



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)? Yes No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (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? Yes 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.

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

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31):	
"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From 6 NYCRR 375- 3.2(a) as of July 1, 2015:	
(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.	
(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.	
(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that sets affordable units aside for tenants at a defined maximum percentage of the area median income.	
(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 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 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:

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 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:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

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

SUBMITTAL INFORMATION:

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

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

FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER: _____

**BROWNFIELD CLEANUP PROGRAM (BCP)
INSTRUCTIONS FOR COMPLETING A BCP AMENDMENT APPLICATION**

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement and/or Application. **NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.**

SECTION II NEW REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

Requestor Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address.

Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative unless another contact name and address is provided with the application.

Consultant Name, Address, etc.

Provide information for the requestor's consultant.

Attorney Name, Address, etc.

Provide information for the requestor's attorney.

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 in form.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property.

Operator Name, Address, etc.

Provide information for the new operator (if different from the new requestor or owner).

SECTION IV**NEW REQUESTOR ELIGIBILITY INFORMATION**

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

SECTION V PROPERTY DESCRIPTION AND DESCRIPTION OF CHANGES / ADDITIONS / REDUCTIONS (IF APPLICABLE)

NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

Property Address

Provide a street address, city/town, and zip code. For properties with multiple addresses, provide information for all.

Tax Parcel Information

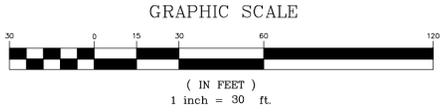
Provide the tax parcel/section/block/lot information. If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, and/or acceptable site map to this application. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5 minute quad map on which the property appears.

MICHAEL (66' WIDE) ROAD

ROAD (100' WIDE)

UNION ROAD

ORCHARD PARK ROAD (WIDTH VARIES)



- LEGEND**
- | | |
|--------------------------------------|-----------------------|
| ○ UTILITY / SERVICE POLE | — R.O.W. RIGHT OF WAY |
| ○ WATER LINE VALVE | — CONC. CONCRETE |
| ○ FIRE HYDRANT | — INV. INVERT |
| ○ D.I. (DROP INLET - STORM) | — M.H. MANHOLE |
| ○ MANHOLE (STORM) | — GAS LINE |
| ○ MANHOLE (ELECTRIC) | — WATER LINE |
| ○ MANHOLE (TRAFFIC) | — TELEPHONE LINE |
| ○ MANHOLE (SANITARY) | — ELECTRIC LINE |
| ○ LDR (LIGHT DUTY RECEIVER - STORM) | — UTILITY LINES |
| ○ BYD (BACKYARD DRAIN INLET - STORM) | — CABLE LINES |
| ○ GAS LINE VALVE | — D. DEED |
| ○ LIGHT STANDARD | — M. MEASURED |
| ○ SIGN | — L. LIBER |
| ○ H.C. HANDICAP | — P. PAGE |
| ○ GASLINE MARKER | |
| ○ BOLLARD | |
| ○ BOLLARD WITH SIGN | |
| ○ MONITORING WELL | |

SURVEYOR'S LEGAL DESCRIPTION - 3021-3041 ORCHARD PARK ROAD
 ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Orchard Park, Bountly 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. Geracke 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 Geracke and one 216.39 feet to the northwest corner thereof; thence easterly along the north line of said lands so conveyed to Geracke 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.

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 northerly 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 of Beginning; thence northerly at an interior angle of 86°57'04", a distance of 43.77 feet; thence southerly at an interior angle of 243°41'40", a distance of 22.03 feet; thence southerly at an interior angle of 233°44'06", a distance of 19.85 feet; thence easterly at an interior angle of 94°05'32", a distance of 186.08 feet; thence northerly at an interior angle of 96°28'44", a distance of 18.76 feet; thence northerly at an interior angle of 226°39'07", a distance of 21.92 feet; thence easterly at an interior angle of 217°07'37", a distance of 23.93 feet; thence northerly at an interior angle of 96°57'04", a distance of 72.10 feet; thence northerly at an interior angle of 190°46'50", a distance of 18.63 feet; thence northerly at an interior angle of 171°25'13", a distance of 83.33 feet; thence easterly at an interior angle of 263°07'10", a distance of 15.80 feet; thence northerly at an interior angle of 83°36'17", a distance of 112.76 feet; thence northerly at an interior angle of 175°40'45", a distance of 79.10 feet; thence northerly at an interior angle of 185°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 81°21'38", a distance of 56.59 feet; thence southerly at an interior angle of 74°13'54", a distance of 5.50 feet; thence westerly at an interior angle of 284°56'47", a distance of 134.12 feet; thence northerly at an interior angle of 194.22 feet; thence southerly at an interior angle of 90°30'41", a distance of 320.86 feet; thence northerly at an interior angle of 96°50'37", a distance of 15.30 feet; thence southerly at an interior angle of 274°04'21", a distance of 30.43 feet; thence southerly at an interior angle of 241°37'17", a distance of 12.13 feet; thence southerly at an interior angle of 190°20'21", a distance of 14.55 feet; thence southerly at an interior angle of 208°20'35", a distance of 2.96 feet to the northeasterly line of said Parcel No. 50, Map No. 49; thence southerly along said northeasterly line of Parcel No. 50, Map No. 49 and at an interior angle of 80°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.

THE ENGINEERING AND INSTUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, N.Y. 12233 OR AT derweb@gw.dec.state.ny.us

ENVIRONMENTAL EASEMENT AREA ACCESS THE DEC OR THEIR AGENT MAY ACCESS THE ENVIRONMENTAL EASEMENT AREA AS SHOWN HEREON THROUGH ANY EXISTING STREET ACCESS OR BUILDING INGRESS/EGRESS ACCESS POINT

ENGINEERING / INSTITUTIONAL CONTROLS

- Groundwater Use - the use or withdrawal of Site groundwater for drinking, irrigation or other consumptive purposes will be prohibited.
- Vapor Intrusion - The vapor intrusion for future buildings will be evaluated in accordance with New York laws, regulations and guidance.
- Sub-Slab Depressurization System (SSDS) - Maintenance of the active SSD System.
- Soil Cover System - Maintenance of site wide soil cover system consisting of a combination of 12" soil fill, pavement and existing/new buildings.
- Site Management Plan (SMP) - Adherence to SMP.
- Land Use - future land use will be restricted to Commercial or Industrial purposes.

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law.

AMEND 5/18/15: ADJUSTED BOUNDARY AND LOCATED CHANGES IN THE FIELD
 AMEND 6/11/15: ADJUST BOUNDARY AND LEGAL DESCRIPTION
 AMEND 9/8/15: ADJUST ENVIRONMENTAL EASEMENT AREA
 AMEND 10/13/15: ADJUST ENVIRONMENTAL EASEMENT AREA
 AMEND 10/21/15: ADJUST ENVIRONMENTAL EASEMENT AREA & DESCRIPTION

INSTRUMENTS UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: Liber 11265 Deeds P.4379
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT.
 NOTE: PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY.

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Millard, MacKay & Delleo
 LAND SURVEYORS, LLP
 150 AERO DRIVE
 BUFFALO, NEW YORK 14225
 PHONE (716) 631-5140 - FAX 631-3811

AMEND: "c"
 SURVEY DATE: 3-16-15
 DRAWING DATE: 3-18-15
 SCALE: 1" = 30'
 "ALL RIGHTS RESERVED"

PART OF LOT 461 SECTION 10 TOWNSHIP 10 RANGE 7 OF THE Buffalo Creek Reservation SURVEY - Erie COUNTY, N.Y.
 SURVEY OF: 3021-3041 Orchard Park Road, Town of Orchard Park
 SBL No. 152.12-2-1.1

TOTAL LOT AREA = 5.06± ACRES
 ENVIRONMENTAL EASEMENT AREA = 4.19± ACRES

1-STORY BRICK & STUCCO BUILDING Nos. 3021 - 3041

NORTHWEST CORNER OF LIBER 7554 DEEDS P.38
 NORTH LINE OF LIBER 7554 DEEDS P.38

NORTH LINE OF LANDS CONVEYED TO CARUTH ORCHARD PARK, INC. BY LIBER 7505 DEEDS P.177

POINT OF BEGINNING SOUTHWEST CORNER OF LANDS CONVEYED TO GERENKE AND ONE BY LIBER 7554 DEEDS P.38

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 southwestwardly 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 southwestwesterly 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 southwestwesterly at an interior angle of $241^{\circ}33'17''$, a distance of 23.13 feet; thence southwestwesterly at an interior angle of $190^{\circ}20'23''$, a distance of 14.55 feet; thence southwestwesterly 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.