



Department of Environmental Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification requested:

[X] Amendment to modify the existing BCA: [check one or more boxes below]

- [X] Add applicant(s)
[] Substitute applicant(s)
[] Remove applicant(s)
[] Change in Name of applicant(s)

[] Amendment to reflect a transfer of title to all or part of the brownfield site

1a. A copy of the recorded deed must be provided. Is this attached? [] Yes [] No

1b. [] Change in ownership [] Additional owner (such as a beneficial owner)

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)

2. Required: Please provide a brief narrative on the nature of the amendment:

The Current Applicant, Liberty Iron & Metal, Inc. and the Requestor, AIM Recycling Erie, LLC are parties to an Asset Purchase Agreement, which includes the real property comprising the BCP Site # C915290. The Requestor will be assuming control and operation of the Site and continuing performance of the remedial action at the Site. Applicant and Requestor ask that Requestor be admitted to the Program and added to the BCA as a co-participant.

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

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves a non-insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.

Section I. Current Agreement Information		
BCP SITE NAME: Hurwitz Company Site		BCP SITE NUMBER: C915290
NAME OF CURRENT APPLICANT(S): Liberty Iron & Metal, Inc.		
INDEX NUMBER OF AGREEMENT: C915290-02-15		DATE OF ORIGINAL AGREEMENT: 5/5/2015
Section II. New Requestor Information (complete only if adding new requestor or name has changed)		
NAME AIM RECYCLING ERIE, LLC		
ADDRESS 9100, boul, Henri-Bourassa Est.		
CITY/TOWN Montreal, QC		ZIP CODE H1E 2S4
PHONE	FAX	E-MAIL asser@aim-global.com
1. Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" 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 Alexander Esser		
ADDRESS 9100, boul, Henri-Bourassa Est.		
CITY/TOWN Montreal, QC		ZIP CODE H1E 2S4
PHONE	FAX	E-MAIL aesser@aim-global.com
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) Loeb & Loeb LLP		
ADDRESS 901 New York Avenue NW, Suite 300 East		
CITY/TOWN Washington, DC		ZIP CODE 20001
PHONE	FAX	E-MAIL
2. 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
3. Describe Requestor's Relationship to Existing Applicant:		
Requestor has entered into an Asset Purchase Agreement with the existing Applicant to participate in the Brownfield Cleanup Program.		

Section III. Current Property Owner/Operator Information (only include if new owner/operator)
 Owner below is: Existing Applicant New Applicant Non-Applicant

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. Are there any unregistered bulk storage tanks on-site which require registration? 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.

12. Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

13. 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)

1. Property information on current agreement:

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

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

2. Check appropriate boxes below:

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

2a. PARCELS ADDED:

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

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

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

Total acreage to be removed: _____

Change to SBL (e.g. merge, subdivision, address change)

2c. NEW SBL INFORMATION:

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

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.

3. TOTAL REVISED SITE ACREAGE: _____

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
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(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.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(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.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Hurwitz Company Site	BCP SITE NUMBER: C915290
NAME OF CURRENT APPLICANT(S): Liberty Iron & Metal, Inc.	
INDEX NUMBER OF AGREEMENT: C915290-02-15	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 5/5/2015	

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 <u>President</u>) of (entity <u>AM Recycling Services, LLC</u>) 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><u>Herbert Black</u> 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: <u>Nov. 15, 2021</u> Signature: </p> <p>Print Name: <u>Herbert Black</u></p>

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

(Individual)

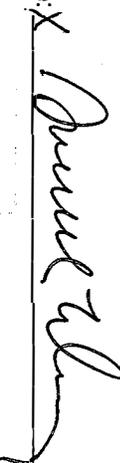
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application,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

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Corporate Secretary (title) of Liberty Iron & Metal, Inc. (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. Darrell Wong's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 9/30/2021 Signature: 

Print Name: Darrell Wong, Corporate Secretary

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:

<input checked="" 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: 5/5/2015

Signature by the Department:

DATED: 4/21/2022

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: 

Susan Edwards, P.E., Director Division of Environmental Remediation

SUBMITTAL INFORMATION:

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

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

- **NOTE: Applications submitted in fillable format will be rejected.**

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** Buffalo, Region 9, DEC

PROJECT MANAGER: Eugene Melnyk

Vaccine appointments are available at New York State mass vaccination sites for children ages 5- 11. Vaccines are also widely available through your child's pediatrician, family physician, local county health department, FQHC, or pharmacy.

[FIND PROVIDER >](#)

Department of State Division of Corporations

Entity Information

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Entity Details

ENTITY NAME: AIM RECYCLING ERIE, LLC	DOS ID: 6281685
FOREIGN LEGAL NAME: AIM RECYCLING ERIE, LLC	FICTITIOUS NAME:
ENTITY TYPE: FOREIGN LIMITED LIABILITY COMPANY	DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: LIMITED LIABILITY COMPANY - 802 LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW	ENTITY STATUS: Active
DATE OF INITIAL DOS FILING: 09/15/2021	REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 09/15/2021	INACTIVE DATE:
FOREIGN FORMATION DATE: 05/10/2021	STATEMENT STATUS: CURRENT
COUNTY: Erie	NEXT STATEMENT DUE DATE: 09/30/2023
JURISDICTION: Delaware, United States	NFP CATEGORY:

[ENTITY DISPLAY](#)

[FILING HISTORY](#)

[FINANCIAL STATEMENTS](#)

[REGISTERED AGENT](#)

[ASSUMED NAME HISTORY](#)

Service of Process Name and Address

Name: c/o american iron & metal (aim)

Address: 267 marilla street, BUFFALO, NY, United States, 14220

Chief Executive Officer's Name and Address

Name:

Address:

Principal Executive Office Name and Address

Name:

Address:

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

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. 43, TOWNSHIP 10, RANGE 8 OF THE BUFFALO CREEK RESERVATION, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF MARILLA STREET DISTANT ONE THOUSAND FIVE HUNDRED FIFTY-ONE AND SIXTY-SIX HUNDREDTHS (1551.66) FEET WESTERLY FROM THE EAST LINE OF LOT NO. 43;

THENCE SOUTHERLY PARALLEL WITH THE EAST LINE OF LOT NO. 43, SEVEN HUNDRED NINETY-SIX (796) FEET MORE OR LESS TO THE NORTHEASTERLY LINE OF LANDS CONVEYED TO THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY BY DEED RECORDED IN ERIE COUNTY CLERK'S OFFICE IN LIBER 446 OF DEEDS PAGE 21;

THENCE NORTHWESTERLY ALONG THE NORTHEAST LINE OF SAID RAILROAD, NINE HUNDRED TWENTY-SIX (926) FEET MORE OR LESS TO THE SOUTHEASTERLY LINE OF PARCEL 22 OF LAND TAKEN BY DEED RECORDED IN SAID CLERK'S OFFICE IN LIBER 2777 OF DEEDS PAGE 399;

THENCE NORTHEASTERLY ALONG SAID SOUTHEAST LINE FIFTY-FIVE AND SEVENTY-TWO HUNDREDTHS (55.72) FEET TO THE EASTERLY LINE OF SAID PARCEL 22;

THENCE NORTHERLY ALONG THE EAST LINE OF SAID PARCEL 22, ONE HUNDRED SIXTY-FOUR AND NINETY-TWO HUNDREDTHS (164.92) FEET TO THE SOUTHERLY LINE OF MARILLA STREET;

THENCE EASTERLY ALONG THE SOUTH LINE OF MARILLA STREET SIX HUNDRED SEVENTY-THREE AND EIGHTY-TWO HUNDREDTHS (673.82) FEET TO THE POINT OF BEGINNING.



0 120 240 360 480 Feet

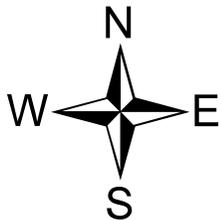


Figure 2
Site Plan
Hurwitz Company Site
City of Buffalo, Erie Co.
Site No. C915290

