



Department of
Environmental
Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

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

- Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]
- Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]
- Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

This amendment is to REDUCE the Site Metes and Bounds from 4.62 acres to 4.19 acres; a 0.43 acre reduction.

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

Section I. Existing Application Information			
BCP SITE NAME: 3021 Orchard Park Road Site		BCP SITE NUMBER: C915289	
NAME OF CURRENT APPLICANT(S): 3021-3041 Orchard Park Road LLC & Comprehensive Cancer Services Oncology, P.C.			
INDEX NUMBER OF EXISTING AGREEMENT: C915289-10-14 DATE OF EXISTING AGREEMENT: 11/07/14			
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant:			

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new 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. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

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

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

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

PARTICIPANT

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

VOLUNTEER

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

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

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

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

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

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

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

ADDRESS 3021-3041 Orchard Park Road

CITY/TOWN Orchard Park, NY

ZIP CODE 14127

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
3021-3041 Orchard Park Road (portion of)	152	12	02	1.1	4.62

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

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

Approximate acreage added: _____

ADDITIONAL PARCELS:

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

Reduction of property

Approximate acreage removed: 0.43

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
3021-3041 Orchard Park Road (portion of)	152	12	02	1.1	0.43

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

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 3021 Orchard Park Road Site	BCP SITE NUMBER: C915289
NAME OF CURRENT APPLICANT(S): 3021-3041 Orchard Park Road LLC & Comprehensive Cancer Services Oncology, P.C.	
INDEX NUMBER OF EXISTING AGREEMENT: C915289-10-14	
EFFECTIVE DATE OF EXISTING AGREEMENT: 11/07/14	

Declaration of Amendment:

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

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

Statement of Certification and Signatures: New Requestor(s) (if applicable)
<p>(Individual)</p> <p>I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p> <p>(Entity)</p> <p>I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.</p> <p>_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>

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

(Individual)

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

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Managing Member (title) of 3021-3041 Orchard Park Road LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Mr. Paul Hogan's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 11/4/15 Signature: Paul Hogan

Print Name: Paul Hogan, Jr.

CO-APPLICANT

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NOV 10 2015

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

Robert W. Schick, P.E., Director
Division of Environmental Remediation

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

(Individual)

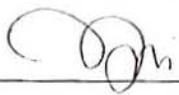
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application,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

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am CEO (title) of Comprehensive Cancer Services Oncology, P.C. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Dr. Won Sam Yi's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 11/3/15 Signature: 

Print Name: Dr. Won Sam Yi, MD

CO-APPLICANT

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement:

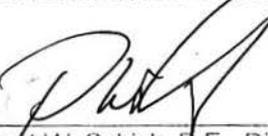
Signature by the Department:

DATED:

NOV 10 2015

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:



Robert W. Schick, P.E., Director
Division of Environmental Remediation

SCHEDULE A

Surveyors Legal Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot No. 461, Township 10, Range 7 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the southwest corner of lands conveyed to Charles L. Gerecke and one by deed recorded in Erie County Clerk's Office January 23, 1969 in Liber 7554 of Deeds page 38, which point of beginning is on the north line of lands conveyed to Caruth Orchard Park Inc. by deed recorded in said Clerk's Office August 26, 1968 in Liber 7505 of Deeds page 177; thence northerly along the west line of said lands so conveyed to Gerecke and one 216.39 feet to the northwest corner thereof; thence easterly along the north line of said lands so conveyed to Gerecke and one, 15 feet to a point on said north line, which point is distant westerly 200 feet from the west line of Union Road as measured along said north line; thence northerly along a line parallel to the west line of Union Road, 231.71 feet to a point on the south line of Michael Road which point is distant westerly 200.07 feet from the intersection of the south line of Michael Road and the west line of Union Road; thence westerly along the south line of Michael Road 628.12 feet to the east corner of lands conveyed to the County of Erie by deed recorded in said Clerk's Office September 16, 1937 in Liber 2700 of Deeds page 419; thence southwesterly along the southeasterly line of said lands so conveyed to the County of Erie 11.02 feet to the northeasterly line of Parcel No. 50, Map No. 49, New York State S.H. #67, Notice of Appropriation by State of New York, recorded in said Clerk's Office August 20, 1965, in Liber 7130 of Deeds page 390 (Parcel Map and Description filed in Erie County Clerk's Office on August 20, 1965); thence southeasterly along said northeasterly line of Parcel No. 50 Map No. 49, 600.74 feet to the northwest corner of lands conveyed to Caruth Orchard Park Inc. by deed recorded in said Clerk's Office in Liber 7505 of Deeds page 177; thence easterly along the north line of said lands so conveyed to Caruth Orchard Park Inc. 281.76 feet to the point or place of beginning.

This parcel containing an area of 5.06 acres, more or less.

SCHEDULE B

Environmental Easement Area Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, County of Erie and State of New York, being part of Lot No. 461, Township 10, Range 7 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the northwest corner of lands conveyed to Caruth Orchard Park Inc. by deed recorded in said Clerk's Office in Liber 7505 of Deeds page 177;

THENCE northwesterly along the northeasterly line of Parcel No. 50, Map No. 49, New York State S.H. #67, Notice of Appropriation by State of New York, recorded in said Clerk's Office August 20, 1965 in Liber 7130 of Deeds page 390, a distance of 19.36 feet to the Environmental Easement Point or Place of Beginning; thence northeasterly at an interior angle of $86^{\circ}15'32''$ (measured to the chord), a distance of 43.77 feet; thence southeasterly at an interior angle of $243^{\circ}41'40''$, a distance of 22.03 feet; thence southerly at an interior angle of $233^{\circ}44'06''$, a distance of 19.95 feet; thence easterly at an interior angle of $94^{\circ}05'52''$, a distance of 186.08 feet; thence northerly at an interior angle of $96^{\circ}28'44''$, a distance of 18.76 feet; thence northeasterly at an interior angle of $226^{\circ}39'10''$, a distance of 21.92 feet; thence easterly at an interior angle of $217^{\circ}07'37''$, a distance of 23.93 feet; thence northerly at an interior angle of $96^{\circ}57'04''$, a distance of 77.10 feet; thence northerly at an interior angle of $190^{\circ}46'50''$, a distance of 18.63 feet; thence northerly at an interior angle of $171^{\circ}25'13''$, a distance of 83.33 feet; thence easterly at an interior angle of $263^{\circ}07'10''$ a distance of 15.80 feet; thence northerly at an interior angle of $93^{\circ}36'17''$, a distance of 112.76 feet; thence northerly at an interior angle of $175^{\circ}40'45''$, a distance of 79.10 feet; thence northerly at an interior angle of $185^{\circ}35'23''$, a distance of 37.58 feet to the south line of Michael Road; thence westerly along the south line of Michael Road at an interior angle of $91^{\circ}21'38''$, a distance of 56.59 feet; thence southerly at an interior angle of $74^{\circ}13'58''$, a distance of 5.50 feet; thence westerly at an interior angle of $284^{\circ}56'47''$, a distance of 134.12 feet; thence northerly at an interior angle of $274^{\circ}26'23''$, a distance of 7.22 feet to the south line of Michael Road; thence westerly along the south line of Michael Road at an interior angle of $86^{\circ}22'51''$, a distance of 58.22 feet; thence southerly at an interior angle of $89^{\circ}06'25''$, a distance of 6.82 feet; thence westerly at an interior angle of $270^{\circ}45'11''$, a distance of 108.21 feet; thence southwestery at an interior angle of $143^{\circ}40'17''$, a distance of 194.22 feet; thence southeasterly at an interior angle of $90^{\circ}30'41''$, a distance of 320.86 feet; thence northeasterly at an interior angle of $86^{\circ}50'37''$, a distance of 15.30 feet; thence southeasterly at an interior angle of $274^{\circ}04'21''$, a distance of 30.43 feet; thence southwestery at an interior angle of $241^{\circ}33'17''$, a distance of 23.13 feet; thence southwestery at an interior angle of $190^{\circ}20'23''$, a distance of 14.55 feet; thence southwestery at an interior angle of $206^{\circ}20'35''$, a distance of 2.96 feet to the northeasterly line of said Parcel No. 50, Map No. 49; thence southeasterly along said northeasterly line of Parcel No. 50, Map No. 49 and at an interior angle of $80^{\circ}15'13''$ (measured to the chord), a distance of 55.42 feet to the point of beginning.

Said environmental easement containing an area of 182,723 square feet (4.19 acres), more or less.