

Department of Environmental Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

	Add
٦.	Cubati

Substitute Remove

Change in Name



BUR. OF TECH. SUPPORT

AUG 28 2019

applicant(s) to the existing Brownfield Cleanup Agreement [Complete Section I-IV below and Part II]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See http://www.dec.ny.gov/chemical/76250.html

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment: The previous BCA Agreement relates to six parcels. Per the Applicant's request, the City of Buffalo has combined the six parcels into one: SBL No. 78.69-2-3.1; 1801 Elmwood Avenue, Buffalo, New York 14207.

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

Section I. Existing Agreement Ir	formation	
BCP SITE NAME: MOD-PAC C	ORP	BCP SITE NUMBER: C915314
NAME OF CURRENT APPLICAN	T(S): Mod-Pac Co	rp., Rosalia Capital LLC
INDEX NUMBER OF EXISTING A	GREEMENT: C915	314-06 DATE OF EXISTING AGREEMENT:06-21-17
Section II. New Requestor Inform	nation (if no chang	e to Current Applicant, skip to Section V)
NAME		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE Is the requestor authorized to con-	FAX	E-MAIL v York State (NYS)? Yes No
Department of State to cor above, in the NYS Departm	nduct business in NY nent of State's (DOS ne DOS database m	ther entity requiring authorization from the NYS (S, the requestor's name must appear, exactly as given (Corporation & Business Entity Database. A print-out ust be submitted to DEC with the application, to business in NYS.
NAME OF NEW REQUESTOR'S	REPRESENTATIVE	
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S	CONSULTANT (if ap	oplicable)
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S	ATTORNEY (if appli	cable)
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
the Requestor. This would be doc	umentation from corporation, or a Cor	s Application and Amendment has the authority to bind porate organizational papers, which are updated, porate Resolution showing the same, or an Operating ched?
Describe Requestor's Relationship	o to Existing Applica	nt:

	wner/Operator Information (only incl nation is provided, and highlight new	
OWNER'S NAME (if different fro	m requestor)	
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
OPERATOR'S NAME (if differen	nt from requestor or owner)	
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

Se	ection IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for	or more detail)
lf	answering "yes" to any of the following questions, please provide an explanation as an at	tachment.
1.	Are any enforcement actions pending against the requestor regarding this site?	☐Yes ☐No
2.	Is the requestor presently subject to an existing order for the investigation, removal or relating to contamination at the site?	emediation ☐Yes
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 Fund Administrator.	Yes No with the Spill
4.	Has the requestor been determined in an administrative, civil or criminal proceeding to b any provision of the subject law; ii) any order or determination; iii) any regulation implen Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government an explanation on a separate attachment.	nenting ECL
5.	Has the requestor previously been denied entry to the BCP? If so, include information rapplication, such as name, address, Department assigned site number, the reason for d relevant information.	
6.	Has the requestor been found in a civil proceeding to have committed a negligent or interact involving the handling, storing, treating, disposing or transporting of contaminants?	entionally tortious
7.	Has the requestor been convicted of a criminal offense i) involving the handling, storing, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bride or offense against public administration (as that term is used in Article 195 of the Penal I federal law or the laws of any state?	ery, perjury, theft,
8.	Has the requestor knowingly falsified statements or concealed material facts in any matt jurisdiction of the Department, or submitted a false statement or made use of or made a in connection with any document or application submitted to the Department?	
9.	Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that com or failed to act, and such act or failure to act could be the basis for denial of a BCP appli	
10	D. Was the requestor's participation in any remedial program under DEC's oversight termi by a court for failure to substantially comply with an agreement or order?	house fermand
		Paramana

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

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

PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.
	NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.
	If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser

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?

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

Section V. Property description and description of a	changes/a	dditions/red	ductions (if applicat	ole)
ADDRESS1801 Elmwood Avenue					
CITY/TOWN Buffalo, New York			ZIP C	ODE 1420)7
TAX BLOCK AND LOT (TBL) (in existing agreement)					
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Please see attached list			-		

Check appropriate boxes below:					
✓ Changes to metes and bounds description or TBL correction					
Addition of property (may require additional citize expansion – see attached instructions)	en participa	ation depend	ding on the	e nature of	the
Approximate acreage added:					
ADDITIONAL PARCELS:					
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1801 Elmwood Avenue		78.69	2	3.1	20.03
Reduction of property					
Approximate acreage removed:					
PARCELS REMOVED:					
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
If requesting to modify a metes and bounds description please attach a revised metes and bounds description, s		0 0			

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

Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	Property is in Bronx, Kings, New York, Queens, or Richmond counties.	Yes No
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information. Yes No 2. Is the property upside down as defined below? Yes No From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated. 3. Is the project an affordable housing project as defined below? Yes No From 6 NYCRR 375- 3.2(a) as of August 12, 2016: (a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable housing project to be dedicated to (i) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income. (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental income based on the occupants' households annual gross income. (2) Affordable home ownership project		
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	for the primary metropolitan statistical area, or for the county if located outside a met statistical area, as determined by the United States department of housing and urbar	ropolitan

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information

BCP SITE NAME: MOD-PAC CORP.

BCP SITE NUMBER: #C915314

NAME OF CURRENT APPLICANT(S): Mod-Pac. Corp, Rosalie Capital LLC

INDEX NUMBER OF EXISTING AGREEMENT: C915314-06-17

EFFECTIVE DATE OF EXISTING AGREEMENT: 6/21/17

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
(Individual)
I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date:Signature:
Print Name:
(Entity)
I hereby affirm that I am (title) of (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law
Date:Signature:
Print Name:

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)
(Individual)
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date:Signature:
Print Name:
(Entity)
I hereby affirm that I am President (title) of Mod-Pac Corp. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application
Print Name: Daniel G. Keane

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

owner of the site at the time of the lia	VOLUNTEER A requestor other than a participant, including a requestor whose iability arises solely as a result of ownership, operation of or nvolvement with the site subsequent to the contamination.
--	---

Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

Michael J. Ryan, P.E., Director Division of Environmental Remediation

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)
(Individual)
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date:Signature:
Print Name:
(Entity)
I hereby affirm that I am President (title) of Rosalia Capital LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Print Name: Daniel G. Keane

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership,	VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
operation of, or involvement with the site subsequent to the disposal of	RECENCED
contamination.	SEP 1 7 2019
	BUR OFTECH. SUPPORT

Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

Michael J. Ryan, P.E., Director Division of Environmental Remediation

SUBMITTAL INFORMATION:

Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to: 0

,

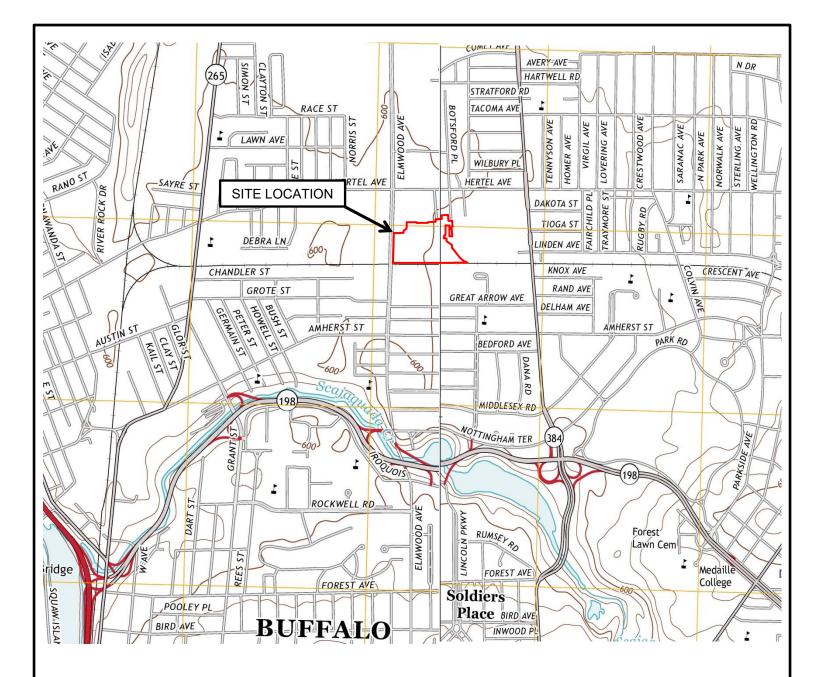
Chief, Site Control Section New York State Department of Environmental Conservation Division of Environmental Remediation 625 Broadway Albany, NY 12233-7020

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: LEAD OFFICE:

i.

PROJECT MANAGER:_____



THIS DRAWING IS FOR ILLUSTRATIVE AND INFORMATIONAL PURPOSES ONLY AND WAS ADAPTED FROM USGS, BUFFALO NE & NW, NEW YORK 2013 QUADRANGLE.

HAZARD EVALUATIONS, INC.		
Phase I/II Audits – Site Investigations – Facility Inspections		
SITE LOCATION		
MOD-PAC CORP.		
1801 ELMWOOD AVE.		
BUFFALO, NEW YORK		
DRAWN BY: LSH	SCALE: NOT TO SCALE	PROJECT: e1605
CHECKED BY: EB	DATE: 02/17	FIGURE NO: IV-A

Mod-Pac Corp.

1801 Elmwood Avenue

BCP Site No. C915314

Properties to be Consolidated into Parcel 1801 Elmwood

Former Parcel Address	Former Parcel SBL Number
1801 Elmwood Avenue, Buffalo, New York	78.69-2-4.21 (THIS IS THE ADDRESS AND SBL
14207	FOR THE NEWLY FORMED PARCEL)
1805 Elmwood Avenue, Buffalo, New York	78.69-2-4.1
14207	
1809 Elmwood Avenue, Buffalo, New York	78.69-2-3
14207	
33 Mandan Street, Buffalo, New York 14216	78.70-2-13
86 Ledger Street, Buffalo, New York 14216	78.70-2-12
94 Ledger Street, Buffalo, New York 14216	78.70-2-11

<u>1. Tax Map Information</u>

Parcel	<u>Section</u>	<u>Block</u>	Lot	Acreage
1801 Elmwood	78.69	2	4.21	12.2139 acres
1805 Elmwood	78.69	2	4.1	4.3728 acres
1809 Elmwood	78.69	2	3	2.9759 acres
86 Ledger	78.70	2	12	0.248 acres
94 Ledger	78.70	2	11	0.0848 acres
33 Mandan	78.70	2	13	<u>0.1416 acres</u>
			Total:	20.037 acres

A tax map is included as Figure IV-B. The boundaries of the Site do correspond with the tax map boundaries. However, the BCP Site Limit was formerly 6 tax ID parcels which have been combined into one parcel. A new SBL number has **p**been assigned to the one parcel. The new metes and bounds/legal description is attached.

City of Buffalo Mayor Byron W. Brown			Office of Assessment & Taxation Parcel Combination Form	
			Request Information	
Employee		Permit		
Request Date	January 20, 2017	Roll Year	9018	
Requestor Name	Mod-Pac Corp	Requestor Phone	716-427-7105	
Requestor Email	no email			
			Combined Parcels	
Street Number	1801	Street Name	Elmwood	
Parcel SBL		Roll Section	1	
Parcel Class	710	Bank Code		
Owner	Mod-Pac Corp			
Last Deed Filed				
Street Number	1805	Street Name	Elmwood	
Parcel SBL	V	Roll Section	1	
Parcel Class	710	Bank Code		
Owner	Mod-Pac Corp			
Last Deed Filed				
Street Number	1809	Street Name	Elmwood	
Parcel SBL		Roll Section	1	
Parcel Class	71.0	Bank Code		
Owner	Mod-Pac Corp.			
Last Deed Filed				
Street Number	33	Street Name	Mandan	
Parcel SBL		Roll Section	1	
Parcel Class	330	Bank Code	9-40189	
Owner	Mod Pac Corp			
Last Deed Filed				
Street Number	86	Street Name	Lædger	

http://city/departments/assess/_layouts/15/FormServer.aspx?XmlLocation=/departments/as... 7/31/2019

Parcel Combinations - 2017 - 1801 Elmwood

Parcel SBL	×	Roll Section	1
Parcel Class	331	Bank Code	
Owner	Mod-Pac Corp.		
Last Deed Filed			
Street Number	94	Street Name	Lalger .
Parcel SBL		Roll Section	1
Parcel Class	311	Bank Code	
Owner	Mod-Pac Corp		
Last Deed Filed			
Insert Parcel			
			Support Information
			8.0
Comments			
Attachments	1801 elmwood combo form 415.99 KB	n.pdf	
	0 1801 elmwood combo rece 146.94 KB	ipts.pdf	
	U Survey 1801 Elmwood com 1.07 MB	abo.pdf	

Insert Another Attachment

Submit Form

Cancel

Page 2 of 2

Now Combined as 1801 Elmwood 78.69-2-3.1

File Edit View Toolbar Window Help ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓ ↓		
78.69-2-3.1 Mod-Pac Corp 1801 Elmwood	140200 BuffaloActiveR/S:1School:Buffalo SchoolRoll Year:2020 Curr YrManufactureLand AV: 361,600Land Size:18.85 acresNon-HomesteadTotal AV: 1,782,200	
 Parcel 78.69-2-3.1 History Assessment Spec Dist(s) Description Owner(s) Images Gis Site (1) Com Land(s) Bldg 1 Sec 1 Com Use Valuation Sale04/16/19 Sale04/16/19 Bldg 1 Sec 1 Com Use Valuation Sale01/19/17 Notes Site (1) Com Land(s) Bldg 1 Sec 1 Com Use Valuation 	Owner Tax Bill Maling Address 3rd Party Address Bank Inder Pac Corp Owner Lype Primary Desig Stetus: Last Name / Company: First Name: Mt. Jr. Sr. etc. Medrino To / In Care Df Additional Address: Street No: Prefix Dir. Street / Pural Route: St Suffix Post Dir. Unit Name: Unit Name: Bild Dir Elmwood Ave Over Type: Desig Stetus: Buffalo Elmwood Ave Over Type: Po Box No: CityTown: State Zp Code: Buffalo INT Y IA207- Towner Jype: Owner's Primary Residence Y IA207- Y Owner's Primary Residence Y State Zp Code: State Street Arrow Additional Address State State State Owner's Primary Residence Y IA207- Y State State State State State State State Buffalo NC Ownership: e.g. Life Use Owner Type: P State Barrow Street Street Arrow State State State	

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