, formerly Bailey Avenue as previously laid out; thence northeasterly along the northwesterly line of Buffalo China Road a distance of 36.60 feet to a point of curve; thence continuing northeasterly along the northwesterly line of Buffalo China Road on a curve to the right having a radius of 125.84 feet an arc distance of 102.38 feet to a point of tangency; thence continuing northeasterly along the northwesterly line of Buffalo China Road and also along the northwesterly line of Bailey Avenue as previously laid out a distance of 457.30 feet to an angle point; thence continuing northeasterly along the northwesterly line of Bailey Avenue as previously laid out a distance of 39.47 feet to the point or place of beginning.

#### PARCEL C

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. 18, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the point of intersection of the easterly line of Hayes Place with the northerly line of lands heretofore conveyed to Frank Lenahan & Sons, Inc. by deed recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209, said point being 355.85 feet northerly from the point of intersection of said line of Hayes Place with the northerly line of Seneca Street; running thence northerly along the easterly line of Hayes Place 132.60 feet; thence easterly at right angles to Hayes Place 75 feet; thence southerly at right angles 30 feet; thence easterly at right angles 101.69 feet to a westerly line of lands conveyed to Frank Lenahan & Sons, Inc. by deed recorded in Erie County Clerk's Office in Liber 4049 of Deeds at page 561; thence southerly at right angles and along said westerly line of lands so conveyed to Frank Lenahan & Sons, Inc., 52.60 feet; thence easterly at right angles and along a line of lands so conveyed to Frank Lenahan & Sons, Inc. 22.31 feet; thence southerly at right angles and along a westerly line of lands so conveyed to Frank Lenahan & Sons, Inc. 50 feet to the northerly line of lands conveyed to Frank Lenahan & Sons, Inc. by said deed recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209; thence westerly at right angles and along said northerly line of land so conveyed to Frank Lenahan & Sons, Inc. 199 feet to the easterly line of Hayes Place at the point or place of beginning.

#### PARCEL D

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. 19, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Nos. 59 to 64, inclusive, as shown on a map filed in the Erie County Clerk's Office under Cover No. 552.

#### PARCEL E

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. 19, Township 10, Range 8 of the Buffalo Creek Reservation and according to map filed in the Erie County Clerk's Office under Cover No. 552 is known as Subdivision

Lots Nos. 66, 67 and 68 and together being 90 feet front and rear by 129.33 feet in depth, situate on the west side of Hayes Place, commencing 207.46 feet north of Seneca Street, as shown on said map.

#### PARCEL F

##### 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. 19, Township 10 and Range 8 of the Buffalo Creek Reservation and being a portion of Lester Place as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the westerly line of Lester Place with the southerly line of Bayard Street; thence southerly 60 feet to a point; thence easterly at right angles to the westerly line of Lester Place 50 feet to a point on the easterly line of Lester Place; thence northerly along the easterly line of Lester Place 60 feet to a point on the southerly line of Bayard Street extended easterly; thence westerly along the easterly extension of the south line of Bayard Street 50 feet to the point or 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, being part of Lot No. 19, Township 10 and Range 8 of the Buffalo Creek Reservation and being a portion of Bayard Street as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the easterly line of Lester Place with the former southerly line of Bayard Street abandoned by C.C.P., September 28, 1965, Res. No. 168; running thence northerly along the easterly line of Lester Place extended northerly 50 feet to its intersection with the northerly line of Bayard Street; thence westerly along last mentioned line to its intersection with the easterly line of Farm Lot 22 of the Buffalo Creek Reservation; running thence southerly along said easterly line of Farm Lot 22, 50 feet to a point on the southerly line of Bayard Street; running thence easterly along the southerly line of Bayard Street 179.33, more or less, feet to the point or 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 No. 19, Township 10 and Range 8 of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Nos. 26 and 27 as shown on map filed in the Erie County Clerk's Office under Cover No. 552, described as follows:

BEGINNING at the point of intersection of the southerly line of former Bayard Street with the westerly line of former Lester Street; running thence westerly along the former southerly line of Bayard Street 129.33 feet, more or less, to the northwesterly line of said Lot 19; thence southerly along the said line of Lot 19, 60 feet to a point; thence easterly parallel with the northerly line of Seneca Street 129.33 feet to the former westerly line of Lester Street; thence northerly along the former westerly line of Lester Street 60 feet to the point or place of beginning.

PARCEL G

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. 22, Township 10 and Range 8 of the Buffalo Creek Reservation more particularly bounded and described as follows:

BEGINNING at a point in the easterly line of Harrison Street 155.21 feet north of the intersection of the said line of Harrison Street with the north line of former Wescott Street; running thence northerly along the east line of Harrison Street 100.00 feet; running thence easterly along the westerly extension of the southerly line of Bayard Street 119.00 feet, more or less, to the easterly boundary line of said Lot 22; thence southerly along the easterly line of said Lot 22 to its intersection with a line drawn at right angles to Harrison Street and through the point of beginning; thence westerly on a direct line 119.00 feet to the point of beginning.

PARCEL H

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lots Nos. 19 and 22, Township 10, Range 8 of the Buffalo Creek Reservation bounded and described as follows:

BEGINNING at a point in the easterly line of Harrison Street distant 255.21 feet northerly from its intersection with the northerly line of Wescott Street; running thence northerly along the easterly line of Harrison Street 150 feet to the lands of the Western New York and Pennsylvania Railroad Company; thence easterly along the southerly line of said Railroad Company's lands 124.26 feet to the easterly line of said Lot No. 22; thence northerly along the easterly line of said Lot No. 22 a distance of 1.04 feet to the northwest corner of Subdivision Lot No. 31 as shown on map filed in Erie County Clerk's Office under Cover No. 552; thence easterly along the southerly line of said Railroad Company's lands 100 feet to the northeast corner of lands conveyed to Standard Mirror Company by deed recorded in Erie County Clerk's Office in Liber 1530 of Deeds at page 90; thence southerly along the easterly line of said lands conveyed to Standard Mirror Company by deed aforesaid 101.44 feet to the northerly line of Bayard Street; thence westerly along the northerly line of Bayard Street 100 feet to the easterly line of said Lot No. 22; thence southerly 49.50 feet to the southeast corner of Subdivision Lot No. 9 in Block 13 as shown on a map filed in Erie County Clerk's Office under Cover No. 167; and thence westerly along the southerly line of said Subdivision Lot No. 9 a distance of 123.86 feet to the point of beginning.

THE ABOVE DESCRIBED PARCELS A TO H, INCLUSIVE, ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A-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 Lots Nos. 15, 18, 19 and 22, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Indian Reservation, more particularly described as Subdivision Lot Nos. 26, 27, 49, 50, 101 and 102, Bayard Street and parts of Lester Street and Hayes Place (formerly Thompson Street) as shown on a map filed in the Erie County Clerk's Office under Cover No. 552, and more, bounded and described as follows:

beginning at a point of intersection of the northwest line of Bailey Avenue as now laid out and the northeast line of Lot No. 15, said point also being the northeast corner of the Erie County Industrial Development Agency by deed recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682;

thence northwesterly along the northeast lines of Lots Nos. 15 and 18, which is the southwest line of the lands of Conrail, formerly the Pennsylvania Railroad or the Penn-Central Railroad, a distance of 766.81 feet to the true point of beginning;

thence southwesterly at an exterior angle of  $90^{\circ} 07' 26''$  and in part along the face of a concrete block and metal building known as Building "L", a distance of 133.44 feet to the southeast corner of Building "L";

thence northwesterly at an interior angle of  $90^{\circ} 03' 25''$  and along the southwest wall of said building, a distance of 188.19 feet to a point in the northwest face of a metal building known as Building "W";

thence southwesterly at an exterior angle of  $89^{\circ} 59' 42''$  and along the northwest face of said Building "W" and its extension southwesterly, a distance of 309.47 feet to a point;

thence southeasterly at an exterior angle of  $90^{\circ} 03' 25''$ , a distance of 566.93 feet to a point in the northwest line of Buffalo China Road, formerly New Bailey Avenue;

thence southwesterly along the northwest line of said Buffalo China Road, a distance of 32.92 feet to a point in the north line of the lands owned by the New York State Thruway and formerly owned by the High Valley Railroad;

thence westerly along the lands of the New York State Thruway, a distance of 163.88 feet to a point in the northwest line of the Erie County Industrial Development Agency as recorded in Erie County Clerk's Office in Liber 8884 of Deeds at page 682;

thence northeasterly at an interior angle of  $46^{\circ} 46' 20''$  and along the northwest line of said Erie County Industrial Development Agency, a distance of 82.29 feet to a point;

thence northwesterly at an exterior angle of  $90^{\circ} 05' 01''$  and along the southwest line of said Erie County Industrial Development Agency, a distance of 467.81 feet to a point in the northwest line of Frank Lenahan and Sons as recorded in Erie County Clerk's Office in Liber 4049 of Deeds at page 561;

thence southwesterly at a measured exterior angle of  $89^{\circ} 51' 46''$  and along said northwest line of Frank Lenahan and Sons, a distance of 147.60 feet to a point;

thence southeasterly at right angles, a distance of 22.31 feet to a point;

thence southwesterly at right angles and along said northwest line of Frank Lenahan and Sons, a distance of 50.0 feet to a point in the northeast line of Frank Lenahan and Sons as recorded in Erie County Clerk's Office in Liber 3049 of Deeds at page 209;

thence northwesterly at right angles and along said northeast line of Frank Lenahan and Sons, a distance of 199.0 feet to the southeast line of Hayes Place, formerly Thompson Street, as shown on a map filed

in Erie County Clerk's Office under Map Cover 552;

Thence northeasterly along the southeast line of said Hayes Place, a distance of 391.61 feet to the intersection of the extension southeasterly of the southwest line of Subdivision Lot No. 50 on said Map Cover 552;

Thence northwesterly at an exterior angle of 89° 45' 04" and along the southwest lines of Subdivision Lots Nos. 50, 101 and 26, a distance of 487.99 feet to the southwest corner of Subdivision Lot No. 26, which is on the west line of Lot No. 19;

Thence southwesterly along the west line of Lot No. 19, a distance of 39.71 feet to a point;

Thence northwesterly at right angles to Harrison Street, a distance of 123.59 feet to the southeast line of Harrison Street as shown on Map Cover 552;

Thence northeasterly along the southeast line of Harrison Street, a distance of 251.04 feet to a point in the southwest line of Penn-Central Railroad as recorded in Erie County Clerk's Office in Liber 8758 of Deeds at page 266;

Thence northwesterly along the southwest line of said Penn-Central Railroad, a distance of 275.74 feet to a point;

Thence northeasterly at right angles, a distance of 100.0 feet to a point in the northeast line of Lot No. 22;

Thence southeasterly at right angles and along the northeast lines of Lots Nos. 18, 19 and 22, which is the southwest line Conrail, a distance of 1273.63 feet to the true point of beginning.

#### PARCEL B-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. 19, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation and further distinguished as Subdivision Lot Nos. 59 to 64, inclusive, as shown on a map filed in the Erie County Clerk's Office under Cover No. 552.

#### PARCEL C-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. 19, Township 10, Range 7, sometimes referred to as Range 8 of the Buffalo Creek Reservation and according to map filed in the Erie County Clerk's Office under Cover No. 552 is known as Subdivision Lots Nos. 66, 67 and 68 and together being 90 feet front and rear by 129.33 feet in depth, situate on the west side of Hayes Place, commencing 207.46 feet north of Seneca Street, as shown on said map.

## SCHEDULE "B"

### SECTION I

MATTERS TO BE DISPOSED OF ON OR BEFORE CLOSING OF TRANSACTION. THESE MATTERS WILL APPEAR ON OUR POLICY AS EXCEPTIONS FROM COVERAGE UNLESS DISPOSED OF TO THE SATISFACTION OF MONROE OR ITS DULY AUTHORIZED REPRESENTATIVE PRIOR TO OR ON THE DATE OF CLOSING.

1. Continuation of all searches to date of closing.
2. Proper execution, delivery and recordation of conveyance and/or mortgage necessary to consummate the transaction contemplated herein.
3. Lien Clause pursuant to Section 13 of Lien Law in all deeds and mortgages to be recorded.
4. Compliance with Section 253-b of the Tax Law (Credit Line Mortgage) is required before an instrument evidencing a sale or transfer of this real property can be recorded.
5. Furnish proof that the premises have no partial or full exemption from Real Property Taxes.
6. Tax search dated January 16, 2004 shows the following unpaid items:  
2004 County Tax (SBL Nos. 123.09-4-16; 123.09-4-17; 123.09-4-2; 123.38-3-9; 123.38-3-11.1; 123.38-2-1.1; 123.38-2-39; and 123.38-3-1)
7. Mortgage, Assignment of Leases and Rents and Security Agreement made by Buffalo China, Inc. and Erie County Industrial Development Agency to J P Morgan Chase Bank (formerly known as The Chase Manhattan Bank), as Collateral Agent dated April 23, 2002 and recorded April 25, 2002 in Liber 12990 of Mortgages at page 6554, as spread by Mortgage Spreader Agreement made among Buffalo China, Inc.; Erie County Industrial Development Agency; and J P Morgan Chase Bank (formerly known as The Chase Manhattan Bank), as Collateral Agent dated April 23, 2002 and recorded April 25, 2002 in Liber 11005 of Deeds at page 1060.
8. Mortgage, Assignment of Leases and Rents and Security Agreement made by Buffalo China, Inc. and Erie County Industrial Development Agency to J P Morgan Chase Bank (formerly known as The Chase Manhattan Bank), as Collateral Agent dated April 23, 2002 and recorded April 25, 2002 in Liber 12990 of Mortgages at page 6594, as spread by Mortgage Spreader Agreement made among Buffalo China, Inc.; Erie County Industrial Development Agency; and J P Morgan Chase Bank (formerly known as The Chase Manhattan Bank), as Collateral Agent dated April 23, 2002 and recorded April 25, 2002 in Liber 11005 of Deeds at page 1072.
9. Financing Statement No. 80-003265 made by Buffalo China, Inc. to Erie County Industrial Development Agency, filed February 28, 1980 and as assigned to Marine Midland Bank, N.A., as Trustee; as continued by Continuation No. 85-001780, filed February 13, 1985; as further continued by Continuation No. 89-016572, filed November 22, 1989; as further continued by

Continuation No. Q12/7752, filed August 11, 1994; and as further continued by Continuation No. Q12/7752, filed November 29, 1999.

10. Financing Statement No. Q91/7796 made by Buffalo China, Inc. to The Chase Manhattan Bank, as Collateral Agent, filed May 7, 2001, as amended by Amendment No. Q91/7796, filed June 12, 2001.

11. Financing Statement No. Q103/4189 made by Buffalo China, Inc. and Erie County Industrial Development Agency to J P Morgan Chase Bank, as Collateral Agent, filed April 25, 2002.

12. Financing Statement No. Q120/3309 made by Oneida Food Service, Inc. and Erie County Industrial Development Agency to J P Morgan Chase Bank, as Collateral Agent, filed August 25, 2003.

13. Financing Statement No. Q120/7595 made by Oneida Food Service, Inc. to J P Morgan Chase Bank, as Collateral Agent, filed September 8, 2003.

14. Proof of payment of all franchise taxes through closing for Buffalo China, Inc. and Oneida Food Service, Inc.

15. Appropriate corporate resolutions from Erie County Industrial Development Agency; Buffalo China, Inc.; and Oneida Food Service, Inc. authorizing the contemplated transaction are required.

16. Recordation of a release of Parcel A from Memorandum of Lease Agreement made between Erie County Industrial Development Agency and Buffalo China, Inc. dated February 1, 2000 and recorded February 29, 2000 in Liber 10963 of Deeds at page 7300.



## SCHEDULE "B"

### SECTION II EXCEPTIONS WHICH WILL APPEAR IN TITLE POLICY

FOLLOWING ESTATES, INTERESTS, DEFECTS, OBJECTIONS TO TITLE, LIENS AND ENCUMBRANCES AND OTHER MATTERS ARE EXCEPTED FROM THE COVERAGE OF THE POLICY WHEN ISSUED:

(a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not including from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

Defects, liens, encumbrances, adverse claims or other matters:

(a) created, suffered, assumed or agreed to by the insured claimant;

(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

(c) resulting in no loss or damage to the insured claimant;

(d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material); or

(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.

Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated. (Loan Policy Only)

5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law. (Loan Policy Only)

6. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:

(a) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer, or

(b) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or

(c) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:

(i) to timely record the instrument of transfer, or

(ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor. (Loan Policy Only)

7. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on:

(a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer, or

(b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:

(i) to timely record the instrument of transfer, or

(ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor. (Owner's Policy Only)

SEE SCHEDULE "B" SECTION II (CONTINUED)

## SCHEDULE "B"

### SECTION II (CONTINUED)

Rights of lessees or any parties in possession of the premises other than the insured or owner.

Any state of facts an inspection of the premises would disclose.

Lien of the City of Buffalo Occupancy Tax.

Any water charges due the City of Buffalo and Buffalo Sewer Authority sewer rents included in water bills.

Lien of any unpaid City of Buffalo user fees for the purpose of the public collection of solid waste and maintenance of vacant lots.

Survey map made by Richard W. Siepel, dated January 23, 2004 and revised March 8, 2004, Job No. 79248 discloses:

- a) fences at variance with several of the boundary lines of premises.
- b) billboard located on Parcel A with overhead utility wires running to a utility pole located on property next north.
- c) blacktop parking area located on Parcel A extending up to 1.20 feet southwesterly over the southwest line of Parcel A and a row of parking spaces located southwest of Parcel A on adjacent property.
- d) stone walk adjacent to the northwest face of Building "W" together with a stoop, vents and a sprinkler drain attached to Building "W" extend onto premises.
- e) steps attached to Building "AA" extending up to 4.20 feet into Hayes Place and steps attached to Buildings "A" - "G" extending up to 4.40 feet into Hayes Place.
- f) valve house attached to the building known as 151 Harrison Street extending up to 3.1 feet into Harrison Street.
- g) 5 utility poles located on the most northwesterly portion of premises.
- h) railroad siding located on the most northwesterly portion of premises.
- i) the owner of premises appears to be out of possession of up to the northwesterly 10 feet of Parcel D and up to the northwesterly 5.55 feet of Parcel E, being the lands located northwest of the fence line crossing said Parcels.
- j) utility pole located along the southerly line of Parcel E.

k) said survey recites 12 - 18 of snow and ice cover - some details might not be shown.

14. Together with the benefits and subject to the burdens of easements set forth in a Deed made by Larkin Co. Inc.; Buffalo Pottery; Kenland, Inc.; and Larkin Gasoline Co. Inc. to Frank Lenahan & Sons, Inc. dated October 31, 1940 and recorded October 31, 1940 in Liber 3049 of Deeds at page 209.
15. Together with the benefits and subject to the burdens of easements set forth in a Deed made by Buffalo Pottery, Inc. to Rose Lefcowitz, Sylvia Lefcowitz and Ruth Lippes, as tenants in common and not as joint tenants dated June 6, 1946 and recorded June 6, 1946 in Liber 3909 of Deeds at page 74 and re-recorded July 25, 1946 in Liber 3944 of Deeds at page 463.
16. Easement for utility lines and restriction set forth in Deed made by City of Buffalo to Buffalo China, Inc. dated November 12, 1975 and recorded November 25, 1975 in Liber 8341 of Deeds at page 601.
17. Easement Agreement made between City of Buffalo and Buffalo China, Inc. dated November 3, 1977 and recorded November 4, 1977 in Liber 8582 of Deeds at page 55.
18. Easements and rights to use, operate, maintain, repair and replace any and all structures, facilities and appurtenances presently existing as part of any railroad communication, signal or interlocker system or as part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system located on a strip of land 100 feet wide adjoining the northeasterly line of Parcel B on the southwesterly side thereof granted in Deed made by George W. Betz, Jr., as Trustee of the Property of Pennel Company, Debtor to Consolidated Rail Corporation dated March 29, 1976 and recorded October 11, 1978 in Liber 8706 of Deeds at page 397.
19. Easement for utility lines and restriction set forth in Deed made by City of Buffalo to Buffalo China, Inc. dated July 27, 1987 and recorded September 18, 1987 in Liber 9767 of Deeds at page 267.
20. Utility Easement made by Erie County Industrial Development Agency and Buffalo China Inc. to Niagara Mohawk Power Corporation dated June 19, 1996 and recorded July 29, 1996 in Liber 10904 of Deeds at page 6487.
21. Utility Easement made by Buffalo China, Inc. to Niagara Mohawk Power Corporation dated July 12, 2002 and recorded July 18, 2002 in Liber 11010 of Deeds at page 250.
22. Access to Parcel A from the lands of the New York State Thruway abutting Parcel A on the south is not insured under this policy.

**MONROE TITLE INSURANCE CORPORATION  
APPLICATION CONFIRMATION**

to: Zdarsky, Sawicki & Agostinelli

Date: March 11, 2004

Property: 500 Bailey Ave., City of Buffalo

Monroe Hereby Confirms its Receipt of an Application for the following title products:

- ☒ ALTA Owner's Policy of Title Insurance in the amount of \$500,000.00
- ☐ ALTA Loan Policy of Title Insurance in the amount of \$
- ☐ ALTA Leasehold - Owner's Policy of Title Insurance in the amount of \$

covering the above described property.

IF THIS IS A REFINANCE WITHIN 10 (TEN) YEARS, YOU MAY BE ENTITLED TO A REDUCED PREMIUM. CONTACT THIS COMPANY IMMEDIATELY FOR DETAILS.

**MONROE TITLE INSURANCE CORPORATION**

BY: \_\_\_\_\_  
Authorized Signatory

SCHEDULE OF REAL ESTATE ACQUISITION

76 Hayes Place Complex was acquired in 5 separate transactions:

- (a) the first parcel was purchased from the Larkin Co., Inc. on December 31, 1920;
- (b) the second parcel was purchased from the Larkin Co., Inc. on March 18, 1942;
- (c) the third parcel was purchased from Kenland, Inc. on August 12, 1942;
- (d) the fourth parcel was purchased from the City of Buffalo on October 6, 1964; and
- (e) the fifth parcel was purchased from the City of Buffalo on November 25, 1975.

The Bayard Street property was purchased from the City of Buffalo on March 10, 1966.

The Penn Central property was acquired in 3 separate transactions:

- (a) Parcel 1 and 2 were both purchased from Robert W. Blanchette, Richard C. Bond, Joseph H. McArthur, Trustees of the property of Penn Central Transportation Company, debtor, and George W. Betz, Jr., Trustee of the property of Penndel Company, secondary debtor, on March 25, 1975 and May 6, 1977, respectively.
- (b) Parcel 3 was purchased from The Penn Central Corporation and Penndel Company on February 28, 1979.

The Jackman property was purchased from George Jackman on January 5, 1979.

The Adornetto property was purchased from Joseph Adornetto and Marie, his wife, on February 10, 1978.

The Harrison Street property was purchased from Standard Mirror Company, Inc. on August 6, 1982.

All buildings and improvements listed on the attached Schedule are located in Buffalo, New York with the exception of the amounts shown in the column captioned "ABC" which are located in Pennsylvania. Schedule B, line 5 indicates the cost of capital improvements to real property located only in New York State.

ELECTION TO DEFER PAYMENT OF TAX

As indicated in Schedule B of Form TP-580, the Transferors do not anticipate any real property transfer gains tax. However, in the event that upon subsequent review it is determined that such a tax is incurred, then Transferors elect to defer payment of such tax pursuant to Section 1442 of the New York Tax Law. Such deferral is based on Section 1.2 of the Agreement Between Oneida Ltd. and Shareholders of Buffalo China, Inc. Dated as of November 15, 1983 which indicates that no cash will be received by the Transferors until January 3, 1984.

TRANSFEROR SCHEDULE

ROBERT D. ALEXANDER  
9400 Clarence Center Road  
Clarence Center, NY 14032

NEIL M. ALEXANDER  
11789 Main Street  
Akron, NY 14001

PAUL A. ANTONUCCI  
1763 Crittenden Street  
Alden, NY 14004

VINCENT AUBUCHON  
3715 Belcanto Drive  
St. Louis, MO 63125

ALFRED BATTAGLIERO  
20 Cornelia Street  
New York, NY 10014

HAROLD CORSER  
2065 W. River Road  
Grand Island, NY 14172

WILLIAM F. CURRAN  
48 Bridge Street  
West Falls, NY 14170

CHARLES F. GAVIN  
141 Forest Street  
Norwell, MA 02061

THOMAS J. GRAHAM  
538 Broadview Circle  
East Liverpool, OH 43920

A.B. HALL  
1150 Independence  
St. Charles, IL 60174

PATRICK W. HARRIS  
2725 Eldridge Road  
East Aurora, NY 14052

FRED R. HEMPEL  
5229 Maddox Land  
Edina, MN 55436

FRANK M. HOWELLS, INC.  
110 East Andrews Drive  
Ste. 209  
Atlanta, GA 30305  
ATTN: FRANK M. HOWELLS

DONALD R. KOCH  
595 Hopkins Road  
Williamsville, NY 14221

FRANK J. PECORARO  
986 Sweeney Street  
North Tonawanda, NY 14120

WILLIAM F. RENTZEL  
2552 Merrell Road  
Dallas, TX 75229

LESTER F. RICKARD  
S-5458  
Stillwell Road  
Hamburg, NY 14075

ALAN ROSE  
2775 Mesa Verde Drive, East  
Costa Mesa, CA 92626

FRANK L. RUDESILL  
10 Chase Road  
Orchard Park, NY 14127

RICHARD A. SAUNDERS  
128 Meadow Run  
Hamburg, NY 14075

GARY SINGER  
71 Roman Lane  
Amherst, NY 14226

JAMES Y. WANG  
179 Scamridge Curve  
Amherst, NY 14221

SAMUEL D. MAGAVERN  
302 Lincoln Parkway  
Buffalo, NY 14216

HAROLD M. ESTY  
6828 Lakeshore Road  
Derby, NY 14047

JOHN C. HEEBNER  
194 Ranch Trail  
Williamsville, NY 14221

## TRANSFEROR SCHEDULE

Total consideration paid by Oneida, Ltd. for all of the shares of Buffalo China, Inc. stock is \$17,500,000.00 consisting of \$7,500,000.00 principal amount of Notes, 150,000 shares of Oneida, Ltd. Common Stock (valued at \$21.75 per share), subject, however, to cash payments for fractional interests and \$6,737,500.00 in cash, less closing costs and taxes.

The brokerage fee to be paid by the Buffalo China, Inc. shareholders to Wertheim & Co. amounts to \$510,000.00.

As stated in Section 15.9 of the Agreement Between Oneida, Ltd. and Shareholders of Buffalo China, Inc. Dated as of November 15, 1983, the Seller and Oneida agree that the aggregate fair market value of all interests of Buffalo China, Inc. in real property located in the State of New York is \$2,644,000.00.

$$\frac{2,644,000}{17,500,000} \text{ FMV of Real Property} = 15.11\% \text{ Purchase Price of Stock}$$

\$510,000	Broker's Commission
<u>15.11%</u>	Purchase Price Allocated to Real Property
\$77,061.00	Broker's Commission Allocated to Real Property



AFFIDAVIT

STATE OF NEW YORK     )  
                              ) SS:  
COUNTY OF ERIE        )

JOHN C. HEEBNER, being duly sworn, deposes and says:

1. That I am the President of Buffalo China, Inc.
2. That Buffalo China, Inc. is a corporation which owns real property and interests in real property located in New York State.
3. That the shareholders of Buffalo China, Inc. are transferring their stock in said corporation to Oneida Ltd.
4. That the original purchase price which Buffalo China, Inc. paid to acquire the land which it owns was determined by examination of deeds to the various parcels and the revenue stamps affixed thereto and a review of the financial records of Buffalo China, Inc. The consideration paid to acquire such property is shown on the attached Schedule.
5. That this affidavit is made in compliance with the requirements for Schedule B, line 4 of the New York State Real Property Transfer Gains Tax Transferor Questionnaire, Form TP-580.

BUFFALO CHINA, INC.

By John C. Heebner  
John C. Heebner, President

Sworn to before me this

7<sup>th</sup> day of December, 1983.

Donald Egan  
Notary Public

DONALD EGAN  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires March 30, 1984

# Questionnaire TRANSFeree

naire must be completed for all transfers of real property and transfers of controlling interests in entities which  
erty where the realty is located in New York State and where the transfer is to occur on or after May 28, 1983.

structions (TP-581-I), Section B before completing this form if the consideration for the transfer is less than \$500,000 or if  
roperty being transferred consists of premises occupied and used by the transferor as his residence.

PLEASE PRINT	Name	Social Security Number
Oneida Ltd.		
Address	Zip Code	Federal Employer Identification Number
Oneida, New York	13421	15 0405700
Name	Social Security Number	
Buffalo China, Inc. on behalf of its shareholders		
Address	Zip Code	Federal Employer Identification Number
ley Avenue, Buffalo, New York	14200	16 0367633
Name		
Att'y) Shearman & Sterling		
Address	Zip Code	
1 Street, New York, New York	10005	

## OF PROPERTY TO BE TRANSFERRED (List each lot separately)

## DATE OF ANTICIPATED TRANSFER

Address	County
lling interest in Buffalo China,	
rich owns New York real property	
ed in the Transferor's schedule	

Month	Day	Year
11	29	83

## INES 1, 2 AND 3

ion to be Paid to Transferor By Transferee*	1	\$2,566,939.00
Fees to be Paid by Transferee to Transferor	2	77,061.00
Fees to be Paid by Transferee to Broker	3	

figure is net of brokerage fees;  
s consideration is \$2,644,000.00

## AFFIDAVIT OF TRANSFeree

affirm) under penalty of perjury that this questionnaire including the accompanying schedules or statements has been examined by me and is  
of my knowledge and belief, a true and complete return, made in good faith, pursuant to Article 31-B of the New York State Tax Law.

and subscribed to before me this 9<sup>th</sup> day of December Oneida Ltd.

19 83	Name(s) of Transferee(s)
By <u>William D. Matthews</u>	
Signature of officer administering oath	Signature(s) of owner(s), partner, officer of corporation, etc.
<u>JAN M. STEWART</u>	<u>Sr. Vice President</u>
JAN M. STEWART	Title
NOTARY PUBLIC, STATE OF NEW YORK	

## Section VIII. Contact List Information

Please attach, at a minimum, the names and addresses of the following: SEE ATTACHED BCP T. 2

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

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

Current Use: Residential Commercial Industrial Vacant Recreational (check all that apply)

Intended Use: Unrestricted Residential Commercial Industrial

Please check the appropriate box and provide an explanation as an attachment if appropriate. Provide a copy of the local zoning classifications, comprehensive zoning plan designations, and/or current land use approvals.

Yes No

1. Do current historical and/or recent development patterns support the proposed use? (See #12 below re: discussion of area land uses)

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

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

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

5. Are there any federal or state land use designations relating to this site?

6. Do the population growth patterns and projections support the proposed use?

7. Is the property accessible to existing infrastructure?

8. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile?

9. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile?

10. Are there floodplains within ½ mile?

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



12. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas. SEE ATTACHED BCP A. 3

13. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas. SEE ATTACHED BCP A. 3

14. Describe on attachment the geography and geology of the site. SEE ATTACHED BCP A. 3

**BCP T.2**  
**SECTION VII. CONTACT LIST INFORMATION**  
**CONTACT LIST INFORMATION**  
**BROWNFIELD CLEANUP PROGRAM**

<i>Individual</i>	<i>Title</i>	<i>Agency</i>	<i>Phone Number</i>	<i>Address</i>
Honorable Joel A. Giambra	Erie County Executive	Erie County	716-858-8500	95 Franklin St. Buffalo, NY 14202
James Lewis III	Zoning Board Chair	Zoning Board	716-851-5201	Room 901, City Hall, Buffalo NY, 14202
Mayor Byron W. Brown	City of Buffalo Mayor	City of Buffalo	716-851-4841	65 Niagara Sq, Buffalo NY, 14202
The Buffalo News	Local News Media		716-849-4444	One News Plaza, PO Box 100, Buffalo, NY 14240
WGRZ News Channel 2	Local News Media		716-849-2220	WGRZ-TV, 259 Delaware Ave., Buffalo, NY 14202
WIVB-TV News 4	Local News Media		716-874-4410	WIVB-TV, 2077 Elmwood Avenue, Buffalo, NY 14207
WKBW-TV News 7	Local News Media		716-845-6100	WKBW-TV, 7 Broadcast Plaza, Buffalo, NY 14202
WBEN 930 AM	Local News Media		716-803-0930	WBEN News Radio 930, Entercom Radio of Buffalo, 500 Corporate Pkwy, Suite 200, Buffalo, NY 14226
Buffalo Water Authority	Public Water Supplier	Buffalo Water Authority	716-851-4777	65 Niagara Sq, Buffalo NY, 14202
Public Relations Department	Buffalo City School 26	Buffalo Public Schools	716-816-3600	713 City Hall, Buffalo, NY 14202

Note: To complete the BCP a Document repository and repository conformation letter is required.  
Once a repository is chosen please contact CRA with the appropriate information. The following locations are suggested:

East Clinton Branch Library			716-823-5626	1929 East Clinton Street, Buffalo, NY 14206
Marty Doster	Region 9 office	NYSDEC	716-851-7200	270 Michigan Avenue, Buffalo NY, 14203-2999

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**Section VII. Contact List Information: Adjacent Property Owners**

<i>Property Map Number</i>	<i>Section-Block-Lot (SBL) No.</i>	<i>Owner</i>	<i>Address</i>	<i>Mailing Address</i>
19	123.38-3-19	William Elekes	19 Lester St, Buffalo NY, 14210	255 Schultz Rd, West Seneca NY, 14224
21	123.38-3-20	Choice Holdings LLC	21 Lester St, Buffalo NY, 14210	2248 Meridian Blvd, Minden NV, 89423
23	123.38-3-21	Thomas Martell	23 Lester St, Buffalo NY, 14210	563 Seventh St, Buffalo NY, 14201
31	123.38-3-22	Tarlok Chhabra	31 Lester St, Buffalo NY, 14210	4 Shockly Dr, Etobicoke Ontario, M9V 4X4 Canada
32	123.38-2-17	ERB CO. INC	32 Hayes Place, Buffalo NY, 14210	1400 Seneca St., Buffalo NY, 14210
35	123.38-3-23	Matthew Giambelluca	35 Lester St, Buffalo NY, 14210	35 Lester St, Buffalo NY, 14210
36	123.38-3-8	Carrebe Developers	36 Hayes Place, Buffalo NY, 14210	64 Hayes Place, Buffalo NY, 14210
64	123.38-3-7.1	City of Buffalo	63 Hayes Place, Buffalo NY, 14210	901 City Hall, Buffalo NY, 14202
68	123.38-3-6.1	West Metal Works INC	68 Hayes Place, Buffalo NY, 14210	PO Box 139 Buffalo NY, 14207
68	123.38-2-3	City of Buffalo	68 Lester St, Buffalo NY, 14210	68 Lester St, Buffalo NY, 14210
127	123.38-2-38	Kenneth P Delozier	127 Harrison St, Buffalo NY, 14210	127 Harrison Street, Buffalo NY, 14210
141	123.30-4-1	LTT Enterprises INC	141 Milton St, Buffalo NY, 14210	1839 Seneca St, Buffalo NY, 14210

**BCP T.2**  
**SECTION VII. CONTACT LIST INFORMATION**  
**CONTACT LIST INFORMATION**  
**BROWNFIELD CLEANUP PROGRAM**

**Section VII. Contact List Information: Nearby Property Owners**

<i>Property Map Number</i>	<i>Section-Block-Lot (SBL) No.</i>	<i>Owner</i>	<i>Address</i>	<i>Mailing Address</i>
13	123.38-3-17	Madeline Bartz	13 Lester St, Buffalo NY, 14210	13 Lester St, Buffalo NY, 14210
14	123.38-2-23	Michael & Colleen Quinn	14 Lester St, Buffalo NY, 14210	30 Lockwood, Buffalo NY, 14220
17	123.38-3-18	John & India Klas, Trustee	17 Lester St, Buffalo NY, 14210	231 Rolling Green Ln, Elma NY, 14059
18	123.38-2-22	Henry P. Keicher III	18 Lester St, Buffalo NY, 14210	101 Warren St, West Seneca NY, 14224
20	123.38-2-21	Ralph Batchelor	20 Lester St, Buffalo NY, 14210	20 Lester St, Buffalo NY, 14210
22	123.38-2-20	James B. & W. Jarvis	22 Lester St, Buffalo NY, 14210	289 Woodcrest Dr, Amherst NY, 14226
24	123.38-2-19	Joseph Schollard	24 Lester St, Buffalo NY, 14210	195 Harding Rd, Buffalo NY, 14220
30	123.38-2-18	Francisco & Virginia Soto	30 Lester St, Buffalo NY, 14210	30 Lester St, Buffalo NY, 14210
32	123.38-2-17	Brain Mekelburg	32 Lester St, Buffalo NY, 14210	32 Lester St, Buffalo NY, 14210
36	123.38-2-16	Patricia Rosenow	36 Lester St, Buffalo NY, 14210	133 Ludel Ter, Lackawanna NY, 14218
38	123.38-2-15	Oresta Perejma	38 Lester St, Buffalo NY, 14210	38 Lester St, Buffalo NY, 14210
39	123.38-3-24	Raymond & W. Trzaska	39 Lester St, Buffalo NY, 14210	39 Lester St, Buffalo NY, 14210
41	123.38-3-25	Richard Petersdorf	41 Lester St, Buffalo NY, 14210	41 Lester St, Buffalo NY, 14210
42	123.38-2-14	Dorothy Disarno	42 Lester St, Buffalo NY, 14210	42 Lester St, Buffalo NY, 14210
43	123.38-3-26	James E Pastore	43 Lester St, Buffalo NY, 14210	43 Lester St, Buffalo NY, 14210
44	123.38-2-13	Sharon Koepnick	44 Lester St, Buffalo NY, 14210	44 Lester St, Buffalo NY, 14210
47	123.38-3-27	Charles F O'Sullivan	47 Lester St, Buffalo NY, 14210	47 Lester St, Buffalo NY, 14210
48	123.38-2-12	James Cudney	48 Lester St, Buffalo NY, 14210	48 Lester St, Buffalo NY, 14210
49	123.38-3-28	Dennis L. & W. Phillips	49 Lester St, Buffalo NY, 14210	49 Lester St, Buffalo NY, 14210
50	123.38-2-11	Nancy Sutton	50 Lester St, Buffalo NY, 14210	50 Lester St, Buffalo NY, 14210
53	123.38-3-29	Geraldine Angelli	53 Lester St, Buffalo NY, 14210	53 Lester St, Buffalo NY, 14210
54	123.38-2-10	Mark Lopez	54 Lester St, Buffalo NY, 14210	2 Rowan Rd, Cheektowaga NY, 14215
55	123.38-3-30.1	West Metal Works Inc.	55 Lester St, Buffalo NY, 14210	PO Box 139 Buffalo NY, 14207
56	123.38-2-9	Mark Lopez	56 Lester St, Buffalo NY, 14210	2 Rowan Rd, Cheektowaga NY, 14215
58	123.38-2-8	Mark Lopez	58 Lester St, Buffalo NY, 14210	2 Rowan Rd, Cheektowaga NY, 14215
60	123.38-2-7	Mark Lopez	60 Lester St, Buffalo NY, 14210	2 Rowan Rd, Cheektowaga NY, 14215
62	123.38-2-5.11	Joseph Lorden	62 Lester St, Buffalo NY, 14210	64 Lester St, Buffalo NY, 14210
64	123.38-2-5.12	Joseph Lorden	64 Lester St, Buffalo NY, 14210	64 Lester St, Buffalo NY, 14210
66	123.38-2-4	City of Buffalo	66 Lester St, Buffalo NY, 14210	66 Lester St, Buffalo NY, 14210
74	123.38-1-2	Thomas E Mallery	74 Harrison St, Buffalo NY, 14210	1294 Seneca St. Buffalo NY, 14210
75	123.38-2-32	City of Buffalo-Div. Of Bldg. Properties	75 Harrison St, Buffalo NY, 14210	616 City Hall, Buffalo NY, 14202
81	123.38-2-33	City of Buffalo-Div. Of Bldg. Properties	81 Harrison St, Buffalo NY, 14210	81 Harrison Street, Buffalo NY, 14210
82	123.38-1-1	City of Buffalo- School 26	82 Harrison St, Buffalo NY, 14210	C/O ATTN: Board Of Education, 65 Niagara Sq. Buffalo NY, 14202
83	123.38-2-34	City of Buffalo-Div. Of Bldg. Properties	83 Harrison St, Buffalo NY, 14210	616 City Hall, Buffalo NY, 14202
103	123.38-2-35	H. Ward Wettlaufer, Sr.	103 Harrison St, Buffalo NY, 14210	522 Eagle Creek Dr, Naples FL, 34113

## BCP T.2

**SECTION VII. CONTACT LIST INFORMATION**  
**CONTACT LIST INFORMATION**  
**BROWNFIELD CLEANUP PROGRAM**

**Section VII. Contact List Information: Nearby Property Owners (Cont'd.)**

<i>Property Map Number</i>	<i>Section-Block-Lot (SBL) No.</i>	<i>Owner</i>	<i>Address</i>	<i>Mailing Address</i>
111	123.38-2-40	Edward Cudney, Sr.	111 Harrison St, Buffalo NY, 14210	48 Lester St., Buffalo NY, 14210
112	123.30-4-7	Mullen Playground, City of Buffalo, Div. Of Real Estate	112 Harrison St, Buffalo NY, 14210	2501 City Hall, Buffalo NY, 14202
117	123.38-2-36	Edward Cudney, Sr.	117 Harrison St, Buffalo NY, 14210	48 Lester St., Buffalo NY, 14210
118	123.30-4-6	Athletic Field, City of Buffalo, Div. Of Real Estate	118 Harrison St, Buffalo NY, 14210	2501 City Hall, Buffalo NY, 14202
123	123.38-2-37	James Cudney	123 Harrison St, Buffalo NY, 14210	48 Lester St., Buffalo NY, 14210
137	123.30-4-8	Daniel Rath	137 Milton St, Buffalo NY, 14210	400 Meadow, West Seneca NY, 14224
138	123.30-4-5	Eugene E Gorski	138 Harrison St, Buffalo NY, 14210	138 Harrison Street, Buffalo NY, 14210
140	123.30-4-4	William R Barnes	140 Harrison St, Buffalo NY, 14210	10650 Keller Rd. Clarence NY, 14031
142	123.30-4-3	LTT Enterprises Inc.	142 Harrison St, Buffalo NY, 14210	1839 Seneca St, Buffalo NY, 14210
144	123.30-4-2	LTT Enterprises Inc.	144 Harrison St, Buffalo NY, 14210	1840 Seneca St, Buffalo NY, 14210

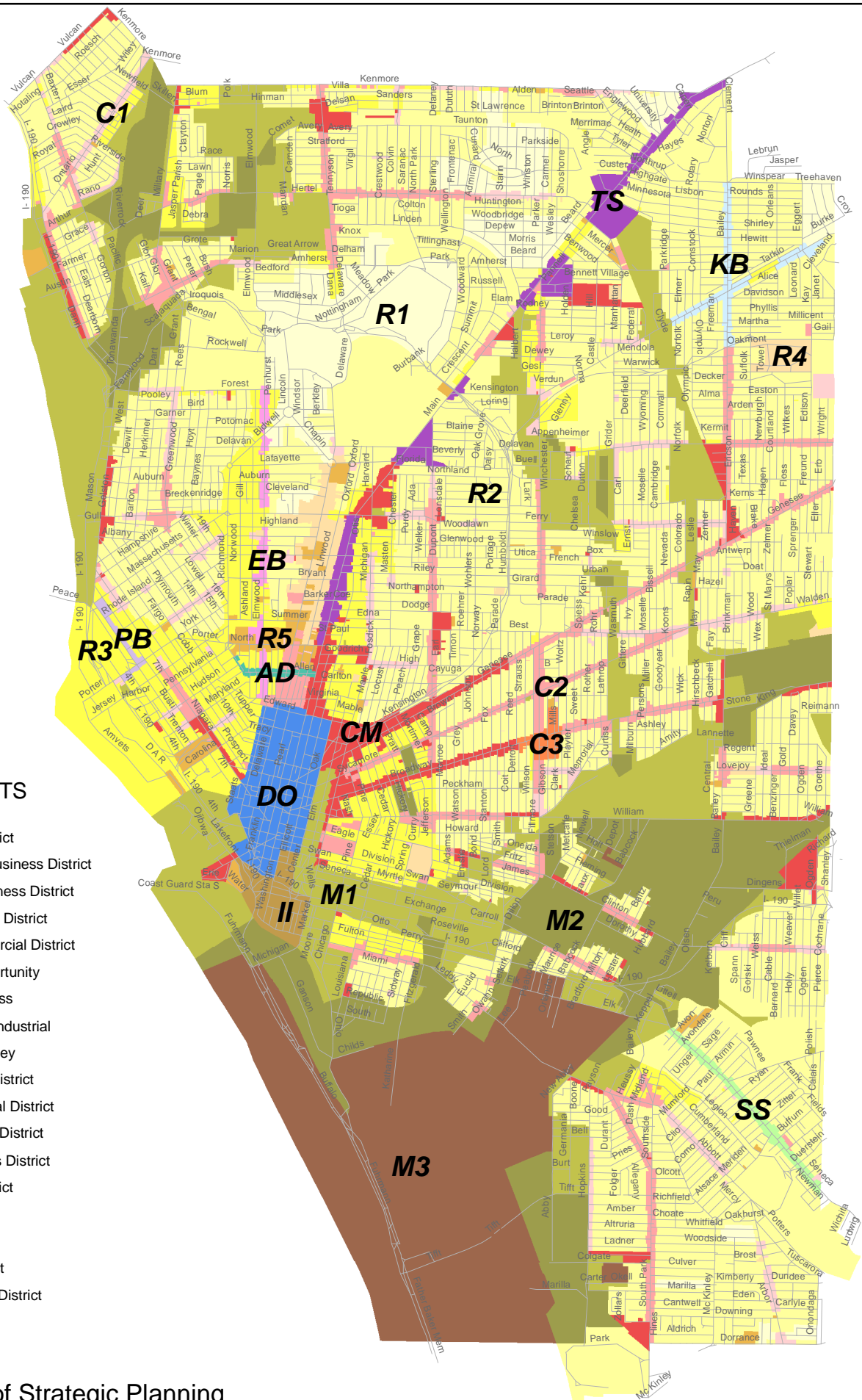


## Legend

Streets

## ZONING DISTRICTS

- AD - Allen Street District
- C1 - Neighborhood Business District
- C2 - Community Business District
- C3 - Central Business District
- CM - General Commercial District
- DO - Downtown Opportunity
- EB - Elmwood Business
- II - Institutional/Light Industrial
- KB - Kensington - Bailey
- M1 - Light Industrial District
- M2 - General Industrial District
- M3 - Heavy Industrial District
- PB - Porter - Business District
- R1 - One-Family District
- R2 - Dwelling District
- R3 - Dwelling District
- R4 - Apartment District
- R5 - Apartment Hotel District
- SS - Seneca Street
- TS - Transit Station



Office of Strategic Planning  
City of Buffalo  
October 05, 2005

*Note: For display purposes only. For official zoning information, contact the Office of Strategic Planning's Land Use Administration Services Office, Rm901, Buffalo City Hall*

**BCP A.3**  
**BROWNFIELD CLEANUP PROGRAM**

**Section IX. Land Use Factors**

12. Description of real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.

The Former Buffalo China property is located within the municipality of the City of Buffalo. Both industrial/commercial (e.g., Metal Locking Service) properties and residential properties flank the Buffalo China and Niagara Ceramics Sites' southwest border. All three streets (Hayes Place, Lester Street, and Harrison Street) leading to the Niagara Ceramics and Buffalo China facility contain residential properties.

Playing fields associated with the City of Buffalo School #26 are located on the opposite side of the street from Niagara Ceramics Harrison Street warehouse parking lot

Properties to the north of the Site are developed as CSX Norfolk-Southern railroad and BCI facility warehouse/parking area.

Properties to the east consist of New York State (NYS) Thruway right-of-way and vacant land.

There is no agricultural land near the proximity of the Buffalo China and Niagara Ceramic properties.

13. Description of the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas.

The groundwater movement in the area of the Harrison Street Warehouse appears to be to the south towards the property line. The Buffalo River is located 0.4 miles southeast of the Site. Groundwater containing chlorinated solvents, volatile organic compounds (VOCs), and lead has been found on the Former Buffalo China Site. There are no known wellhead or groundwater recharge areas immediately within the vicinity of the Site.

For further information please refer to the Site Investigation and Work Plan.

14. The Geography and Geology of the Site:

According to the United States Geological Survey (USGS) 7.5-minute Topographic Quadrangle Map of Buffalo New York, the surface of the Site is generally level. Water drainage appears to run toward storm drains located throughout the paved exterior portions of the Site. Reportedly the storm drains are connected to the Buffalo Sewer Authority's sewer system. The Buffalo River is the nearest natural body of water and is located approximately 0.4 miles southeast of the Site. The surface elevation of the Buffalo China facility is approximately 590 feet above mean sea level (AMSL).



As indicated by Geology of Erie County New York, the Site consists of limestone bedrock, overlaid by glacial till deposits. The bedrock is Onondaga Limestone, and is located five or more feet below the ground surface. The Onondaga Limestone is an intermixed light gray limestone and dark gray chert bedrock. No bedrock outcrops were observed on the property.

## Statement of Certification and Signatures

(By requestor who is an individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

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

(By an requestor other than an individual)

I hereby affirm that I am Vice Pres. (title) of Buffalo China, Inc. (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 11-10-06 Signature: Cathy H. Suthmeier Print Name: Catherine H. Suthmeier

### SUBMITTAL INFORMATION:

Three (3) complete copies are required.

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

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

- **One (1)** hard copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for the address of our regional offices: <http://www.dec.state.ny.us/website/der/index.html>

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### FOR DEPARTMENT USE ONLY

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



