

# Brownfield Cleanup Program Application

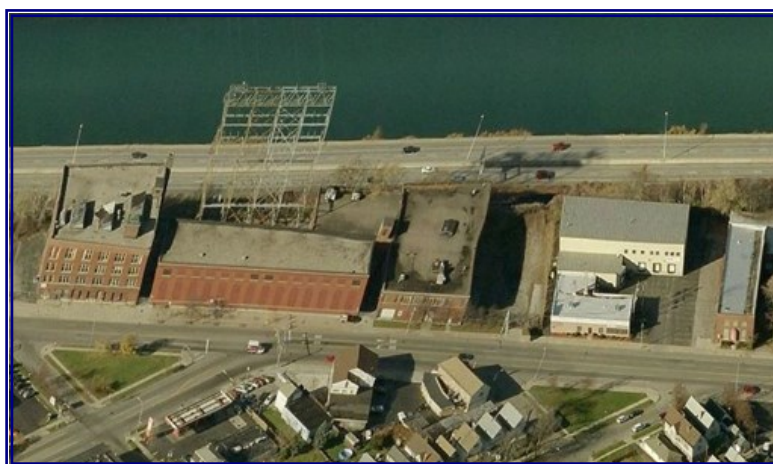
990 Niagara Street Site  
Buffalo, New York

December 2016

0395-016-002

Prepared For:

990 Niagara LLC



Prepared By:

In Association With:



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



## 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 990 Niagara LLC

ADDRESS 285 Ellicott Street

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE (716) 698-9169

FAX NA

E-MAIL rogetrettel@gmail.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:

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

See Attachment 2

See Figure 5

**Section III. Property's Environmental History****See 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	X		
SVOCs	X		
Metals	X		
Pesticides			
PCBs			
Other*			

\*Please describe: \_\_\_\_\_

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

**See Attachment 3**

- 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

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 checked="" type="checkbox"/> Manufacturing | <input 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 checked="" type="checkbox"/> Unknown |

Other: Automotive Garage and Repair Shop, Industrial and Commercial Operations

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 990 Niagara Street				
ADDRESS/LOCATION 990 Niagara Street				
CITY/TOWN Buffalo, New York		ZIP CODE 14213		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 1.05		
LATITUDE (degrees/minutes/seconds) 42 ° 54 ' 36.89 " N		LONGITUDE (degrees/minutes/seconds) 78 ° 54 ' 1.908 " W		
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.
990 Niagara Street		99.49	6	8
<p>1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No          If no, please attach a metes and bounds description of the property. <span style="border: 1px solid red; padding: 2px;">See Attachment 4</span></p>				
<p>2. Is the required property map attached to the application? <span style="border: 1px solid red; padding: 2px;">See Figures 2, 3, &amp; 4</span> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No          (application will not be processed without map)</p>				
<p>3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)?          (See <a href="#">DEC's website</a> for more information) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p><span style="border: 1px solid red; padding: 2px;">See Figure 6</span> If yes, identify census tract : <u>70</u></p> <p>Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100%</p>				
<p>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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, identify name of properties (and site numbers if available) in related BCP applications: _____</p>				
<p>5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>				
<p>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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, attach relevant supporting documentation.</p>				
<p>7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, these lands should be clearly delineated on the site map.</p>				



#### 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

Easement/Right-of-way Holder

Description

None/unknown

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

Type

Issuing Agency

Description

None/unknown

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 NA

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

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 NA

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)**

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Mr. Roger Trettel		See Attachment 1	
ADDRESS 285 Ellicott Street			
CITY/TOWN Buffalo, New York		ZIP CODE 14203	
PHONE (716) 698-9169	FAX NA	E-MAIL rogertrittel@gmail.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Michael Lesakowski			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo, New York		ZIP CODE 14218	
PHONE (716) 856-0599	FAX (716) 856-0583	E-MAIL MLesakowski@benchmarkturnkey.com	
NAME OF REQUESTOR'S ATTORNEY Phillip G. Borrelli			
ADDRESS 14 Franklin Street, Suite 813			
CITY/TOWN Rochester, NY		ZIP CODE 14604	
PHONE (585) 454-1905	FAX NA	E-MAIL pborrelli@borrelliyots.com	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b>			
CURRENT OWNER'S NAME 990 Niagara LLC		OWNERSHIP START DATE: Nov. 2015	
ADDRESS Same as above			
CITY/TOWN Same as above		ZIP CODE same as above	
PHONE same as above	FAX Same as above	E-MAIL same as above	
CURRENT OPERATOR'S NAME Same as above			
ADDRESS Same as above			
CITY/TOWN Same as above		ZIP CODE Same as above	
PHONE Same as above	FAX Same as above	E-MAIL Same as above	
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. See Attachment 5 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".			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b>		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? See Attachment 6 ☒ 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

**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. NA ☐ 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.

See Figure 7 for  
Adjacent Property  
Owners

Section X. Land Use Factors		See Attachment 8
1. What is the current zoning for the site? What uses are allowed by the current zoning? <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Industrial If zoning change is imminent, please provide documentation from the appropriate zoning authority.		
2. Current Use: <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Vacant <input type="checkbox"/> Recreational    (check all that apply) <b>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.</b>		
3. Reasonably anticipated use Post Remediation: <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial    (check all that apply) <b>Attach a statement detailing the specific proposed use.</b>  If residential, does it qualify as single family housing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
4. Do current historical and/or recent development patterns support the proposed use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <div style="border: 1px solid red; padding: 2px; color: red; text-align: center;">See Attachment 8 and Figure 8</div>	
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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <div style="border: 1px solid red; padding: 2px; color: red; text-align: center;">See Attachment 8 and Figure 9</div>	

## XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Sole Member (title) of 990 Niagara 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: 12/14/16

Signature: 

Print Name: Roger Trettel

### 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:** \_\_\_\_\_

**BCP Application Summary (for DEC use only)****Site Name:** 990 Niagara Street**City:** Buffalo, New York**Site Address:** 990 Niagara Street**County:** Erie**Zip:** 14213**Tax Block & Lot****Section (if applicable):** 99.49**Block:** 6**Lot:** 8**Requestor Name:** 990 Niagara LLC**City:** Buffalo, New York**Requestor Address:** 285 Ellicott Street**Zip:** 14203**Email:** rogertrettel@gmail.com**Requestor's Representative (for billing purposes)****Name:** Mr. Roger Trettel**Address:** 285 Ellicott Street**City:** Buffalo, New York**Zip:** 14203**Email:** rogertrettel@gmail.com**Requestor's Attorney****Name:** Phillip G. Borelli**Address:** 14 Franklin Street, Suite 813**City:** Rochester, NY**Zip:** 14604**Email:** pborelli@borelliyots.com**Requestor's Consultant****Name:** Mr. Michael Lesakowski**Address:** 2558 Hamburg Turnpike, Suite 300**City:** Buffalo, New York**Zip:** 14218**Email:** MLesakowski@benchmarkturnkey.com**Percentage of site within an En-Zone:** ☐ 0% ☐ <50% ☐ 50-99% ☒ 100%**Requestor's Requested Status:** ☒ Volunteer ☐ Participant



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## LIST OF APPLICATION FIGURES

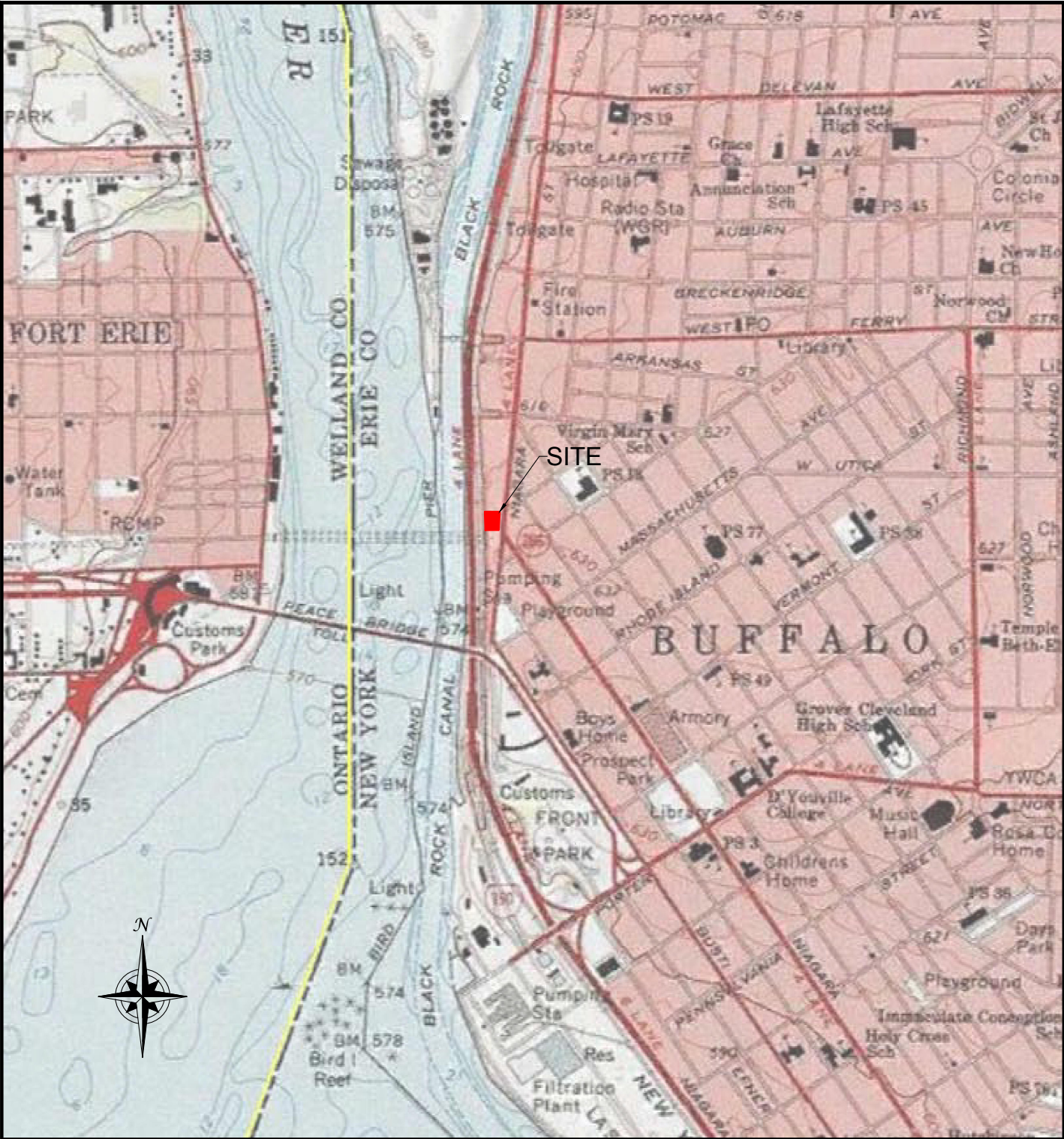
*NYSDEC Brownfield Cleanup Program Application  
990 Niagara Street Site  
Buffalo, New York*

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Figure 1	Site Location and Vicinity Map
Figure 2	Site Plan (Aerial)
Figure 3	Tax Map
Figure 4	Property Base Map (1000' Set Back)
Figure 5	Project Schedule
Figure 6a	En-Zone Map
Figure 6b	Tonawanda Street Corridor BOA Map
Figure 7	Adjacent Property Owners
Figure 8	Current Zoning Map
Figure 9	Anticipated Zoning Map
Figure 10	Soil Map

FIGURE 1



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



## SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET

BUFFALO, NEW YORK

PREPARED FOR

990 NIAGARA LLC

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

**DISCLAIMER:** PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC **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 & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



**FIGURE 2**



**LEGEND:**

—— BCP SITE BOUNDARY

80' 0' 80' 160'



SCALE: 1 INCH = 80 FEET  
SCALE IN FEET  
(approximate)



2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
(716) 856-0635

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

**SITE PLAN (AERIAL)**

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

**DISCLAIMER:**  
PROPERTY OF TURNKEY ENVIRONMENTAL RESTORATION, LLC. 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 TURNKEY ENVIRONMENTAL RESTORATION, LLC.



DRAFTED BY: RFL

## TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

**DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC 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 & TURNKEY ENVIRONMENTAL RESTORATION, LLC.**





**LEGEND:**

- PROPOSED BCP SITE
- 1,000 FOOT SET BACK

**NOTES:**

BASE MAP FROM GOOGLE EARTH JUNE 2015  
AERIAL PHOTOGRAPHY.



SCALE: 1 INCH = 500 FEET  
SCALE IN FEET  
(approximate)



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

PROJECT NO.: 0359-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL



## PROPERTY BASE MAP (1,000 FOOT SET BACK)

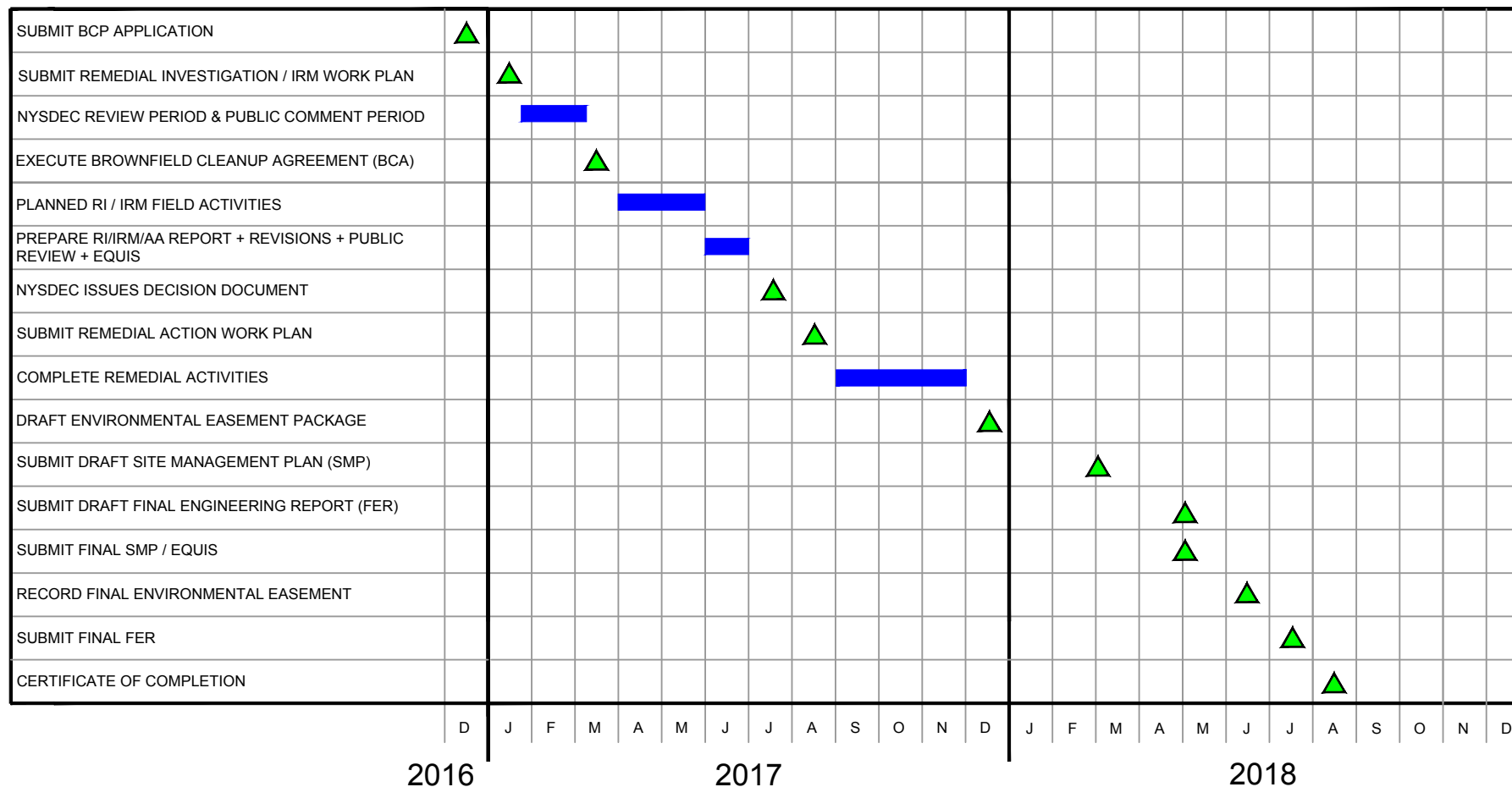
BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

**FIGURE 4**

**DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC 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 & TURNKEY ENVIRONMENTAL RESTORATION, LLC.**

**PROJECT TASKS:**

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

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

**PLANNED PROJECT SCHEDULE**

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET

BUFFALO, NEW YORK

PREPARED FOR

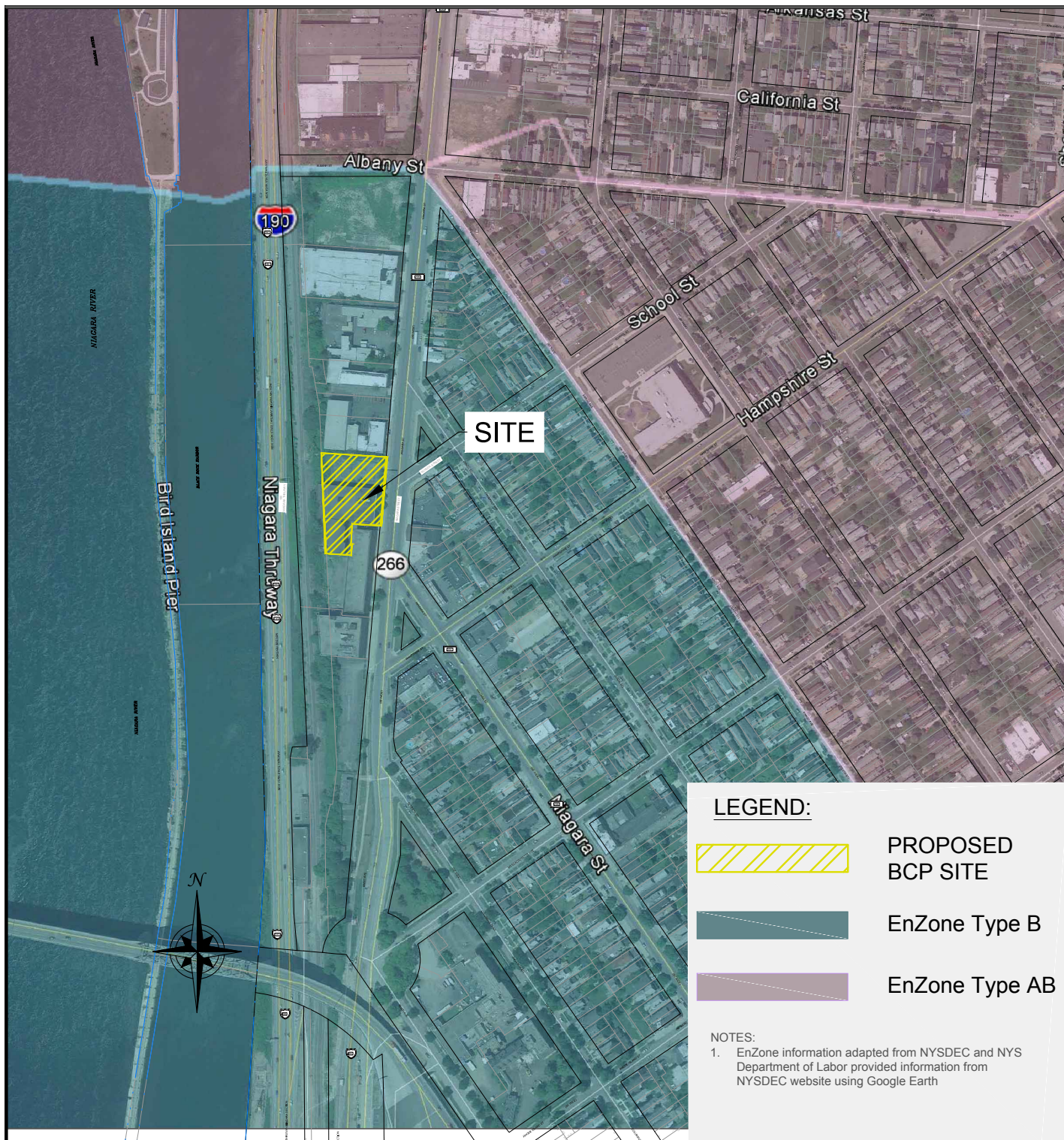
990 NIAGARA LLC

**FIGURE 5**

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FIGURE 6A



PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

## EN-ZONE MAP

### BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

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**FIGURE 6B**



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

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

## TONAWANDA STREET CORRIDOR BOA

### BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

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**ATTACHMENT 7**  
**BCP Application Section IX**  
**Adjacent Property Contact List Information**  
**990 Niagara Street Site**

Adjacent Property Address			Property Owner/Occupant
No.	Street	Property Use	Mailing Address
1010	Niagara Street	Manufacture	BCB International, Inc. 1010 Niagara Street Buffalo, NY 14213
1015	Niagara Street	Municipal Park	City of Buffalo Parks & Recreation 511 City Hall Buffalo, NY 14202
987	Niagara Street	Commercial Downtown Row Type (Detached)	Thomas P. Murphy 3620 Eggert Road Orchard Park, NY 14127
			Occupants 987 Niagara Street Buffalo, NY 14213
981	Niagara Street	Commercial Downtown Row Type (Detached)	Donald J. Mancuso 104 Fifteenth Street Buffalo, NY 14213
			Occupants 981 Niagara Street Buffalo, NY 14213
977	Niagara Street	Vacant Commercial	Charles E & W Loubert 1787 Military Road Kenmore, NY 14217
			Charles E & W Loubert 900 Prospect Avenue Buffalo, NY 14213
996	Busti Avenue	Electric Transmission Improvement	Niagara Mohawk Power Corp. 300 Eric Blvd West Syracuse, NY 13202



A horizontal graphic scale bar with tick marks at 200', 0', 200', and 400'.

SCALE: 1 INCH = 200 FEET  
SCALE IN FEET  
(approximate)

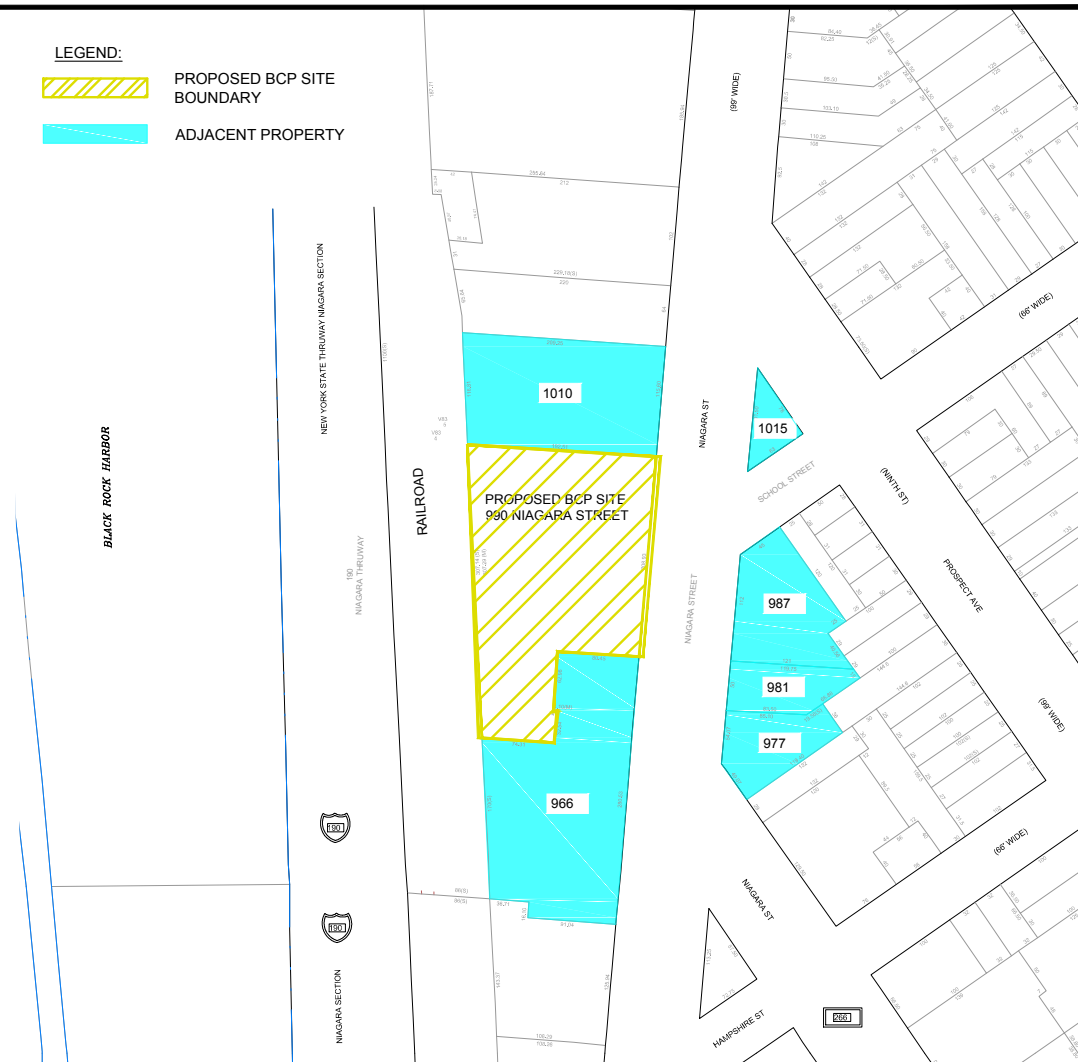
LEGEND:



PROPOSED BCP SITE  
BOUNDARY



ADJACENT PROPERTY



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

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

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### ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET

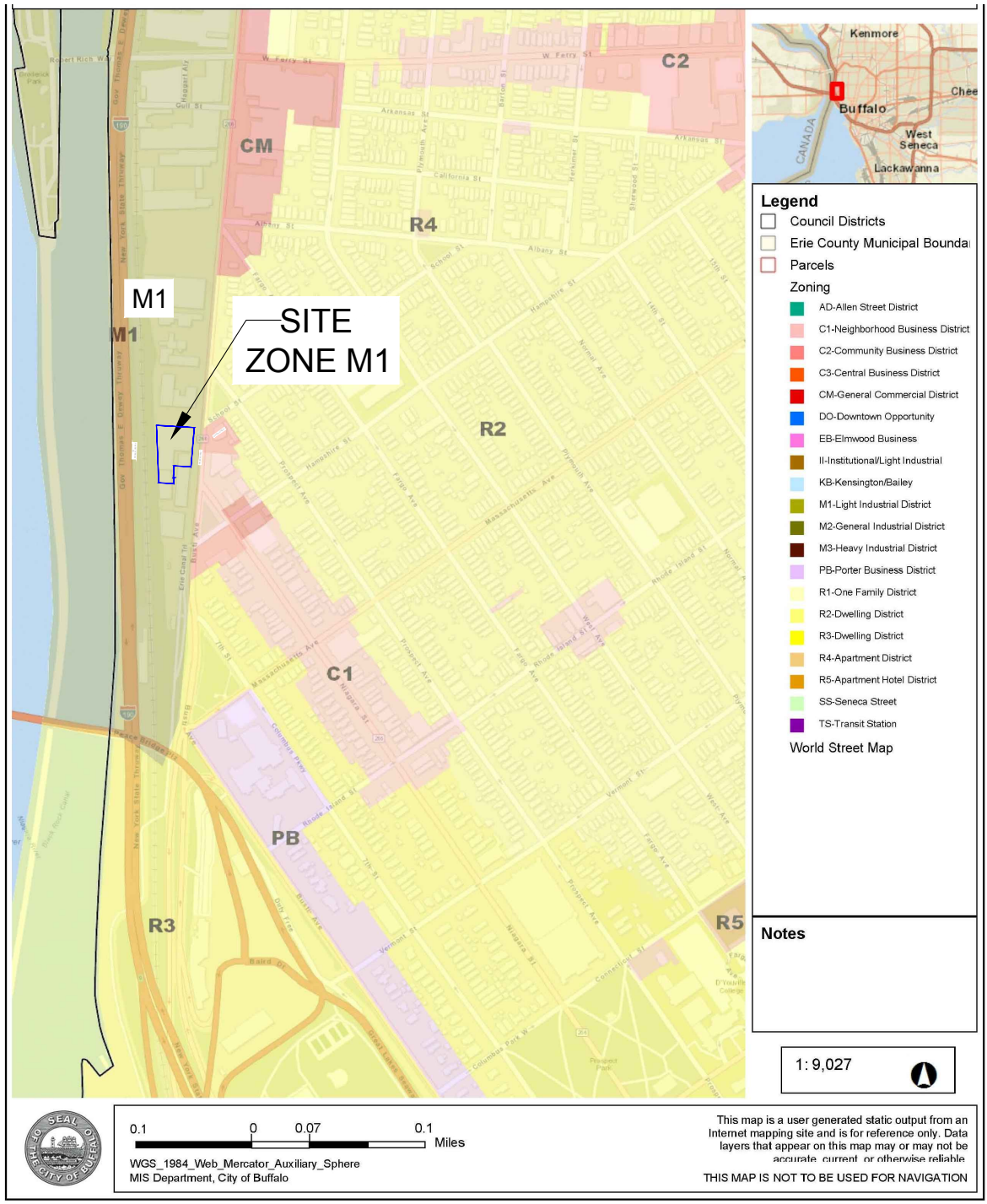
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

## FIGURE 7

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FIGURE 8



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



PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

## CURRENT ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET

BUFFALO, NEW YORK

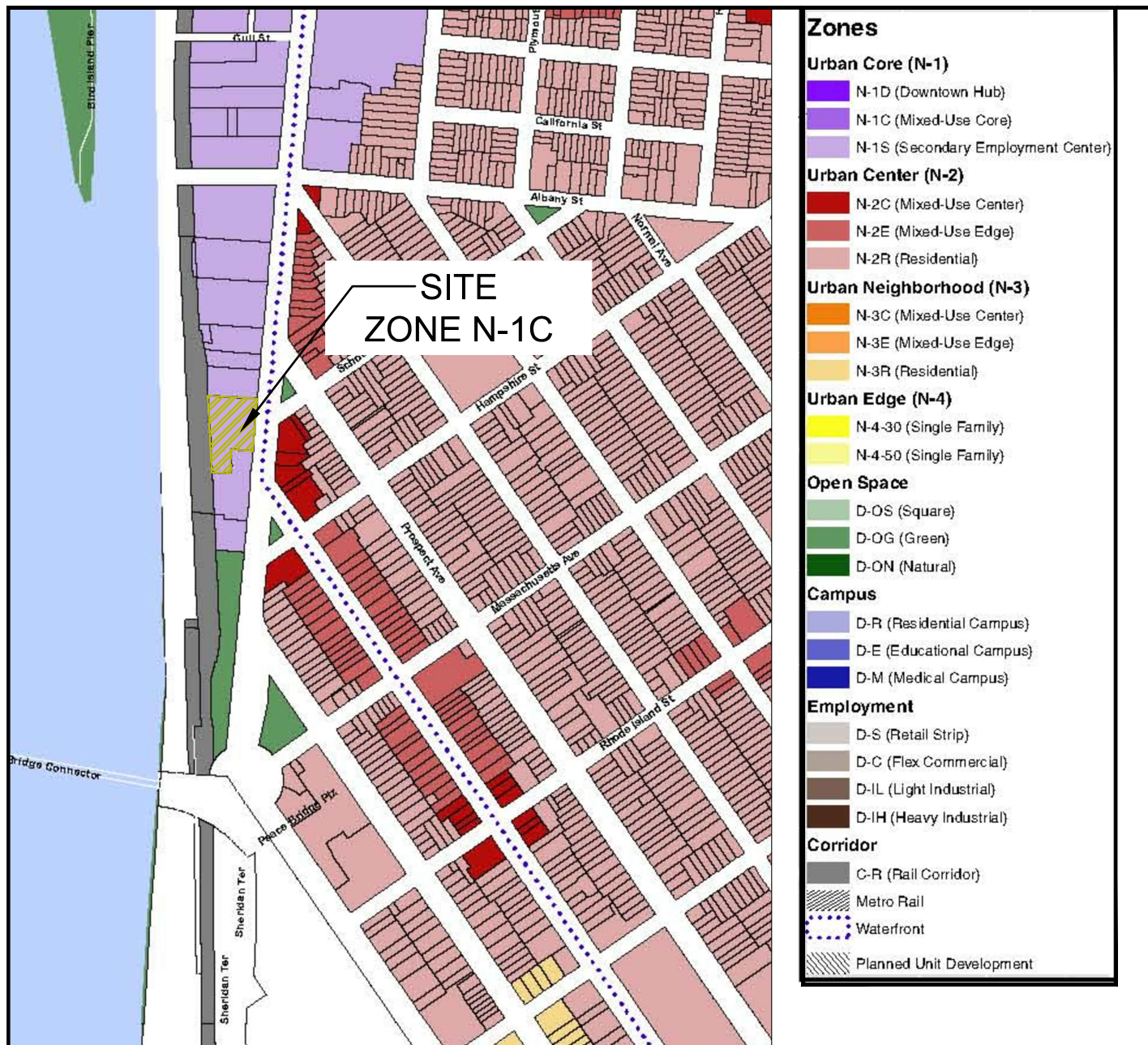
PREPARED FOR

990 NIAGARA LLC

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**FIGURE 9**



## Zoning Map - Niagara Council District

City of Buffalo, Unified Development Ordinance



City of Buffalo  
Mayor's Office of Strategic Planning  
October 2016



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



PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL

## ANTICIPATED ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

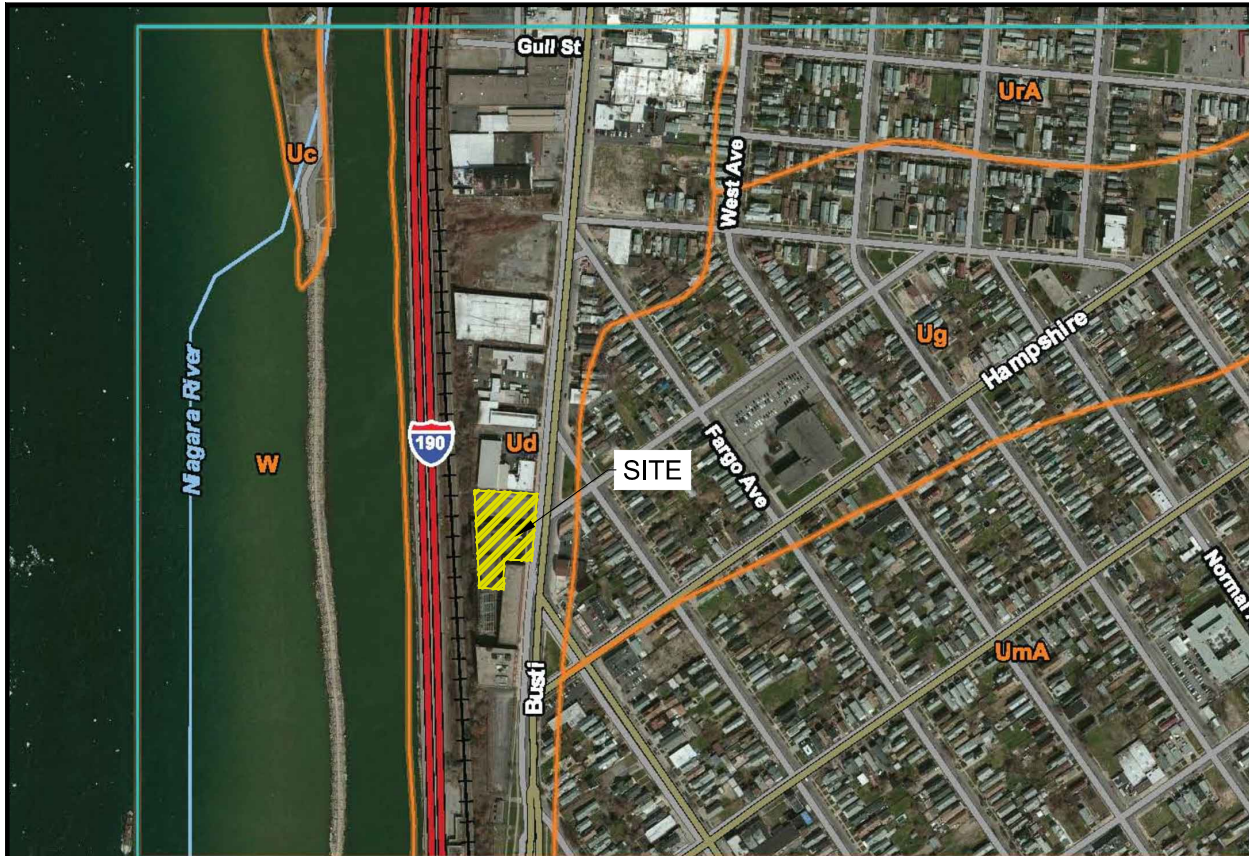
990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR


990 NIAGARA LLC

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**LEGEND:**

Uc	UDORTENTS, SMOOTHED
Ud	URBAN LAND
Ug	URBAN LAND-CAYUGA COMPLEX
UmA	URBAN LAND-COLLAMER COMPLEX 1 TO 6% SLOPES
UrA	URBAN LAND-LIMA COMPLEX 1 TO 6% SLOPES
W	WATER
	PROPOSED BCP SITE



SCALE: 1 INCH = 600 FEET  
SCALE IN FEET  
(approximate)



**NOTES:**

1. SOIL INFORMATION OBTAINED ELECTRONICALLY ON DECEMBER 1, 2016 FROM UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) NATIONAL RESOURCES CONSERVATION SERVICE.



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

PROJECT NO.: 0395-016-002

DATE: DECEMBER 2016

DRAFTED BY: RFL



## SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

**FIGURE 10**

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---

## LIST OF APPLICATION ATTACHMENTS

*NYSDEC Brownfield Cleanup Program Application  
990 Niagara Street Site  
Buffalo, New York*

---

BCP Application Section No.	Attachment No.	Description
I	1	Requestor Information
II	2	Project Description
III	3	Property's Environmental History
IV	4	Property Information
VI	5	Previous/ Current Property Owners/ Operators
VII & VIII	6	Requestor Eligibility Information
IX	7	Contact List Information
X	8	Land Use Factors
--	9	Electronic Copy of BCP Application, Attachments, and Previous Studies

# 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 November 29, 2016.

---

Selected Entity Name: 990 NIAGARA LLC

Selected Entity Status Information

**Current Entity Name:** 990 NIAGARA LLC

**DOS ID #:** 4849921

**Initial DOS Filing Date:** NOVEMBER 16, 2015

**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)**

990 NIAGARA LLC  
285 ELLICOTT ST  
BUFFALO, NEW YORK, 14203

**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
NOV 16, 2015	Actual	990 NIAGARA 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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**990 NIAGARA LLC**

**JOINT UNANIMOUS WRITTEN CONSENT  
OF THE SHAREHOLDERS AND OFFICERS**

December 14, 2016

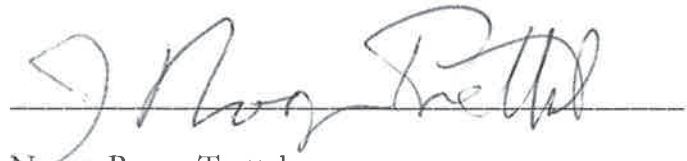
The undersigned, the sole shareholder of **990 NIAGARA LLC**, a New York limited corporation (the "Company"), hereby jointly consent to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company.

RESOLVED, that ROGER TRETTTEL (an "Authorized Person") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Corporation, to execute the Brownfield Cleanup Program (BCP) Application, the BCP Agreement, or any other documents or agreements necessary to enter and participate in the New York State Department of Environmental Conservation's Brownfield Cleanup Program (Environmental Conservation Law Article 27, Title 14) for property owned by the Company located at 229 Homer Street, Olean, New York; and be it further

RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the Corporation as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolution; and be it further

RESOLVED, that any acts of any officer of the Corporation and of any persons designated and authorized to act by any such officer of the Corporation, which acts would have been authorized by the foregoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted as acts of the Corporation.

**IN WITNESS WHEREOF**, the undersigned have executed this Joint Unanimous Written Consent as of the date set forth above.

A handwritten signature in dark ink, appearing to read "Roger Trettel", is written over a horizontal line.

Name: Roger Trettel

Sole Shareholder

# ATTACHMENT 2

## BCP APPLICATION – SECTION II

### PROJECT DESCRIPTION

**ATTACHMENT 2**  
**BCP Application - Section II**  
**Project Description**  
**990 Niagara Street Site**

**SECTION II – PROJECT DESCRIPTION**

990 Niagara LLC, acting as a non-responsible Volunteer, is willing to complete additional investigation and remediate the Site (see Figures 1-4) under the Brownfield Cleanup Program (BCP) and is submitting this BCP application for eligibility into the Program. Upon acceptance into the BCP, 990 Niagara LLC, plans to prepare a Remedial Investigation Work Plan, complete a Remedial Investigation, prepare a Remedial Investigation/Alternatives Analysis Report (RI/AAR), prepare a Remedial Action Work Plan (RAWP), and complete the approved remedial measures.

A preliminary project schedule is shown on Figure 5.

The Volunteer plans to redevelop the entire 1.05-acre BCP Site, with the construction of a residential apartment building. The preliminary Site Redevelopment Plan estimates capital investments of approximately \$8,000,000 to \$10,000,000 to investigate, remediate, and redevelop the Site.

The Project will result in the remediation and redevelopment of an environmentally-impacted Site along a targeted redevelopment corridor in the City of Buffalo, New York.

# ATTACHMENT 3

## BCP APPLICATION – SECTION III

### PROPERTY'S ENVIRONMENTAL HISTORY

**ATTACHMENT 3**  
**BCP Application – Section III**  
**Property’s Environmental History**  
**990 Niagara Street Site**

**PREVIOUS ENVIRONMENTAL INVESTIGATIONS**

A summary of the previous environmental investigation findings completed for the 990 Niagara Street Site (hereinafter, the “Project Site” or the “Site”) are provided below.

**November 1997 – Phase I Environmental Site Assessment**

Acres International Corporation (Acres) completed a Phase I Environmental Site Assessment (ESA) for the Site in November 1997. That Phase I ESA identified the following recognized environmental concerns (RECs):

- two underground storage tanks (USTs); the first tank was identified as a gasoline UST located in the driveway between the existing building and the adjacent Niagara Mohawk substation and the second tank was identified as a fuel oil UST located west of the building. No records of closure or removal were identified;
- on-Site transformers with potential PCB fluids;
- the Site was identified as a RCRA Large Quantity Generator of Hazardous Waste; waste streams included ignitable hazardous wastes, corrosive hazardous wastes, chromium, lead, silver and nitrobenzene; and,
- former Site occupants including Hewitt Rubber, Buffalo Niagara Hudson Company, Buffalo General Electric Company, International Railway Co., Power House and Converter Station, Merchandising Export and Distributors, and Multiform Dessicants.

The previous Phase I ESA is included electronically in Attachment 9.

- Based on a review of Historic Sanborn maps (not part of the Phase I ESA), former site uses include manufacturing, automotive garage and repair. Trico Products Corp was a former operator of the Site. Historic Sanborn maps are provided electronically in Attachment 9.



**ATTACHMENT 3**  
**BCP Application – Section III**  
**Property's Environmental History**  
**990 Niagara Street Site**

**November 2016 - Limited Phase II Environmental Investigation Report**

TurnKey completed a Limited Phase II Environmental Investigation on the 990 Niagara Street Site. Findings of the Limited Phase II investigation are detailed below:

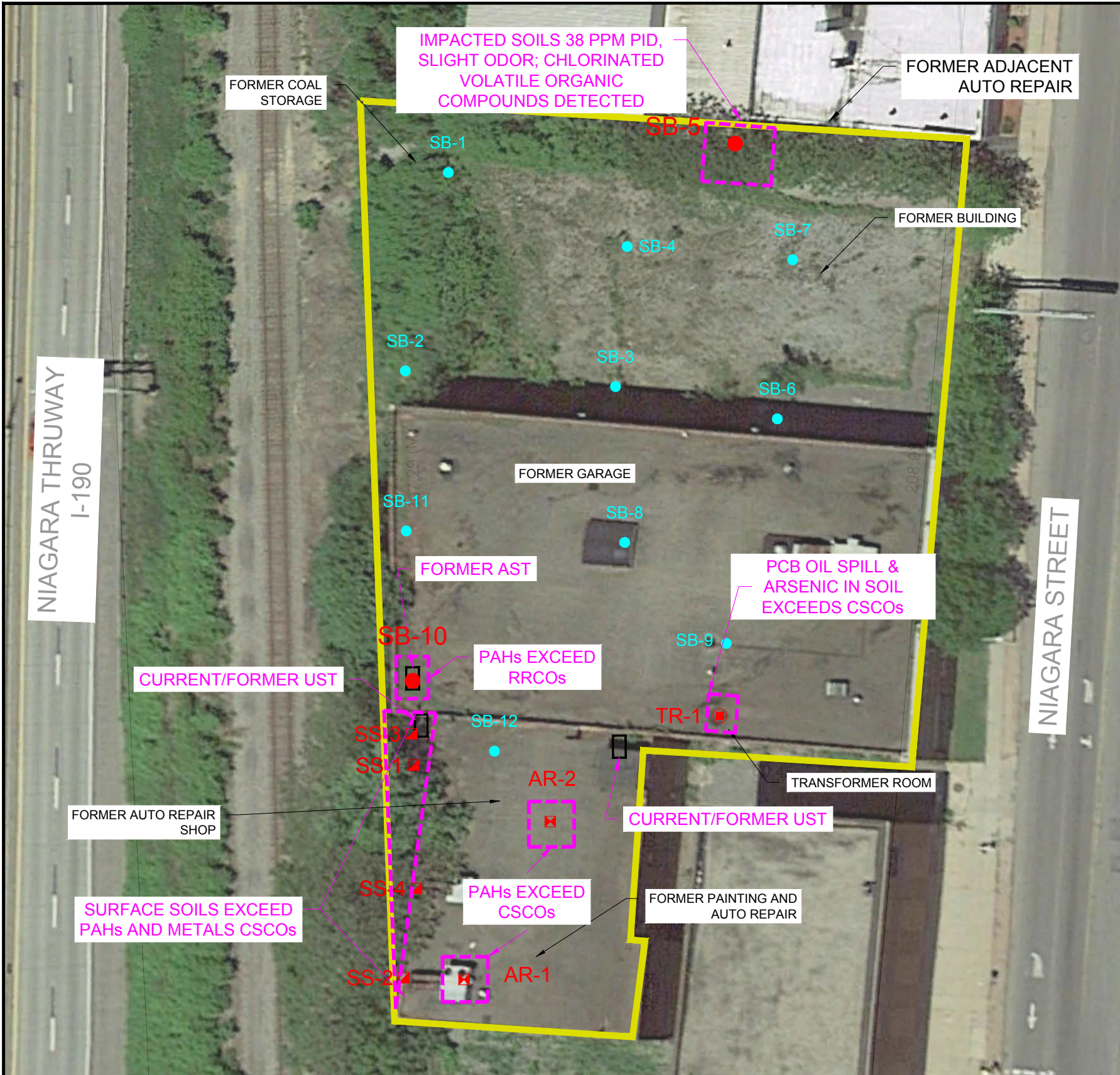
- The Site, located within a historical industrial area, is currently vacant and underutilized with a history of automotive repair and industrial operations. Former Site occupants include Hewitt Rubber, Buffalo Niagara Hudson Company, Buffalo General Electric Company, International Railway Co., Power House and Converter Station, Merchandising Export and Distributors, Multiform Dessicants and Trico Products Corp.
- At least two UST areas were identified through review of historical areas. A suspect fill port was observed in a reported UST area located west of the building suggesting that the tank has likely not been removed.
- Black staining was noted to earthen ground surfaces west of the building.
- Elevated PID readings were identified during the work with the highest PID reading of 38 ppm identified at SB-5 on the northern exterior portion of the Site. Petroleum-like odors were also noted at SB-5. The second highest PID reading of 18.7 ppm was noted in soil/fill beneath the building foundation proximate to the transformer room (TR-1).
- Recent vandalism and scrapping of PCB-containing transformers and capacitor appeared to result in a PCB oil release to the concrete ground surfaces, including areas proximate to cracks in the interior concrete flooring. Concrete and underlying soils/materials appear to have been impacted by this release. Spill No 1606689 remains “active.”
- Elevated PAHs and metals were detected at concentrations above Part 375 soil cleanup objectives (SCOs), including Commercial SCOs, in soil/fill samples collected from interior and exterior areas.
- Chlorinated VOCs were detected in a soil/fill sample collected at SB-5.

**ATTACHMENT 3**  
**BCP Application – Section III**  
**Property's Environmental History**  
**990 Niagara Street Site**

Areas of impacted medium identified during the previous investigations described above are illustrated in the figure provided in Attachment 3.

Historic documents, previous investigation reports and NY Spill record are provided as separate PDF files, enclosed electronically on an attached CD.



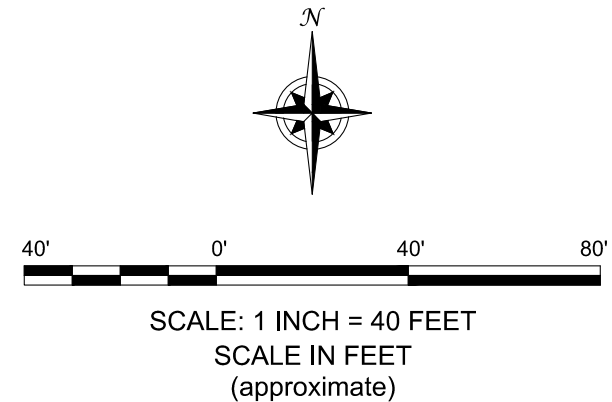


LEGEND:

- PROPERTY BOUNDARY
- TR-1 TRANSFORMER ROOM SOIL SAMPLE
- AR-1 AUTO REPAIR AREA SOIL SAMPLE
- SS-1 SURFACE SOIL SAMPLE
- SB-10 SOIL BORING (SOIL IMPACTED)
- SB-2 SOIL BORING

NOTES:

- CSCOs MEANS NYSDEC PART 375 COMMERCIAL SOIL CLEAN-UP OBJECTIVE.
- RRSCOs MEANS NYSDEC PART 375 RESTRICTED RESIDENTIAL SOIL CLEAN-UP OBJECTIVES.
- PAHs MEANS POLYNUCLEAR AROMATIC HYDROCARBONS.
- PID MEANS PHOTOIONIZATION DETECTOR READING FROM FIELD SCREENING OF SOIL SAMPLES.



INVESTIGATION LOCATIONS  
AREAS OF CONCERN

LIMITED PHASE II ENVIRONMENTAL SITE INVESTIGATION  
990 NIAGARA STREET  
BUFFALO, NEW YORK

PREPARED FOR  
990 NIAGARA LLC

ATTACHMENT 3  
FIGURE 1



JOB NO.: 0395-016-001

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# ATTACHMENT 4

## BCP APPLICATION – SECTION IV

### PROPERTY INFORMATION

#### PARCEL DESCRIPTION

#### PROPERTY DESCRIPTION & ENVIRONMENTAL ASSESSMENT NARRATIVE



**ATTACHMENT 4**  
**BCP Application – Section IV**  
**Property Information**  
**990 Niagara Street Site**

**SECTION IV - QUESTIONS 1-4**

***Parcel Description***

The 990 Niagara Street Site, subject to the BCP application, consists of one (1) tax parcel totaling approximately 1.05 acres, located in a highly developed commercial, industrial and residential use area in the City of Buffalo, Erie County, New York (see Figures 1-4). A copy of the tax map, per Erie County Division of Real Property, is provided as Figure 3. The boundaries of the Site correspond with the tax boundaries. The Erie County parcel detail report and property ownership record are provided in Attachment 4 [note- the parcel detail report has not been updated to include the current owner, but the property ownership record is correct, with 990 Niagara LLC as the current owner].

According to the NYSDEC Environmental Zones (En-Zones) maps available through GoogleEarth, the Site is located within Census Tract 70 and is 100% included within a designated En-Zone (see Figure 6a). The Site is also located within the Tonawanda Street Corridor Brownfield Opportunity Area (BOA) (see Figure 6b).

**SECTION IV – QUESTIONS 8 AND 9**

***Easements and Permits***

Benchmark-TurnKey is not aware of any formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property. In addition, based on information gathered to date, there are no institutional controls recorded for the Site.

Utilities are located in the right-of-way along Niagara Street. The Site is supplied with municipal sanitary sewer, electric, natural-gas, and public water. Benchmark-TurnKey is not aware of any easements on Site.

The Site was not identified in the NYSDEC Environmental Site Remediation database, the NYSDEC Bulk Storage database, nor the United States Environmental Protection Agency (USEPA) Enforcement and Compliance History Online (ECHO).

**ATTACHMENT 4**  
**BCP Application – Section IV**  
**Property Information**  
**990 Niagara Street Site**

**SECTION IV - QUESTION 10**

***Property Description Narrative***

**Location**

The Site is located on Niagara Street in a highly developed mixed use commercial, industrial and residential area of the City of Buffalo, Erie County, New York. The Site is bordered by Niagara Street to the east, commercial/industrial properties to the north, Niagara Mohawk Power Corp. electrical substation to the south and railroad track to the west (see Figures 2 and 4). Adjacent property owners are identified on Figure 7.

**Site Features**

The Site is currently improved with a two (2) story commercial building, with asphalt, concrete and gravel covered areas to the north and vegetated areas to the east and west. The Site is currently vacant (See Figures 2, 4 and 6)

**Zoning and Land Use**

The current zoning for the Site is classified as M1 – Light Industrial District by the City of Buffalo (see Figure 8). The surrounding parcels to the north and south are similarly zoned with commercial/industrial properties along Niagara Street. Residential properties are located nearby to the northeast and southeast of the Site, on the east side of Niagara Street. The City of Buffalo is in the process of revising the building and zoning ordinances into the Buffalo Development Framework, including the Buffalo Green Code. The framework is based on the Comprehensive Plan (2006), Local Waterfront Revitalization Plan (LWRP; 2015), and the City of Buffalo Brownfield Opportunity Areas (BOAs).

According to the Buffalo Green Code (2015), Land Use Plan, the project area is planned as a transition from predominantly commercial/residential zoned area to a mixed-use neighborhood (Urban Center). Neighborhood Urban Center zones, are described as

**ATTACHMENT 4**  
**BCP Application – Section IV**  
**Property Information**  
**990 Niagara Street Site**

compact neighborhood centers, either within or on the edge of intense-mixed use commercial and residential areas.

According to the Buffalo Green Code Unified Development Ordinance Zoning Map (see Figure 9), the anticipated zoning for the Site is primarily classified as Urban Core (N-1). Urban Core areas are described as mixed-use centers of high intensity in strategic locations on the edges of downtown or proximate light rail, and often featuring mid-rise buildings. The Site is identified as N-1C – Mixed Use Core.

Planned reuse of the site as a mixed-use residential development is consistent with anticipated future zoning.

Past Use of the Site

Based on a previous Phase I ESA, Former Site occupants including Hewitt Rubber, Buffalo Niagara Hudson Company, Buffalo General Electric Company, International Railway Co., Power House and Converter Station, Merchandising Export and Distributors, and Multiform Dessicants.

Based on a review of Historic Sanborn maps, former site uses include manufacturing, automotive garage and repair. Trico Products Corp was a former operator of the Site.

Former uses and Site operations have impacted on-Site soils with certain elevated semi-volatile organic compounds (SVOCs) and metals exceeding Part 375 Restricted-Residential Use and Commercial Use Soil Cleanup Objectives.

Site Geology and Hydrogeology

The property is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief, except in the immediate vicinity of major drainage ways. According to the United States Department of Agriculture (USDA) Web soil survey, Site

**ATTACHMENT 4**  
**BCP Application – Section IV**  
**Property Information**  
**990 Niagara Street Site**

soils are generally characterized as Urban Land (Ud) with level to gently sloping land (see Figure 10).

The previous investigation identified the subsurface soil/fill generally as native sandy lean clay or combinations of silt and sand to depths of at least 16 fbgs. Fill material consisting of brick and glass fragments, slag, sand, gravel, cinders and/or black fines was noted at certain interior and exterior investigation locations to depths ranging between 1 and 6.5 fbgs. Groundwater flow is likely to the west towards the Niagara River located approximately 150 feet west of the Site. Local groundwater flow, however, may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions.

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 on the previous NYSDEC Spill records and investigations, the primary contaminants for the Site are petroleum, VOCs, SVOCs, metals. Specifically:

- At least two UST areas were identified through review of historical areas. A suspect fill port was observed in a reported UST area located west of the building suggesting that the tank has likely not been removed.
- Black staining was noted to earthen ground surfaces west of the building.
- Elevated PID readings were identified during the work with the highest PID reading of 38 ppm identified at SB-5 on the northern exterior portion of the Site. Petroleum-like odors were also noted at SB-5. The second highest PID reading of 18.7 ppm was noted in soil/fill beneath the building foundation proximate to the transformer room (TR-1).
- Recent vandalism and scrapping of PCB-containing transformers and capacitor appeared to result in a PCB oil release to the concrete ground surfaces, including



**ATTACHMENT 4**  
**BCP Application – Section IV**  
**Property Information**  
**990 Niagara Street Site**

areas proximate to cracks in the interior concrete flooring. Concrete and underlying soils/materials appear to have been impacted by this release. Spill No 1606689 remains “active.”

- Elevated PAHs and metals were detected at concentrations above Part 375 SCO, including CSCOs, in soil/fill samples collected from interior and exterior areas.
- Chlorinated VOCs were detected in a soil/fill sample collected at SB-5.

Historic documents and previous investigation reports are provided as separate PDF files, enclosed electronically on an attached CD.

## Real Property Information

**Owner** MERCHANDISING EXPORT&DIS **Book-Page/Date** 7873-231 \* 9/29/1971 \*  
**Owner** CULLEN REALTY CORP **Book-Page/Date** 8642-328 \* 5/10/1978 \*  
**Owner** CIMINELLI INTERNATIONAL **Book-Page/Date** 10936-1470 \* 7/22/1998 \*  
**Owner** NIAGARA STREET RENOVATION **Book-Page/Date** 11113-9528 \* 5/19/2006 \*  
**Owner** 990 NIAGARA LLC **Book-Page/Date** 11288-2919 \* 11/18/2015 \*

---

Owner Name  { Last Name First } or

Property Address   No./ Street

S-B-L

Search All

## Real Property Information

<b>Parcel Status</b>	ACTIVE	<b>City\Town</b>	Buffalo	<b>Village</b>	
<b>S-B-L</b>	99.49-6-8	<b>Owner</b>	NIAGARA STREET RENOVATION LLC	<b>SWIS</b>	140200
<b>Property Location</b>	990 NIAGARA	<b>Mailing Address</b>			
<b>Property Class</b>	449 WAREHOUSE	<b>Line 2</b>	STE 101		
<b>Assessment</b>	400000	<b>Line 3</b>			
<b>Taxable</b>	400000	<b>Street</b>	350 ESSJAY RD		
<b>Desc</b>	911.66 S ALBANY	<b>City/State</b>	WILLIAMSVILLE NY		
<b>Desc</b>	192.51 NL;	<b>Zip</b>	14221		
<b>Deed Book</b>	11113	<b>Deed Page</b>	9528		
<b>Frontage</b>	208.93	<b>Depth</b>	0	<b>Acres</b>	0
<b>Year Built</b>		<b>Square Ft</b>			
<b>Beds</b>		<b>Baths</b>			
<b>FirePlace</b>		<b>School</b>	BUFFALO SCHOOL DIST		

[Owner History](#) [Tax Payment History](#)



[Click Here](#)

Owner Name  {Last Name First} or

Property Address   No./ Street

S-B-L

### 3.1.2 N-1C MIXED-USE CORE



#### A. Purpose

The N-1C zone addresses mixed-use centers of high intensity, in strategic locations such as on the edges of downtown or proximate to light rail rapid transit, and often featuring mid-rise buildings.

#### B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-1C zone:

Attached House	Loft Building
Carriage House	Shopfront
Civic Building	Shopfront House
Commercial Block	Stacked Units
Detached House	Tower
Flex Building	

#### C. General

All development in the N-1C zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

## C. Mid-Niagara Street/”Upper Rock”

Several former industrial facilities in the Niagara Street corridor enjoy unparalleled views of the Niagara River, Canada and Lake Erie. It is estimated that over one million square feet of redevelopment space may be available in the corridor’s existing structures. The Vision Niagara community organization has advocated for the redevelopment of the many vacant and under utilized waterfront structures in this corridor as water/view enhanced

- ▶ residential –mixed income office and/or live work spaces
- ▶ restaurants/entertainment venues, capitalizing upon regionally significant views, unique structures;
- ▶ food based enterprise Aquaculture, indoor and/or vertical farming, beer and brewing;
- ▶ resident and employee support facilities including car share hub, fitness center, day and/or after school care, pet care, banking.



Niagara @ The Front Lofts,  
Ellicott Development

Niagara Street Waterfront Corridor Concept  
(Artist's rendering for illustration purposes only)



Westerly View towards River and Peace Bridge

# ATTACHMENT 5

## BCP APPLICATION – SECTION VI

**PREVIOUS/CURRENT PROPERTY OWNERS/OPERATORS**



**ATTACHMENT 5**  
**BCP Application – Section VI**  
**Previous/ Current Property Owners/ Operators**  
**990 Niagara Street Site**

**PREVIOUS/CURRENT PROPERTY OWNERS/OPERATORS**

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Based on available on-line property records, the previous studies, and historic maps, contact information for the previous and current owners/operators has been provided in the table below, as available.

Parcel Address	Approx. Date(s)	Relationship to Applicant
<b>990 Niagara Street</b>		
<b>Current Owner/Operator</b>		
Current Owner/Operator: 990 Niagara LLC 285 Ellicott Street Buffalo, NY 14203 Phone # 716-698-9169	2015 ~ Current	Applicant
<b>Previous Owners/Operators</b>		
Niagara Street Renovation, LLC C/O Ciminelli Development Company, Inc. Centerpointe Corporate Park 350 Essjay Road, Suite 101 Williamsville, New York 14221 (716) 631-8000	2006 ~ 2015	None – no relationship
Ciminelli International Services, L.L.C. C/O Ciminelli Development Company, Inc. Centerpointe Corporate Park 350 Essjay Road, Suite 101 Williamsville, New York 14221 (716) 631-8000	1998-2006	None - No relationship
Cullen Realty Corp. 815 Liberty Building Buffalo, New York 14202	1971-1978	None - No relationship
Merchandising Export and Distributors	At least 1971	None - No relationship
Trico Products Corp. 3255 West Hamlin Road Rochester Hills, Michigan 48309 (248) 371-1700	At least 1951	None - No relationship

**ATTACHMENT 5**  
**BCP Application – Section VI**  
**Previous/ Current Property Owners/ Operators**  
**990 Niagara Street Site**

International Railway Co.	At least 1925	None - No relationship
Buffalo General Electric Company	At least 1925	None - No relationship



# ATTACHMENT 6

## BCP APPLICATION – SECTION VIII

### REQUESTOR ELIGIBILITY INFORMATION

THE REQUESTOR AS A VOLUNTEER

SITE ACCESS INFORMATION

THE CONTAMINATION ELEMENT

THE COMPLICATION ELEMENT

**ATTACHMENT 6**  
**BCP Application - Sections VII & VIII**  
**Requestor Eligibility Information**  
**990 Niagara Street Site**

**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 became involved with the property after the disposal or discharge of contaminants, and has no relationship with the previous owners/operators of the Site, 990 Niagara LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

Regarding Section VII, Question 11 –The Site is not listed on the NYSDEC Bulk Storage Database. However, it is suspected that one (1) UST is present west of the Site building and another UST is present at the southern Site boundary that was likely associated with past Site activities.

**ATTACHMENT 6**  
**BCP Application - Sections VII & VIII**  
**Requestor Eligibility Information**  
**990 Niagara Street Site**

If additional unknown bulk storage tanks are discovered during the project, the tanks will be properly handled, in accordance with NYSDEC requirements.

**SECTION VIII – PROPERTY ELIGIBILITY INFORMATION**

***Property Eligibility Information***

The Site 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 the soil cleanup objectives or other health-based or environmental standards, criteria or guidance 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 elements and adds a “reasonable basis” test to each:

- (1) A brownfield site has two 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”)

Moreover, the 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 Complications 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;

**ATTACHMENT 6**  
**BCP Application - Sections VII & VIII**  
**Requestor Eligibility Information**  
**990 Niagara Street Site**

- (B) Whether contaminants are present at levels that exceed standards, criteria, or guidance;
- (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) Up to two (2) USTs are present on-site or adjacent to the Site.
- (B) Contamination is present on-site exceeding the anticipated use of the property, which Restricted-Residential Use. Soil contaminated with SVOCs, and metals are present on-Site exceeding Restricted-Residential and/or Commercial Use Soil Cleanup Objectives.
- (C) Petroleum contaminated soils, evidenced by odors and elevated PID readings are present on-Site.

***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;
- (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.

**ATTACHMENT 6**  
**BCP Application - Sections VII & VIII**  
**Requestor Eligibility Information**  
**990 Niagara Street Site**

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/underutilized.
- (B) The Site is currently unattractive for redevelopment or reuse due to the presence of contamination related to the historic operations that will require remediation.
- (C) The estimated cost to complete the BCP remedial program is considered significant in comparison to the current value of the property (i.e., estimated at equal to or greater than the value of the property).

**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

DOCUMENT REPOSITORY LETTER



**ATTACHMENT 7**  
**BCP Application Section IX**  
**Adjacent Property Contact List Information**  
**990 Niagara Street Site**

Adjacent Property Address			Property Owner/Occupant
No.	Street	Property Use	Mailing Address
1010	Niagara Street	Manufacture	BCB International, Inc. 1010 Niagara Street Buffalo, NY 14213
1015	Niagara Street	Municipal Park	City of Buffalo Parks & Recreation 511 City Hall Buffalo, NY 14202
987	Niagara Street	Commercial Downtown Row Type (Detached)	Thomas P. Murphy 3620 Eggert Road Orchard Park, NY 14127
			Occupants 987 Niagara Street Buffalo, NY 14213
981	Niagara Street	Commercial Downtown Row Type (Detached)	Donald J. Mancuso 104 Fifteenth Street Buffalo, NY 14213
			Occupants 981 Niagara Street Buffalo, NY 14213
977	Niagara Street	Vacant Commercial	Charles E & W Loubert 1787 Military Road Kenmore, NY 14217
			Charles E & W Loubert 900 Prospect Avenue Buffalo, NY 14213
996	Busti Avenue	Electric Transmission Improvement	Niagara Mohawk Power Corp. 300 Erie Blvd West Syracuse, NY 13202

**ATTACHMENT 7**  
**BCP Application Section IX**  
**Contact List Information**  
**990 Niagara Street Site**

**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  
Buffalo, NY 14215

Commissioner Thomas R. Hershey, Jr.  
Erie Co. Environment & Plan.  
95 Franklin Street  
Buffalo, NY 14202

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

Karen M. McCarthy  
Erie County Legislature Clerk  
25 Delaware Avenue  
Buffalo, NY 14202

Mr. Steve Weathers  
ECIDA  
95 Perry Street  
Buffalo, NY 14203

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

**City of Buffalo Contacts:**

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

David A. Rivera  
Niagara District Councilmember  
1504 City Hall  
Buffalo, NY 14202

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

**Supplier of Potable Water:**

Buffalo Water Authority  
281 Exchange Street  
Buffalo, NY 14204

**Other Interested Parties:**

WNY Director  
Citizens Env. Coalition  
543 Franklin Street  
Buffalo, NY 14202-1109

**Document Repository:**

Ms. Suzanne Colligan Director  
Buffalo & Erie County Public Library  
230 Porter Avenue  
Buffalo, NY 14201

**ATTACHMENT 7**  
**BCP Application Section IX**  
**Contact List Information**  
**990 Niagara Street Site**

**Local News Media:**

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

WGRZ TV - Ch. 2  
ATTN: Environmental News Desk  
259 Delaware Avenue  
Buffalo, NY 14202

WIVB - Ch. 4  
ATTN: Environmental News Desk  
2077 Elmwood Avenue  
Buffalo, NY 14207

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

WJYE  
ATTN: Environmental News Desk  
1700 Rand Building  
Buffalo, NY 14203

Business First  
ATTN: Tracey Drury  
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:**

Ms. Dawn M. DiNatale, Principal  
PS 30 Frank A. Sedita Academy  
21 Lowell Street  
Buffalo, NY 14213

Aakta Patel, Principal  
PS 18 Dr. Antonia Pantoja Community School  
of Academic Excellence  
750 West Avenue  
Buffalo, NY 14213

Dr. William J. Mariani, Interim President  
D'Youville College  
320 Porter Avenue  
Buffalo NY 14201

Ms. Florence Krieter, Principal  
PS 212 Leonardo da Vinci High School  
320 Porter Avenue  
Buffalo NY 14201

December 6, 2016

Ms. Suzanne Colligan  
Library Director  
Buffalo & Erie County Public Library – Niagara Branch  
280 Porter Avenue  
Buffalo, NY 14201

Re: Document Repository for Brownfield Cleanup Program  
990 Niagara Street Site  
Buffalo, New York

Dear Ms. Colligan:

As we discussed, thank you for agreeing to the Buffalo & Erie County Public Library – Niagara Branch acting as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact me if you have questions or require additional information.

Sincerely,  
TurnKey Environmental Restoration, LLC



Heidi M. Higgins  
Senior Technician

File: 0395-016-002

## Heidi M. Higgins

---

**From:** April Tompkins [tompkinsa@buffalolib.org]  
**Sent:** Wednesday, December 28, 2016 4:54 PM  
**To:** Heidi M. Higgins  
**Subject:** Document Repository - Permission Request

Good afternoon Heidi,

Per our conversation and your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for document(s) submitted by your company for the Brownfield Cleanup Program pertaining to **"990 Niagara Street - City of Buffalo, County of Erie, New York."** Document(s) will be made available for public review at the Niagara Branch Library. ***Also, this serves as permission to submit any additional updates pertaining to the above document and all other future documents.*** We will be the repository for all documents your company needs to be made available to the public. You/your company are free to bring or send your documents to the Central Library without additional permission for each individual document.

We prefer that you do not take documents to individual libraries. Please bring or send your document(s) to the Central Library and we will process according to our procedure and distribute to the location of your choice.

Please keep the following in mind:

- Documents (including updates) for public review should be sent or brought in person to the Central Library to the attention of Carol Batt, of whom I assist. Documents sent via e-mail will not be accepted. The mailing address is:  
  
**Attention: Carol Ann Batt**  
**Chief Operating Officer**  
**Buffalo and Erie County Public Library**  
**1 Lafayette Square**  
**Buffalo, NY 14203**
- Documents for the Central/Downtown library are made available on the first floor in the Information Services Department within a day or so after receipt. If received Friday afternoon, they go out the following Monday.
- If you would like the document(s) distributed at libraries other than Central, you will need to send or give us the appropriate quantity of copies with labels regarding their destinations. We will distribution accordingly. We do not make copies for distribution.
- You have the choice regarding the format (hard copy and / or disk) you wish to submit. If the document is very large, part in hard copy and part on disk is acceptable. If submitting in both formats, please be sure that they are titled/labeled accordingly. Although CD-ROMs cannot be used on public library computers, if someone brings in their personal laptop, the disc can be viewed in-house. If optional, an alternative is the availability to go online using a provided link for patrons to read/review/print. Patrons are not allowed to take repository documents out of the Library.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,  
April



# ATTACHMENT 8

## BCP APPLICATION – SECTION X

### LAND-USE FACTORS

#### SITE SUMMARY

#### ADJACENT LAND USE, DEVELOPMENT PATTERNS, & ZONING

**ATTACHMENT 8**  
**BCP Application – Section X**  
**Land Use Factors**  
**990 Niagara Street Site**

**SECTION X – LAND-USE FACTORS**

***Site Summary***

The following provides a brief summary of the Site:

- The Site is located in a highly developed mixed use commercial/industrial and residential area of Buffalo, Erie County, New York.
- The Site is comprised of one (1) single tax parcel.
- The Site is currently improved with one vacant building that was most recently used for storage, while the remainder of the Site is currently vacant/underutilized. Operations ceased on the property in 1996. Past owner/operators of the Site are provided in Attachment 5.
- Past uses of the Site, as more fully described in Section 3 and Section 4, include various industrial and commercial operations. Former Site occupants include Hewitt Rubber, Buffalo Niagara Hudson Company, Buffalo General Electric Company, International Railway Co., Power House and Converter Station, Merchandising Export and Distributors, and Multiform Dessicants. The Site was identified as a RCRA Large Quantity Generator of Hazardous Waste; waste streams included ignitable hazardous wastes, corrosive hazardous wastes, chromium, lead, silver and nitrobenzene. Historic operations have contaminated the Site with PCBs, PAHs, and metals that require remediation.
- Up to two (2) historic petroleum storage tanks have been identified on or directly adjacent to the Site, and (if present) will require removal and associated remediation.
- The Site is currently zoned M-1 (Light Industrial District) with industrial, commercial and residential land use surrounding the Site (see Figures 2 and 8).
- The anticipated zoning for the Site, under the Buffalo Green Code Unified Development Ordinance, is primarily N-1C (Mixed-Use Core) (see Figures 8 and 9).
- The Site redevelopment plan is for the construction of a residential apartment building.
- The Site has access to municipal utilities including: natural-gas, municipal sewer, electric, and public water.

**ATTACHMENT 8**  
**BCP Application – Section X**  
**Land Use Factors**  
**990 Niagara Street Site**

***Adjacent Land Use, Development Patterns, & Zoning***

The Site is located in a highly developed mixed-use commercial/industrial and residential area of the City of Buffalo, Erie County, New York. Land use surrounding the subject property generally includes commercial and residential use to the east, commercial/industrial use to the north and south, and highway (Route 190) to the west.

The City of Buffalo is currently in the process of updating the zoning and land use plan, as described in the Buffalo Green Code. The planned reuse of the Site as a residential apartment development is consistent with the updated Code.

Figure 8 illustrates that the Site is currently zoned for light industrial (M-1). Figure 9 illustrates that the planned zoning for the Site is mixed-use (N-1C Urban Core – Mixed Use Core). The Site is located within a designated En-Zone and BOA (see Figures 6a and 6b).

### 3.1.2 N-1C MIXED-USE CORE



#### A. Purpose

The N-1C zone addresses mixed-use centers of high intensity, in strategic locations such as on the edges of downtown or proximate to light rail rapid transit, and often featuring mid-rise buildings.

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Nonconformities	Section 12.1



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- ▶ restaurants/entertainment venues, capitalizing upon regionally significant views, unique structures;
- ▶ food based enterprise Aquaculture, indoor and/or vertical farming, beer and brewing;
- ▶ resident and employee support facilities including car share hub, fitness center, day and/or after school care, pet care, banking.



Niagara @ The Front Lofts,  
Ellicott Development

Niagara Street Waterfront Corridor Concept  
(Artist's rendering for illustration purposes only)



Westerly View towards River and Peace Bridge



# ATTACHMENT 9

## ELECTRONIC COPY OF BCP APPLICATION

### ATTACHMENTS

PREVIOUS STUDIES (INCLUDED AS SEPARATE PDF FILES)