

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau E

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www.dec.ny.gov

December 28, 2017

Mr. Benjamin Obletz
23 North Street, LLC
4208 Main Street
Amherst, New York 14226

RE: 19 North Street, Site No: C915303
Buffalo, Erie County
Remedial Investigation Report
IRM Completion Report

Dear Mr. Obletz:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Remedial Investigation Report (RI) dated July 2017 and the Construction Completion/Alternatives Analysis Report (CCR) for the 19 North Street site dated November 2017 and prepared by C&S Engineers, Inc., on behalf of 23 North Street, LLC. The RI and CCR are hereby approved. Please ensure that copies of the approved documents are placed in the document repository and that the draft plans are removed.

Enclosed is a copy of the Department's No Further Action Decision Document for the site. Please ensure that a copy of the Decision Document is placed in the document repository.

Please contact the Department's Region 9 Remediation/Spill Geologist Mary McIntosh, (716) 851-7220, if you have any questions.

Sincerely,



Michael J. Cruden. P.E.
Director
Remedial Bureau E
Division of Environmental Remediation

Enclosure

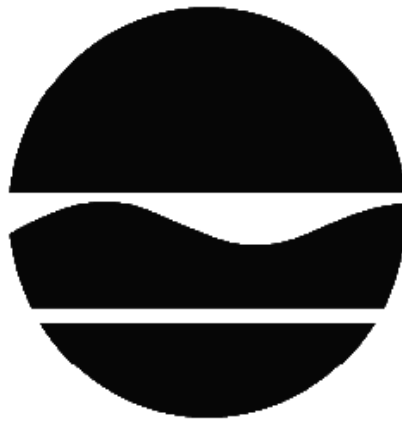
cc: M. Ryan, NYSDEC
M. McIntosh, NYSDEC, Region 9
J. Dougherty, NYSDEC, Region 9
K. Anders/C. Bethoney/E. O'Neil, NYSDOH
D Riker, C&S Engineers, driker@scos.com
C Slater, Esq., The Slater Law Firm, PLLC, CSlater@CSlaterlaw.com



Department of
Environmental
Conservation

DECISION DOCUMENT

19 North Street
Brownfield Cleanup Program
Buffalo, Erie County
Site No. C915303
December 2017



Prepared by
Division of Environmental Remediation
New York State Department of Environmental Conservation

DECLARATION STATEMENT - DECISION DOCUMENT

19 North Street
Brownfield Cleanup Program
Buffalo, Erie County
Site No. C915303
December 2017

Statement of Purpose and Basis

This document presents the remedy for the 19 North Street site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the 19 North Street site and the public's input to the proposed remedy presented by the Department.

Description of Selected Remedy

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternatives analysis (AA). The IRM(s) undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment; therefore No Further Action is the selected remedy. The remedy may include continued operation of a remedial system if one was installed during the IRM and the implementation of any prescribed institutional controls/engineering controls (ICs/ECs) that have been identified as being part of the proposed remedy for the site.

Declaration

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

Michael J Cruden

Digitally signed by Michael J Cruden
DN: cn=Michael J Cruden, o=DER, ou=RBE,
email=mjcruden@gw.dec.state.ny.us, c=US
Date: 2017.12.27 14:39:07 -05'00'

Date

Michael Cruden, Director
Remedial Bureau E

DECISION DOCUMENT

19 North Street
Buffalo, Erie County
Site No. C915303
December 2017

SECTION 1: SUMMARY AND PURPOSE

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternative analysis (AA). The IRMs undertaken at this site are discussed in Section 6.2.

Based on the implementation of the IRM(s), the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRM(s) conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the selected remedy. A No Further Action remedy may include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This DD identifies the IRM(s) conducted and discusses the basis for No Further Action.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

SECTION 2: CITIZEN PARTICIPATION

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repository:

Buffalo & Erie County Public Library -
Attn: Carol Ann Batt
1 Lafayette Square
Buffalo, NY 14203
Phone: 716-858-7129

Receive Site Citizen Participation Information By Email

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

SECTION 3: SITE DESCRIPTION AND HISTORY

Location:

The 19 North St. BCP is a 0.5acre site located in the City of Buffalo at the intersection of North Pearl Street and North Street, near to the Buffalo Niagara Medical Campus. The 19 North St site includes parcels located at 19 North St and 23 North St.

Site Features:

The eastern portion of the Site which formerly held a small parking area, is currently vacant. Grass/soil covers the remainder of the Site.

Current Zoning and Land Use:

The Site is currently zoned as general commercial district and classified as a commercial land use. The surrounding parcels are a mix of commercial, residential and transit station zoning districts. Surrounding parcels are also a mix of commercial, residential and community service land uses.

Past Use of the Site:

The Phase I Environmental Site Assessment (ESA) indicated that the BCP Site was occupied by residential dwellings. By 1951, the residence at 23 North Street had become a radio station. By 1981, the residence at 19 North Street had been removed and replaced with a radio tower. In 2014 the residence at 23 North Street was demolished and the basement area backfilled.

Site Geology and Hydrogeology:

The Site contains fill consisting of sand and gravel, clay, brick, concrete and traces of coal. Fill thickness ranges up to 13 feet. The fill is underlain by brown silty clay and silty sand. Groundwater was observed during site investigations to be approximately 16 - 24 feet below grade. Groundwater flow direction on the site is variable due to the nature of the urban setting

but is generally in the northeast direction. Bedrock was not encountered at the site and is therefore greater than 24 feet below ground surface.

A site location map is attached as Figure 1 and a Site map is attached as Figure 2.

SECTION 4: LAND USE AND PHYSICAL SETTING

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, an alternative which allows for unrestricted use of the site was evaluated.

A comparison of the results of the investigation against unrestricted use standards, criteria and guidance values (SCGs) for the site contaminants is available in the Remedial Investigation (RI) Report.

SECTION 5: ENFORCEMENT STATUS

The Applicant(s) under the Brownfield Cleanup Agreement is a/are Volunteer(s). The Applicant(s) does/do not have an obligation to address off-site contamination. However, the Department has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Remedial Investigation

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil

6.1.1: Standards, Criteria, and Guidance (SCGs)

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

6.1.2: RI Results

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The contaminants of concern identified at this site that exceeded the Unrestricted Soil Cleanup Objectives (SCOs) and the New York State Groundwater Standards are:

Surface Soil:

- benzo(a)anthracene
- benzo(a)pyrene
- benzo(b)fluoranthene
- benzo(k)fluoranthene
- chrysene
- dibenzo(a,h)anthracene
- ideno(1,2,3-cd)pyrene
- 4,4'DDT
- 4,4'DDE
- Zinc
- Nickel

Fill:

- benzo(b)fluoranthene
- benzo(k)fluoranthene
- chrysene
- ideno(1,2,3-cd)pyrene
- 4,4'DDT
- 4,4'DDE
- 4,4'DDD
- mercury
- lead
- selenium

Groundwater:

- Iron
- Manganese
- Magnesium
- Sodium

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These media were addressed by the IRM(s) described in Section 6.2. More complete information can be found in the RI Report and the IRM Construction Completion Report.

6.2: Interim Remedial Measures

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

An IRM was performed at this site that excavated all contaminated soil/fill from the site down to native soil that met the unrestricted SCO's. The IRM work plan was approved in July 2017 after a public comment period. The approved IRM work is available in the site document repository.

The approved IRM work plan was implemented and the excavation of the contaminated soil/fill began in July 2017 and was completed in October 2017. Approximately 12018 tons of contaminated soil was excavated and disposed of off-site at a permitted disposal facility.

A Construction Completion Report was prepared that describes the work performed and is available for review at the site document repository.

The final excavation area and depth is depicted in the attached Figure 3 for approved depths and Figure 4 for actual excavation depths.

6.3: Summary of Environmental Assessment

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

Soil and groundwater were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, polychlorinated biphenyls (PCBs) and pesticides. Based upon the investigations performed, the primary contaminants include polycyclic aromatic hydrocarbons (PAHs), pesticides and several metals (lead, mercury, zinc and selenium) in soil/fill. No VOCs or PCBs were detected in the soil/fill on the site.

For groundwater, minor detections of Volatile Organic Compounds (VOCs) for 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene and p-Isopropyltoluene were detected above groundwater standards in one well on only one occasion. These compounds were non-detect on subsequent sampling events. No exceedances of groundwater standards were found on site for Semi-volatile Organic Compounds (SVOCs), PCBs or pesticides. Several metals were detected at various times above groundwater standards that included iron, magnesium, manganese and sodium. These metal concentrations are typical of local groundwater conditions and are not a site concern. The City of Buffalo prohibits the use of groundwater for drinking water purposes.

The Remedial Investigation (RI) conducted on site identified approximately 6000 cy of soil contaminated with SVOCs and metals.

An Interim Remedial Measure (IRM) work plan was developed that required the excavation of all contaminated soil to unrestricted soil cleanup objectives(SCOs). The IRM was begun in July 2017 and excavation was completed in October 2017. Excavation was performed to predetermined depths as identified in the RI and IRM work plan.

Approximately 12,018 tons of contaminated soil was removed and disposed off-site at a permitted facility. The site was backfilled with crushed stone meeting the requirements for unrestricted use.

6.4: Summary of Human Exposure Pathways

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

Remedial actions taken at the site have removed all site-related contamination. Therefore, no contact with site contaminants is expected.

6.5: Summary of the Remediation Objectives

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles. The remedial action objectives for this site are:

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

Groundwater

RAOs for Public Health Protection and for Environmental Protection

- Prevent the discharge of contaminants to the groundwater

SECTION 7: ELEMENTS OF THE SELECTED REMEDY

The Remedial Investigation has identified fill materials that are impacted by semi-volatile organic compounds (SVOCs) and metals at concentrations above NYSDEC Soil Cleanup objectives (SCOs). An Interim Remedial Measure (IRM) was performed to remove all contaminated soils above Unrestricted SCOs. Excavations were begun in July 2017 and completed in October 2017. Approximately 12018 tons contaminated soil was excavated and disposed at permitted off-site disposal facilities. The excavation removed contaminated soil to meet the predetermined excavation depths as determined in the IRM work plan.

The implemented IRM work plan achieved the following:

- Removal of approximately 12,018 tons of soil for off-site disposal at a permitted facility,
- Dewatering of the excavation area and the treatment of captured water as needed, and
- Backfilling the excavation with 2" run of crusher stone to the design grade required for the site redevelopment.

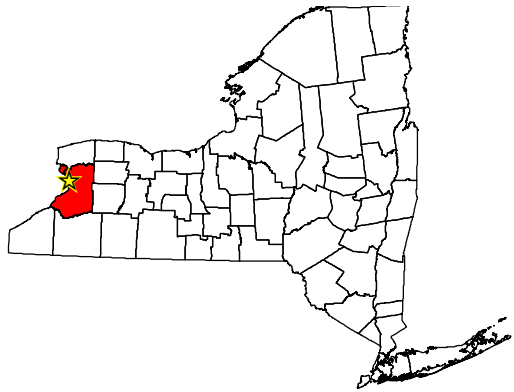
The IRM performed on site was successful in removing all the contaminated soil identified on site and achieving un-restricted SCOs. No further action is necessary at this site to address contaminated soil/fill. No action to address groundwater is necessary.

Path: F:\Project\p67 - First Amherst Development Company\Planning-Study\GIS\FIGURE_X_BCP_SITE.mxd



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LOCATION MAP

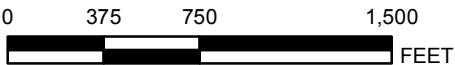


LEGEND

BCP BOUNDARY

NOTES

- 1) USGS 7.5 MINUTE QUADRANGLE MAP FROM ESRI BASEMAP LAYER.
- 2) COORDINATE SYSTEM: NAD 1983 STATEPLANE NY
WEST FIPS 3103
PROJECTION: TRANSVERSE MERCATOR
DATUM: NORTH AMERICAN 1983
UNITS: FOOT US



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Fax: 716-847-1454
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19 NORTH STREET
BROWNFIELD CLEANUP PROGRAM
INTERIM REMEDIAL MEASURES
BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO: P67.001.001		
DATE: JUNE 3 2016		
DRAWN BY: A DeMARCHI		
DESIGNED BY: A. DeMARCHI		
CHECKED BY: D. RIKER		
NO ALTERATION PERMITTED HEREON EXCEPT AS PROVIDED UNDER SECTION 7209 SUBDIVISION 2 OF THE NEW YORK EDUCATION LAW		


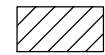
SITE LOCATION

FIGURE 1

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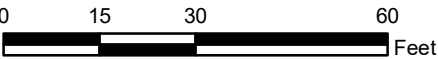


LEGEND

-  BCP SITE BOUNDARY
-  APPROXIMATE FOOTPRINT OF HISTORICAL BUILDING ON-SITE

NOTES

- 1) FOOTPRINT OF HISTORICAL BUILDING DIGITIZED FROM SATELLITE IMAGERY.
- 2) COORDINATE SYSTEM: NAD 1983 STATEPLANE NY WEST FIPS 3103
PROJECTION: TRANSVERSE MERCATOR
DATUM: NORTH AMERICAN 1983
UNITS: FOOT US





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19 NORTH STREET
BROWNFIELD CLEANUP PROGRAM
INTERIM REMEDIAL MEASURES

BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
	8/24/17	UPDATED

PROJECT NO: P67.001.001

DATE: 11/10/16

DRAWN BY: A. DeMARCHI

DESIGNED BY: A. DeMARCHI

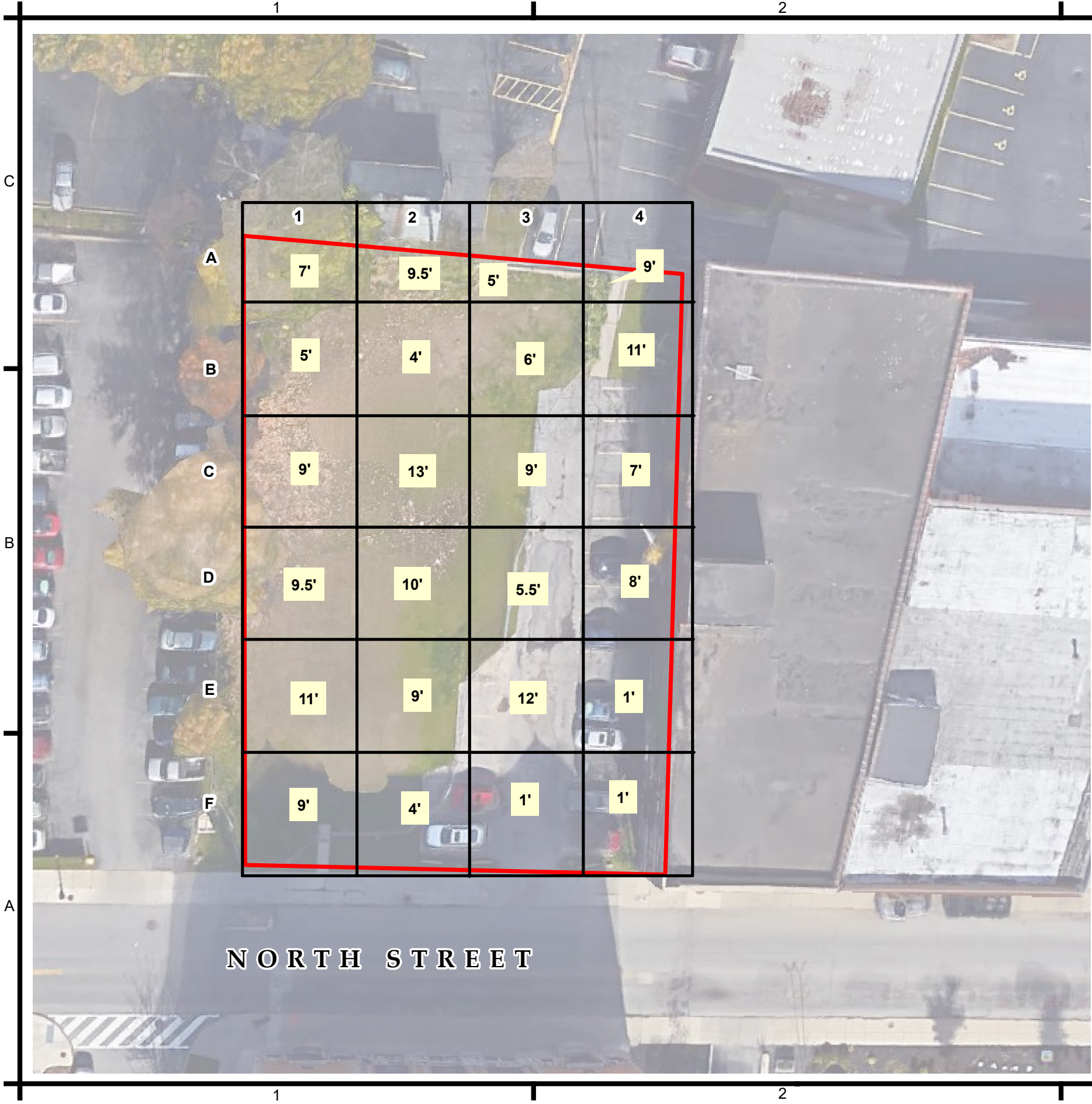
CHECKED BY: D. RIKER

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EDUCATION LAW

PROJECT AREA
AND SITE
BOUNDARY

FIGURE 2

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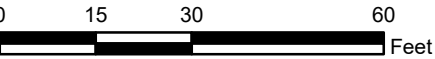


LEGEND

- BCP SITE BOUNDARY
- 9' APPROXIMATE EXCAVATION DEPTH (FEET BELOW GROUND SURFACE)

NOTES

1) COORDINATE SYSTEM: NAD 1983 STATEPLANE NY
WEST FIPS 3103
PROJECTION: TRANSVERSE MERCATOR
DATUM: NORTH AMERICAN 1983
UNITS: FOOT US



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19 NORTH STREET
BROWNFIELD CLEANUP PROGRAM
INTERIM REMEDIAL MEASURES
BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
	8/24/17	Update

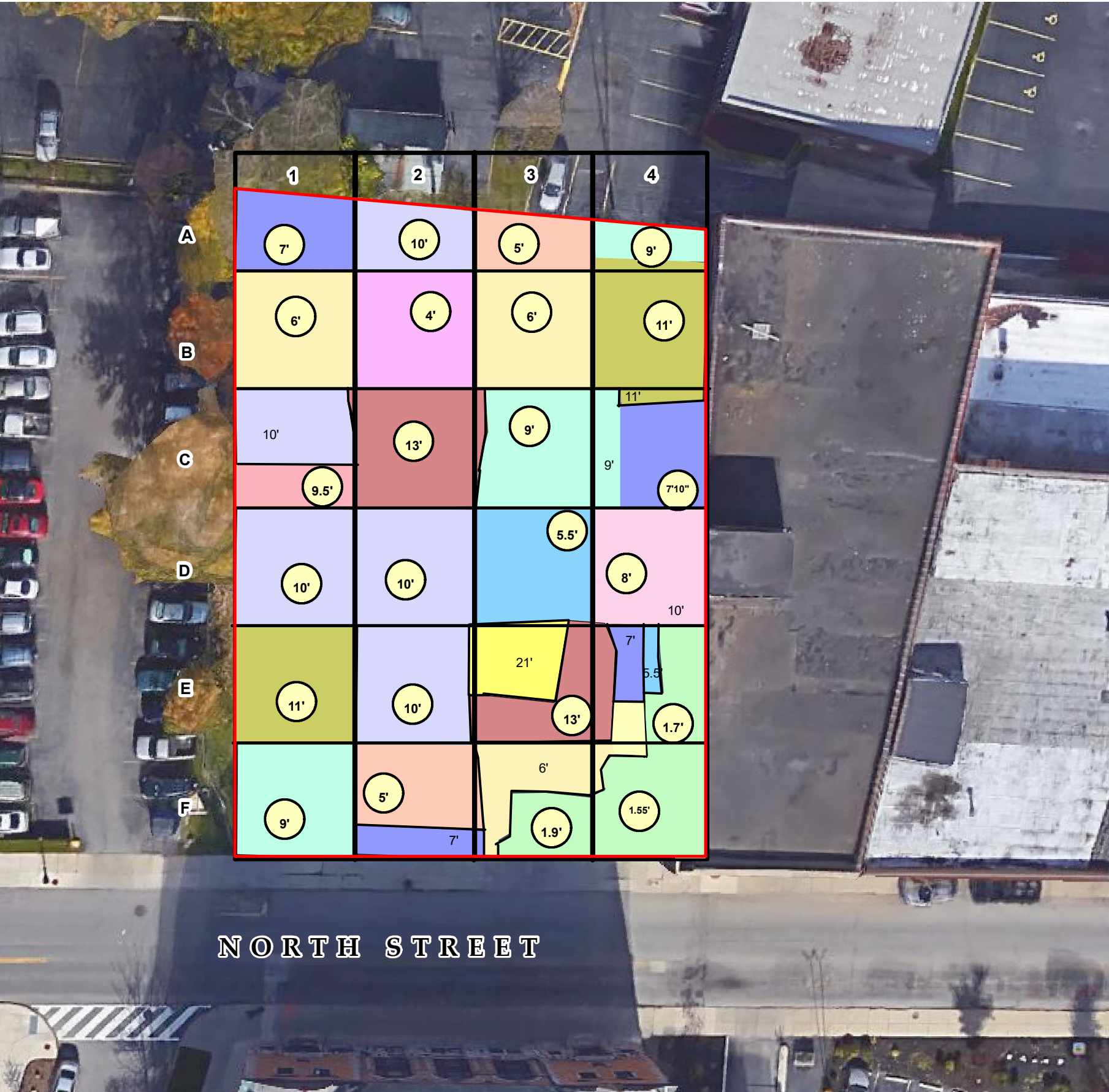
PROJECT NO: P67.001.001
DATE: 6/20/2017
DRAWN BY: A. DeMARCHI
DESIGNED BY: A. DeMARCHI
CHECKED BY: D. RIKER

NO ALTERATION PERMITTED HEREON
EXCEPT AS PROVIDED UNDER SECTION
7209 SUBDIVISION 2 OF THE NEW YORK
EDUCATION LAW

DEPTH TO
UNRESTRICTED
USE SOILS

FIGURE 3

Path: F:\Project\P67 - First Amherst Development Company\P67.001.001 - BCP AP\Planning-Study\GIS\IRM FINAL EXCAVATION FIGURE.mxd

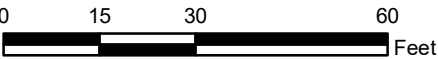


LEGEND

- BCP SITE BOUNDARY
- EXCAVATED DEPTH ACROSS GRID (FT)
- 1 FOOT DEPTH EXCAVATION
- 4 FOOT DEPTH EXCAVATION
- 5 FOOT DEPTH EXCAVATION
- 5.5 FOOT DEPTH EXCAVATION
- 6 FOOT DEPTH EXCAVATION
- 7 FOOT DEPTH EXCAVATION
- 8 FOOT DEPTH EXCAVATION
- 9 FOOT DEPTH EXCAVATION
- 9.5 FOOT DEPTH EXCAVATION
- 10 FOOT DEPTH EXCAVATION
- 11 FOOT DEPTH EXCAVATION
- 12 FOOT DEPTH EXCAVATION
- 13 FOOT DEPTH EXCAVATION
- 21 FOOT DEPTH EXCAVATION

NOTES

- 1) ALL DESIGN EXCAVATION DEPTHS WERE MET OR EXCEEDED AS BASED ON ELEVATION DEPTHS DETERMINED USING THE TRIMBLE GEO7X GPS AND/OR THE LASER LEVEL.
- 2) COORDINATE SYSTEM: NAD 1983 STATEPLANE NY WEST FIPS 3103
PROJECTION: TRANSVERSE MERCATOR
DATUM: NORTH AMERICAN 1983
UNITS: FOOT US
- 3) EXCAVATIONS COMPLETED AS OF OCTOBER 13, 2017.
- 4) EXCAVATIONS ON THE EASTERN BOUNDARY WERE COMPLETED UP TO THE BUILDING.



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**NINETEEN NORTH STREET
BROWNFIELD CLEANUP PROGRAM
INTERIM REMEDIAL MEASURES**

BUFFALO, NEW YORK

MARK	DATE	DESCRIPTION
REVISIONS		
PROJECT NO:	P67.003.001	
DATE:	OCTOBER 16, 2017	
DRAWN BY:	A. SVIRGUN	
DESIGNED BY:	A. SVIRGUN	
CHECKED BY:	D. RIKER	
NO ALTERATION PERMITTED HEREON EXCEPT AS PROVIDED UNDER SECTION 7209 SUBDIVISION 2 OF THE NEW YORK EDUCATION LAW		

**FINAL
EXCAVATIONS**

FIGURE 4