

Brownfield Cleanup Program Application

1176 South Park Avenue Site 3
Buffalo, New York

February 2016

0350-015-001

Prepared For:

John W. Danforth Construction LLC



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

Yes

No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 5*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #: _____

NAME John W. Danforth Construction LLC

ADDRESS 300 Colvin Woods Parkway

CITY/TOWN Tonawanda, New York

ZIP CODE 14150

PHONE (716) 832-1940

FAX (716) 832-2388

E-MAIL rbeck@jwdanforth.com

Is the requestor authorized to conduct business in New York State (NYS)? Yes No

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

See Attachment 1

Do all individuals that will be certifying documents meet the requirements detailed below? Yes No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

Section II. Project Description

1. What stage is the project starting at? Investigation Remediation

2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see [DER-10 / Technical Guidance for Site Investigation and Remediation](#) for further guidance).

3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): Yes No

4. Please attach a short description of the overall development project, including: **See Attachment 2**

- the date that the remedial program is to start; and **See Figure 9**
- the date the Certificate of Completion is anticipated.

Section III. Property's Environmental History

Attachment 3

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (**please submit the information requested in this section in electronic format only**):

1. Reports: an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903).

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum	X		
Chlorinated Solvents			
Other VOCs			
SVOCs	X		
Metals	X		
Pesticides			
PCBs			
Other*			

*Please describe: _____

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- SAMPLE LOCATION
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

See Tables and Figure included in Attachment 3

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

Yes No

4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Coal Gas Manufacturing | <input type="checkbox"/> Manufacturing | <input checked="" type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: Two, 5.5 million-gallon above ground fuel oil storage tanks and pig iron/scrap iron storage yard.

Section IV. Property Information - See Instructions for Further Guidance

See Attachment 4

PROPOSED SITE NAME 1176 South Park Avenue Site 3

ADDRESS/LOCATION 1176 South Park Avenue, 1316 South Park Avenue, 1328 South Park Avenue, 11 Bertha Street

CITY/TOWN Buffalo, New York ZIP CODE 14220

MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo

COUNTY Erie SITE SIZE (ACRES) 9.04

LATITUDE (degrees/minutes/seconds) N42 ° 51 ' 36.55 " LONGITUDE (degrees/minutes/seconds) W78 ° 50 ' 6.39 "

COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section No.	Block No.	Lot No.	Acreage
See Attachment 4 for the discussion on the				
four (4) parcels that make up Site 3.				

1. Do the proposed site 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? Yes No
(application will not be processed without map) **See Figures 1, 2, 3, & 4**

3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)?
(See [DEC's website](#) for more information) **See Figure 8** Yes No

If yes, identify census tract : Census Tract 1.10

Percentage of property in En-zone (check one): 0-49% 50-99% 100%

4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? Yes No

If yes, identify name of properties (and site numbers if available) in related BCP applications: 1176 South Park Site 1 and 1176 South Park Site 2

5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? Yes No

6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? **See Attachment 4 & Figure 17** Yes No
If yes, attach relevant supporting documentation.

7. Are there any lands under water? Yes No
If yes, these lands should be clearly delineated on the site map.

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. Yes No

<u>Easement/Right-of-way Holder</u>	<u>Description</u>
See Attachment 4	

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

<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>
See Attachment 4		

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.** See Attachment 4

Are the Property Description and Environmental Assessment narratives included in the prescribed format? Yes No

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?
If yes, requestor must answer questions on the supplement at the end of this form. Yes No

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? Yes No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? Yes No

If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor:  _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Robert Beck			
ADDRESS 300 Colvin Woods Parkway			
CITY/TOWN Tonawanda, New York		ZIP CODE 14150	
PHONE (716) 832-1940	FAX (716) 832-2388	E-MAIL rbeck@jwdanforth.com	
NAME OF REQUESTOR'S CONSULTANT Tom Forbes, P.E. - Benchmark Environmental Engineering & Science, PLLC			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo, New York		ZIP CODE 14218	
PHONE 716-856-0635	FAX 716-856-0583	E-MAIL tforbes@benchmarkturnkey.com	
NAME OF REQUESTOR'S ATTORNEY Craig A. Slater, Esq., The Slater Law Firm, PLLC			
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo, New York		ZIP CODE 14204	
PHONE 716-845-6760	FAX 716-845-6764	E-MAIL cslater@cslaterlaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME City of Buffalo and Buffalo Urban Development Corporation OWNERSHIP START DATE: Attachment 5			
ADDRESS 502 City Hall / 95 Perry Street Suite 404			
CITY/TOWN Buffalo, New York / Buffalo, New York		ZIP CODE 14202 / 14203	
PHONE (716) 851-5261 / (716) 856-6525	FAX (716) 851-5590 / (716) 856-6754	E-MAIL cobrealestate@ch.ci.buffalo.ny.us.com / pcmamarata@ecidany.com	
CURRENT OPERATOR'S NAME Same as Owners			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<p>IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.</p> <p style="text-align: center;">See Attachment 5</p> <p>PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".</p>			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)			See Attachment 6
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?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Section VII. Requestor Eligibility Information (continued)

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

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

PARTICIPANT

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

VOLUNTEER

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

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

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

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

- Previous Owner Current Owner Potential /Future Purchaser Other_____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?

- Yes No See Attachment 6

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance See Attachment 6

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. Yes No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? Yes No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? Yes No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? Yes No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? Yes No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information See Attachment 7

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). In addition, attach a copy of an acknowledgement from the repository indicating that it agrees to act as the document repository for the property.
8. Any community board located in a city with a population of one million or more, if the proposed site is located within such community board's boundaries.

Section X. Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?

Residential Commercial Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

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

Previous operations ceased in 2003.

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: Residential Commercial Industrial (check all that apply) **Attach a statement detailing the specific proposed use.** **See Attachment 8**

If residential, does it qualify as single family housing? Yes No

4. Do current historical and/or recent development patterns support the proposed use?

Yes No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

Yes No

See Attachment 8 and Figure 6

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

Yes No

See Attachment 8

XI. Statement of Certification and Signatures

~~(By requestor who is an individual)~~

~~If this application is approved, I acknowledge and agree to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.~~

~~Date: _____~~

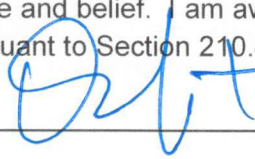
~~Signature: _____~~

~~Print Name: _____~~

(By a requestor other than an individual)

I hereby affirm that I am Managing Memeber (title) of John W. Danforth Construction LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to execute a BCA within 60 days of the date of DEC's approval letter. 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: 12/29/15

Signature: 

Print Name: Robert Beck

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper 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 DEC USE ONLY

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

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

BCP App Rev 5

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 NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31):	
<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>	
From 6 NYCRR 375-3.2(I) as of July 1, 2015: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)	
<p>(I) "Underutilized" means, as of the date of application, real property:</p> <p>(1) on which a building or buildings, can be certified by the municipality in which the site is located, to have for at least five years used no more than fifty percent of the permissible floor area under the applicable base zoning immediately prior to the application which has been in effect for at least five years;</p> <p>(2) at which the proposed development is solely for a use other than residential or restricted residential;</p> <p>(3) which could not be developed without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(4) which is subject to one or more of the following conditions, as certified by the municipal department responsible for such determinations of the municipality in which the site is located:</p> <p>(i) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(ii) contains a building that is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(iii) the proposed use is in whole or in substantial part for industrial uses.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, or land purchase cost exemption or waiver, from a governmental entity; or for properties to be developed in whole or in part for industrial uses, a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or a tax credit, from a governmental entity, or a low-cost loan from an industrial fund managed by the municipality and partner financial institutions.</p>	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. Is the project an affordable housing project as defined below?

Yes 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.

BCP Application Summary (for DEC use only)

Site Name: 1176 South Park Avenue Site 3 **Site Address:** 1176 South Park Avenue, 1316 South Park Avenue, 1328 South Park Avenue, 11 Bertha Street
City: Buffalo, New York **County:** Erie **Zip:** 14220

Tax Block & Lot
Section (if applicable): **Block:** **Lot:**

Requestor Name: John W. Danforth Construction LLC **Requestor Address:** 300 Colvin Woods Parkway
City: Tonawanda, New York **Zip:** 14150 **Email:** rbeck@jwdanforth.com

Requestor's Representative (for billing purposes)
Name: Robert Beck **Address:** 300 Colvin Woods Parkway
City: Tonawanda, New York **Zip:** 14150 **Email:** rbeck@jwdanforth.com

Requestor's Attorney
Name: Craig A. Slater, Esq., The Slater Law Firm, PLLC **Address:** 500 Seneca Street, Suite 504
City: Buffalo, New York **Zip:** 14204 **Email:** cslater@cslaterlaw.com

Requestor's Consultant
Name: Tom Forbes, P.E. - Benchmark Environmental Engineering & Science, PLLC **Address:** 2558 Hamburg Turnpike, Suite 300
City: Buffalo, New York **Zip:** 14218 **Email:** tforbes@benchmarkturnkey.com

Percentage of site within an En-Zone: 0% <50% 50-99% 100%

Requestor's Requested Status: Volunteer Participant

FIGURES

FIGURE 1



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 MN (10.6° W)

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2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1176 SOUTH PARK AVENUE SITE 3

BCP SITE
 BUFFALO, NEW YORK

PREPARED FOR

JOHN W. DANFORTH CONSTRUCTION, LLC

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

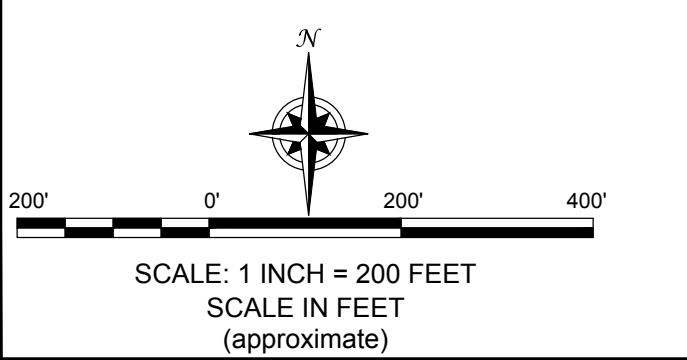
DRAFTED BY: KKR/RFL

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LEGEND:
 ——— SITE BOUNDARY
 - - - - - PARCEL BOUNDARY



SITE MAP (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION
 1176 SOUTH PARK AVENUE SITE 3
 BCP SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 JOHN W. DANFORTH CONSTRUCTION, LLC

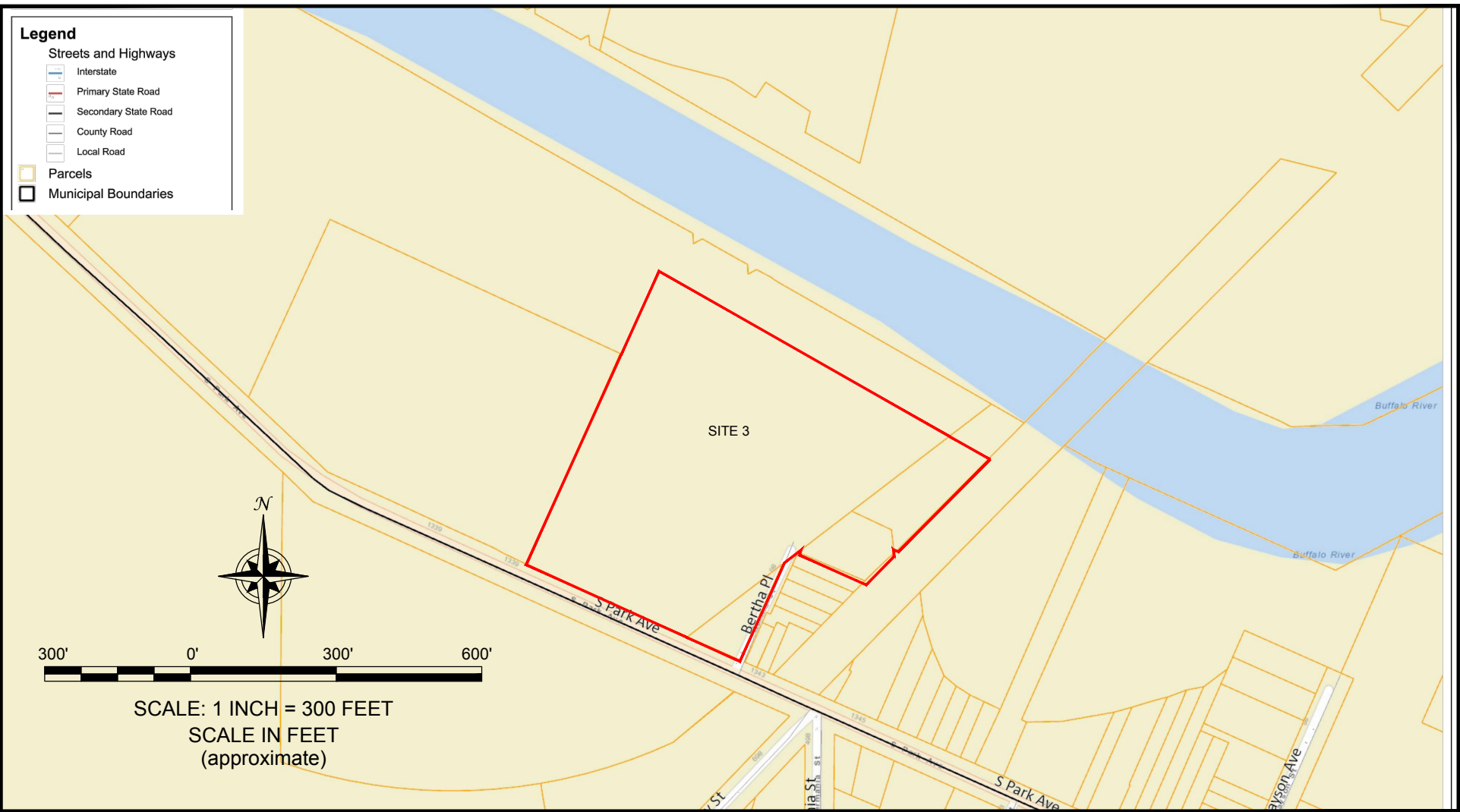


2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

JOB NO.: 0350-015-001

FIGURE 2

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC.



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BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

DRAFTED BY: KRR/RFL

PARCEL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

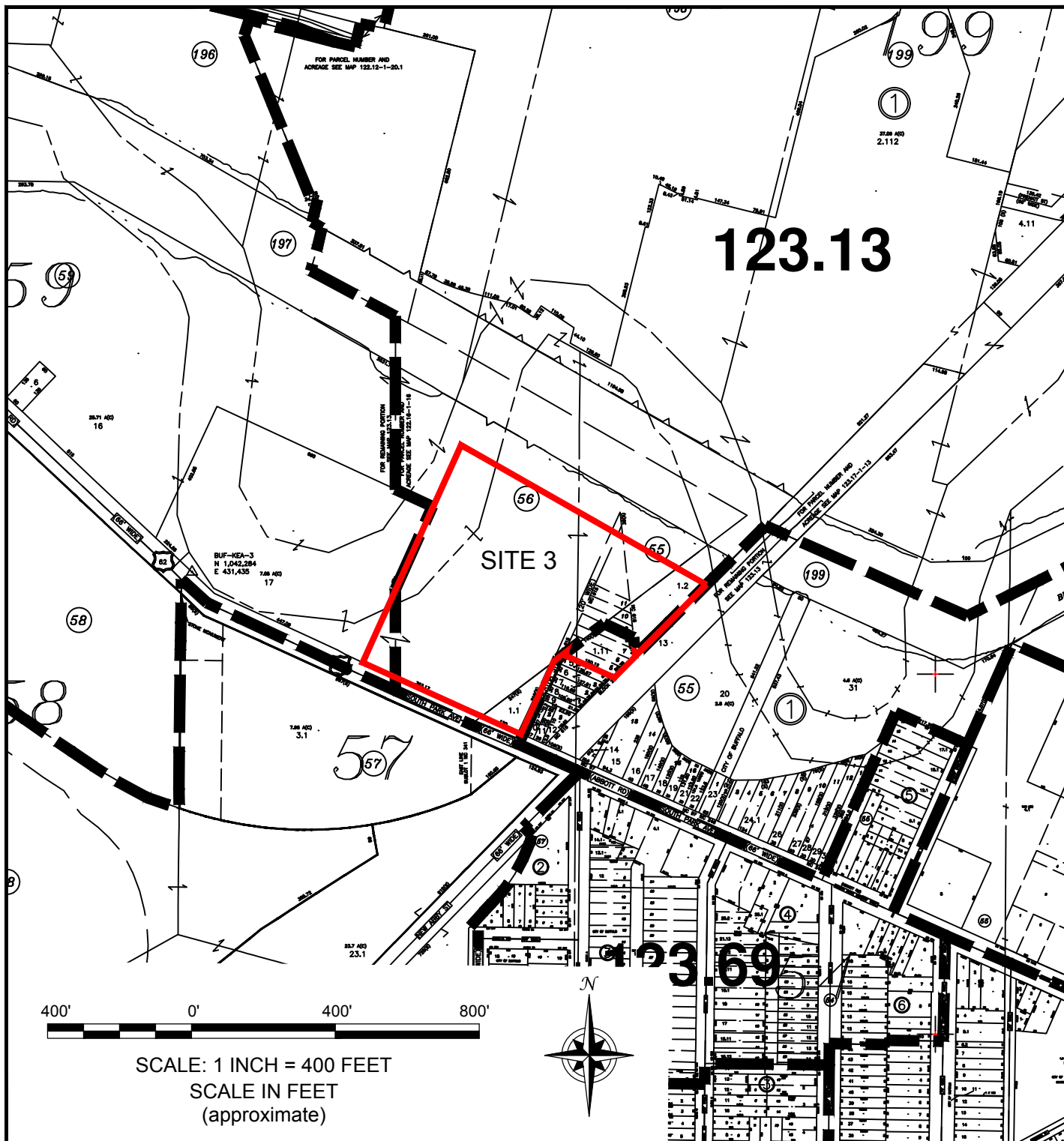
1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK

PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 3

DISCLAIMER:
PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC.

FIGURE 4



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK

PREPARED FOR

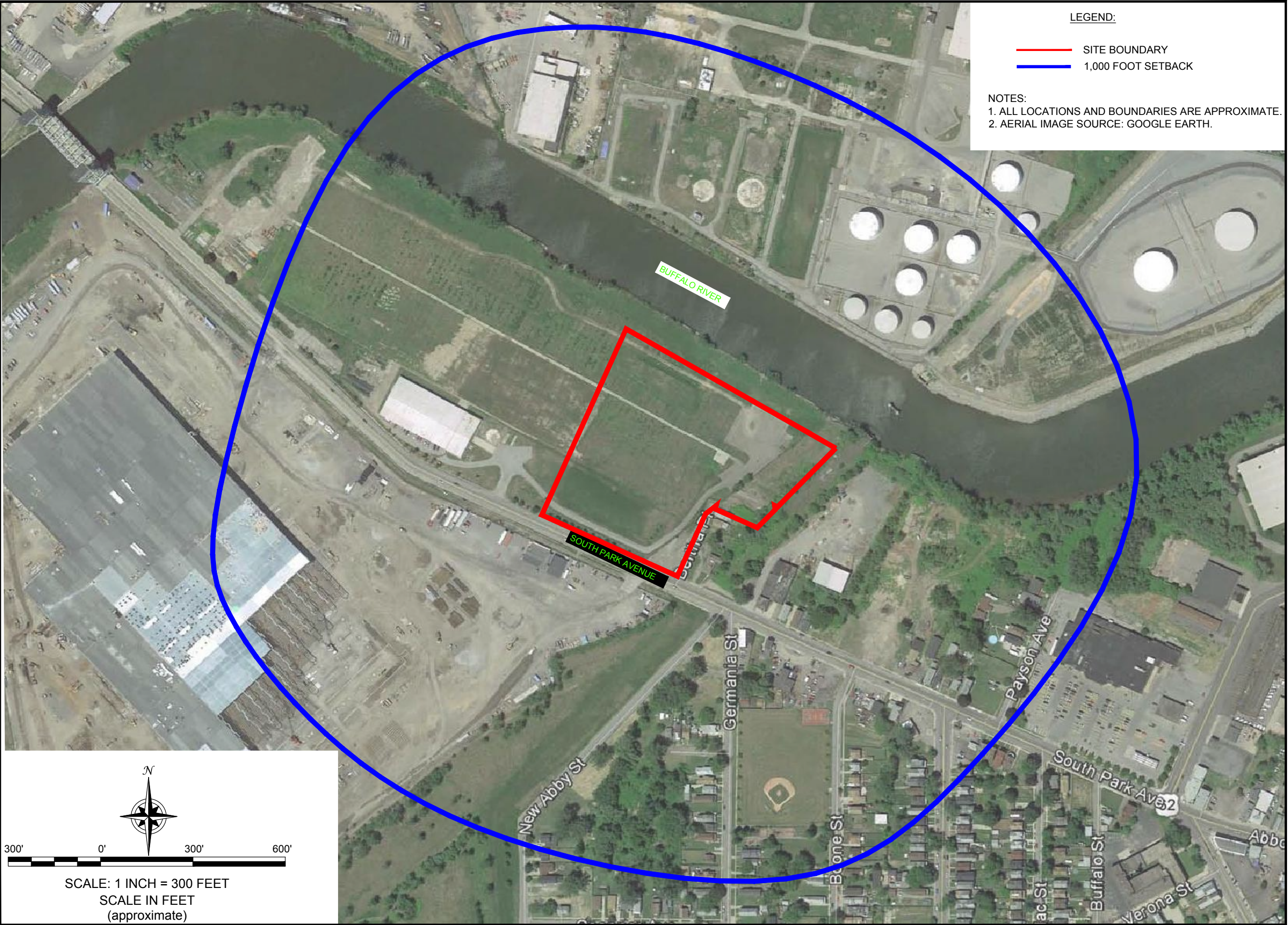
JOHN W. DANFORTH CONSTRUCTION, LLC

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

DRAFTED BY: KRR/RFL

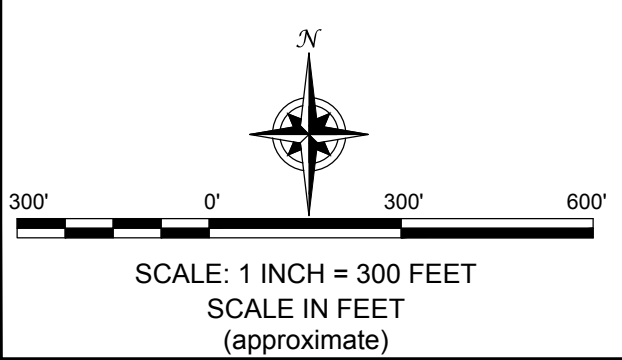
DISCLAIMER:
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LEGEND:

- SITE BOUNDARY
- 1,000 FOOT SETBACK

- NOTES:
1. ALL LOCATIONS AND BOUNDARIES ARE APPROXIMATE.
 2. AERIAL IMAGE SOURCE: GOOGLE EARTH.



PROPERTY BASEMAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION
 1176 SOUTH PARK AVENUE SITE 3
 BCP SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 JOHN W. DANFORTH CONSTRUCTION, LLC

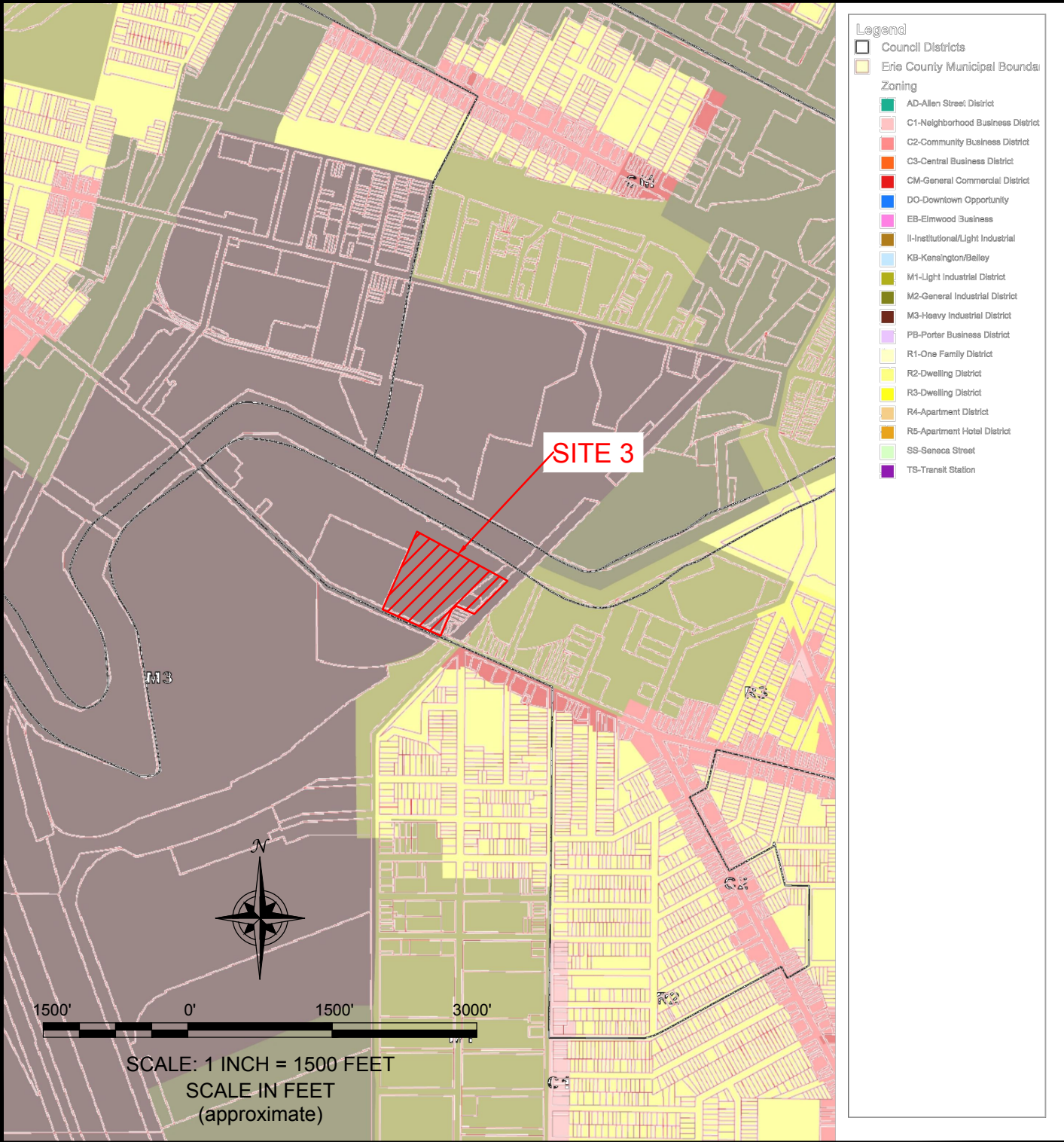


JOB NO.: 0350-015-001

FIGURE 5

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FIGURE 6



BENCHMARK
 ENVIRONMENTAL
 ENGINEERING &
 SCIENCE, PLLC

2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

DRAFTED BY: KRR/RFL

NEARBY LAND USE-ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

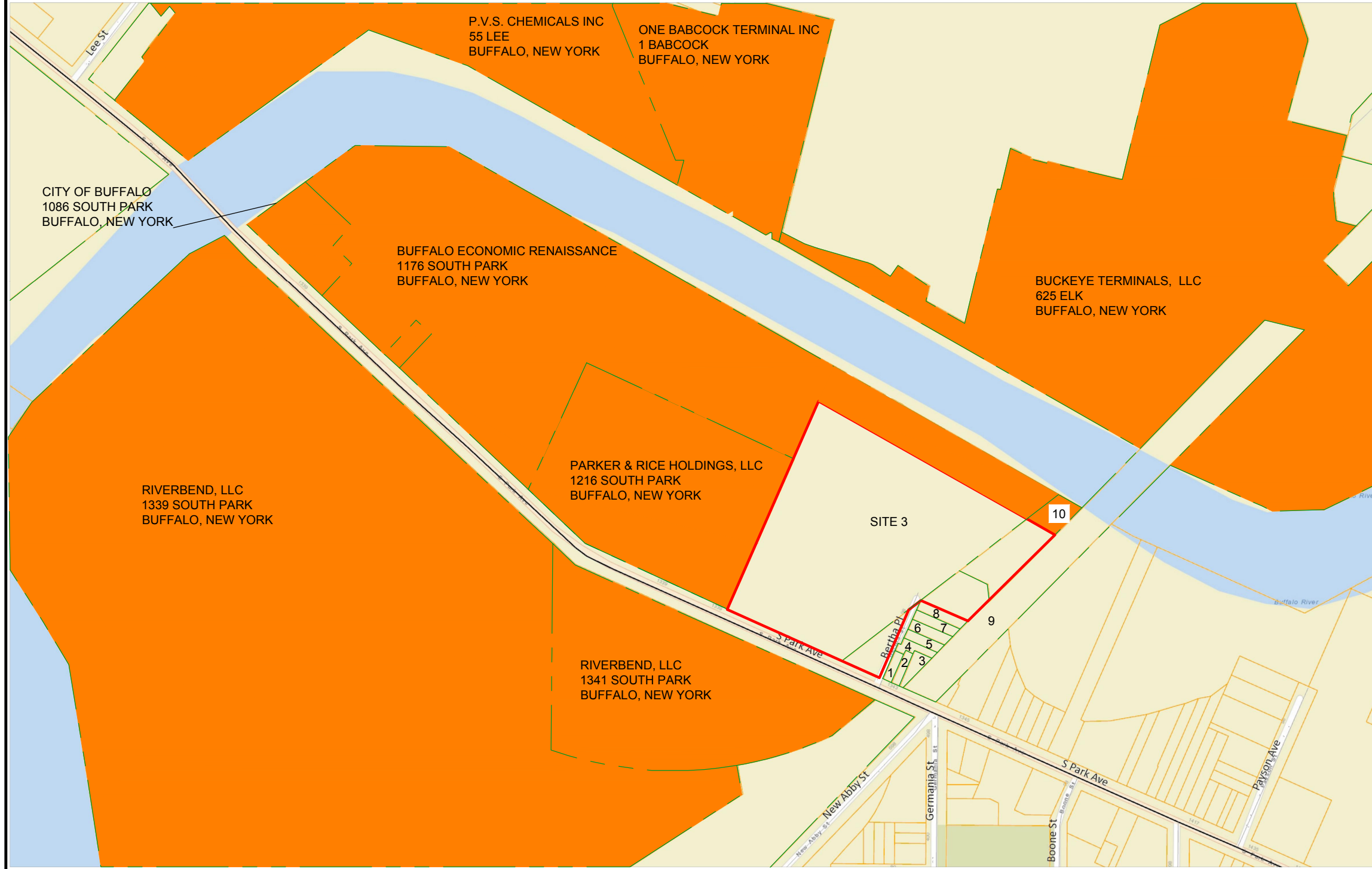
1176 SOUTH PARK AVENUE SITE 3
 BCP SITE
 BUFFALO, NEW YORK

PREPARED FOR
 JOHN W. DANFORTH CONSTRUCTION, LLC

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Erie County On-Line Mapping Application



Legend

- Streets and Highways
 - Interstate
 - Primary State Road
 - Secondary State Road
 - County Road
 - Local Road
- Parcels
- Municipal Boundaries

1:4,513



**ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS**

Map Reference Number	Adjacent Property Address	Property Owner
1	1320 SOUTH PARK	CITY BUFFALO PERFECTING TITLE
2	1322 SOUTH PARK	RIVERBEND LLC
3	1324 SOUTH PARK	MCDONALD DIANE
4	1 BERTHA	CITY OF BUFFALO
5	3 BERTHA	CITY OF BUFFALO
6	5 BERTHA	CITY OF BUFFALO
7	7 BERTHA	TOY RICHARD PAUL JR.
8	9 BERTHA	THOMAS CLARENCE E JR.
9	NO ADDRESS SBL# 123.17-1-13	CITY OF BUFFALO
10	1328 South Park	CITY OF BUFFALO

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK
PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: 0350-015-001

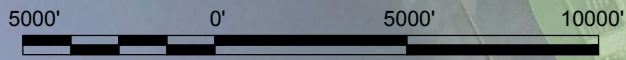
FIGURE 7

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SITE 3

- LEGEND:**
- █ ONLY A
 - █ ONLY B
 - █ A AND B
 - ▭ NOT ELIGIBLE
 - ▭ MUNICIPAL BOUNDARIES



SCALE: 1 INCH = 5000 FEET
SCALE IN FEET
(approximate)

EN-ZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK

PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 8



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

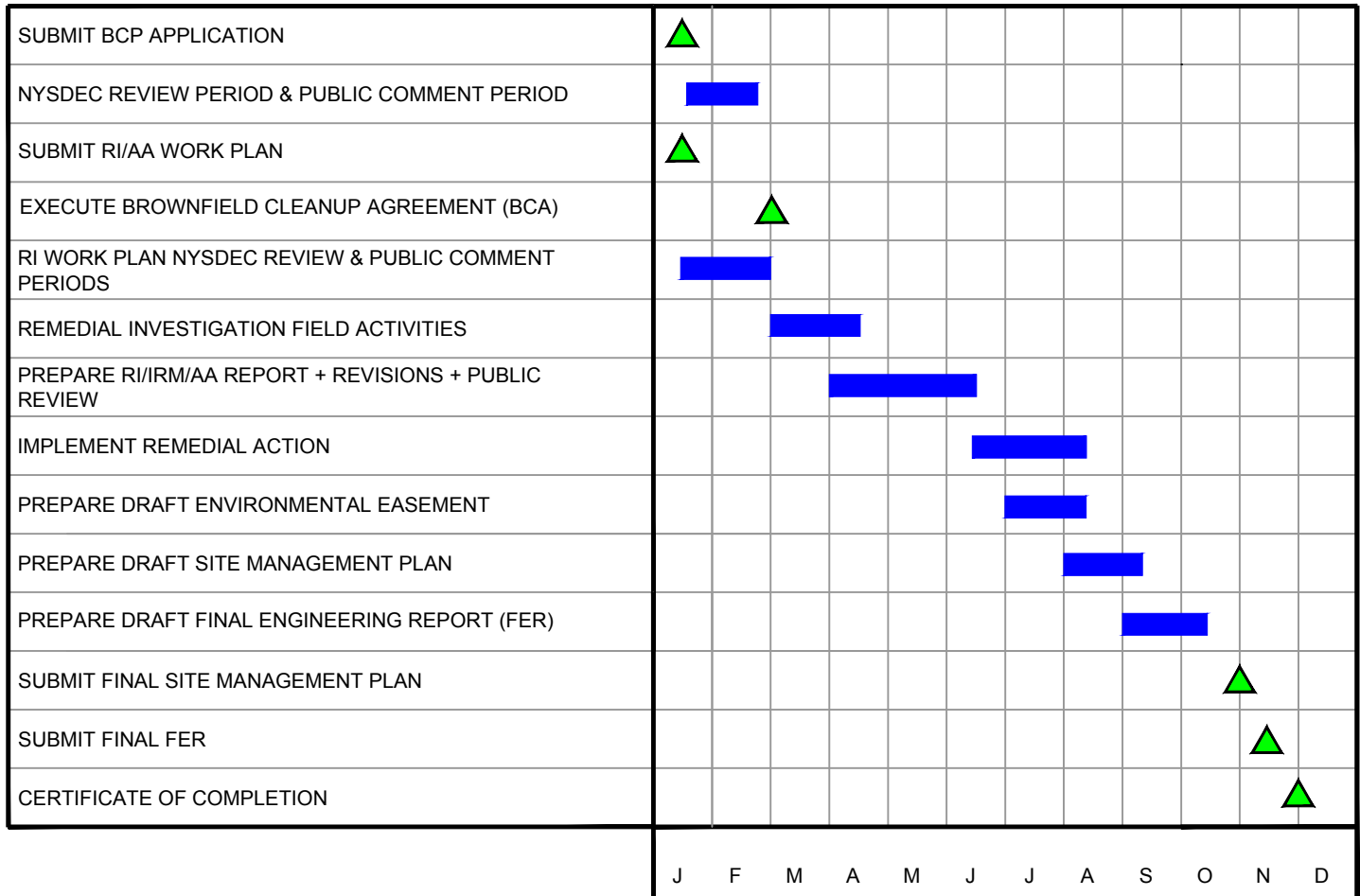
PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

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DISCLAIMER:
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PROJECT TASKS:



2016 2017



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

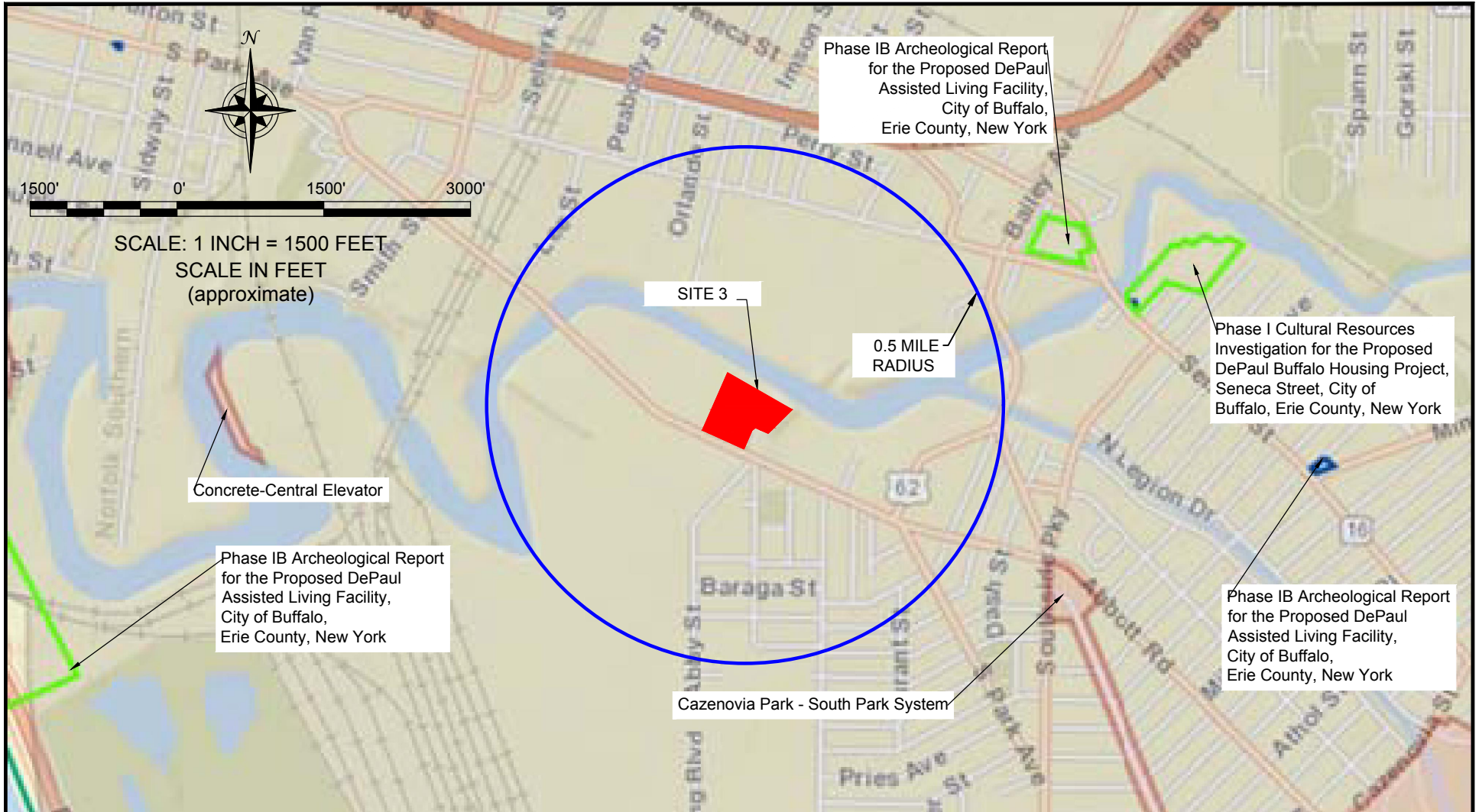
PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION
1176 SOUTH PARK AVENUE SITE 3
BUFFALO, NEW YORK
PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 9

PROJECT NO.: 0350-015-001
DATE: JANUARY 2016
DRAFTED BY: KRR/RFL

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BENCHMARK
ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

DRAFTED BY: KRR/RFL

CULTURAL RESOURCES MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

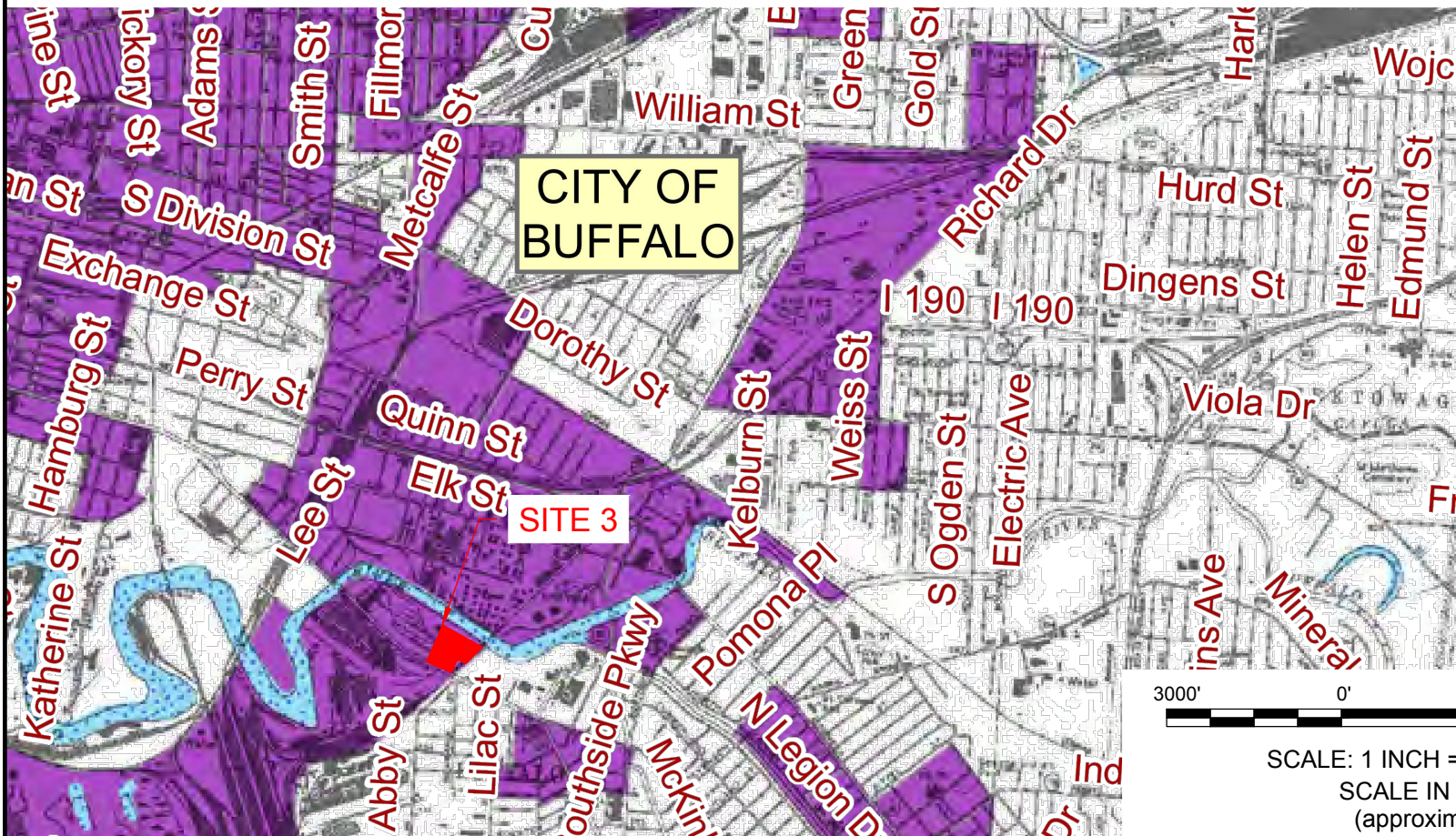
1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK

PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 10

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Potential Environmental Justice Areas in the City of Buffalo (south detail) and Town of West Seneca, Erie County, New York



- Legend**
- Potential EJ Areas
 - County Boundary
 - Waterbodies

For questions about this map contact:
 New York State Department of
 Environmental Conservation
 Office of Environmental Justice
 625 Broadway, 14th Floor
 Albany, New York 12233-1500
 (518) 402-8556
 ej@gw.dec.state.ny.us

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 compiled from supplied data or information
 that has not been verified by NYSDEC.
 The data is offered here as a general
 representation only and is not to be used
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 by an independent professional qualified to
 verify such data or information.

NYSDEC does not guarantee the accuracy,
 completeness, or timeliness of the information
 shown and shall not be liable for any loss or
 injury resulting from reliance.

Data Source for Potential Environmental
 Justice Areas:
 U.S. Census Bureau, 2000 U.S. Census



SCALE: 1 INCH = 3000 FEET
 SCALE IN FEET
 (approximate)

POTENTIAL ENVIRONMENTAL JUSTICE AREAS

BROWNFIELD CLEANUP PROGRAM APPLICATION
 1176 SOUTH PARK AVENUE SITE 3
 BCP SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 JOHN W. DANFORTH CONSTRUCTION, LLC

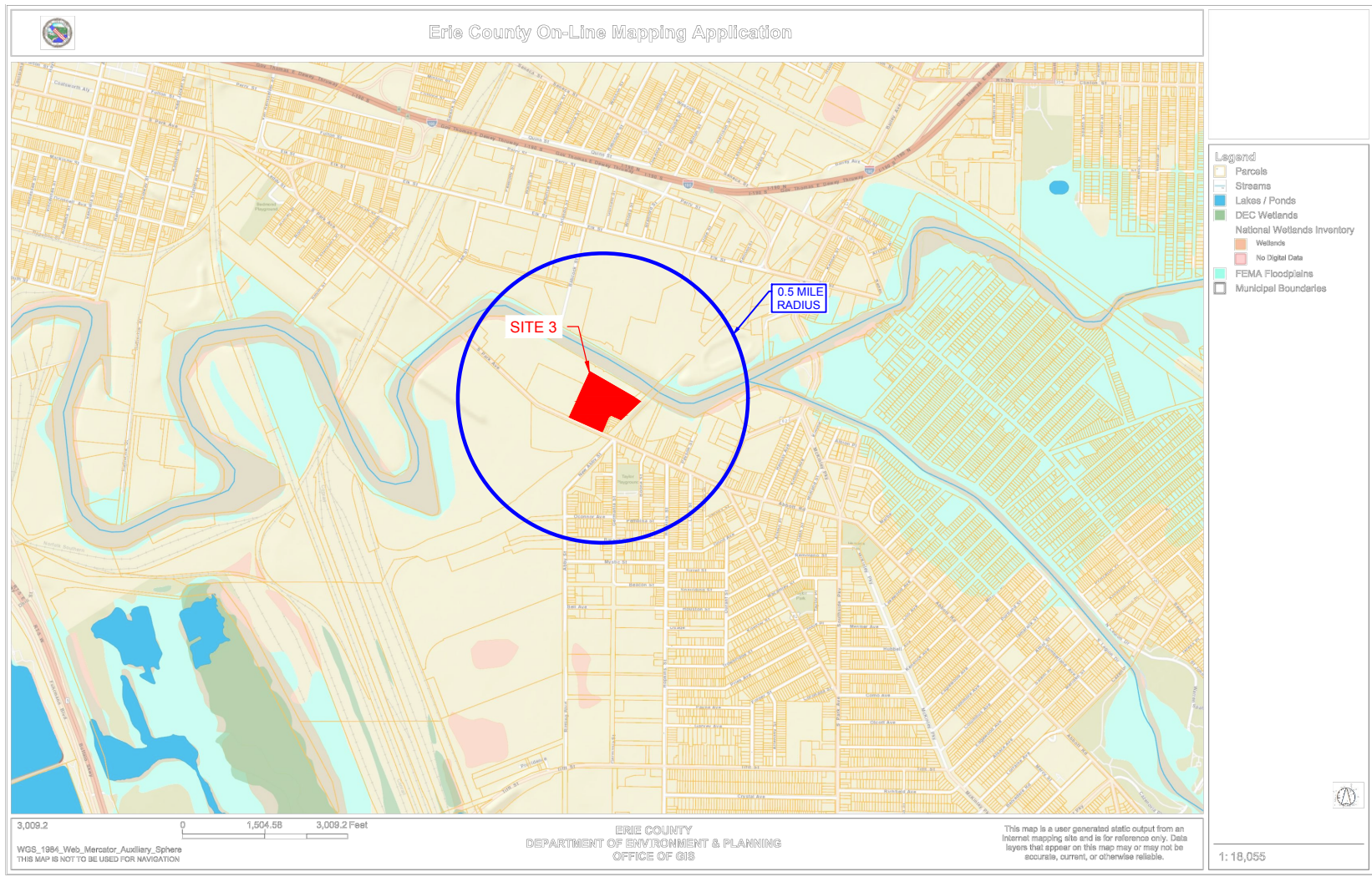
FIGURE 11



2556 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

PROJECT NO.: 0350-015-001
 DATE: JANUARY 2016
 DRAFTED BY: KRR/RFL

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**2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599**

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

DRAFTED BY: KRR/RFL

WETLAND & FLOODPLAIN MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1176 SOUTH PARK AVENUE SITE 3

BCP SITE
BUFFALO, NEW YORK

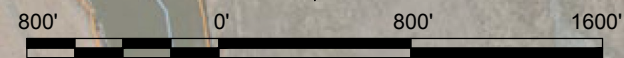
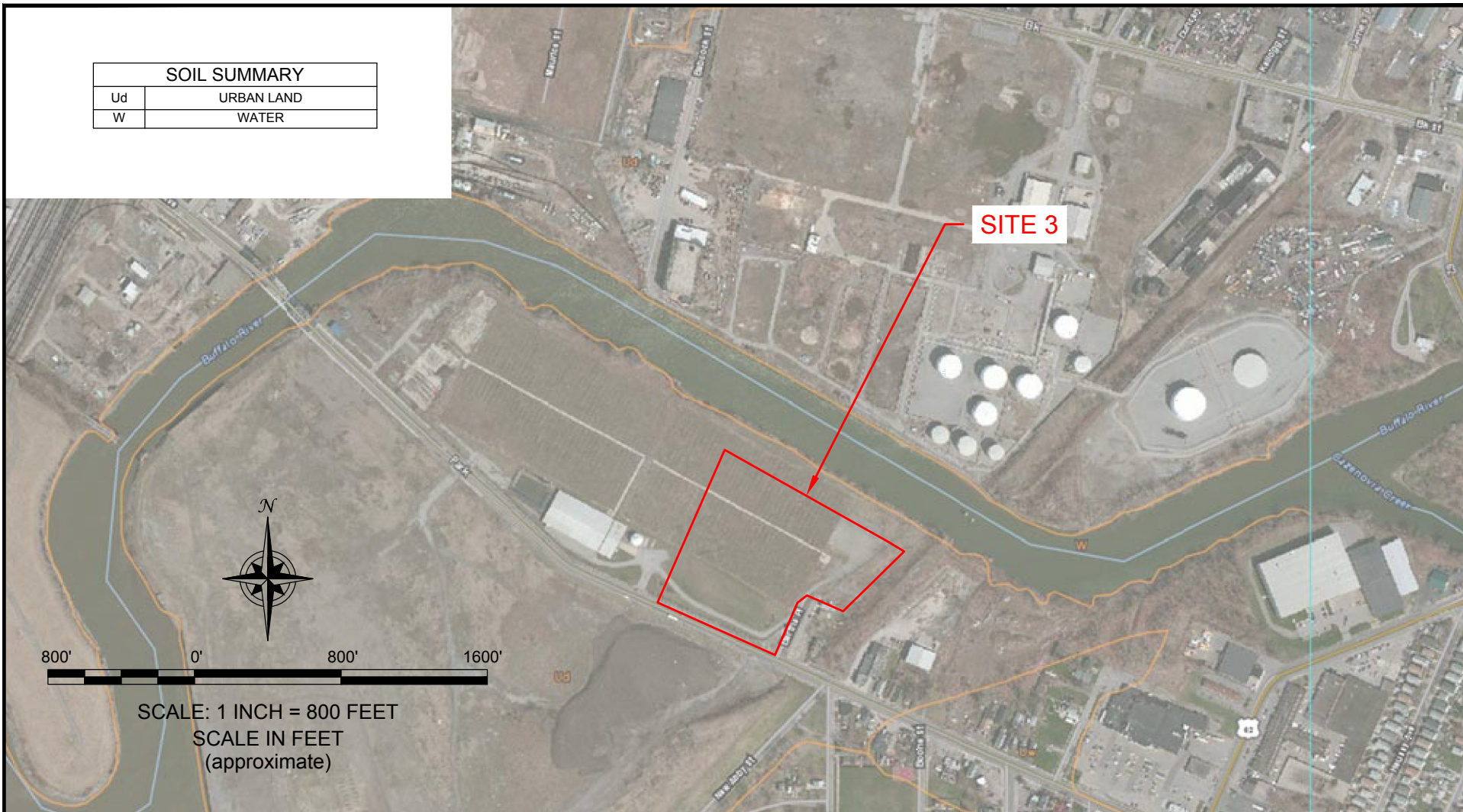
PREPARED FOR

JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 13

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SOIL SUMMARY	
Ud	URBAN LAND
W	WATER



SCALE: 1 INCH = 800 FEET
SCALE IN FEET
(approximate)

SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION
1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK
PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 14



2556 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

PROJECT NO.: 0350-015-001
DATE: JANUARY 2016
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2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

**SOUTH BUFFALO BROWNFIELD
 OPPORTUNITY AREA**
 BROWNFIELD CLEANUP PROGRAM APPLICATION

1176 SOUTH PARK AVENUE SITE 3

BUFFALO, NEW YORK

PREPARED FOR

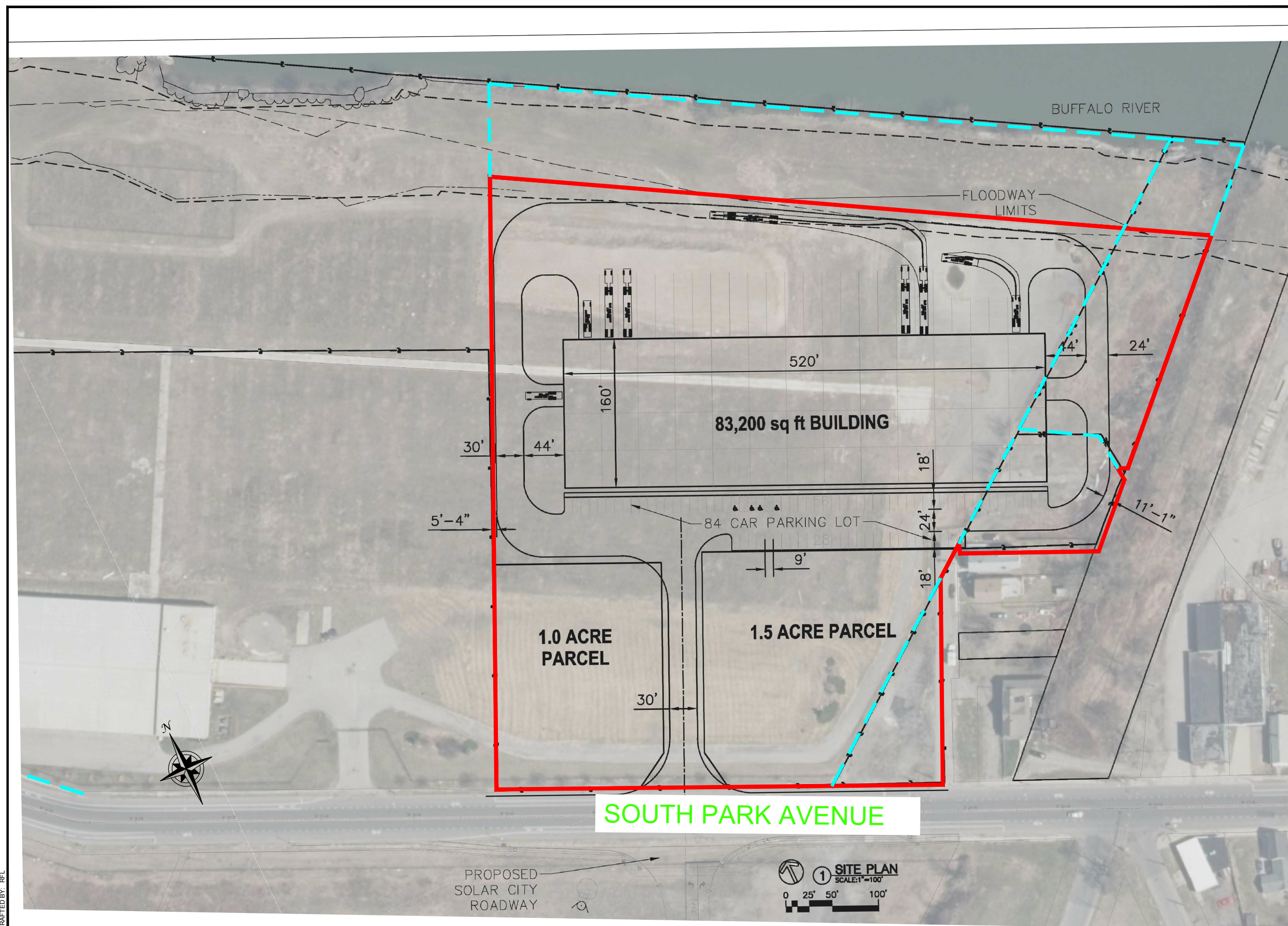
JOHN W. DANFORTH CONSTRUCTION, LLC

PROJECT NO.: 0350-015-001

DATE: JANUARY 2016

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PROPOSED REDEVELOPMENT PLAN

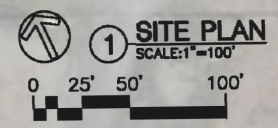
BROWNFIELD CLEANUP PROGRAM APPLICATION
 1176 SOUTH PARK AVENUE SITE 3
 BCP SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 JOHN W. DANFORTH CONSTRUCTION, LLC

BENCHMARK
 ENVIRONMENTAL
 ENGINEERING &
 SCIENCE, PLLC
 2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
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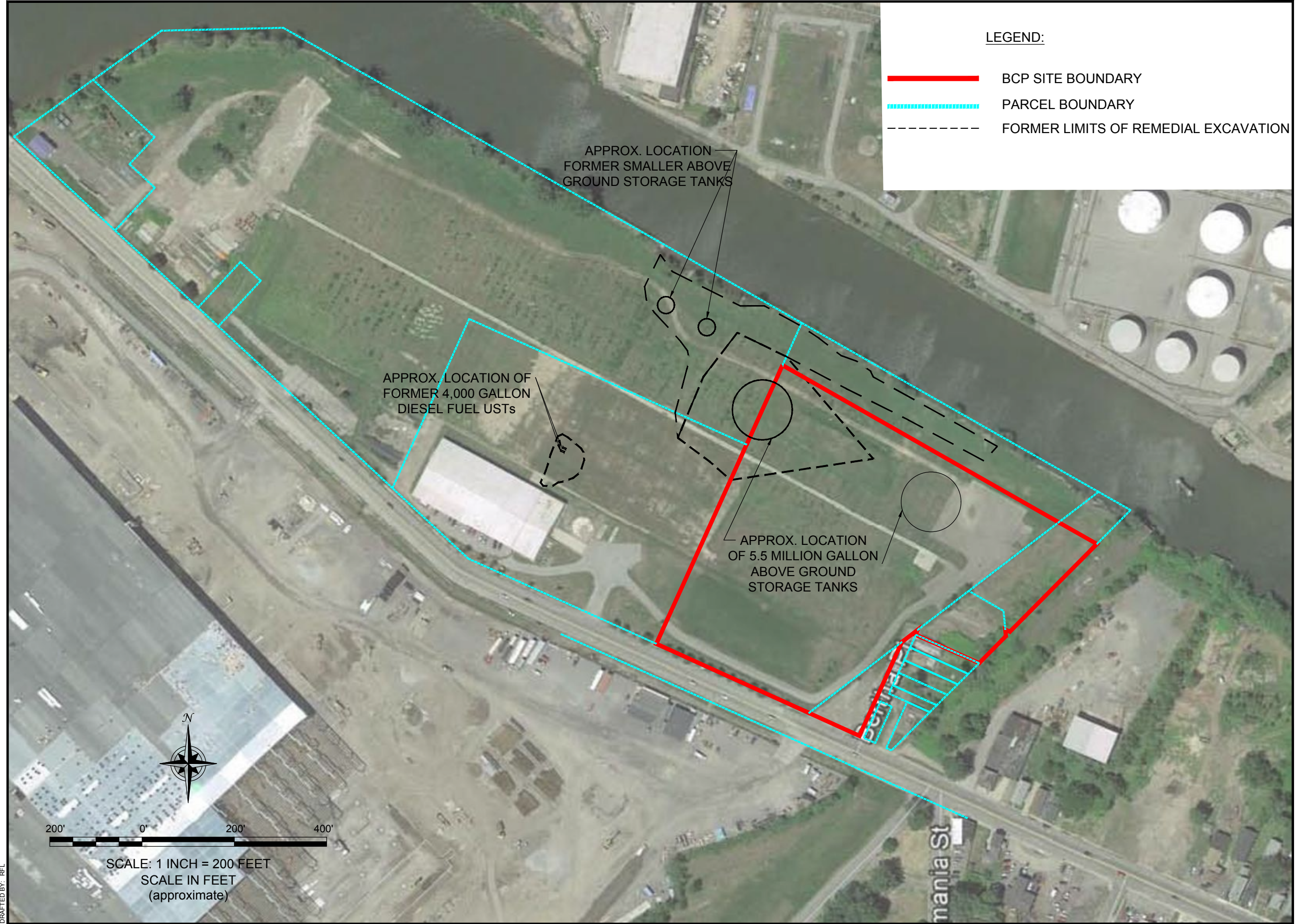
JOB NO.: 0350-015-001

FIGURE 16

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PROPOSED
 SOLAR CITY
 ROADWAY



LEGEND:

- BCP SITE BOUNDARY
- - - PARCEL BOUNDARY
- - - FORMER LIMITS OF REMEDIAL EXCAVATION

DATE: JANUARY 2016
DRAFTED BY: REL

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: 0350-015-001

FORMER AREAS OF REMEDIAL ACTION

BROWNFIELD CLEANUP PROGRAM APPLICATION
1176 SOUTH PARK AVENUE SITE 3
BCP SITE
BUFFALO, NEW YORK
PREPARED FOR
JOHN W. DANFORTH CONSTRUCTION, LLC

FIGURE 17

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ATTACHMENT 1

BCP APPLICATION – SECTION I

REQUESTER INFORMATION

NYS DEPARTMENT OF STATE CORPORATION & BUSINESS ENTITY DATABASE
SIGNATURE RESOLUTION

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through September 28, 2015.

Selected Entity Name: JOHN W. DANFORTH CONSTRUCTION LLC
Selected Entity Status Information
Current Entity Name: JOHN W. DANFORTH CONSTRUCTION LLC
DOS ID #: 4408572
Initial DOS Filing Date: MAY 24, 2013
County: ERIE
Jurisdiction: NEW YORK
Entity Type: DOMESTIC LIMITED LIABILITY COMPANY
Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

JOHN W. DANFORTH CONSTRUCTION LLC
300 COLVIN WOODS PARKWAY
TONAWANDA, NEW YORK, 14150

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this

information is not recorded and only available by
[viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAY 24, 2013	Actual	JOHN W. DANFORTH CONSTRUCTION LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

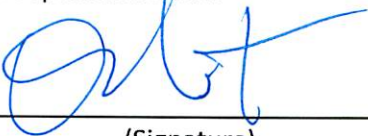
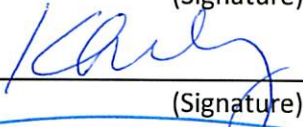

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RESOLVED, that Mr. Robert Beck, Managing Member of John W. Danforth Construction LLC (Company) be hereby authorized and empowered to sign a Brownfield Cleanup Agreement (BCA) for property referred to as the 1176 South Park Avenue Site 3 with New York State Department of Environmental Conservation (NYSDEC), in the name of and on behalf of this Company.

The undersigned hereby certify that he is the duly qualified Managing Member and custodian of the books and records of John W. Danforth Construction LLC, a corporation duly formed pursuant to the laws of the State of New York, and that the foregoing is a true record of a resolution duly adopted by the Members at a meeting of John W. Danforth Construction LLC and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on September 29, 2015, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Member of the above-named Company this 30th day of September 2015.


 _____ (Signature)	Robert Beck (Print Name)	Managing Member (Title)
 _____ (Signature)	KEVIN G. REILLY (Print Name)	Member (Title)
 _____ (Signature)	Brian S. Tubin (Print Name)	Member (Title)

ACKNOWLEDGMENT

(STATE OF NEW YORK)

(COUNTY OF ERIE)

On the 30th day of September in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Beck, 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 the behalf of which the individual(s) acted, executed the instrument.



Notary Public

MARY J. NOWAK
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Dec. 27, 2017

ATTACHMENT 2
BCP APPLICATION – SECTION II

PROJECT DESCRIPTION

ATTACHMENT 2
BCP Application - Section II
Property Description
1176 South Park Avenue Site 3

SECTION II – PROJECT DESCRIPTION

Project Description

John W. Danforth Construction LLC (Danforth), acting as a non-responsible Volunteer, is willing to remediate Site 3 under the Brownfield Cleanup Program (BCP) and is submitting this BCP application for eligibility into the Program. Upon acceptance into the BCP, Danforth plans to complete a Remedial Investigation, prepare a Remedial Investigation/Alternatives Analysis Report (RI/AAR) and prepare a Remedial Action Work Plan (RAWP) to address the contamination on-Site.

A preliminary Project Schedule is presented on Figure 9.

Figure 16 shows a preliminary redevelopment plan which involves the construction of an approximate 83,000 square foot (sq ft) building in the northern portion of Site 3, and development of two smaller parcels in the southern portion along South Park Avenue. Redevelopment plans for the southern portion will be prepared as development opportunities arise. The planned future use of the Site will be consistent with the local zoning plan. Based on our experience with similar properties, we estimate \$500,000 for remedial costs.

ATTACHMENT 3
BCP APPLICATION – SECTION III

PROPERTY'S ENVIRONMENTAL HISTORY

ATTACHMENT 3
BCP Application – Section III
Property’s Environmental History
1176 South Park Avenue Site 3

PREVIOUS ENVIRONMENTAL INVESTIGATIONS

A list of the previous investigation reports and pertinent information for the parcels of property that make up Site 3 are listed below and have been provided in electronic format on the compact disc submitted with the application. A summaries of previous environmental findings completed for Site 3 are presented below.

- Erie County Department of Environmental Quality Memorandum. Oil Spill in Buffalo River, September 8, 1975
- RECRA Environmental, Inc. Real Property Environmental Appraisal Report, October 1990
- Enasco, Inc. Limited Environmental Investigation, 1205 South Park Avenue, Buffalo, New York, November 1994
- Enasco, Inc. Continuing Environmental Investigation Report, 1205 South Park Avenue, Buffalo, New York, January 1995
- Foit-Albert & Associates. Groundwater Investigation, Former LTV Site, 1205 South Park Avenue, Buffalo, New York, February 1996
- Foit-Albert & Associates. Subsurface Investigation, Former LTV Site, 1205 South Park Avenue, Buffalo, New York, May 1996
- Foit-Albert & Associates. Revised Remedial Plan, The Former LTV (Republic Steel) Property, 1205 South Park Avenue, Buffalo, New York, July 1996
- Malcolm Pirnie. Sampling Report & Remedial Plan for the Truscon Property, 1176 – 1184 South Park Avenue, September 1996
- Malcolm Pirnie. Remedial Report for the Truscon Property, The City of Buffalo, December 1996.
- Malcolm Pirnie. Phase I Environmental Site Assessment for Property Located at 1176 – 1184 South Park Avenue, Buffalo, New York, July 1997

ATTACHMENT 3
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- TurnKey Environmental Restoration, LLC. LTV Steel Company, Truscon Soil Bioremediation, May 1999
- Panamerican Environmental, Inc. Phase II Environmental Site Assessment, Village Farm Site, 1087, 1176, 1328 South Park Avenue and 11 Bertha Street, City of Buffalo, Erie County, New York, September 2009.

SUMMARY OF PREVIOUS ENVIRONMENTAL REPORTS

The 1975 Erie County Memorandum documents activities and meetings with Republic Steel staff and US Coast Guard regarding a No. 6 fuel oil release from a 5.5 million gallon AST on the Republic Steel property. An oil slick and oil “bubbling up” from the south bank of the Buffalo River below the water level were observed. Five (5) holes were dug around the AST from 5 to 12 feet deep and oil was observed infiltrating the excavations. A 1-inch hole was found in the bottom of the AST, as the product was being pumped out. At the time of the memorandum, 25,000 gallons of oil had been recovered from around the AST.

There was no other information from the date of this memorandum until the RECRA 1990 Property Environmental Appraisal Report, which recommended surficial and subsurface investigations to address concerns identified.

Various investigation were completed by Enasco and Foit-Albert from November 1994 through July 1996. The investigations focused on four (4) main areas, as follows. A figure showing the locations of Area A through D is provided in Attachment 4.

Area A: Within the footprint and immediate vicinity of the former 5.5 million-gallon oil above-ground storage tank (AST) (i.e., the northern-most tank). Evidence of petroleum-contamination was reported in 15 of 28 test pits and three borings. Soil samples were collected in areas of gross visual contamination (in the former tank footprint), and on the perimeter of the visual contamination. A large area between the

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inner and outer sampling points was identified as contaminated based upon visual evidence and the presence of petroleum odors.

Area B: Between Area A and the Buffalo River. Some petroleum odor, staining, and residual oil was reported in one test boring on the river's edge between the two former 5.5 million-gallon ASTs.

Area C: Between Area A and the vicinity of the two former smaller gas ASTs. Soil from only one boring exceeded NYSDEC STARS soil guidance values. The remainder of the delineated contamination in Area C was classified as contaminated based on visual evidence and the presence of petroleum odors.

Area D: Located in the vicinity of two 4,000-gallon underground storage tanks (USTs), which were suspected to be in-place. Evidence of petroleum-contamination was reported in 9 of 20 test pits. No soil samples were analyzed. The extent of contamination was based on visual evidence and the presence of petroleum

Areas C and D are located outside the boundaries of Site 3.

In August 1996, Malcom Pirnie completed supplemental sampling (16 soil borings) to better define the horizontal and vertical extents of the petroleum contamination, which consisted of 9 borings in Area A, 8 borings in Area B and C and 1 boring in Area D. In September 1996 a Sampling Report & Remedial Plan was prepared which recommended the following:

- Excavation of petroleum-impacted soil from the 4 Areas;
- Removal of three USTs if present;
- Backfill and compaction of excavated areas; and
- Transportation of petroleum-impacted soil to off-site bioremediation area on the Republic Steel/LTV Steel property located across South Park Avenue.

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Remedial activities were completed between September and December 1996 consisted of the following:

- Removal of approximately 12,100 cubic yards of soil in the vicinity of the 5.5 million gallon AST (Area A).
- Removal of approximately 1,340 cubic yards of soil from an oil pipeline trench and sump area in the vicinity of the 5.5 million gallon AST (Area A).
- Removal of approximately 1,660 cubic yards of soil from in the vicinity of two small ASTs and along the Buffalo River bank (Areas B and C).
- Removal of approximately 1,820 cubic yards of soil for the location of two former 4,000-gallon USTs (Area D).

The December 1996 Remedial Report indicated that side wall confirmation samples were collected at a minimum of 1 composite sample per 100 linear feet where nuisance characteristics were evident and 1 composite per 200 linear feet in areas without visual or olfactory evidence. The bottom of excavation was sampled at an interval of 1 composite sample per 5,000 square feet. The bottom of the excavation was extended to the vertical extent of contamination or a depth of 9 to 10 feet, which was equivalent to the elevation of the Buffalo River and where groundwater was encountered. Bioremediation of the petroleum impacted soil continued on the Republic Steel/LTV Steel property located across South Park Avenue until 1999.

NYSDEC issued a letter on June 20, 1997 to the City of Buffalo which indicated that the remediation of the Truscon site was performed in accordance with the approved work plan. The Remedial Report confirmed that some contamination above the guidance values (STARS Guidance at the time of the remedial action) remained at approximately 8 to 10 feet below the ground. This finding was not unexpected as the work plan anticipated that some contamination would remain at the bottom of the excavation. The Department indicated that it had no objection to using the site for the construction of a hydroponic greenhouse for tomatoes.

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A Malcolm Pirnie Phase I ESA (1997) of the Truscon Site did not recommend further investigation of the property, as previous remedial actions completed were to the satisfaction of NYSDEC for the intended use of the property (commercial) and the June 1997 Sear-Brown PCB investigation (as referenced in the Malcolm Pirnie 1997 Phase I ESA report) did not identify detectable concentrations of PCBs in 15 of the 16 samples collected.

A TurnKey (1999) Soil Bioremediation report documented the final sampling event for the bioremediation of the soils from the Truscon Site. Approximately 17,000 cubic yards of petroleum-impacted soil was treated across the street at the former LTV Steel property and stockpiled for reuse in future remediation activities.

NYSDEC issued an inactive status letter on May 25, 1999 for NYSDEC Spill No. 951384, as no further work was required.

In September 2009, Panamerican Environmental, Inc issued a Phase II Environmental Site Assessment Report for an investigation completed across the entire 1176 South Park Avenue parcel along with 1328 South Park Avenue parcel and 11 Bertha Street parcel. Of the 33 investigation test pits completed, 15 test pits were completed on Site 3.

The subsurface conditions generally consisted of about 6-inches to 1 foot of vegetated topsoil over 2 to 5 feet of gray/black fill consisting of slag, brick, concrete and a mix of sand and gravel. Below the fill material was a brown/gray sand, clay and silt layer.

From those 15 test pit locations completed on Site 3, nine (9) surface soil and nine (9) subsurface soil samples were submitted for laboratory analysis. The surface soil samples were collected from the upper 6-inches of soil present and the subsurface soil samples were collected from various depth intervals from 2 to 7 feet below ground surface. The subsurface soil samples were generally collected from the gray/black fill material that was encountered. Two (2) summary tables are provide in Attachment 3, one (1) for the results of

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the surface soil and one (1) for the subsurface soil samples collected from Site 3 along with the investigation location figure.

Three (3) of the nine (9) surface soil samples has detections of SVOCs above their respective Commercial SCOs and Industrial SCOs. Six (6) of the nine (9) subsurface soil samples had detections of either SVOCs, metals analytes or a combination of both at concentrations exceeding their respective Commercial and/or Industrial SCOs. [We note that the surface and subsurface soil samples collected from the other portions of 1176 South Park Avenue (not a part of Site 3) also had similar detections of SVOCs and metal analytes above their respective Commercial and/or Industrial SCOs].

PAST LAND USES

Site 3 has been used from industrial purposes since 1919 when it was developed as part of the Ferguson Steel & Iron Company, which closed in the 1920s. Several commercial/industrial operations existed prior to the parcel being acquired by Republic Steel sometime prior to the 1940s, when it was redeveloped as a parking area. Republic Steel Corporation/LTV Steel Company owned the parcels from 1940 to 1981. Two (2) 5.5 million gallon No 6 fuel oil ASTs were installed on the property from 1948 until 1981. These tanks were used to fuel the blast furnaces on the Republic Street/LTV Steel facility on the south side of South Park Avenue. Site 3 was also used for Republic Street/LTV Steel facility parking and as a pig iron/scrap iron storage yard. The tanks were removed and the buildings razed in 1981 and the parcel was vacant until 1999 when it was redeveloped for hydroponic tomato manufacturing. Prior to redevelopment for hydroponic tomato manufacturing, petroleum remediation was completed. The hydroponic tomato manufacturing was in operation from 1999 to 2003 and the associated greenhouse structures were torn down in 2004. The parcel has been vacant since that time.

PANAMERICAN 2007 SURFACE SOIL ANALYTICAL RESULTS SUMMARY
1176 SOUTH PARK AVE SITE 3
 BUFFALO, NY 14220

PARAMETER ¹	Restricted Residential Use SCOs ²	Commercial Use SCOs ³	Industrial Use SCOs ⁴	VF-TP-02 0-4"	VF-TP-04 0-4"	VF-TP-05 0-4"	VF-TP-10 0-4"	VF-TP-11 0-4"	VF-TP-12 0-4"	VF-TP-14 0-4"	VF-TP-37 0-4"	VF-TP-39 0-4"
Semi-Volatile Organic Compounds (SVOCs) - mg/Kg³												
Acenaphthene	100	500	1000	ND	0.1 J	ND	ND	0.16 J	ND	ND	ND	ND
Acenaphthylene	100	500	1000	ND	0.13 J	ND	ND	0.75	0.44	ND	ND	ND
Anthracene	100	500	1000	ND	0.47	ND	0.11 J	1.4	0.35 J	ND	ND	0.16 J
Benzo(a)anthracene	1	5.6	11	ND	2.1 J	ND	0.38 J	4.3 J	1.9 J	0.11 J	ND	0.6
Benzo(a)pyrene	1	1	1.1	ND	1.6	ND	0.3 J	2.9	1.6	ND	ND	0.52
Benzo(b)fluoranthene	1	5.6	1000	ND	2.5	ND	0.39 J	4.1	2.4	0.14 J	ND	0.72
Benzo(g,h,i)perylene	100	500	110	ND	1.2	ND	0.22 J	2.1	1.2	0.097 J	ND	0.46
Benzo(k)fluoranthene	3.9	56	N/A	ND	0.67	ND	0.15 J	1.8	0.79	ND	ND	0.26 J
Bis(2-ethylhexyl) phthalate	N/A	N/A	N/A	ND	ND	ND	17	0.14 J	ND	ND	ND	ND
Butylbenzylphthalate	N/A	N/A	N/A	--	--	--	--	--	--	--	ND	ND
Carbazole	N/A	N/A	N/A	ND	0.16 J	ND	ND	0.39 J	ND	ND	ND	ND
Chrysene	3.9	56	110	ND	2.1 J	ND	0.38 J	4 J	1.6 J	0.12 J	ND	0.64
Dibenzo(a,h)anthracene	0.33	0.56	1.1	ND	0.48	ND	ND	0.83	0.4 J	ND	ND	0.15 J
Dibenzofuran	N/A	N/A	N/A	ND	ND	ND	ND	0.26 J	ND	ND	ND	ND
Di-n-butylphthalate	N/A	N/A	N/A	ND	ND	ND	ND	ND	ND	ND	ND	ND
Diethyl phthalate	N/A	N/A	N/A	ND	ND	ND	ND	ND	ND	ND	ND	ND
Fluoranthene	100	500	1000	ND	3.1	ND	0.67	9.6	2.5	0.17 J	ND	1.1
Flourene	100	500	1000	ND	0.12 J	ND	ND	0.28 J	ND	ND	ND	ND
Indeno(1,2,3-cd)pyrene	0.5	5.6	11	ND	1	ND	0.18 J	2	1.1	ND	ND	0.35 J
2-methylnaphthalene	N/A	N/A	N/A	ND	ND	ND	ND	0.092 J	ND	ND	ND	ND
3-Methylphenol	N/A	N/A	N/A	ND	ND	ND	ND	ND	ND	ND	ND	ND
4-Methylphenol	N/A	N/A	N/A	ND	ND	ND	ND	ND	ND	ND	ND	ND
Naphthalene	100	500	1000	ND	ND	ND	ND	ND	ND	ND	ND	ND
Phenanthrene	100	500	1000	ND	1.2	ND	0.43	5	0.32 J	ND	ND	ND
Pyrene	100	500	1000	ND	2.7	ND	0.61	6.2	2.6	0.15 J	ND	0.9
Polychlorinated Biphenyls (PCBs) - mg/Kg³												
4,4'-DDD	13	92	180	--	--	--	--	--	--	ND	ND	ND
4,4'-DDE	8.9	62	120	--	--	--	--	--	--	ND	ND	ND
4,4'-DDT	7.9	47	94	ND	0.0071 J	ND	ND	0.0062 J	ND	ND	ND	0.01
Beta-BHC	0.36	3	14	--	--	--	--	--	--	--	ND	ND
Delta-BHC	100	500	1000	--	--	--	--	--	--	--	ND	ND
Dieldrin	0.2	1.4	2.8	--	--	--	--	--	--	--	ND	ND
Endosulfan 1	24	200	920	--	--	--	--	--	--	--	ND	ND
Endosulfan 11	24	200	920	--	--	--	--	--	--	--	ND	ND
Endosulfan sulfate	24	200	920	ND	0.0061 J	ND	ND	0.015 J	ND	ND	ND	ND
Endrin aldehyde	N/A	N/A	N/A	--	--	--	ND	0.0063 J	ND	ND	ND	ND
Endrin ketone	N/A	N/A	N/A	ND	0.0086 J	ND	ND	0.018 J	ND	ND	ND	ND
Gamma Chlordane	N/A	N/A	N/A	--	--	--	ND	ND	ND	ND	ND	0.003 P
Heptachlor epoxide	N/A	N/A	N/A	--	--	--	ND	ND	ND	ND	ND	ND
Heptachlor epoxidol	N/A	N/A	N/A	ND	0.0039 J	ND	--	--	--	--	--	--
Lindane	1.3	9.2	29	--	--	--	--	--	--	--	ND	ND
Alpha Chlordane	4.2	24	47	--	--	--	ND	ND	ND	ND	ND	ND
Aroclor-1248	1	1	25	ND	0.056 J	ND	ND	ND	ND	ND	ND	ND
Aroclor-1254	1	1	23	ND	ND	ND	ND	ND	ND	ND	ND	0.16
Aroclor-1260	1	1	23	--	--	--	--	--	--	ND	ND	ND
Metals - mg/Kg³												
Aluminum	N/A	N/A	N/A	3600	12000	3900	33000	23000	26000	34000	3500	15000
Antimony	N/A	N/A	N/A	--	--	--	ND	ND	ND	ND	ND	4.7
Arsenic	16	16	16	3	6.5	4.1	7.7	8.4	9.5	6.4	5.7	12
Barium	400	400	10000	18.4	83 J	20	350 J	260 J	290 J	180 J	23	230
Beryllium	72	590	2700	0.21	1.6	ND	3.8	3.7	4.3	6.1	ND	1.2
Cadmium	4.3	9.3	60	ND	1	ND	0.69	1.5	1.3	0.7	ND	1.5
Calcium	N/A	N/A	N/A	66000	53000	48000	170000	190000	160000	210000	24000	65000
Chromium	110	400	800	5.5 J	100 J	5.8	22 J	210 J	100 J	47 J	4.8	66
Cobalt	N/A	N/A	N/A	4.1 J	5.3 J	4.1	2.2 J	ND	3.1 J	ND	3.9	5.7
Copper	270	270	10000	18 J	35 J	18	27 J	31 J	42 J	25 J	16	61
Iron	N/A	N/A	N/A	8400	36000	9700	19000	53000	45000	41000	11000	37000
Lead	400	1000	3900	4.4 J	58 J	5.7	55 J	150 J	130 J	50 J	6.7	440
Magnesium	N/A	N/A	N/A	9200 J	7600 J	8800	17000 J	17000 J	18000 J	49000 J	7000	7300
Manganese	2000	10000	10000	250 J	2400 J	270	4400 J	8400 J	5000 J	3600 J	220	2700
Mercury	0.81	2.8	5.7	ND	0.15	ND	0.11	0.12	0.066	ND	ND	0.45
Nickel	310	310	10000	13 J	23 J	13	7.8 J	12 J	26 J	11 J	10	17
Potassium	N/A	N/A	N/A	750	1100	790	2700	1800	2200	2000	650	1600
Selenium	180	4500	6.8	ND	ND	ND	3	5.2	4	2.1	1.3	3.5
Silver	180	1500	6800	ND	ND	ND	ND	ND	ND	ND	ND	ND
Sodium	N/A	N/A	N/A	94	250	85	1000	580	780	1100	55	300
Vanadium	N/A	N/A	N/A	6.3 J	24 J	6.8	14 J	76 J	27L	13 J	7.1	39
Zinc	10000	10000	10000	42 J	140 J	46	100 J	180 J	170 J	43 J	47	310
Total Cyanide	27	27	10000	--	--	--	--	--	--	ND	ND	ND

Notes:

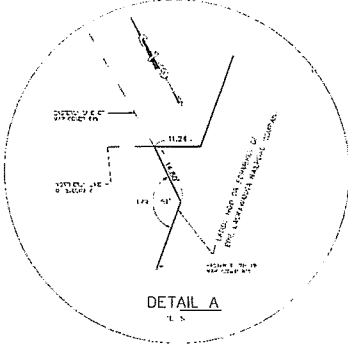
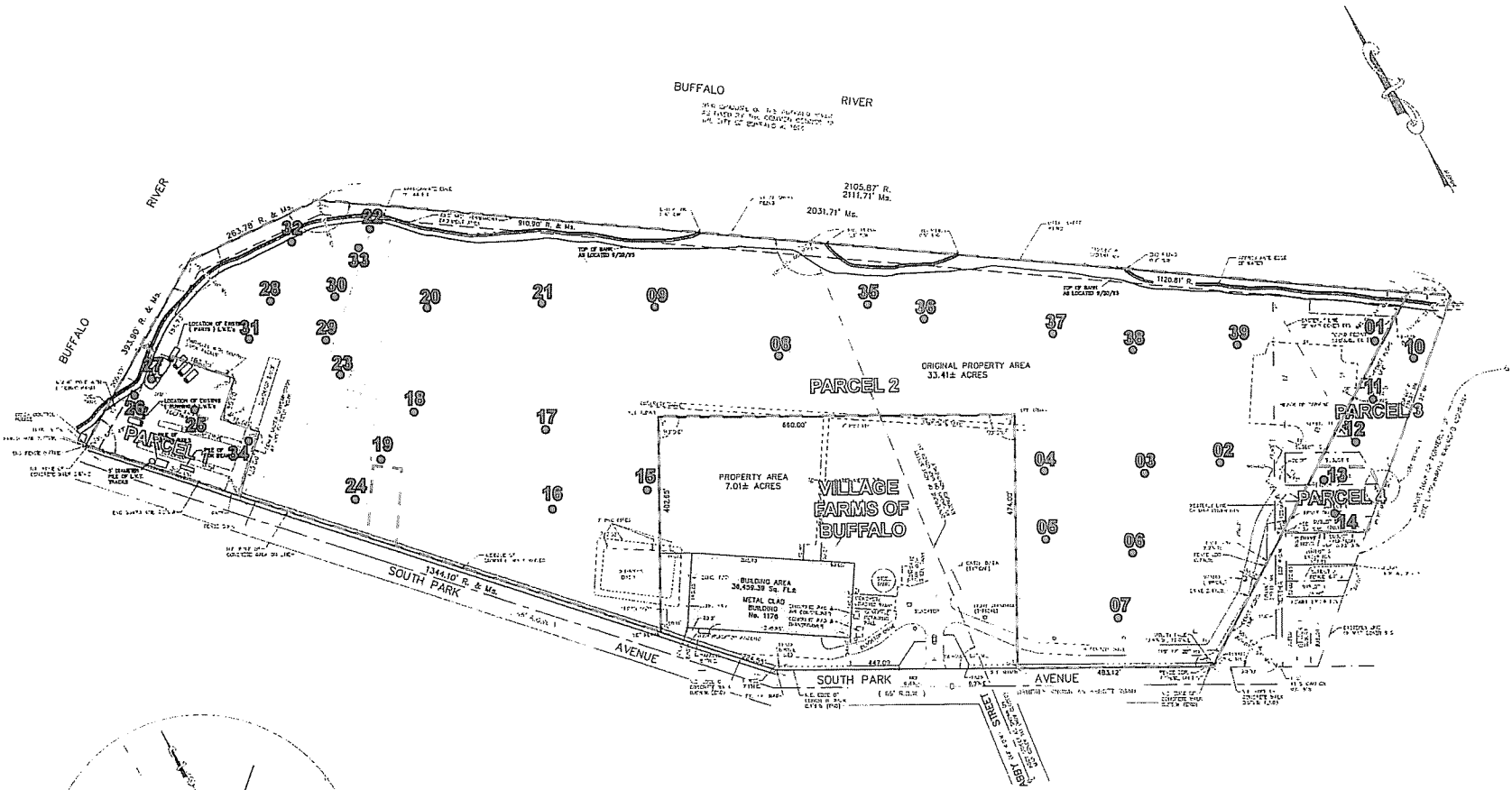
1. Only those parameters detected at a minimum of one sample location are presented in this table. other compounds analyzed for were reported as non-detect.
2. Values per NYSDEC Part 375 Residential Soil Cleanup Objectives (SCOs).
3. Values per NYSDEC Part 375 Soil Cleanup Objectives (SCOs).
4. Values per NYSDEC Part 375 Industrial Soil Cleanup Objectives (SCOs).

Definitions:

- ND = Parameter not detected above laboratory detection limit.
- "--" = No value available for the parameter; Parameter not analysed for.
- J = Estimated value; result is less than the sample quantitation limit but greater than zero.

Bold	- exceedance of Part 375 Restricted Residential SCOs
Bold	- exceedance of Part 375 Commercial SCOs
Bold	- exceedance of Part 375 Industrial SCOs

THIS MAP WAS PREPARED WITHOUT THE ASSISTANCE OF AN INSTRUMENT AND IS SUBJECT TO THE USUAL LIMITS OF ACCURACY WHICH MAY BE DETERMINED BY A COMPARISON OF THIS MAP WITH THE ORIGINAL RECORDS.



COMPOSITE MAP SHOWING SURVEY PREPARED FOR 7.01 ACRE PARCEL DATED 4/30/07

THIS MAP IS INTENDED FOR INFORMATIONAL PURPOSES ONLY

DATE: 04/30/07
 TIME: 11:00 AM
 DRAWN BY: GEL
 CHECKED BY: TJC
 DATE: 9/29/08
 VOD NO: 915558

DATE	JOB	DESCRIPTION
04/30/07	32334	3107 FIVE SITE IMPROV
04/30/07	32334	414 PC PART 307
05/27/07	32334	422 PC PART 307
07/10/07	32334	423 PC PART 307
08/20/07	32334	424 PC PART 307
09/29/08	32334	425 PC PART 307

TVA
 TWA ENGINEERING, SURVEYING, P.C.
 100 W. 10TH ST. SUITE 100
 BUFFALO, NY 14203
 TEL: (716) 833-7000
 FAX: (716) 833-7001

Figure 2. Test Trench Location Plan

ATTACHMENT 3
Previous Environmental Reports
1176 South Park Avenue Site 3

Previous Environmental Reports are included on the compact disc in
Attachment 9.

ATTACHMENT 4

BCP APPLICATION – SECTION IV

PROPERTY INFORMATION

PARCEL DESCRIPTION

PREVIOUS REMEDIAL ACTION

EASEMENTS & PERMITS

PROPERTY DESCRIPTION & ENVIRONMENTAL ASSESSMENT NARRATIVE

ATTACHMENT 4
BCP Application – Section IV
Property Information
1176 South Park Avenue Site 3

SECTION IV - QUESTIONS 1-4

Parcel Description

The area of land (hereinafter, the “Project Site” or “Site 3”) subject to this BCP application consists of approximately 9.04 (7.72 + 0.31 + 0.61 + 0.4) acres of land associated with four (4) parcels as described below:

- 7.72 acres of the eastern portion of 1176 South Park Avenue (SBL # 122.16-1-16).
- 0.31 acres of the entire parcel of 1316 South Park Avenue (SBL # 123.13-1-1.1)
- 0.61 acres of the entire parcel of 1328 South Park Avenue (SBL # 123.13-1-1.2)
- 0.40 acres of the entire parcel of 11 Bertha Street (SBL # 123.17-1-1.11)

These four (4) parcels are located in a primarily industrial and commercial area of the City of Buffalo, Erie County, New York (see Figures 1 and 2) and the Buffalo River is adjacent to Site 3 to the north. Site 3 is zoned industrial and currently vacant. The 7.72 acre portion of 1176 South Park Avenue is owned by the Buffalo Urban Development Corporation (BUDC), which has taken over control of the property for the Buffalo Economic Renaissance Corporation (BERC) which is defunct and no longer in operation. [We note that the Parcel Report included in this attachment for 1176 South Park Avenue, identifies BERC as the owner.] The other three (3) parcels are owned by the City of Buffalo.

Figure 3 is a parcel map of the Erie County Real Property parcel boundaries and Figure 4 is the Erie County Tax Map. The Erie County On-Line Mapping System - Parcel Detail Reports for SBL # 122.16-1-16, SBL # 123.13-1-1.1, SBL # 123.17-1-1.11 and SBL # 123.13-1-1.2 are attached.

The Site is bound by the Buffalo River to the north, the remaining western portions of the parcel (SBL # 122.16-1-16) to the west, and a 7 acre commercial property (English Pork Pie Company) also to the west. To the south is South Park Avenue and The High-Tech

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Property Information
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Manufacturing Hub at RiverBend redevelopment is across South Park to the south. To the east are Bertha Street and a mix of smaller residential, commercial and industrial zoned properties (see Figure 5).

SECTION IV – QUESTION 6

Previous Remedial Action Completed at the Site

Previous investigation and remedial action has been completed at the Site as discussed below to address NYSDEC Spill No. 951384, see Figure 17. A copy of the NYSDEC Spill report is included herein Attachment 4.

New York State Department of Environmental Conservation Petroleum Spills Database identified former Spill Number 9513284 for the parcel associated with 1176 South Park Avenue. Investigation activities previously undertaken on behalf of the City of Buffalo identified petroleum contamination in the groundwater. It is believed that a 1975 No. 6 fuel oil release from one of the two 5.5 million gallon above ground storage tanks (ASTs) formerly located on that parcel and in the vicinity of Site 3 was the cause petroleum contamination identified. In August 1975, oil was observed coming from the parcel and entering the Buffalo River

Various investigation were completed by Enasco and Foit-Albert from November 1994 through July 1996. In August 1996, Malcom Pirnie completed supplemental sampling (16 soil borings) to better define the horizontal and vertical extents of the petroleum contamination. In September 1996 a Sampling Report & Remedial Plan was prepared which recommended the following:

- Excavation of petroleum-impacted soil from the 4 Areas;
- Removal of three USTs if present;
- Backfill and compaction of excavated areas; and

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Property Information
1176 South Park Avenue Site 3

- Transportation of petroleum-impacted soil to off-site bioremediation area on the Republic Steel/LTV Steel property located across South Park Avenue.

Remedial activities were completed between September and December 1996 consisted of the following:

- Removal of approximately 12,100 cubic yards of soil in the vicinity of the 5.5 million gallon AST.
- Removal of approximately 1,340 cubic yards of soil from an oil pipeline trench and sump area in the vicinity of the 5.5 million gallon AST.
- Removal of approximately 1,660 cubic yards of soil from in the vicinity of two small ASTs and along the Buffalo River bank.
- Removal of approximately 1,820 cubic yards of soil for the location of two former 4,000-gallon USTs.

The bottom of the excavations were extended to the vertical extent of contamination or a depth of 9 to 10 feet, which was equivalent to the elevation of the Buffalo River and where groundwater was encountered. Bioremediation of the petroleum impacted soil excavated occurred on the Republic Steel/LTV Steel property located across South Park Avenue until 1999. Approximately 17,000 cubic yards of petroleum-impacted soil was treated across the street at the former LTV Steel property and stockpiled for reuse in future remediation activities. NYSDEC issued an inactive status letter on May 25, 1999 for NYSDEC Spill No. 951384, as no further work was required.

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SECTION IV – QUESTIONS 8 AND 9

Easements and Permits

Utilities are located in the right-of-way along South Park Avenue. Benchmark is not aware of any easements in connection with Site 3.

The four (4) parcels that makeup Site 3 were not identified in the NYSDEC Remedial Site database nor the United States Environmental Protection Agency (USEPA) Enforcement and Compliance History Online (ECHO).

SECTION IV - QUESTION 10

Property Description & Environmental Assessment Narrative

Location

Site 3 is located in a primarily industrial and commercial area of the City of Buffalo with the Buffalo River adjacent to the north. Site 3 is zoned industrial, currently vacant, and owned by the Buffalo Urban Development Corporation (BUDC) and City of Buffalo. Site 3 and the surrounding area have a long history in industrial activities. The High-Tech Manufacturing Hub at RiverBend redevelopment project is currently underway across South Park Avenue to the south.

Site 3 is located in the northern portion of the South Buffalo Brownfield Opportunity Area (SBBOA, see Figure 15) as documented in the SBBOA Step 3: Implementation Strategy document¹. The SBBOA represents the portion of the City of Buffalo having the largest geographic concentration of former heavy industries. It is approximately 1,986 acres and is the largest BOA to receive funding in New York State. Several key properties with considerable redevelopment potential and/or representing a significant public interest were

¹ South Buffalo Brownfield Opportunity Area, Step 3: Implementation Strategy. Prepared for the Buffalo Urban Development Corporation. March 2014.

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Property Information
1176 South Park Avenue Site 3

identified, the “Former Village Farms site” was one of them and Site 3 is located within its former boundaries (see Figure 15).

Site Features

Site 3 is currently vacant with no structures present. Site 3 is flat with two large berms (one in the north area of the site and one in the south) that were created with on-site soil/fill from past development activities (Former Village Farms site). It is generally covered by grass and small brush vegetation. In the eastern portion of the site there are remains of former concrete building slabs and asphalt paving from a former hydroponic tomato operation (Former Village Farms site) that was present. 1316 South Park Avenue primarily has a crushed stone cover. 1328 South Park Avenue and 11 Bertha Street are primarily grass and small brush vegetative cover with former paved areas and concrete slabs suspected to have been associated with former on-Site structures (see Figure 2).

Current Zoning and Land Use

The four (4) parcels that make up Site 3 are zoned vacant industrial and the land use/zoning surrounding the Site include industrial, commercial and residential properties. The adjacent property owners are identified on Figure 7.

Site 3 is zoned M3 - Heavy Industrial District (see Figure 6) and has a long history of industrial use. In addition to other industrial zoning (M2 and M1) there is R2 - Dwelling district, R3 – Dwelling District and C2 – Community Business District zoning to the southeast.

Past Use of the Site

Site 3 has been used from industrial purposes since 1919 when it was developed as part of the Ferguson Steel & Iron Company, which closed in the 1920s. Several commercial/industrial operations existed prior to the parcel being acquired by Republic Steel sometime prior to the 1940s, when it was redeveloped as a parking area. Republic Steel

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Property Information
1176 South Park Avenue Site 3

Corporation/LTV Steel Company owned the parcels from 1940 to 1981. Two (2) 5.5 million gallon No 6 fuel oil ASTs were present on the property from 1948 until 1981. These tanks were used to fuel the blast furnaces on the Republic Street/LTV Steel facility on the south side of South Park Avenue. Site 3 was also used for Republic Street/LTV Steel facility parking and as a pig iron/scrap iron storage yard. The tanks were removed and the buildings razed in 1981 and the parcel was vacant until 1999 when it was redeveloped for hydroponic tomato manufacturing. Prior to redevelopment for hydroponic tomato manufacturing (Former Village Farms site), petroleum remediation was completed (see Attachment 3). The hydroponic tomato manufacturing was in operation from 1999 to 2003 and the associated greenhouse structures were torn down in 2004. The parcel has been vacant since that time.

Site Geology and Hydrogeology

The surficial geology² of the Lake Erie Plain consists of lacustrine silt and clay which is described as generally laminated silt and clay deposited in proglacial lakes, generally Calcareous with the potential for land instability with a variable thickness (up to 100 meters). According to the USDA Web Soil Survey and the on-line Erie County “On-Map” website, The area of Site 3 is identified as Urban land (Ud), which indicated that 80% or more of the soil surface is covered by asphalt, concrete, or other impervious structures (see Figure 14).

Previous investigations have identified the subsurface conditions as gray/black fill consisting of slag, brick, concrete and a mix of sand and gravel from approximately 1 to 6 feet below ground surface (fbgs) beneath the surface topsoil layer. Beneath the fill material is a brown/gray sand, clay and silt material to about 10 fbgs. A grey sand was generally encountered from 10 to 16 fbgs and groundwater was encountered at 8 to 12 fbgs.

² Surficial Geologic Map of New York, Niagara Sheet, Compiled and edited by Donald H. Cadwell, University of the State of New York, The State Education Department, 1988.

ATTACHMENT 4
BCP Application – Section IV
Property Information
1176 South Park Avenue Site 3

Bedrock beneath the Site is identified as Middle Devonian age bedrock that consists mostly of dark gray/black shales and thin silty limestones, and usually quite fossiliferous (New York State Geologic Map of New York³). Bedrock was not encountered during the previous intrusive work.

Additional work is required to investigate groundwater quality. Monitoring wells to assess and characterize groundwater flow patterns and quality are planned during the Remedial Investigation.

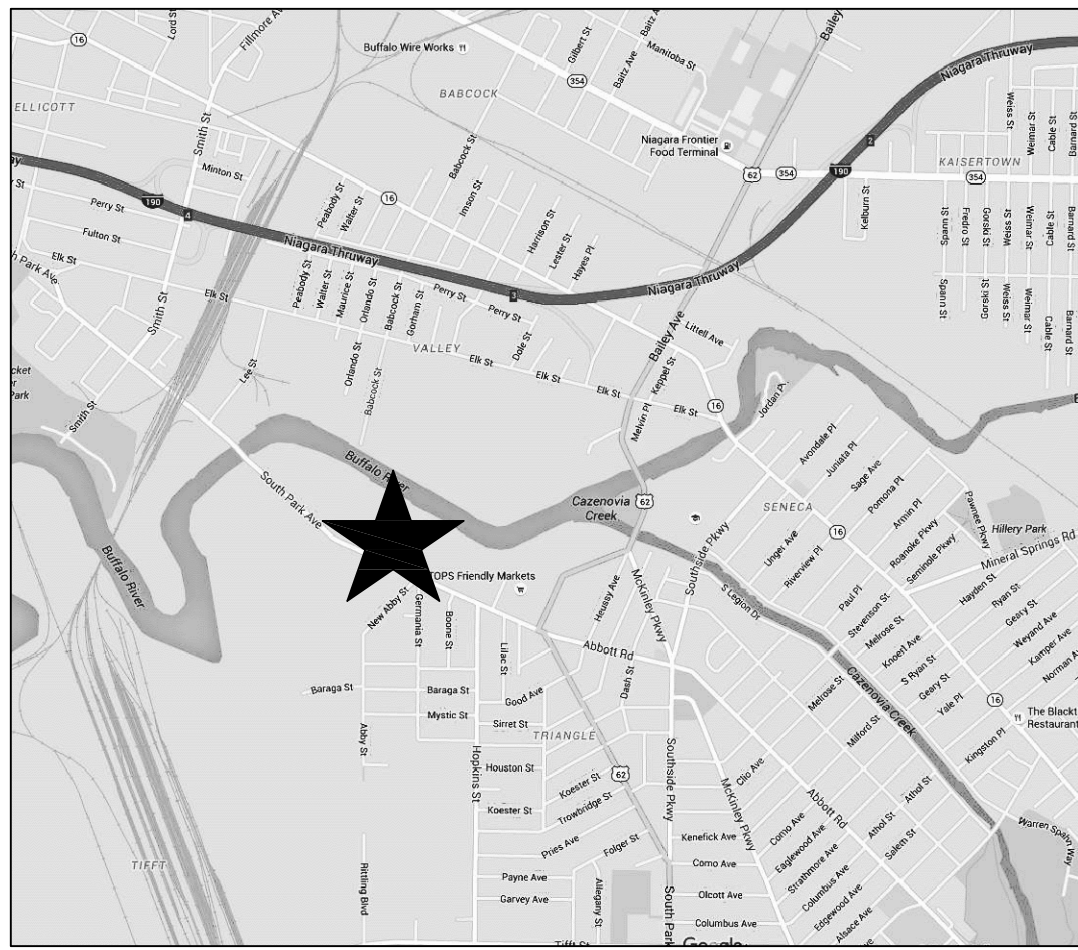
Environmental Assessment

Based upon the previous remedial actions completed in association with the fuel oil and the 2009 Phase II investigation, the primary contaminants of concern for site 3 include semi-volatile organic compounds (SVOCs) and inorganics. Remedial action (soil excavations) associated with the fuel oil remediation (NYSDEC Spill No. 951384) did not extend past the groundwater table. Petroleum contamination is likely present in the vadose zone where groundwater elevation fluctuation occurs. Groundwater remediation was not performed as part of the remedial action.

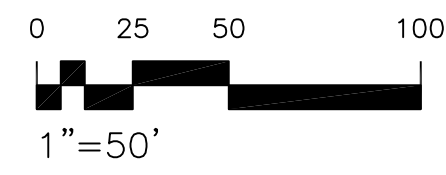
Surface soil and subsurface soil summary tables associated with the 2009 investigation are included in Attachment 3. Results of the surface soils samples collected indicated that SVOCs were detected above their respective Industrial Soil cleanup Objectives (ISCOs). Results of the subsurface soil samples collected indicated that SVOCs were detected above their respective ISCOs and inorganics were detected above their respective Commercial SCOs (CSCOs) and ISCOs.

Groundwater sampling was not performed as part of the Phase II investigation.

³ Geologic Map of New York, Niagara Sheet, Compiled and Edited by Lawrence V. Rickard and Donald W. Fisher, University of the State of New York, The State Education Department, March 1970.



PROJECT LOCATION MAP
NOT TO SCALE



**BUFFALO ENTERPRISE
DEVELOPMENT CORPORATION**
(REPUTED OWNER)
L-10918, P-3153
TAX # 122.16-1-16

**BUFFALO ECONOMIC
RENAISSANCE, CORP.**
(REPUTED OWNER)
L-10918, P-3153
TAX #122.16-1-16 (PART OF)

TOTAL COMBINED ACREAGE
±9.04 ACRES

PARKER AND RICE HOLDINGS, LLC
(REPUTED OWNER)
L-11226,P-6773
TAX # 122.16-1-17

**CITY OF BUFFALO
(REPUTED OWNER)**
L-10428, P-167
TAX #123.13-1-1.2
±1.21 ACRES

CONSOLIDATED RAIL CORP.
(REPUTED OWNER)
L-8706, P-313
TAX # 123.17-1-13

THOMAS CLARENCE E. JR.
(REPUTED OWNER)
L-11172, P-9478
TAX #123.17-1-5

**CITY OF BUFFALO
(REPUTED OWNER)**
L-10428, P-167
TAX # 123.13-1-1.1
±0.31 ACRES

SOUTH PARK AVENUE (66.00' WIDE)
(FORMERLY KNOWN AS ABBOTT STREET)

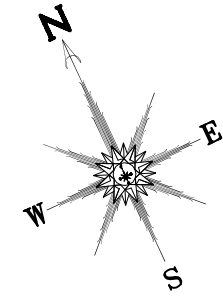
LEGEND:	
COR = CORNER	
D = DEED	
E = EAST	
L = LIBER	
MS. = MEASURED	
N = NORTH	
P = PAGE	
S = SOUTH	
W = WEST	
W/ = WITH	

BUFFALO RIVER

819.80' MS.
S 60°-20'-23" E

740.05' MS.

S. LINE NEW CHANNEL OF THE
BUFFALO RIVER AS FIXED
BY THE COMMON COUNCIL OF
THE CITY OF BUFFALO IN 1914



MAP OF
176 SOUTH PARK
AVENUE - EAST END
AND
CITY OF BUFFALO PARCELS:
11 BERTHA STREET AND
1316/1328 SOUTH
PARK AVENUE

CITY OF BUFFALO
ERIE COUNTY, NEW YORK

BEING PART OF
LOTS 55, 56, 59, AND 197
TOWNSHIP 10
RANGE 8
OF THE BUFFALO CREEK RESERVATION



Centerpointe Corporate Park
375 Essay Road, Suite 200
Williamsville, NY 14221
www.wendelcorporates.com
p:716.688.0766 f:716.625.6825

Wendel WD Architecture, Engineering, Surveying and
Landscape Architecture P.C.

NOTE:

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UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY DRAWING, DESIGN,
SPECIFICATION, PLAN OR REPORT IS A VIOLATION OF SECTION 220,
PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

NO.	REVISIONS	DATE

DWG. TITLE

- NOTES:
- HORIZONTAL CONTROL IS REFERENCED TO NAD83, NEW YORK STATE PLANE, WESTERN ZONE COORDINATE SYSTEM, U.S. SURVEY FEET, ESTABLISHED WITH GPS USING THE NYS DOT REAL TIME NETWORK (NYSNET RTN).
 - THIS MAP HAS IMPROVEMENTS LOCATED ON IT WHICH ARE NOT SHOWN ON THIS PLAT.
 - THIS PLAT MAP WAS PUT TOGETHER TO SHOW THE COMBINED PARCELS LAYOUT AND DOES NOT INCLUDE ALL TITLE INFORMATION.
 - TAX MAP NUMBERS 122.16-1-16, 123.13-1-1.1, 123.17-1-1.11, AND 123.13-1-1.2.
 - MAP REFERENCE: MAP COVERS 97 AND 615

**PROPOSED
BCP SITE MAP
OF DANFORTH
EASTERLY PARCEL**

DATE	10/7/2015
SCALE	1"=50'
PROJ. No.	444104
DWN.	BSS CHK. MDW
DWC. No.	

SV-1

Proposed Legal Description
For the BCP Site
1176 South Park Avenue Site 3
11 Bertha Street, 1176 South Park and 1316/1328 South Park Avenue
Tax Identification No's.: Part of 122.16-1-16, 123.13-1-1.1,
123.17-1-1.11, and 123.13-1-1.2

All that Tract or Parcel of Land situate in the City of Buffalo, County of Erie and State of New York, being part of Lots 55, 56, 59, and 197, Township 10, Range 8, of the Buffalo Creek Reservation, being further described as follows;

Beginning at a point on the northeast line of South Park Avenue, (being 66.0 feet wide) at the southeast corner of lands conveyed to Parker and Rice Holdings, LLC by deed recorded in Erie County Clerk's Office in Liber 11226 of Deeds at Page 6773;

Thence northerly along the east line of said lands conveyed to Parker and Rice Holdings, LLC, and extended northerly, N 24°-23'-04" E, a distance of 663.26 feet, to a point;

Thence easterly parallel with the south line of the Buffalo River as fixed by the Common Council of the City of Buffalo in 1914, S 60°-20'-23" E, a distance of 783.59 feet to a point on lands conveyed to the City of Buffalo by deed recorded in Erie County Clerk's Office in Liber 10428 of Deeds at Page 167;

Thence along the easterly line of said lands conveyed to the City of Buffalo the following 4 courses and distances:

1. S 44°-45'-30" W, a distance of 267.68 feet to a point;
2. N 65°-51'-58" W, a distance of 10.90 feet to a point;
3. S 05°-23'-30" E, a distance of 14.29 feet to a point;
4. S 44°-45'-30" W, a distance of 82.25 feet to a point;

Thence continuing westerly along the City of Buffalo lands, N 65°-51'-58" W, a distance of 150.12 feet to a point on the easterly line of Bertha Street (being 20.0 feet wide);

Thence N 17°-23'-22" E, a distance of 10.73 feet to a point on the easterly line of lands conveyed to Buffalo Economic Renaissance, Corp. by deed recorded in Erie County Clerk's Office in Liber 10918 of Deeds at Page 3153;

Thence southerly along the easterly line of said Buffalo Economic Renaissance Corp. lands, S 52°-38'-07" W, a distance of 42.28 feet to a point on the westerly line of Bertha Street;

Thence southerly along the westerly line of Bertha Street, also being an easterly line of lands conveyed to the City of Buffalo by the aforementioned deed, S 24°-24'-21" W, a distance of 223.48 feet to a point on the northeast line of South Park Avenue;

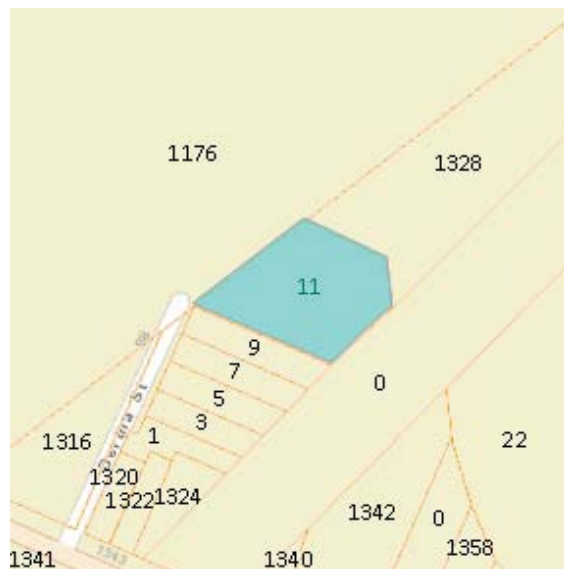
Thence westerly running along the northeast line of South Park Avenue

N 65°-36'-53" W, a distance of 483.12 feet to the point of beginning. Containing 9.04 acres of land, more or less.

The said herein above described parcel is a part of lands conveyed to the Buffalo Economic Renaissance, Corp. by deed recorded in Erie County Clerk's Office in Liber 10918 of Deeds at Page 3153 and part of lands conveyed to the City of Buffalo by deed recorded in Erie County Clerk's Office in Liber 10428 of Deeds at Page 167.



Parcel Overview Map



Parcel Detail Map

PIN: 1402001231700001001110

SBL: 123.17-1-1.11

Address: 11 BERTHA

Owner 1: CITY OF BUFFALO

Owner 2:

Mailing Address: 502 CITY HALL

City/Zip: BUFFALO NY 14202

Municipality: City of Buffalo

Property Class: 340

Class Description: B - Vacant indus

Front: 140

Depth: 150.11

Deed Roll: 8

Deed Book: 10428

Deed Page: 168

Deed Date:

Acreage: 0.368

Total Assessment: \$1,000

Land Assessment: \$1,000

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

Fireplace: 0

Beds: 0

Baths: 0



Parcel Overview Map



Parcel Detail Map

PIN: 1402001221600001016000

SBL: 122.16-1-16

Address: 1176 SOUTH PARK

Owner 1: BUFFALO ECONOMIC RENAISSANCE

Owner 2: CORPORATION

Mailing Address: 65 NIAGARA SQ

City/Zip: BUFFALO NY 14202

Municipality: City of Buffalo

Property Class: 340

Class Description: B - Vacant indus

Front: 0

Depth: 0

Deed Roll: 1

Deed Book: 10918

Deed Page: 3153

Deed Date:

Acreage: 26.159

Total Assessment: \$300,000

Land Assessment: \$300,000

County Taxes: \$300,000

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

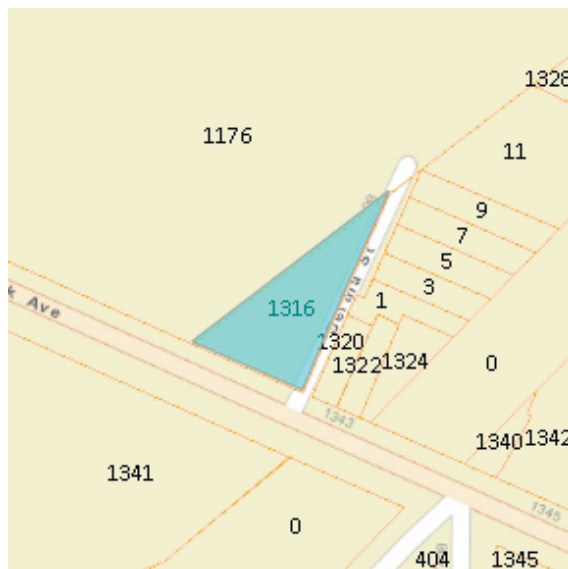
Fireplace: 0

Beds: 0

Baths: 0



Parcel Overview Map



Parcel Detail Map

PIN: 1402001231300001001100

SBL: 123.13-1-1.1

Address: 1316 SOUTH PARK

Owner 1: CITY OF BUFFALO

Owner 2:

Mailing Address: 502 CITY HALL

City/Zip: BUFFALO NY 14202

Municipality: City of Buffalo

Property Class: 340

Class Description: B - Vacant indus

Front: 120

Depth: 0

Deed Roll: 8

Deed Book: 10428

Deed Page: 168

Deed Date:

Acreage: 0.295

Total Assessment: \$5,400

Land Assessment: \$5,400

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

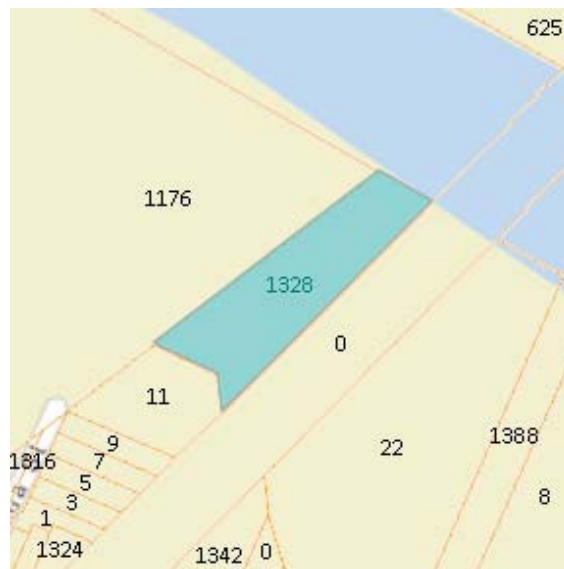
Fireplace: 0

Beds: 0

Baths: 0



Parcel Overview Map



Parcel Detail Map

PIN: 1402001231300001001200

SBL: 123.13-1-1.2

Address: 1328 SOUTH PARK

Owner 1: CITY OF BUFFALO

Owner 2:

Mailing Address: 502 CITY HALL

City/Zip: BUFFALO NY 14202

Municipality: City of Buffalo

Property Class: 340

Class Description: B - Vacant indus

Front: 140

Depth: 380

Deed Roll: 8

Deed Book: 10428

Deed Page: 168

Deed Date:

Acreage: 0.796

Total Assessment: \$13,650

Land Assessment: \$13,650

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

Fireplace: 0

Beds: 0

Baths: 0



Local Data Search

Search State, County, City, Zip Code, or Area Code

[USA.com](#) / [New York](#) / [Erie County](#) / [Buffalo](#) / [14220](#) / [Census Tract 000110](#) / [Block Group 000110-3](#) / [Census Block 000110-3-000](#)

Census Block 000110-3-000 in Erie County, New York

Census Block 000110-3-000

[Block Group 000110-3](#)

[Census Tract 000110](#)

[Buffalo, NY](#)

[Erie County](#)

[New York State](#)

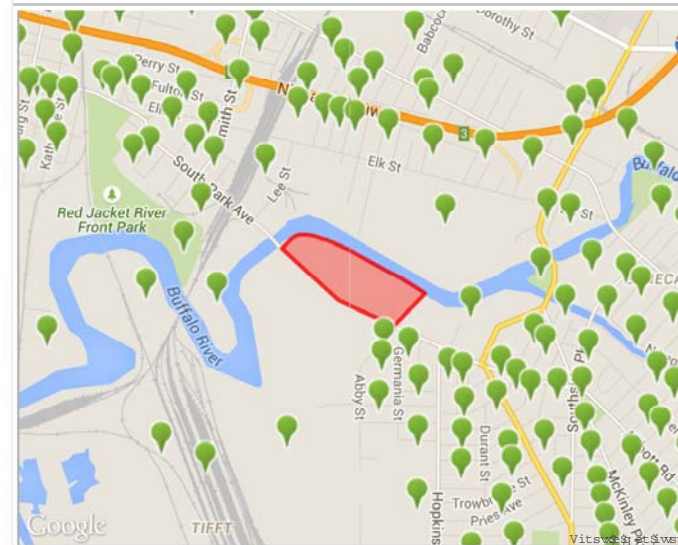
[Buffalo, Niagara Falls Area](#)

Population 7 (2010), [see rank](#)
House Units 3, [see rank](#)
Race Whites:100%, Hispanics:0%, Blacks:0%, Asians:0%, Others:0%
Total Area: 0.06 sq mi
Water Area: 0.00 sq mi (0.00%)
State: [New York](#)
Area: [Buffalo-Niagara Falls, NY](#)
County: [Erie County](#)
City: [Buffalo](#)
Census Tract: [000110](#)
Census Block Group: [000110-3](#)



Census Block 000110-3-000 Map, Border, and Nearby Locations

Census Blocks Map View. Partial data. Zoom in to see more. Click icon to show name.



Show More Locations on the Map

- [Census Blocks*](#)
- [Census Block Groups*](#)
- [Census Tracts*](#)
- [Zip Codes](#)
- [School Districts](#)
- [Counties](#)
- [Cities](#)
- [Metro Areas](#)
- [States](#)

* Census Blocks, Census Block Groups, and Census Tracts are geo areas that are normally smaller than the size of a city. Census Blocks provide block and community level information. They are great for understanding areas within a city.

Population by Races

White:	7 (100.00%, see rank)
Black:	0 (0.00%, see rank)
Hispanic:	0 (0.00%, see rank)
Asian:	0 (0.00%, see rank)
Native (American Indian, Alaska Native, Hawaiian Native, etc.):	0 (0.00%, see rank)
One Race, Other:	0 (0.00%, see rank)
Two or More Races:	0 (0.00%, see rank)

Population by Gender

Male: 4 (57.14%, [see rank](#))
 Females: 3 (42.86%, [see rank](#))

Household and Family

	Census Block 000110-3-000	%
Total Households	3	100%
Average Household Size	2.33, see rank	-
1 Person Households	1 33.33%, see rank	
2 or More Person Households	2 66.67%, see rank	

Family Households (Families)	1	33.33%	see rank
Average Family Size	4.00		see rank
Married-Couple Family	1	33.33%	see rank
Nonfamily Households	2	66.67%	see rank

Housing Occupancy

Census Block 000110-3-000			%
Total Housing Units	3		100%
Occupied Housing Units	3	100.00%	see rank
Owner Occupied	2	66.67%	see rank
Owner Occupied with Mortgage	0		0.00%
Owner Occupied without Mortgage	2		66.67%
Renter Occupied	1	33.33%	see rank
Vacant Housing Units	0	0.00%	see rank
For Rent	0	0.00%	see rank
For Sale Only	0	0.00%	see rank
Rented or Sold, Not Occupied	0	0.00%	see rank
For Seasonal, Recreational, or Occasional Use	0	0.00%	see rank
For Migrant Workers	0	0.00%	see rank
Other Vacant	0	0.00%	see rank

*Based on 2010 data.

*A census block is the smallest geographic area defined by the United States Census Bureau to take census. In total, there are more than 10 million census blocks in the United States with an average of around 30 residents in each. A census block normally only covers a street block or a small community. It is ideal for studying data relating to the smallest geographic area.



NYSDEC SPILL REPORT FORM



REGION# 9 (Buffalo) SPILL NUMBER 9513284
 FILL NAME: FORMER REPUBLIC STEEL FAC DEC LEAD: TED
 CALLER'S NAME: PETER BUECHI NOTIFIER'S NAME: JAMES SMITH
 CALLER'S AGENCY: DEC NOTIFIER'S AGENCY: CITY OF BUFFALO
 CALLER'S PHONE: (716) 851-7220 EXT. _____ NOTIFIER'S PHONE: (716) 851-5608 EXT. _____

SPILL DATE: 01/01/1996 TIME: 12:00
 CALL RECEIVED DATE: 01/12/1996 TIME: 12:00 RECEIVED BY CID #: 196

Material Spilled	Mat. Class	Am't Spilled	Units	Am't Recovered
1) #6 FUEL OIL	Pet-Haz-Other-Unk.	Unknown	Gal - Lbs	Unknown
2) _____	Pet-Haz-Other-Unk.	_____	Gal - Lbs	_____
3) _____	Pet-Haz-Other-Unk.	_____	Gal - Lbs	_____
4) _____	Pet-Haz-Other-Unk.	_____	Gal - Lbs	_____

SPILL LOCATION

PLACE: FORMER REPUBLIC STEEL FAC
 STREET: 1176-1184 SOUTH PARK AVE.
 T/C/V: BUFFALO CO: ERIE
 CONTACT: JAMES SMITH
 PHONE: (716) 851-5608 EXT. _____

POTENTIAL SPILLER

NAME: CITY OF BUFFALO
 STREET: 900 CITY HALL
 CITY: BUFFALO
 STATE: NY ZIP: 14202-
 CONTACT: JAMES SMITH
 PHONE: (716) 851-5608 EXT. _____

SPILL CAUSE

Human Error Tank Test Failure * Tank Failure
 Traffic Accident Housekeeping Tank Overfill
 Equipment Failure Deliberate Other
 Vandalism Abandoned Drums Unknown

SPILL SOURCE

Gas Station Private Dwelling Non-Maj Facility
 Passenger Vehicle/Vessel Comm/Ind
 Comm. Vehicle Railroad Car Non-Comm/Instit
 Tank Truck Major Facility Unknown

RESOURCE AFFECTED

On Land Groundwater Air
 In Sewer Surface Water **

SPILL REPORTED BY

Responsible Party Tank Tester Local Agency
 Affected Persons DEC Federal Gov't
 Police Department Citizen Other
 Fire Department Health Dept.

** WATERBODY: _____

CALLER REMARKS: GROUNDWATER WAS AFFECTED - SITE ASSESSMENT FOUND PETROLEUM
CONTAMINATION IN AREA OF TWO (2) FORMER 5,500,000 GAL.

ABOVEGROUND STORAGE TANKS.

PBS Number	Tank Number	Tank Size	Test Method	Leak Rate

PRIMARY CONTACT CALLED DATE: _____ TIME: _____ REACHED DATE: _____ TIME: _____ hrs.
 SECONDARY CONT. CALLED DATE: _____ TIME: _____ FAXED BY CID#: _____

PIN #	T & A	Cost Center	ISR to Central Office		
Cleanup Ceased	Meets St'ds	NO	Last Inspection	Penalty	NO
RP-CUI	ENF-INIT	INVS-COM	CAP		
UST Trust Eligible	NO	Site: A B <input checked="" type="radio"/> D E	Resp. Party 1 2 3 4 <input checked="" type="radio"/> 6	Reg Close Date	05/25/1999

Created on 01/22/1996 Last Updated on 10/25/1999 Is Updated? YES
 Date Printed: 10/25/1999

DATA INPUT []

DEC REMARKS

01/12/96: TED RECEIVED SITE ASSESSMENT REPORT, PETROLEUM CONTAMINATION FOUND.

01/22/96: TED, PJB, MUFFETT MAUCHE GEORGE (FOIT-ALBERT ASSOCIATES) & DANIEL KREUZ (CITY OF BUFFALO) SITE INSPECTION. WALKED OVER SITE, ATTEMPTED TO LOCATE PRIOR SAMPLE LOCATIONS.

01/23/96: TED, PJB & MUFFETT, MEETING TO DISCUSS ADDITIONAL INVESTIGATION.

01/24/96: TED REVIEWED 1951 AERIAL PHOTO SHOWING LOCATION OF ADDITIONAL ABOVEGROUND TANKS LOCATED WEST OF TANKS 7 & 8. CALLED MUFFETT REQUESTED ADDITIONAL BORINGS TO ENCOMPASS AREA.

01/30/96: TED SITE INSPECTION, OBSERVED INSTALLATION OF BORINGS.

01/31/96: TED SITE INSPECTION, SPOKE WITH MUFFETT.

02/02/96: TED TELECON MUFFETT, FIELD WORK COMPLETED, DISCUSSED RESULTS OF BORINGS.

03/05/96: TED RECEIVED FOIT-ALBERT SITE INVESTIGATION REPORT.

03/19/96: DEC SENT SITE INVESTIGATION REPORT COMMENT LETTER TO CITY OF BUFFALO. REQUESTED ADDITIONAL CONTAMINANT DELINEATION.

04/04/96: DEC MEETING WITH FOIT-ALBERT & CITY OF BUFFALO TO DISCUSS ADDITIONAL INVESTIGATION & REMEDIAL PLAN.

04/11/96: DEC RECEIVED SUBSURFACE INVESTIGATION PLAN.

04/12/96: DEC SENT LETTER APPROVING SUBSURFACE INVESTIGATION PLAN.

05/29/96: RECEIVED SUBSURFACE INVESTIGATION REPORT.

06/07/96: DEC MEETING W/ CITY OF BUFFALO & FOIT-ALBERT TO DISCUSS REMEDIAL PLAN. SOIL TO BE EXCAVATED & BIOREMEDIATED.

06/20/96: RECEIVED REMEDIAL WORKPLAN.

07/26/96: RECEIVED REVISED REMEDIAL WORKPLAN.

08/12/96: DEC MEETING W/ CITY OF BUFFALO, LTV STEEL & MALCOLM PIRNIE. DISCUSSED REMEDIAL PLAN. LTV STEEL TO PARTICIPATE IN CLEANUP. MALCOLM PIRNIE, WORKING FOR LTV, DISCUSSED BETTER DEFINING EXTENT OF CONTAMINATION PRIOR TO BEGINNING EXCAVATION.

08/16/96: TED RECEIVED PROPOSED SOIL INVESTIGATION PLAN FROM MALCOLM PIRNIE. TED TELECON ROBERT O'LASKY, REQUESTED ADDITIONAL SAMPLING.

08/20/96: DEC SITE INSPECTION, 7 BORINGS COMPLETED, OIL FOUND IN 3 OF THE BORINGS.

08/30/96: TED RECEIVED REMEDIAL PLAN OUTLINE AND SUMMARY OF ADDITIONAL SOIL BORING AND ANALYTICAL WORK.

DEC REMARKS (Continued)

09/17/96: DEC SENT LETTER APPROVING REMEDIAL PLAN OUTLINE. REQUESTED ADDITIONAL ITEMS BE ADDRESSED IN DETAILED WORK PLAN.

09/24/96: TED RECEIVED REVISED SAMPLING REPORT AND REMEDIAL WORK PLAN.

10/02/96: DEC SENT STIPULATION AGREEMENTS FOR SITE REMEDIATION TO CITY OF BUFFALO AND TO LTV STEEL FOR SIGNATURE AND RETURN. NOTED SOME RESIDUAL CONTAMINATION WOULD LIKELY BE LEFT IN PLACE AND THAT SITE WOULD BE CLASSIFIED "INACTIVE" UPON COMPLETION OF AGREED UPON WORK.

10/04/96: RECEIVED RESPONSE FROM MALCOLM PIRNIE TO PJB's VERBAL COMMENTS REGARDING SAMPLING REPORT AND REVISED REMEDIAL PLAN.

10/09/96: DEC SENT LETTER APPROVING REVISED REMEDIAL PLAN.

10/10/96: DEC SENT REVISED STIPULATIONS FOR SITE REMEDIATION TO LTV STEEL AND THE CITY OF BUFFALO FOR THEIR SIGNATURE.

10/15/96: TED TELECON JOHN HILTON (MALCOLM PIRNIE) CLAY PAD FOR BIOTREATMENT OF EXCAVATED SOILS 50 - 70% COMPLETE. WILL BEGIN EXCAVATING SOIL IN THE NEXT DAY OR TWO.

10/18/96: TED INSPECTION, EXCAVATING IN SOUTHEAST CORNER, SOME OF PRIOR EXCAVATION ALREADY BACKFILLED. EXCAVATION APPROX. 9' DEEP, NOTED SOME RESIDUAL CONTAMINATION ON BOTTOM. PIEZOMETER INSTALLED EAST OF PRESENT EXCAVATION HAD WATER LEVEL AT 7.5' bgs HOWEVER NO WATER IN EXCAVATION.

10/21/96: TED RECEIVED FAX OF PERMEABILITY TEST RESULTS FOR CLAY PAD.

10/22/96: TED SITE INSPECTION, CHECKED NORTHERN EDGE OF EXCAVATION. EXCAVATION WALL AND FLOOR APPEARED CLEAN. STIPULATION AGREEMENT FOR SITE REMEDIATION SIGNED BY DEC REGION 9 DIRECTOR.

10/28/96: DEC RECEIVED FULLY EXECUTED ORIGINAL COPIES OF STIPULATION FROM DEC TO CITY OF BUFFALO AND LTV STEEL.

11/04/96: TED SITE INSPECTION, EXCAVATION IN TANK AREA ALMOST COMPLETE. EIGHT (8) INCH PIPE LINE CONTAINING PRODUCT UNCOVERED IN SOUTHERN PART OF EXCAVATION.

11/06/96: TED SITE INSPECTION, EXCAVATION ALONG RIVER ENLARGED BEYOND ORIGINAL PLAN. SAMPLE FREQUENCY CHANGED TO MATCH THAT OF LARGE CENTRAL EXCAVATION. APPROX. 3' BERM LEFT ALONG RIVER TO KEEP WATER OUT OF EXCAVATION.

11/07/96: TED SITE INSPECTION, BACKFILLING EXCAVATION BETWEEN BORINGS SB-2 & SB-17. THIS EXCAVATION CONTINUOUS WITH SB-3. NOTED SOME RESIDUAL CONTAMINATION LEFT IN EXCAVATION BOTTOM DUE TO WATER INFILTRATION FROM RIVER.

01/08/97: TED TELECON MALCOLM PIRNIE, DRAFT REMEDIAL PLAN WENT OUT TO LTV STEEL FOR THEIR COMMENT.

02/02/97: TED TELECON CITY OF BUFFALO, WILL ATTEMPT TO GET COPY OF REMEDIAL REPORT OUT TO DEC AS SOON AS POSSIBLE.

DEC REMARKS (Continued)

02/11/97: TED RECEIVED REMEDIAL REPORT FROM MALCOLM PIRNIE.

04/07/97: DEC SENT LETTER TO CITY OF BUFFALO NOTING EXCAVATION SOIL SAMPLE RESULTS EXCEEDED GUIDANCE VALUES, HOWEVER, SINCE RESULTS WERE LOW LEVEL, NO FURTHER WORK REQUIRED AT THIS TIME. SITE CLASSIFIED "INACTIVE".

05/22/97: TED RECEIVED BIOREMEDIATION PLAN FOR EXCAVATED SOILS.

06/20/97: TED RECEIVED LETTER FROM MALCOLM PIRNIE ADDITIONAL FIVE-ACRE CLAY PAD UNDER CONSTRUCTION FOR BIOTREATMENT OF SOILS.

07/10/97: TED INSPECTION OF BIOPAD. CONTRACTORS COMPLETING SPREADING OUT OF EXCAVATED SOILS. SENT LETTER TO MALCOLM PIRNIE APPROVING BIOREMEDIATION PLAN WITH CONFIRMATORY SOIL SAMPLING REQUIREMENTS AND REQUIREMENT OF NOTIFICATION TO DEC BEFORE ANY REMEDIATED SOILS CAN BE USED AS OFF-SITE FILL MATERIAL.

08/07/97: RECEIVED LETTER FROM MALCOLM PIRNIE AGREEING TO CONFIRMATORY SOIL SAMPLING AND NOTIFICATION REQUIREMENTS. SOIL BEING TURNED ON A WEEKLY BASIS.

12/08/97: TED RECEIVED LETTER REPORT OF BIOREMEDIATION ACTIVITIES AND SUMMARY TABLES OF CONFIRMATORY SOIL SAMPLE RESULTS. SAMPLES TAKEN FROM THE UPPER 15" OF SOIL. ONLY 5 OUT OF 56 SAMPLES HAD MINOR EXCEEDANCES OF STARS GUIDANCE VALUES. SOIL COMPACTED AND REGRADED TO REDUCE WATER INFILTRATION AND IMPROVE DRAINAGE. PLAN TO REMOVE UPPER 15" OF SOIL IN THE SPRING AND CONTINUE BIOREMEDIATING LOWER 9" OF SOIL.

12/15/97: TED TELECON MALCOLM PIRNIE REQUESTED REQUESTED LABORATORY REPORTS FOR CONFIRMATORY SOIL SAMPLES AND PRIOR TPH SOIL SAMPLE LOCATIONS.

12/18/97: TED RECEIVED RECEIVED LABORATORY REPORTS FOR CONFIRMATORY SOIL SAMPLES AND SUMMARY TABLE OF PRIOR TPH SOIL SAMPLE RESULTS.

09/29/98: TED TELECON TERRY REID, TURN KEY ENVIRONMENTAL RESTORATION HAVE TAKEN OVER SOIL BIOREMEDIATION JOB FOR LTV STEEL. TURN KEY HAS BEEN CONTINUING WEEKLY TILLING & INTERIM SOIL SAMPLING FOR TPH. WILL SEND LETTER REPORT.

10/02/98: TED RECEIVED LETTER REPORT OF BIOREMEDIATION WORK. MONTHLY SOIL SAMPLE RESULTS INDICATE AN 80% REDUCTION IN TPH CONCENTRATIONS.

11/25/98: RECEIVED LETTER REPORT, TPH SOIL SAMPLE RESULTS THRU END OF 10/98 INDICATE CONTINUAL REDUCTION IN CONTAMINANT CONCENTRATIONS. FURTHER WORK POSTPONED UNTIL NEXT SPRING.

04/06/99: TED TELECON TERRY REID, DISCUSSED CONFIRMATORY SOIL SAMPLING REQUIREMENTS. WILL CALL BACK TO SCHED. DATE FOR INSPECTION.

04/13/99: TED SITE INSPECTION, OBSERVED SAMPLING. NO PETRO STAINING OR ODORS NOTED ON SAMPLES.

05/19/99: TED RECEIVED CONFIRMATORY SOIL SAMPLE RESULTS, ALL SAMPLES WITHIN STARS GUIDANCE VALUES. SOIL TO REMAIN ON SITE FOR USE AS BACKFILL MATERIAL DURING FUTURE REMEDIAL ACTIVITIES.

Spill Number: 9513284 Spill Name: FORMER REPUBLIC STEEL FAC Printed on: 10/25/19

DEC REMARKS (Continued)

05/25/99: DEC LETTER TO LTV STEEL, BASED ON SOIL SAMPLE LABORATORY ANALYTICAL RESULTS OF THE BIOREMEDIATED SOILS NO FURTHER WORK IS REQUIRED. SITE RECLASSIFIED "INACTIVE".

ATTACHMENT 5
BCP APPLICATION – SECTION VI

PREVIOUS/CURRENT PROPERTY OWNERS/OPERATORS

ATTACHMENT 5
BCP Application – Section VI
Listing of Property Owners and Operators
1176 South Park Avenue Site 3

INTRODUCTION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Based on available records and previous investigations, the following contact information for the owners/operators has been provided, as available. The following table lists the current and previous property owners/operators:

Parcel Address	Date(s)	Relationship to Requestor
1176 South Park Avenue		
Current Owner/Operator		
Current Owner: Buffalo Economic Renaissance Corporation* 65 Niagara Square Room 920 City Hall Buffalo, New York 14202 716-842-6923	1998 - current	None
Previous Owner/Operator		
Prior Operator: Village Farms, L.P. 7 Christopher Way Eatontown, New York 07724 Telephone number is unknown.	1999 - 2003	None
Prior Owner: City of Buffalo Division of Real Estate 65 Niagara Square Room 901 City Hall Buffalo, New York 14202 716-851-4200.	1991 to 1998	None
Prior Owner/Operator: LTV Steel Corporation/Republic Steel 1341 South Park Avenue Buffalo, New York 14220 Telephone number is unknown.	1940s to 1991	None

Note: * = Buffalo Urban Development Corporation will be involved with the sale of the property as Buffalo Economic Renaissance Corporation is no longer in operation

ATTACHMENT 5
BCP Application – Section VI
Listing of Property Owners and Operators
1176 South Park Avenue Site 3

Parcel Address	Date(s)	Relationship to Requestor
1316 South Park Avenue		
Current Owner/Operator		
Current Owner: City of Buffalo Division of Real Estate 65 Niagara Square Room 901 City Hall Buffalo, New York 14202 716-851-4200	1992 - current	None
Previous Owner/Operator		
Prior Owner/Operator: LTV Steel Corporation/Republic Steel 1341 South Park Avenue Buffalo, New York 14220 Telephone number is unknown.	1940s to 1991	None

ATTACHMENT 5
BCP Application – Section VI
Listing of Property Owners and Operators
1176 South Park Avenue Site 3

Parcel Address	Date(s)	Relationship to Requestor
1328 South Park Avenue		
Current Owner/Operator		
Current Owner: City of Buffalo Division of Real Estate 65 Niagara Square Room 901 City Hall Buffalo, New York 14202 716-851-4200	1992 - current	None
Previous Owner/Operator		
Prior Owner/Operator: LTV Steel Corporation/Republic Steel 1341 South Park Avenue Buffalo, New York 14220 Telephone number is unknown.	1940s to 1991	None

ATTACHMENT 5
BCP Application – Section VI
Listing of Property Owners and Operators
1176 South Park Avenue Site 3

Parcel Address	Date(s)	Relationship to Requestor
11 Bertha Street		
Current Owner/Operator		
Current Owner: City of Buffalo Division of Real Estate 65 Niagara Square Room 901 City Hall Buffalo, New York 14202 716-851-4200	1992 - current	None
Previous Owner/Operator		
Prior Owner/Operator: LTV Steel Corporation/Republic Steel 1341 South Park Avenue Buffalo, New York 14220 Telephone number is unknown.	1940s to 1991	None

Buffalo Urban Development Corporation

95 Perry Street
Suite 404
Buffalo, New York 14203
phone: 716-856-6525
fax: 716-856-6754
web: buffalourbandevelopment.com



February 3, 2016

Mr. Chad Staniszewski
New York State Division of Environmental Conservation
270 Michigan Avenue
Buffalo, NY 14203


Re: 1176 South Park Avenue
Buffalo, New York

Dear Mr. ~~Staniszewski~~ ^{Chad}:

Please be advised that the property, which is deemed the 1176 South Park BCP Site 3, which includes the eastern portion of 1176 South Park Avenue (SBL # 122.16-1-16), is owned by the Buffalo Economic Renaissance Corporation (BERC). In the absence of BERC's Interim President Dennis Penman, I have been authorized to prepare this communication to you on his behalf (see attached). As you may be aware, Buffalo Urban Development Corporation (BUDC) is a "sister" City of Buffalo agency of BERC's.

BERC, by way of this letter, acknowledges the current contract to purchase this property (see attached), and has granted access to the property to JWDanforth and/or a corporation, partnership, or other legal entity to be formed by JWDanforth. The entity that JWDanforth will use for this project is the BCP applicant for the 1176 South Park Ave BCP Site 3. Accordingly, JWDanforth and its agents have full right of access to the property to undertake the investigation and remediation of the property under the New York Brownfield Cleanup Program as outlined in the contract.

I hope this letter is satisfactory for your purpose. If you have any questions whatsoever, please do not hesitate to call me.

Sincerely,

Peter M. Cammarata
President, BUDC

On behalf of
Dennis Penman
Interim President, BERC

Cammarata, Peter

From: Penman, Dennis M. <dpenman@ciminelli.com>
Sent: Wednesday, February 3, 2016 3:47 AM
To: Peter Cammarata
Cc: Brendan Mehaffy; sbillman@ch.ci.buffalo.ny.us
Subject: Re: South Park property - DEC request

I would like to move it forward and not hold them up, you are authorized to sign on my behalf, thanks.

Sent from my iPhone

CONTRACT OF SALE

THIS CONTRACT ("Contract"), dated as of May 20, 2015 by and between **Buffalo Economic Renaissance Corporation**, a not-for-profit local development corporation of the State of New York, having its principal offices at 65 Niagara Square Room 920 City Hall, Buffalo, NY 14202 ("Seller") and **John W. Danforth Construction LLC**, a New York limited liability company, or its assigns, having its principal office at 300 Colvin Woods Parkway, Tonawanda, New York 14150 ("Purchaser").

RECITALS:

A. Seller is the owner of real property located in the City of Buffalo, County of Erie and State of New York commonly known as 1140 South Park Avenue and 1176 South Park Avenue and identified respectively for real estate assessment purposes by Section-Block-Lot Numbers 122.16-1-6 and 122.16-1-16 respectively (collectively, the "Premises").

B. Purchaser desires to purchase, and Seller desires to sell, the Premises pursuant to the terms and conditions set forth in this Contract.

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller agree to the incorporation of the above Recitals into this Contract and as follows:

1. Premises. Seller covenants and agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, the Premises, together with all right, title and interest possessed by the Seller, together with all rights, privileges, interests, easements, hereditaments and appurtenances thereunto in any way incident, appertaining or belonging to Seller, including, but not limited to: (a) all right, title and interest in and to adjacent streets, highways, alleys, driveways, easements and rights of way relating to the Premises and any adjacent strips or gores of real estate; (b) all improvements, if any, located on the Premises, (c) all right, title and interest in and to all oil, gas and other minerals in, on or that may be produced from the Premises, all mineral leases, royalty interests and bonuses relating thereto, and all agreements relating to the production, development, exploration or exploitation thereof; and (d) all right, title and interest of Seller, if any, in and to the land lying in the bed of any street or highway, creek bed or waterway adjoining the Premises and to any taking by condemnation or any damage to the Premises, as hereinafter provided, and all of the estate and rights of Seller in and to the Premises. Subject to the provisions of **Section 3**, Purchaser will accept the Premises subject to (a) all existing utility and municipal easements and rights-of-way, provided that such easements and rights-of-way serve the Premises and will not materially interfere with Purchaser's intended use of the Premises, (b) all recorded restrictions and covenants of record, if any, provided they have not been violated, unless their enforcement is barred by law, and provided further that they will not interfere with Purchaser's intended use of the Premises; (c) all zoning ordinances, building codes, safety regulations, environmental laws and other ordinances, laws, regulations and codes applicable to the Premises.

2. Purchase Price. The purchase price is One Million and 00/100 Dollars (\$1,000,000.00) ("Purchase Price") payable as follows:

(A) Deposit. When Purchaser signs this Contract, a deposit ("Deposit") in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) payable to and to be held by Purchaser's attorney ("Escrow Agent") in accordance with the provisions of this Contract; and

(B) Adjusted Balance. Upon delivery of the Deed ("Closing"), the Purchase Price less the Deposit, subject to closing adjustments and credits as provided in this Contract ("Adjusted Balance").

The Deposit shall be deposited into a non-interest bearing account insured by the federal government of the United States and shall not be delivered to the Seller until such time as the transaction closes or the Purchaser defaults, giving the Seller the right to the Deposit as set forth herein.

3. Initial Due Diligence Materials. Within ten (10) days of the Effective Date, Seller shall deliver to Purchaser copies of the following if within Seller's possession or control (collectively the "Initial Due Diligence Materials"):

(A) The existing abstract(s) of title (the "Abstract") and any existing title insurance policy(ies) or commitment(s) for the Premises or any portion thereof.

(B) All surveys of the Premises or any portion thereof.

(C) All correspondence and other materials that relate to environmental, soil conditions, wetlands and related matters at the Premises or any portion thereof and all engineering reports, improvement plans, including the site plan, environmental studies, wetlands mitigation plans, environmental impact statements and other written documentation affecting or relating to the Premises or any portion thereof, including all correspondence, materials, reports, plans, studies, statements and other documentation presently available or available at the time of Seller's purchase of the Premises or any portion thereof.

(D) Receipted real estate tax bills for the Premises for the past twelve months.

(E) All leases affecting the Premises or any portion thereof, if any, and all correspondence relative thereto.

(F) All easements, rights of way, agreements and restrictions affecting the Premises or any portion thereof.

When Seller has complied with this Section 3, it shall notify Purchaser in writing of that fact.

Purchaser shall have thirty (30) days following receipt of the Initial Due Diligence Materials ("Initial Due Diligence Period") within which to approve the easements, rights of way, agreements and restrictions affecting the Premises or any portion thereof ("Approved Title Matters"). If it is determined that the Premises is affected by any additional easements, rights of way, agreements and restrictions, Purchaser shall have ten (10) business days following receipt of a true and complete copy of each such subsequent instrument within which to approve or disapprove same.

4. Taxes, Adjustments and Credits.

(A) Water Charges and Delinquent Taxes. Seller shall pay all water and sewer charges until Closing and all prior years' taxes, assessments and installments of amounts appearing on current tax bills computed on a fiscal year basis.

(B) Assessments for Special or Local Improvements. Purchaser shall accept the Premises subject to all assessments for special or local improvements not yet due and payable as of Closing.

(C) Items To Be Adjusted. There shall be pro-rated and adjusted, as of 12:00 midnight prior to the date of Closing: rents; royalties; assessments and installments of amounts appearing on current tax bills computed on a fiscal year basis; sewer charges. If Closing occurs before a new tax rate is fixed, the apportionment of taxes shall be made on the basis of the most recent tax rate applied to the latest assessed valuation.

(D) Items To Be Credited. There shall be credited to the appropriate party at Closing: all penalties and interest on current fiscal years' taxes, assessments and special tax assessments due as of Closing, and any other credits provided for in this Contract.

5. Title Search and Survey. Seller shall order and deliver to Purchaser (a) updated tax and title searches covering the Premises only fully guaranteed by a title insurance corporation licensed to do business in the State of New York ("Title Search"), the first set-out of which is the first recorded source of title in the Erie County Clerk's Office or a deed to an apparent owner recorded prior to 1920; (b) a survey map of the Premises prepared in accordance with Bar Association of Erie County standards from a survey of the Premises performed after the Effective Date of this Contract by a professional who is licensed or otherwise authorized under the New York Education Law to practice land surveying and approved by Purchaser ("Survey"); and (c) a copy of Seller's owner's title insurance policy, if any. Seller shall order the Title Search within five (5) business days following the Effective Date and shall order the Survey within five (5) business days following the expiration of the Initial Due Diligence Period. In the event this Contract is canceled or otherwise terminated pursuant to any of its terms, Purchaser shall have the Title Search and Survey returned to Seller or Seller's attorney.

6. Deed and Related Documents. At Closing, Seller shall deliver to Purchaser a statutory form of Bargain and Sale Deed with Lien Law Covenant and covenant against grantor's acts in form necessary to entitle same to be recorded in the Erie County Clerk's Office ("Deed") conveying title in fee simple to the Premises, together with a completed and signed copies of a Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate (Form TP-584) and Real Property Transfer Report (Form RP-5217).

7. Costs. In addition to the costs set forth elsewhere in this Contract, Seller shall pay for transfer tax and transfer tax stamps, Title Search, Survey, and for filing of Form TP-584. Purchaser shall pay for recording of Deed and filing Form RP-5217 and any closing costs associated with financing for the Premises.

8. Status of Title.

(A) At Closing, Seller shall convey good and marketable title to the Premises in fee simple, free and clear of all liens and encumbrances, except as stated in this Contract. Purchaser will accept title to the Premises subject to Approved Title Exceptions.

(B) Title Objections. Purchaser's attorney shall notify Seller's attorney of all defects, liens and encumbrances to Seller's title to the Premises to which Purchaser objects and which Purchaser is not required to accept under this Contract ("Title Defects"). Seller shall in good faith attempt to cure the

Title Defects. Seller shall have thirty (30) days after Seller's attorney received notice of the Title Defects in which to cure the Title Defects. Purchaser shall accept title to the Premises once the Title Defects are cured. If Seller cannot cure the Title Defects within the time period set forth above, but either Seller or Purchaser can obtain an owner's title insurance policy reasonably and adequately insuring the uncured title defects in the amount of the Purchase Price naming Purchaser as insured ("Owner's Policy") at standard rates and at no additional cost or obligation to Purchaser, then Purchaser shall accept the Owner's Policy and title to the Premises. If an Owner's Policy is required in accordance with the preceding sentence, Seller shall pay the full premium for the Owner's Policy.

9. Contingencies.

(A) **Investigation Contingency.** Purchaser shall have until the close of business on the date that is one hundred twenty (120) days after Purchaser's receipt of all of the Initial Due Diligence Materials (the "Investigation Period") to determine to its satisfaction whether the Premises are suitable to it in its sole and absolute discretion. If, prior to the expiration of the Investigation Period, Purchaser has not determined that the Premises are suitable, then Purchaser may, at its sole and absolute election, (a) terminate this Contract and receive a refund of the Deposit by giving Seller written notice of its election to terminate during the Investigation Period, (b) extend the Investigation Period by thirty (30) days by sending a written notice to Seller, or (c) proceed to Closing. Within seven (7) days following Seller's notice that it has complied with its obligations under **Section 3**, the attorneys for the parties will acknowledge in writing, with a copy to Purchaser and Seller, the last day of the Investigation Period, and the parties agree to be bound by such written acknowledgment.

If, prior to the expiration of the Investigation Period, as the same may be extended pursuant to this Section, Purchaser does not receive Eligibility Approval for participation in New York's Brownfields Cleanup Program ("BCP") or Purchaser determines that the scope and/or cost of work required in connection with participation in the BCP are unacceptable, then Purchaser may, at its sole and absolute election, (a) terminate this Contract and receive a refund of the Deposit by giving Seller written notice of its election to terminate prior to the expiration of the Investigation Period, as the same may be extended pursuant to this Section, or (b) proceed to Closing.

(B) **Site Plan Approval Contingency.** Purchaser shall have six (6) months following the expiration of the Investigation Period within which to obtain all necessary municipal approvals, including without limitation, site plan approval, for Purchaser's intended use of the Premises. If any such approval is not obtained within the time period set forth above, Purchaser may, at its sole and absolute election, (a) terminate this Contract and receive a refund of the Deposit by giving Seller written notice of its election to terminate during the time period set forth above, or (b) proceed to Closing.

10. Right to Enter Premises and Conduct Investigations. During the Investigation Period, as the same may be extended pursuant to **Section 9(A)**, Purchaser shall have the right to inspect the Premises on reasonable notice to Seller. In connection therewith, Purchaser or its agents shall have the right to do all environmental, surveying, engineering, soil borings and other tests and investigations with respect to the Premises, including without limitation a Phase I (collectively, the "Investigations"), and shall have the right to alter and remove such portions of the Premises as is reasonably necessary to enable Purchaser to satisfy itself, in its sole and absolute discretion, that the Premises is suitable for Purchaser's intended uses. To the extent practicable, the Premises shall be restored by Purchaser to substantially the same condition as they were immediately prior to Purchaser's investigations. Purchaser agrees to defend, indemnify and hold harmless

Seller, its successors and assigns, from any and all claims, damages, losses, costs, penalties, suits, including without limitation, attorneys' fees arising out of and limited to property damage or personal injuries occurring during the course of or resulting from Purchaser's due diligence inspections of the Premises. Purchaser shall cause its agents, employees, contractors and engineers to have insurance coverages of a type and limit reasonably acceptable to Seller naming Seller as an additional insured. Prior to any entry as contemplated by this Section, Purchaser or Purchaser's agent shall provide Seller with satisfactory evidence that such coverages are in effect and Seller shall thereafter promptly notify Purchaser of the acceptability or non-acceptability of evidence of such coverages. Purchaser may not enter the Premises unless (i) Seller notifies Purchaser of the acceptability of insurance coverages, or (ii) Seller fails, within five (5) business days following Seller's receipt from Purchaser of insurance certificates, to serve written notice upon Purchaser's attorney of Seller's objections to Purchaser's insurance coverages.

11. Obligations of Seller Prior to Closing. During the period commencing on the date hereof and ending on the Closing Date, the Seller agrees to the following:

(A) Except as otherwise permitted or required hereunder or as required by law, or as agreed to in writing by Seller and Purchaser, to keep the Premises in substantially the same condition as on the date hereof.

(B) To not create, grant, accept or enter into any option to purchase, right of first refusal, sale agreement, use and occupancy arrangement, easement or other agreement with respect to the Premises without Purchaser's prior written consent.

(C) To maintain the Premises in compliance with all laws, statutes, ordinances, rules and regulations applicable thereto, to promptly comply with all notices of violations thereof and to promptly notify Purchaser of all such notices of violations and the nature and extent thereof.

(D) To reasonably cooperate with the Purchaser in making applications to municipal entities for the permitting of Purchaser's intended use of Premises at no cost to Seller.

12. Authorization. Each party warrants and represents that it has full power and authority to enter into this Contract.

13. Closing Date. This Contract shall be closed in the offices of the Purchaser's attorney, the Erie County Clerk's Office or at such other location as shall be agreed to by the parties hereto, at 2:00 p.m. on the (1) tenth (10th) business day following the later of (a) the satisfaction or waiver of all of the contingencies set forth in Section 9, and (b) Seller's curing all Title Defects or Purchaser or Seller obtaining a commitment for an Owner's Policy insuring over the uncured Title Defects. or (2) at such other date and/or time as agreed to by the parties hereto (the "Closing Date").

14. Binding Contract/Entire Agreement. Subject to the terms and conditions hereof, this Contract is binding upon and shall inure to the benefit of Seller and Purchaser and their respective successors and assigns. This Contract contains the entire agreement between Purchaser and Seller, and may not be modified, amended or terminated nor may any of its provisions be waived except by an instrument in writing signed by the party(ies) against whom enforcement of any such modification, amendment, termination or waiver is sought, and then such modification, amendment, termination or waiver shall be effective only in the specific instance and for the specific purpose for which given.

15. **Brokerage.** Seller and Purchaser represent to each other that J.R. Militello Realty, Inc. brought about this transaction and Seller agrees to pay the broker fee upon Closing. Seller authorizes Seller's attorney to pay any balance of sale commission owed from the sale proceeds. Each party represents and warrants it has not hired or retained any other broker in connection with the negotiation or execution of this Contract. Each party will indemnify the other from the breach of the aforesaid representations.

16. **Escrow Agent.** Escrow Agent shall not be liable to anyone for any damages, loss or expense incurred as a result of any act or omission of Escrow Agent, unless such damage, loss or expense is caused by Escrow Agent's willful misconduct, gross negligence, or fraud. Accordingly, and without limiting the foregoing, Escrow Agent shall not incur any such liability with respect to (i) any action taken or omitted, or (ii) any action taken or omitted in reasonable reliance upon any instrument, including any written notice or instruction provided for herein, not only as to its due execution by an authorized person and as to the validity and effectiveness of such instrument, but also as to the truth and accuracy of any information contained therein. Should any issue or dispute arise, Escrow Agent shall have no liability to either party hereto for retaining dominion and control over the Deposit until such issue is resolved by (i) mutual agreement of the parties; or (ii) final order, decree or judgment by a court of competent jurisdiction. In no event shall Escrow Agent be under any duty whatsoever to institute or defend such proceeding. Seller and Purchaser agree, jointly and severally, to indemnify and hold harmless Escrow Agent from and against any and all costs, loss, damage, disbursement, liability, and expense, including reasonable attorneys' fees and costs, which may be imposed upon or incurred by Escrow Agent hereunder, or in connection with the performance of its duties hereunder, including any litigation arising out of this escrow, or involving the subject matter hereof, except only costs, losses, claims, damages, disbursements, liabilities and expenses arising out of Escrow Agent's acts or omissions for which the Escrow Agent is adjudicated of having acted with willful misconduct, gross negligence, or fraud by a final decree, order or judgment of a court of competent jurisdiction from which no appeal is taken within the applicable appeals period. At no time shall the Deposit be the property of Escrow Agent.

17. **Governing Law; Venue.** This Contract shall be interpreted, construed and enforced in accordance with and governed by the internal laws of the State of New York and the federal laws of the United States, as applicable. Each party hereby irrevocably consents to the exclusive jurisdiction of the courts of the County of Erie and State of New York and the federal courts located in the Western District of New York for all purposes in connection with any action, suit or proceeding which arises out of or relates to this Contract. To the fullest extent it may effectively do so under applicable law, each party hereby irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection which it may now or hereafter have to the laying of the venue of any such action, suit or proceeding brought in any such court and any claim that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. Notwithstanding the foregoing, the parties reserve the right to remove any action, suit or proceeding commenced in the courts of the County of Erie or the State of New York, which action, suit or proceeding arises out of or relates to this Contract to the federal courts located in the Western District of New York should a federal claim be asserted.

18. **Status.** Subject to the provisions of **Section 11**, Purchaser shall acquire the Premises "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS." Seller makes no warranty or representation concerning the Premises including environmental compliance, either expressed or implied. Purchaser hereby releases Seller from any liability and/or responsibility for the improvements on the Premises. This release shall survive the closing and the delivery of the Deed.

19. **Assignment.** Purchaser may assign all or any portion of its rights under this Contract to one or more related entities, whether now existing or hereafter formed.

20. **Condemnation.** If all or any material portion of the Premises becomes subject to a condemnation proceeding prior to closing, Purchaser may elect to (a) terminate this Contract whereupon the Deposit shall be returned to Purchaser and neither party shall have any claim against the other or (b) proceed to close hereunder and receive from Seller an assignment of the condemnation award (less any reasonable costs and expenses incurred by Seller in obtaining the award).

21. **Remedies.** In the event of a material default hereunder by Purchaser, Seller may retain the entire Deposit. Seller reserves all rights and remedies it may have under the law or in equity. In the event of default hereunder by Seller, Purchaser may either (a) terminate this Contract and obtain a refund of the Deposit without any further claim against Seller; (b) seek specific performance from Seller, or (c) seek money damage from Seller.

22. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be given by (a) personal delivery, (b) certified or registered mail, return receipt requested with postage paid, or (c) nationally recognized overnight courier service with delivery charges paid by the sender or charged to the sender's account at such party's address set forth below or at such other address as may be provided by such party to the other parties by notice complying with this Section. A notice which is personally delivered shall be deemed to have been given on the date of delivery. A notice delivered by nationally recognized overnight courier service shall be deemed to have been given on the first business day following delivery to the delivery service. A notice given by certified or registered mail shall be deemed to have been given on the earlier of (i) the date of delivery or the date delivery is refused, as the case may be, or (ii) two (2) business days following delivery of the notice to a US Postal Service employee in a branch of the US Postal Service. Notices shall be addressed as follows:

To the Seller: Buffalo Economic Renaissance Corporation
65 Niagara Square
Room 920, City Hall
Buffalo, New York 14202
Attn.: Dennis M. Penman, President

With a copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn.: Michael E. Condon, Esq.

To the Purchaser: John W. Danforth Construction LLC
300 Colvin Woods Parkway
Tonawanda, New York 14150
Attn.: Brian Tubin, CFO

With a copy to: Damon Morey LLP
200 Delaware Avenue, Suite 1200
Buffalo, New York 14202
Attn.: Christopher T. Greene, Esq.

23. **Severability/Captions.** If any term or provision hereof is found to be unenforceable or invalid, the remainder hereof shall not be affected and shall remain in full force and effect. The captions herein are for convenience only and shall not control the meaning of any term or provision hereunder.

24. **Further Assurances.** Each party hereto shall, at any time and from time to time, execute, acknowledge where appropriate, and deliver such further instruments and documents and take such other action as may be reasonably requested by the other party in order to carry out the intent and purpose of this Contract. This Section shall survive the closing under this Contract.

25. **No Third Party Beneficiaries.** This Contract is intended for the exclusive benefit of the parties hereto and their respective successors and assigns and shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity other than the respective successors and assignees of the parties hereto.

26. **Interpretation.** This Contract shall be interpreted and construed according to its fair meaning and neither for nor against any party hereto irrespective of which party caused the same to be drafted. Each of the parties acknowledges that it has been or has had the opportunity to be represented by an attorney in connection with the preparation and execution of this Contract.

27. **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be deemed to be a duplicate original, but all of which, when taken together, shall constitute a single document. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Contract attached thereto. Any party may deliver an executed copy of this Contract by facsimile or email, and the other party shall be entitled to rely on such facsimile or email signature as evidence that this Contract has been duly executed by such party.

28. **Exculpation.** Seller is a not-for-profit local development corporation and the officers, directors, employees or agents shall have absolutely no personal liability with respect to any provision of this Contract or in connection with this Contract in the event of a breach of any of Seller's obligations. Purchaser shall look solely to Seller for the satisfaction of any remedies to Purchaser in the event of a breach by Seller. Purchaser is a limited liability company and its members, managers, offices, employees and agents shall have absolutely no personal liability with respect to any provision of this Contract or in connection with this Contract in the event of a breach of any of Purchaser's obligations. Seller shall look solely to Purchaser for the satisfaction of any remedies to Seller in the event of a breach by Purchaser. These exculpations of liability shall be absolute and without any exception whatsoever.

29. **Sale of Portion of Premises.** Purchaser hereby acknowledges and agrees that within six (6) months of the Closing, Humble Pie Group LLC shall have the option to purchase that portion of 1176 South Park Avenue consisting of approximately .5 acres labeled "Option Parcel" on the map attached hereto and made a part hereof as "Exhibit A" ("Map of 1176 South Park Avenue") upon the terms and conditions agreed upon by Purchaser and Humble Pie Group LLC.


[Signature page follows]

***[Signature page to Contract of Sale
re 1140 and 1176 South Park Avenue, Buffalo, New York]***

IN WITNESS WHEREOF, this Contract has been fully executed by the parties hereto as of the day and year first above written.

SELLER:


Buffalo Economic Renaissance Corporation

By: 
Name: Dennis M. Penman
Title: President

Dated: May 26, 2015

PURCHASER:

John W. Danforth Construction LLC

By: 
Name: Brian S. Tubin
Title: CFO

Dated: May 20, 2015

Doc #2001472 2/26/2014 8:21 a.m.



BYRON W. BROWN
MAYOR

CITY OF BUFFALO
OFFICE OF STRATEGIC PLANNING
DIVISION OF REAL ESTATE



CHRISTIE R. NELSON
DIRECTOR

February 10, 2016

John W. Danforth Construction
300 Colvin Woods Parkway
Tonawanda, N.Y. 4150

RE: 1116 and 1128 South Park and 11 Bertha

Dear Sirs,

The Office of Strategic Planning, Land Use Planning Committee has agreed to release the above referenced properties for your project to pursue necessary approvals and entitlements.

Your file has been forwarded to the next stage of the process which is value determination and/or hire an appraiser request.

Your office will receive written correspondence from the Division of Real Estate on how to proceed.

If you have any questions, or if the Division of Real Estate may be of service to you in the future, Please contact this office at 851-5277.

Sincerely,

A handwritten signature in blue ink, appearing to be "CRN".

Christie R. Nelson, Director
Division of Real Estate

CRN:jdc

ATTACHMENT 6

BCP APPLICATION – SECTION VII & VIII

REQUESTOR ELIGIBILITY INFORMATION

THE REQUESTOR AS A VOLUNTEER

SITE ACCESS INFORMATION

PROPERTY ELIGIBILITY INFORMATION

THE CONTAMINATION ELEMENT

THE COMPLICATION ELEMENT

ATTACHMENT 6
BCP Application - Section VII & VIII
Eligibility Information
1176 South Park Avenue Site 3

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Requestor as a Volunteer

A BCP applicant may be either a “Participant” or a “Volunteer.”

A “Participant” is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable principles of statutory or common law liability, unless such person’s liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge. NY ECL 27-1405(1)(a). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A).

A “Volunteer” is an applicant other than a participant, including a person whose liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. NY ECL 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Since the Applicant is not currently the owner and became involved with the property after the disposal or discharge of contaminants it is entitled to Volunteer status under NY ECL27-1405(1)(b).

SECTION VIII – PROPERTY ELIGIBILITY INFORMATION

Property Eligibility Information

Site 3 meets the definition of a “Brownfield site” as set forth in New York State Environmental Conservation Law (the “ECL”). The ECL Section 27-1405(2) defines a “Brownfield site” as “any real property, where a contaminant is present at levels exceeding soil cleanup objectives or other health-based or environmental standards, criteria or guidance

ATTACHMENT 6
BCP Application - Section VII & VIII
Eligibility Information
1176 South Park Avenue Site 3

adopted by the department that are applicable based on the reasonably anticipated use of the property in accordance with applicable regulations.” The regulations in 6NYCRR 375-3.3(a)(1) reiterate that a brownfield site has two (2) elements and adds a “reasonable basis” test to each:

- (1) A brownfield site has two (2) elements:
 - (i) There must be confirmed contamination on the property or a reasonable basis to believe that contamination is likely to be present on the property (the “Contamination Element”); and,
 - (ii) There must be a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use, or re-use of the property (the “Complication Element”)

Site 3 is also located in the northern portion of the SBBOA (see Figure 15). The SBBOA represents the portion of the City of Buffalo having the largest geographic concentration of former heavy industries and is approximately 1,986 acres. Several key properties have been identified within the SBBOA and the Former Village Farms site was one of them. Site 3 is located within the former boundaries of the Former Village Farms site.

New York State Department of Environmental Conservation BCP Eligibility Guidance dated March 2005, which is incorporated into the Brownfield Cleanup Program Guide establishes several factors that the Department considers in evaluating whether the Contamination Element and the Complication Element exist.

The Contamination Element

The Department considers the following factors with respect to the Contamination Element, to the extent they are relevant to the proposed Site:

- (A) The nature and extent of known or suspected contamination;
- (B) Whether contaminants are present at levels that exceed standards, criteria, or guidance;

ATTACHMENT 6
BCP Application - Section VII & VIII
Eligibility Information
1176 South Park Avenue Site 3

- (C) Whether contamination on the proposed site is historic fill material or exceeds background levels;
- (D) Whether there are or were industrial or commercial operations at the proposed site which may have resulted in environmental contamination; and/or,
- (E) Whether the proposed site has previously been subject to closure, a removal action, an interim or final remedial action, corrective action or any other cleanup activities performed by or under the oversight of the State or Federal government.

The Contamination Element of the BCP Eligibility Test has clearly been met in this application because:

- (A) The previous investigations (see Attachment 4) have established that on-site soils have been impacted by contaminants that will require remediation. Semi-volatile organic compounds (SVOCs) and metal analytes have been detected in both surface and subsurface soil samples above their respective Part 375 Commercial and Industrial SCOs. Additionally, former remedial action (excavation of petroleum-impacted material) to address the petroleum release associated with the former No 6 fuel oil was limited by the groundwater table. We note that portions of both of the 5.5 million gallon ASTs were located on Site 3.
- (B) There is a potential that groundwater contamination is present above the NYSDEC Class GA Groundwater Quality Standards based on the previous investigations completed and that groundwater limited the former remedial action to address the former No. 6 fuel oil release.
- (C) The subsurface conditions consist of gray/black fill consisting of slag, brick, concrete and a mix of sand and gravel from 2 to 6 feet below ground surface. There are also miscellaneous soil/fill piles present at various locations on Site 3.
- (D) Historical Site uses have resulted in environmental contamination.
- (E) Site 3 is currently present within the SBBOA nomination area.

The Complication Element

The Department considers the following factors with respect to the Complication Element; to the extent they are relevant to the proposed Site:

- (A) Whether the proposed site is idled, abandoned or underutilized;

ATTACHMENT 6
BCP Application - Section VII & VIII
Eligibility Information
1176 South Park Avenue Site 3

- (B) Whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination;
- (C) Whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values; and/or,
- (D) Whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.

The Complication Element of the BCP Eligibility Test has clearly been met in this application because the proposed Site is unattractive for redevelopment or reuse due to the presence of contamination. This factor is clearly established by the following:

- (A) The Site is currently vacant and underutilized.
- (B) The Site is currently unattractive for redevelopment or reuse due to the known presence of contamination and the reasonable perception that there are additional areas of contamination present on the Site related to the historic operations that will require remediation.
- (D) The estimated cost of a proposed remedial program with regard to the Site is significant in comparison to the value of the Site (i.e., estimated at greater than 100% of the value of the Site).

Based on the foregoing and as further set forth in this BCP application, the Site meets the Contamination Element and the Complication Element tests. As such, the Site qualifies as a Brownfield Site eligible for participation in the BCP, with the Applicant as a Volunteer, because (A) there is confirmed contamination at the Site, and (B) the contamination is complicating the redevelopment and re-use of the Site.

ATTACHMENT 7

BCP APPLICATION – SECTION IX

CONTACT LIST INFORMATION

SITE CONTACT LIST

ADJACENT PROPERTY OWNERS LIST

DOCUMENT REPOSITORY LETTER

ATTACHMENT 7
BCP Application Section IX
Contact List Information
1176 South Park Avenue Site 3

Erie County Contacts:

Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, NY 14202

Ms. Betty Jean Grant
District 2 Erie County Legislator
790 East Delavan Avenue
Buffalo, NY 14215

Commissioner Maria R. Whyte
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Kranz
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Robert Graber
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Mr. Christopher Pawenski
Erie Co. Environment & Planning
95 Franklin Street
Buffalo, NY 14202

Commissioner Gale Burstein
Erie Co. Health Dept.
95 Franklin Street, Room 931
Buffalo, NY 14202

Commissioner Daniel Neaverth, Jr.
Erie County Local Emergency
45 Elm Street
Buffalo, NY 14203

Mr. John J. LaFalce
ECIDA
143 Genesee Street
Buffalo, NY 14203

City of Buffalo Contacts:

Byron Brown, Mayor
City of Buffalo
65 Niagara Square
Buffalo, NY 14219

Councilman Joseph Golombek, Jr.
North District Common Council
1502 City Hall
Buffalo, NY 14202

James A. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

ATTACHMENT 7
BCP Application Section IX
Contact List Information
1176 South Park Avenue Site 3

Supplier of Potable Water:

Buffalo Water Authority
281 Exchange Street
Buffalo, NY 14204

Local News Media:

Buffalo News
ATTN: Ms. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

Alternate Press
ATTN: Mr. Joe Schmidbauer
P.O. Box 729, Washington Station
Buffalo, NY 14205

Business First
ATTN: Anne Marie Franczyk
465 Main Street
Buffalo, NY 14203-1793

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy, Ste 200
Buffalo, NY 14226

WNED, Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Brian Wiesinger, Principal
Burgard Vocational High School
400 Kensington Avenue
Buffalo, NY 14214

Timothy Kelly, Superintendent
St. Mary's School For The Deaf
2253 Main St.
Buffalo, NY 14214

H. Geneive Jones-Johnson, Principal
Dr. George Blackman Ecc
2358 Main Street
Buffalo, NY 14214

Mr. Vitale, Principal
Ps 42 Occupational Training Center
2495 Main Street
Buffalo, NY 14214-2154

ATTACHMENT 7
BCP Application Section IX
Contact List Information
1176 South Park Avenue Site 3

Theresa Schuta, Principal
Public School 206 South Park High School
150 Southside Pkwy
Buffalo, NY 14220

Other Interested Parties:

Ms. Judy Robinson
Citizens Env. Coalition
543 Franklin Street Suite 2
Buffalo, NY 14202-1109

Peter Cammarata
Buffalo Urban Development Corporation
95 Perry Street, Suite 404
Buffalo, NY 14203

Document Repository:

Mr. Joshua Mitch, Branch Manager
Buffalo & Erie County Public Library
Dudley Branch Library
2010 South Park Avenue
Buffalo, NY 14220



Attachment 7
BCP Application - Section IX
Contact List Information; Adjacent Property Owners List
1176 South Park Avenue Site 3

Adjacent Property Address				Property Owner Mailing Address
No.	Street	Property Type	Property Use	
55	Lee	Commercial	Manufacture	P.V.S Chemicals Inc 10900 Harper Ave Detroit, MI 48213
55	Lee	Commercial	Manufacture	Occupant 55 Lee St Buffalo, NY 14210
1	Babcock	Commercial	Warehouse	One Babcock Terminal Inc 1 Babcock St Buffalo, NY 14210
625	Elk	Commercial	Manufacture	Buckeye Terminals LLC 9999 Hamilton Blvd Breinigsville, PA 18031
625	Elk	Commercial	Manufacture	Occupant 625 Elk St Buffalo, NY 14210
1086	South Park	Commercial	Warehouse	City of Buffalo 65 Niagara Square Buffalo, NY 14202
1086	South Park	Commercial	Warehouse	Occupant 1086 South Park Ave Buffalo, NY 14220
1140	South Park	Commercial	Vacant Land	Buffalo Economic Renaissance RM 920, 65 Niagara Square Buffalo, NY 14202
1140	South Park	Commercial	Vacant Land	Occupant 1140 South Park Ave Buffalo, NY 14220
1176	South Park	Commercial	Vacant Land	Buffalo Economic Renaissance RM 920, 65 Niagara Square Buffalo, NY 14202
1176	South Park	Commercial	Vacant Land	Occupant 1176 Sotuh Park Ave Buffalo, NY 14220
1216	South Park	Commercial	Warehouse	Parker & Rice Holdings LLC 7 Christopher Way Eatontown, NY 07724
1216	South Park	Commercial	Warehouse	Occupant 1216 South Park Ave Buffalo, NY 14220
1320	South Park	Commercial	Vacant Industrial	City of Buffalo 502 City Hall Buffalo, NY 14202
1320	South Park	Commercial	Vacant Industrial	Occupant 1320 South Park Ave Buffalo, NY 14220
1322	South Park	Commercial	Vacant Industrial	Riverbend LLC 275 Oak St Buffalo, NY 14203
1322	South Park	Commercial	Vacant Industrial	Occupant 1322 South Park Ave Buffalo, NY 14220

Attachment 7
BCP Application - Section IX
Contact List Information; Adjacent Property Owners List
1176 South Park Avenue Site 3

Adjacent Property Address				Property Owner Mailing Address
No.	Street	Property Type	Property Use	
1324	South Park	Residential	1 Family	Diane McDonald 1358 South Park Ave Buffalo, NY 14220
1339	South Park	Urban	Renewal Vacant	Riverbend LLC 275 Oak St Buffalo, NY 14203
1339	South Park	Urban	Renewal Vacant	Occupant 1339 South Park Ave Buffalo, NY 14220
1341	South Park	Urban	Renewal Vacant	Riverbend LLC 275 Oak St Buffalo, NY 14203
1341	South Park	Urban	Renewal Vacant	Occupant 1341 South Park Ave Buffalo, NY 14220
1	Bertha	Residential	Vacant	City of Buffalo 502 City Hall Buffalo, NY 14202
1	Bertha	Residential	Vacant	Occupant 1 Bertha Pl Buffalo, NY 14220
3	Bertha	Commercial	Vacant Industrial	City of Buffalo 502 City Hall Buffalo, NY 14202
3	Bertha	Commercial	Vacant Industrial	Occupant 3 Bertha Pl Buffalo, NY 14220
5	Bertha	Commercial	Vacant Industrial	City of Buffalo 502 City Hall Buffalo, NY 14202
5	Bertha	Commercial	Vacant Industrial	Occupant 5 Bertha Pl Buffalo, NY 14220
7	Bertha	Residential	1 Family	Richard Paul Toy Jr. 7 Bertha Pl Buffalo, NY 14220
9	Bertha	Residential	1 Family	Clarence E Thomas Jr. 9 Bertha Pl Buffalo, NY 14220

August 31, 2015

Mr. Josh Mitch
Librarian
Buffalo & Erie County Public Library
Dudley Branch
2010 South Park Ave
Buffalo, NY 14220

Re: Document Repository for Brownfield Cleanup Program
1176 South Park Avenue Site 3
Buffalo, NY 14220

Dear Mr. Mitch:

Thank you for agreeing to establish the Buffalo Public Library, Dudley Branch as the document repository for the above-referenced Site as it related to the New York State Brownfield Cleanup Program (BCP). In the future, we will be sending various documents related to the Site that should be made available for public review upon request.

Again, we appreciate your cooperation in this matter. Please contact me or at 856-0599 if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC



Christopher Boron
Sr. Project Manager

File: 0335-015-001

Strong Advocates, Effective Solutions, Integrated Implementation

www.benchmarkturnkey.com

2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583

Chris Z. Boron

From: Joshua Mitch <mitchj@buffalolib.org>
Sent: Monday, August 31, 2015 11:32 AM
To: Chris Z. Boron
Subject: Re: Document Repository Letter

Hi Christopher,

Thank you for sending that over so quickly, please consider this my confirmation of our conversation earlier. I'll print this for my records and pass it along to the appropriate staff downtown; they will store the information indefinitely after the 3 year period at our location.

Have a great day,
Josh

Joshua Mitch
Branch Manager/Librarian I
Dudley Branch Library
2010 South Park Ave
Buffalo, NY 14220
(716) 823-1854

From: Chris Z. Boron <CBoron@benchmarkturnkey.com>
Sent: Monday, August 31, 2015 10:10 AM
To: Joshua Mitch
Subject: Document Repository Letter

Hi Josh,
Nice speaking with you this morning. The attached letter is to confirm our conversation that the Dudley Branch of the Buffalo and Erie County Library will at as the document repository for our Site.
Have a nice day.

Regards,

Christopher Boron
Sr. Project Manager
cboron@turnkeyllc.com

TurnKey Environmental Restoration, LLC

www.benchmarkturnkey.com
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
Phone: (716) 856-0635, Facsimile: (716) 856-0583

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ATTACHMENT 8

BCP APPLICATION – SECTION X

LAND-USE FACTORS

SITE SUMMARY

ADJACENT LAND USE, DEVELOPMENT PATTERNS, & ZONING

NATURAL & CULTURAL RESOURCES

GROUNDWATER VULNERABILITY ASSESSMENT

GEOGRAPHY/ TOPOGRAPHY

ATTACHMENT 8
BCP Application – Section X
Land Use Factors
1176 South Park Avenue Site 3

SECTION X – LAND-USE FACTORS

Site Summary

The following provides a brief summary of the Site:

- Site 3 is located within a primarily industrial and commercial area of the City of Buffalo, Erie County, New York. The four (4) tax parcels or portions thereof that makeup Site 3 are owned by the Buffalo Economic Renaissance Corporation and the City of Buffalo.
- Site 3 is currently vacant with no existing above grade structures present.
- Site 3 is zoned M3 – Heavy Industrial District.
- Site 3 is present within the SBBOA Nomination Study Area and has been identified as one of the key properties with considerable redevelopment potential and/or representing a significant public interest.
- The four (4) parcels have the following Class Description according to the Erie County website <http://gis2.erie.gov/GC/ErieCountyNY/PublicLaunchPage.aspx>.
 - B – Vacant Industrial
- Figure 16 shows the proposed redevelopment plans, which involves the construction of an approximate 83,000 sq ft manufacturing building and preparation of two smaller parcel along South Park Avenue. The proposed use of Site 3 will include a mix of manufacturing, warehousing and commercial development that will be consistent with the local zoning plan (see Figure 6).
- In accordance with §27-1415(3)(p), Site 3 is located within a NYSDEC Potential Environmental Justice (EJ) Area (See Figure 11). However, EJ concerns are not applicable to this project as the proposed use is not expected to cause or increase a disproportionate burden on the community in which the Site is located.
- There are no State or Federal land use designations related to the property.
- The Site has access to municipal utilities including: natural-gas, municipal sewer, electric, and public water.
- There are no known Institutional Controls (ICs) for the Site.

ATTACHMENT 8
BCP Application – Section X
Land Use Factors
1176 South Park Avenue Site 3

Adjacent Land Use, Development Patterns, & Zoning

Site 3 is located in a primarily industrial and commercial area of the City of Buffalo, Erie County, New York. Site is located on the north side of South Park Avenue, is bound by the Buffalo River to the north; remaining portions of the parcel (SBL # 122.16-1-16) and a 7 acre commercial property (English Pork Pie Company), to the west. To the south is South Park Avenue and The High-Tech Manufacturing Hub at RiverBend redevelopment which is across South Park to the south. To the east are Bertha Street are a mix of smaller residential, commercial and industrial zoned properties (see Figure 6). Adjacent property owners are identified on Figure 7.

Site 3 is located within the SBBOA and the limits of the Former Village Farms site, which has been identified as one of the key properties within the SBBOA with considerable redevelopment potential and/or representing a significant public interest.

Natural and Cultural Resources

- According to the New York State Cultural Resource Information System, cultural resources were not identified at Site 3 or within a 0.5 mile radius (see Figure 10), which includes National Register sites.
- According to the NYSDEC's Environmental Resource Mapper (ERM), there are no important plant habitats or endangered species listed for the area encompassing the Site (see Figure 12).
- There is a potential for wetlands to be present along the northern portion of Site 3, as it is adjacent to the Buffalo River (see Figure 13). The redevelopment plan will consist of an approximate 100 foot buffer from the Buffalo River, as required by the City of Buffalo; and a right-of-way may be established with the Buffalo Niagara Riverkeeper to allow public access along the Buffalo River. No floodplains appear to be located at Site 3.

ATTACHMENT 8
BCP Application – Section X
Land Use Factors
1176 South Park Avenue Site 3

Groundwater Vulnerability Assessment

Based on a previous remedial actions completed at Site 3 to address the former No. 6 fuel oil release, remedial actions did not continue past a depth of 9 to 10 feet below ground surface, the elevation of the Buffalo River and groundwater table. Therefore, it is likely that impacted groundwater may be present above 6 NYCRR Part 703 NYSDEC Groundwater Criteria (Class GA).

Currently, there are no known deed restrictions on the use of groundwater at the Site. Municipal water is available to Site 3 and all surrounding properties.

Based on the location and topography in the area of the Site, groundwater would appear to flow north and/or northwesterly towards or along the flow path of the adjacent Buffalo River. Actual groundwater flow patterns at Site 3 will be confirmed during Benchmark's Remedial Investigation.

Additional work is required to investigate groundwater quality. Monitoring wells to assess and characterize groundwater flow patterns and quality are planned during the Remedial Investigation.

Geography/Topography

Site 3 is located within the Lake Erie-Niagara River Major Drainage Basin which is typified by relatively little topographic relief and gentle slope toward Lake Erie, except in the immediate vicinity of major drainage ways. Generally, Site 3 is flat with two large berms (one in the north and one in the south) that were created with on-site soil/fill from past development activities. It is generally covered by grass and small brush vegetation, and in the eastern portion there are remains of the former concrete building slabs and asphalt paving. Buffalo River is adjacent to Site 3 to the north and Lake Erie is located approximately 1.5 mile southwest. The Site has an average elevation of approximately 595 feet above mean sea level based on USGS topographic mapping of the area.

ATTACHMENT 8
BCP Application – Section X
Land Use Factors
1176 South Park Avenue Site 3

Precipitation (i.e., rain or snow melt) generally moves radially from the Site via overland flow, ponds and infiltrates into the subsurface in the vegetated area. There are catch basins present in the asphalt paved portions of the Site 3.

ATTACHMENT 9
**ELECTRONIC COPY OF BCP APPLICATION,
ATTACHMENTS AND PREVIOUS STUDIES**