

Brownfield Cleanup Program Application

188 West Utica Street Site
Buffalo, New York

June 2018

0136-018-002

Prepared For:

EC188, LLC



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

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

Yes No If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 9*

Section I. Requestor Information - See Instructions for Further Guidance DEC USE ONLY
BCP SITE #:

NAME EC188, LLC
ADDRESS 295 Main Street
CITY/TOWN Buffalo ZIP CODE 14203
PHONE (716) 854-0060 FAX (716) 852-2829 E-MAIL BPaladino@ellicottdevelopment.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 Appendix A; Section I

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.** See Appendix A; Section I

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 See Appendix A; Section II
- the date the Certificate of Completion is anticipated. See Figure 5

Section III. Property's Environmental History

See Appendix A; Section III

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

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

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

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

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

*Please describe: _____

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

- SAMPLE LOCATION **See Appendix A; Section III**
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE **See Figure 7**
- 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?* Yes No
 (*answering No will result in an incomplete application)

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

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Coal Gas Manufacturing | <input 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 checked="" type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: Auto repair, auto storage, and electric garage. _____

Section IV. Property Information - See Instructions for Further Guidance

PROPOSED SITE NAME 188 West Utica Street

ADDRESS/LOCATION 188 West Utica Street

CITY/TOWN Buffalo

ZIP CODE 14222

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

COUNTY Erie

SITE SIZE (ACRES) 1.11

LATITUDE (degrees/minutes/seconds)

42 ° 54 ' 39.17 "

LONGITUDE (degrees/minutes/seconds)

78 ° 52 ' 24.47 "

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

Parcel Address	Section No.	Block No.	Lot No.	Acreage
188 West Utica Street	100.46	1	13.1	1.11

1. Do the proposed site boundaries correspond to tax map metes and bounds? Yes No
If no, please attach a metes and bounds description of the property.

2. Is the required property map attached to the application? Yes No
(application will not be processed without map) **See Figures 2, 3, & 4**

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

If yes, identify census tract : _____

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

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

If yes, identify name of properties (and site numbers if available) in related BCP applications: _____

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

6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? Yes No

If yes, attach relevant supporting documentation.

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

Section IV. Property Information (continued)

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

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 Appendix A; Section IV

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 N/

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

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 N/

NOTE: If a tangible property tax credit 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 by 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: wjp _____

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

Section V. Additional Requestor Information See Instructions for Further Guidance	DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____
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NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Mr. William Paladino		
ADDRESS 295 Main Street, Suite 210		
CITY/TOWN Buffalo	ZIP CODE 14203	
PHONE (716) 854-0060	FAX (716) 852-2829	E-MAIL bpaladino@ellicottdevelopment.com
NAME OF REQUESTOR'S CONSULTANT Mr. Michael Lesakowski		
ADDRESS 2558 Hamburg Turnpike, Suite 300		
CITY/TOWN Buffalo	ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL mlesakowski@benchmarkturnkey.com
NAME OF REQUESTOR'S ATTORNEY Craig A. Slater, Esq.		
ADDRESS 500 Seneca Street, Suite 504		
CITY/TOWN Buffalo, NY	ZIP CODE 14204	
PHONE (716) 845-6760	FAX (716) 845-6764	E-MAIL cslater@cslaterlaw.com

Section VI. Current Property Owner/Operator Information – if not a Requestor		
CURRENT OWNER'S NAME EC188, LLC		OWNERSHIP START DATE: 11/13/2017
ADDRESS Same as Requestor		
CITY/TOWN Same as Requestor	ZIP CODE Same as Requestor	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL Same as Requestor
CURRENT OPERATOR'S NAME Same as Requestor		
ADDRESS Same as Requestor		
CITY/TOWN Same as Requestor	ZIP CODE Same as Requestor	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL

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 Appendix B; Section VI

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".

Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407) See Appendix B; Section VII

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes 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. Yes 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 which require registration? 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: [See Appendix B; Section VII](#)

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 Appendix B; Section VII

- 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
- 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 # _____
- 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: _____
- If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
- 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 # _____
- 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 Appendix B; Section XI

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:

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and properties adjacent to the property.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property. See Figure 8
- 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.
- Any community board located in a city with a population of one million or more, if the proposed site is located within such community board's boundaries.

Section X. Land Use Factors

See Appendix B; Section X

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

Residential Commercial Industrial

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

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

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

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

If residential, does it qualify as single family housing?

Yes No

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

Yes No

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

Yes No

See Appendix B; Section X

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

Yes No

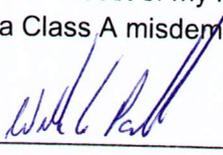
See Appendix B; Section X

XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Authorized Member (title) of EC188, 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: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: 6/15/18

Signature: 

Print Name: William Paladino (Authorized Membe

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY
BCP SITE T&A CODE: _____

LEAD OFFICE: _____

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

BCP App Rev 9

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31):	
"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.	
From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)	
375-3.2:	
(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and	
(1) the proposed use is at least 75 percent for industrial uses; or	
(2) at which:	
(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;	
(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and	
(iii) one or more of the following conditions exists, as certified by the applicant:	
(a) property tax payments have been in arrears for at least five years immediately prior to the application;	
(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or	
(c) there are no structures.	
"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.	

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

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

- Project is an Affordable Housing Project - Regulatory Agreement Attached;
- Project is Planned as Affordable Housing, But Agreement is Not Yet Available* (*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- This is Not an Affordable Housing Project.

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 home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants’ households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) “Area median income” means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)

Site Name: 188 West Utica Street
City: Buffalo

Site Address: 188 West Utica Street
County: Erie **Zip:** 14222

Tax Block & Lot
Section (if applicable): 100.46 **Block:** 1 **Lot:** 13.1

Requestor Name: EC188, LLC
City: Buffalo

Requestor Address: 295 Main Street
Zip: 14203 **Email:** bPaladino@ellicottdevelopment.com

Requestor's Representative (for billing purposes)

Name: Mr. William Paladino **Address:** 295 Main Street, Suite 210
City: Buffalo **Zip:** 14203

Email: bpaladino@ellicottdevelopment.com

Requestor's Attorney

Name: Craig A. Slater, Esq. **Address:** 500 Seneca Street, Suite 504
City: Buffalo, NY **Zip:** 14204

Email: cslater@cslaterlaw.com

Requestor's Consultant

Name: Mr. Michael Lesakowski **Address:** 2558 Hamburg Turnpike, Suite 300
City: Buffalo **Zip:** 14218

Email: mlesakowski@benchmarkturnkey.com

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

DER Determination: Agree Disagree

Requestor's Requested Status: Volunteer Participant

DER/OGC Determination: Agree Disagree
Notes:

For NYC Sites, is the Requestor Seeking Tangible Property Credits: Yes No

Does Requestor Claim Property is Upside Down: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

Does Requestor Claim Property is Underutilized: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

Does Requestor Claim Affordable Housing Status: Yes No Planned, No Contract

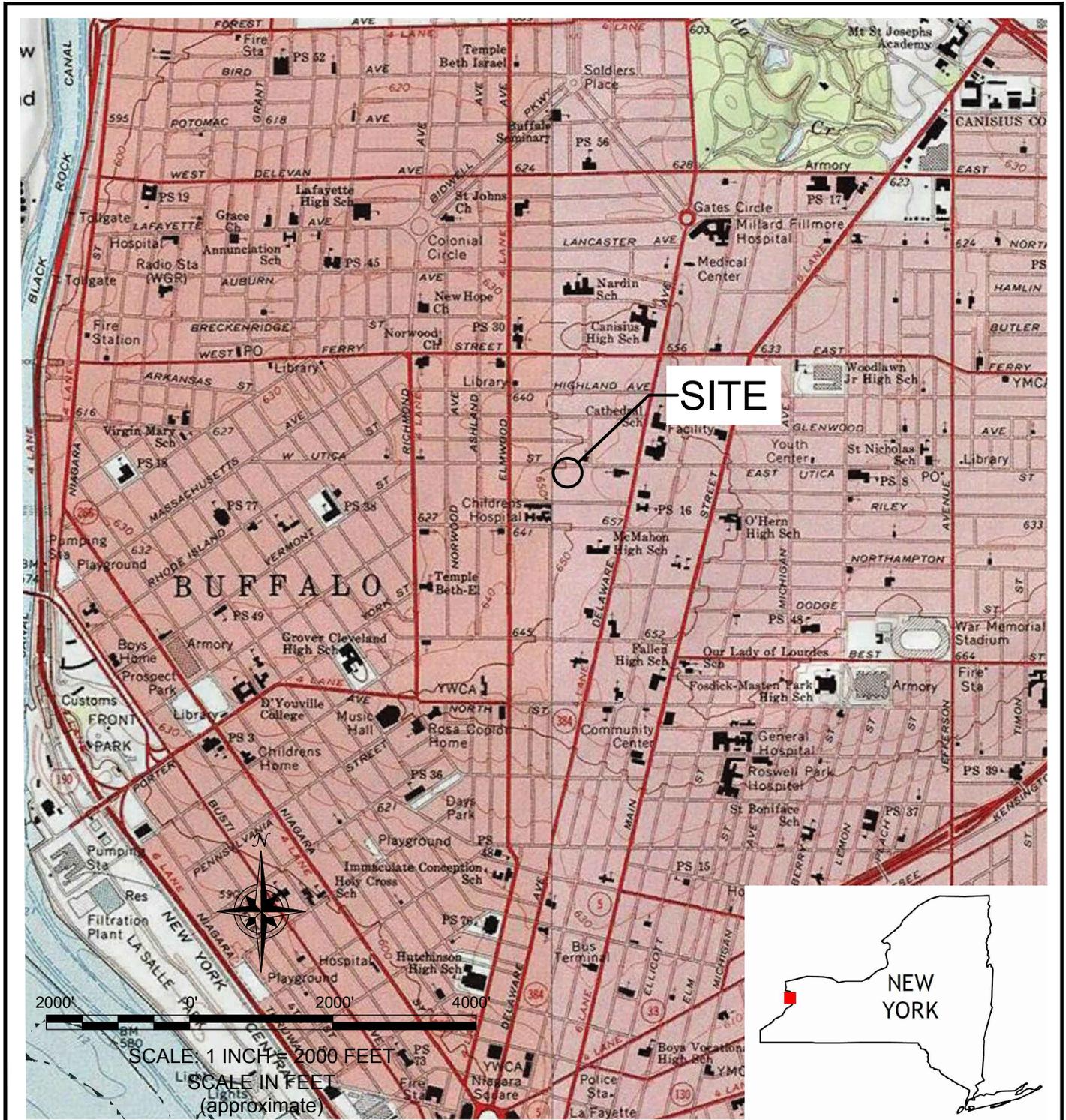
DER/OGC Determination: Agree Disagree Undetermined

Notes:

FIGURES

- Figure 1 Site Location and Vicinity Map
- Figure 2 Site Plan (Aerial)
- Figure 3 Tax Map
- Figure 4 Property Base Map (1,000' Setback)
- Figure 5 Preliminary Project Schedule
- Figure 6 Preliminary Project Rendering
- Figure 7 Investigation Locations & Areas of Concern
- Figure 8 Adjacent Property Owners
- Figure 9 Zoning Map
- Figure 10 USDA Soil Type Map

FIGURE 1



SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

188 WEST UTICA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

EC188, LLC



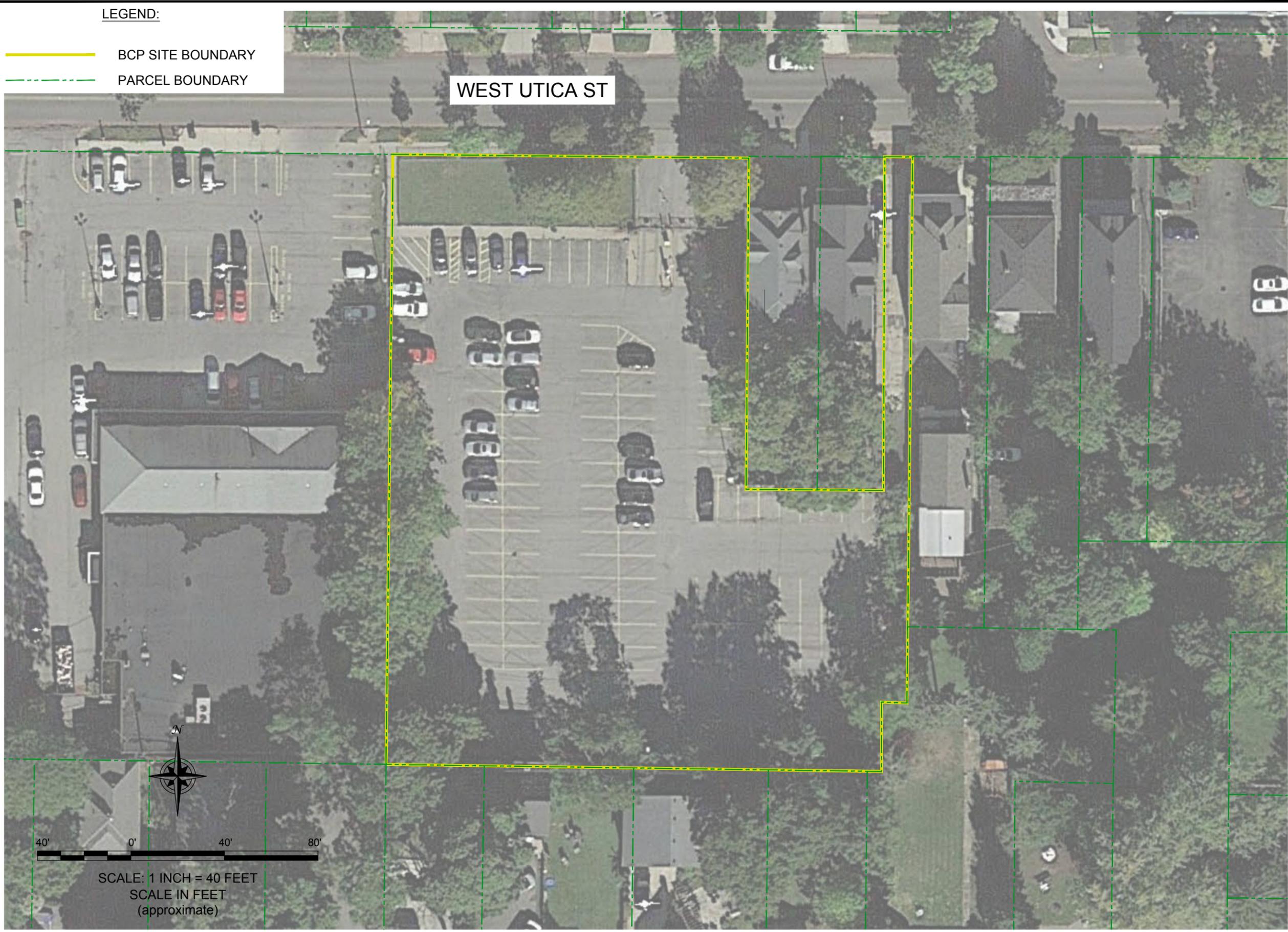
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0635

PROJECT NO.: 0136-018-002

DATE: JUNE 2018

DRAFTED BY: CMS

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.



DATE: JUNE 2018
DRAFTED BY: CMS

SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION
 188 WEST UTICA STREET SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 EC188, LLC



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

JOB NO.: 0136-018-002

FIGURE 2

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.



PROPERTY BASE MAP (1000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION
 188 WEST UTICA STREET SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 EC188, LLC

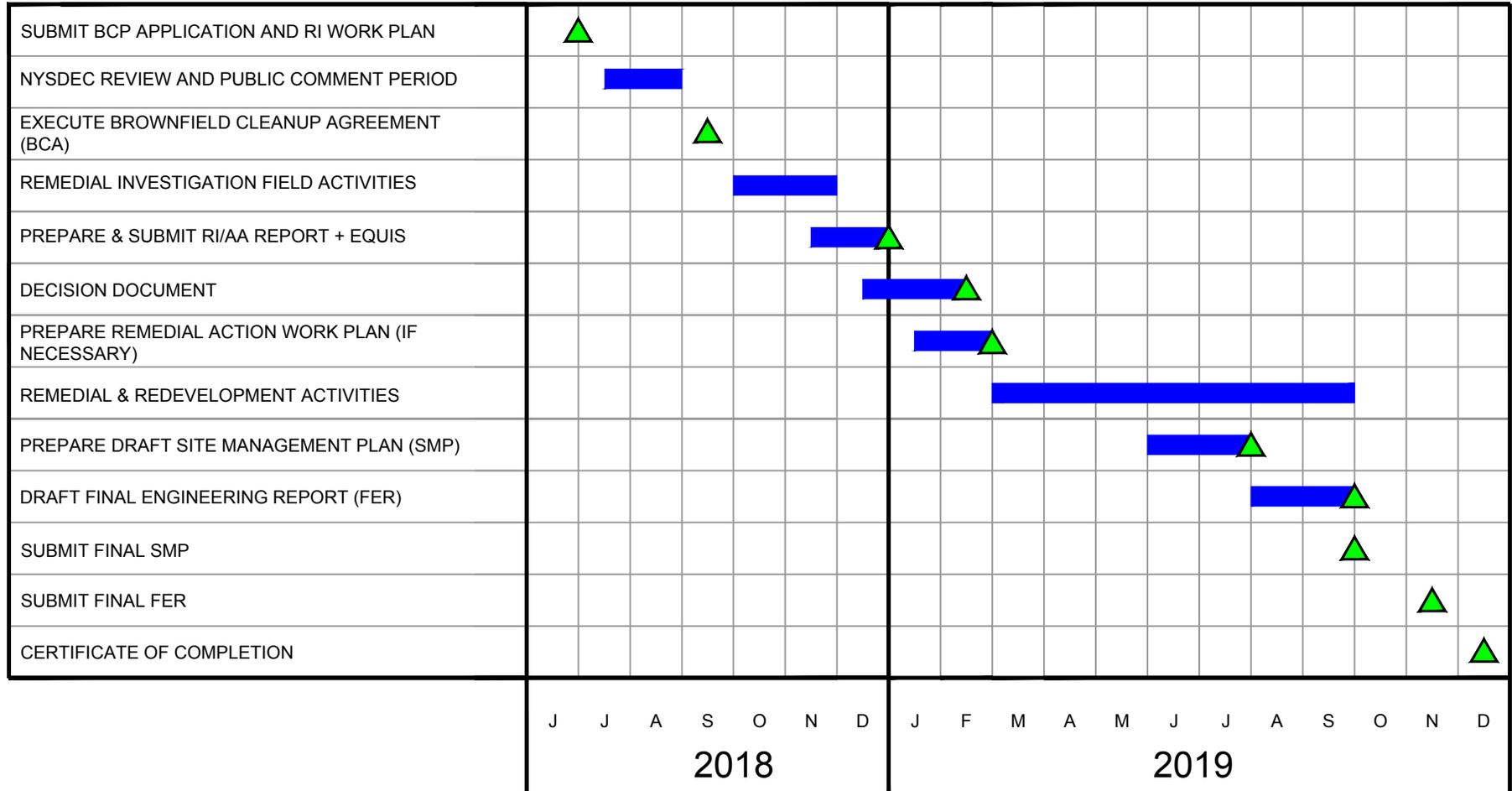


JOB NO.: 0136-018-002

FIGURE 4

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.

PROJECT TASKS:



2558 HAMBURG TURNPIKE
 SUITE 300
 BUFFALO, NY 14218
 (716) 856-0835

PROJECT NO.: 0136-018-002
 DATE: JUNE 2018
 DRAFTED BY: CMS

PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION
 188 WEST UTICA STREET SITE
 BUFFALO, NEW YORK
 PREPARED FOR
 EC188, LLC

FIGURE 5

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PRELIMINARY CONCEPTUAL MASTER PLAN (DRAFT)

NOTE: PHOTO TAKEN FROM BUFFALO RISING, JANUARY 2018



2556 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0835

PROJECT NO.: 0136-018-002

DATE: JUNE 2018

DRAFTED BY: CMS

PRELIMINARY PROJECT RENDERING

BROWNFIELD CLEANUP PROGRAM APPLICATION

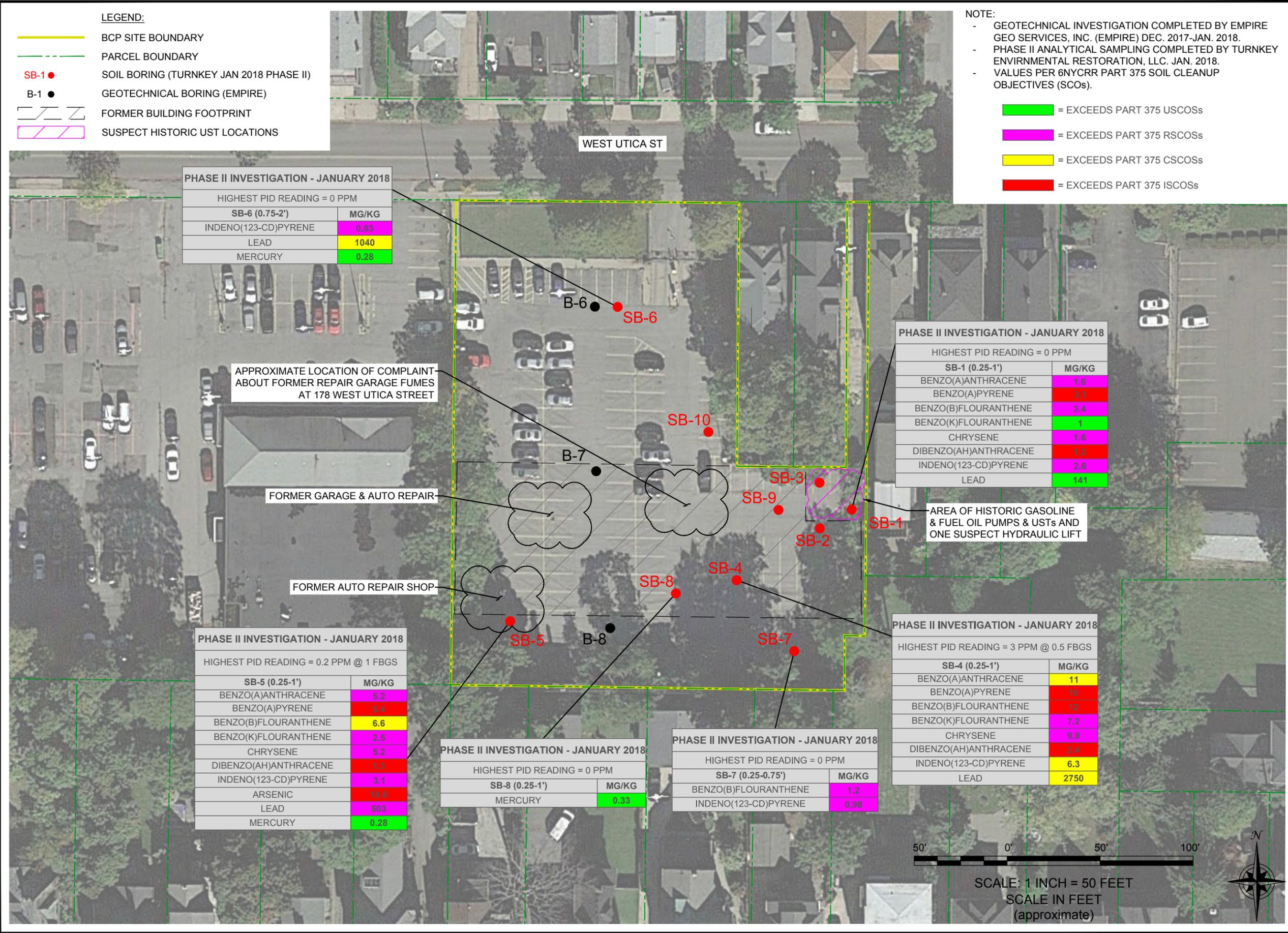
188 ELMWOOD AVENUE SITE

BUFFALO, NEW YORK

PREPARED FOR
EC188, LLC

FIGURE 6

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.



HISTORIC INVESTIGATION LOCATIONS & AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION

188 WEST UTICA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR
EC188, LLC

FIGURE 7



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0655

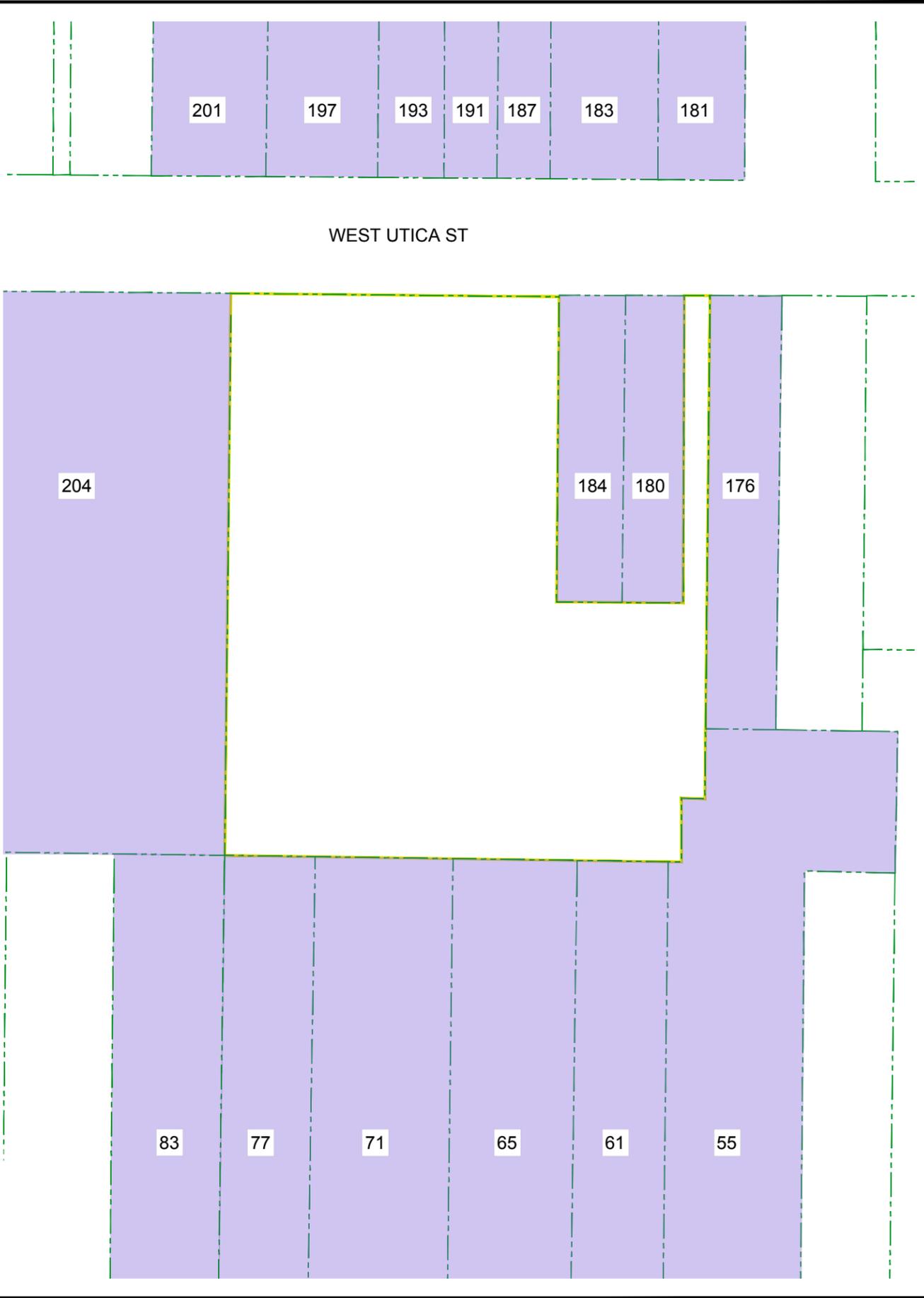
JOB NO.: T0136-018-002

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LEGEND:

- BCP SITE BOUNDARY
- - - - PARCEL BOUNDARY

ADJACENT PROPERTY ADDRESS			PROPERTY OWNER MAILING ADDRESS
NO.	STREET	PROPERTY USE	
55	HODGE AVE.	2 FAMILY YEAR-ROUND RESIDEINCE	ALEXANDER L. & MICHELLE R. THOMSON 55 HODGE AVE. BUFFALO, NY 14222
61	HODGE AVE.	1 FAMILY YEAR-ROUND RESIDENCE	NICHOLAS J. DELMONTE 61 HODGE AVE. BUFFALO, NY 14222
65	HODGE AVE.	MULTIPLE RESIDENCES	WILLIAM SMELTZ 65 HODGE AVE. BUFFALO, NY 14222
71	HODGE AVE.	MULTIPLE RESIDENCES	CLAIRE M. BARRY 66 HODGE AVE. BUFFALO, NY 14222
77	HODGE AVE.	3 FAMILY YEAR-ROUND RESIDENCE	GMJ PROPERTIES LLC 620 W. FERRY ST. BUFFALO, NY 14222
83	HODGE AVE.	APARTMENTS	MAUREEN TURCO 419 RICHMOND AVE., APT. 1 BUFFALO, NY 14222
176	W. UTICA ST.	MULTIPLE RESIDENCES	ENZERT KIRLEW 176 W. UTICA ST. BUFFALO, NY 14222
180	W. UTICA ST.	3 FAMILY YEAR-ROUND RESIDENCE	S&N BUFFALO PROPERTIES GROUP 3350 DELAWARE AVE. KENMORE, NY 14217
181	W. UTICA ST.	RELIGIOUS	WORLD LIFE CHURCH INC. 181 W. UTICA ST. BUFFALO, NY 14222
183	W. UTICA ST.	1 FAMILY YEAR-ROUND RESIDENCE	KENNETH J. ZIOLKOWSKI 209 NOTTINGHAM TERR. BUFFALO, NY 14216
184	W. UTICA ST.	1 FAMILY YEAR-ROUND RESIDENCE	S&N BUFFALO PROPERTIES GROUP 3350 DELAWARE AVE. KENMORE, NY 14217
187	W. UTICA ST.	2 FAMILY YEAR-ROUND RESIDEINCE	JULIE MISEGADES 187 W. UTICA ST. BUFFALO, NY 14222
191	W. UTICA ST.	1 FAMILY YEAR-ROUND RESIDENCE	MICHAEL C. DAWIDOWICZ 191 W. UTICA ST. BUFFALO, NY 14222
193	W. UTICA ST.	MULTIPLE RESIDENCES	ANNABEL LOUISE DEVONSHIRE C/O MICHELLE SYLVES 48 NEW BROADWAY SLEEPY HOLLOW, NY 10591
197	W. UTICA ST.	COMMERCIAL VACANT LAND WITH MINOR IMPROVEMENTS	CHARLES JOY 8620 SISSON HWY. EDEN, NY 14057
201	W. UTICA ST.	RESIDENCE WITH INCIDENTAL COMMERCIAL USE	LYNNE S. & GINA K. VALLONE 201 W. UTICA ST. BUFFALO, NY 14222
204	W. UTICA ST.	AREA OR NEIGHBORHOOD SHOPPING CENTER	204 WEST UTICA STREET LLC 400 ANDREWS ST. ROCHESTER, NY 14604



SCALE: 1 INCH = 60 FEET
SCALE IN FEET
(approximate)



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



JOB NO.: 0136-018-002

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
188 WEST UTICA STREET SITE
BUFFALO, NEW YORK
PREPARED FOR
EC188, LLC

FIGURE 8

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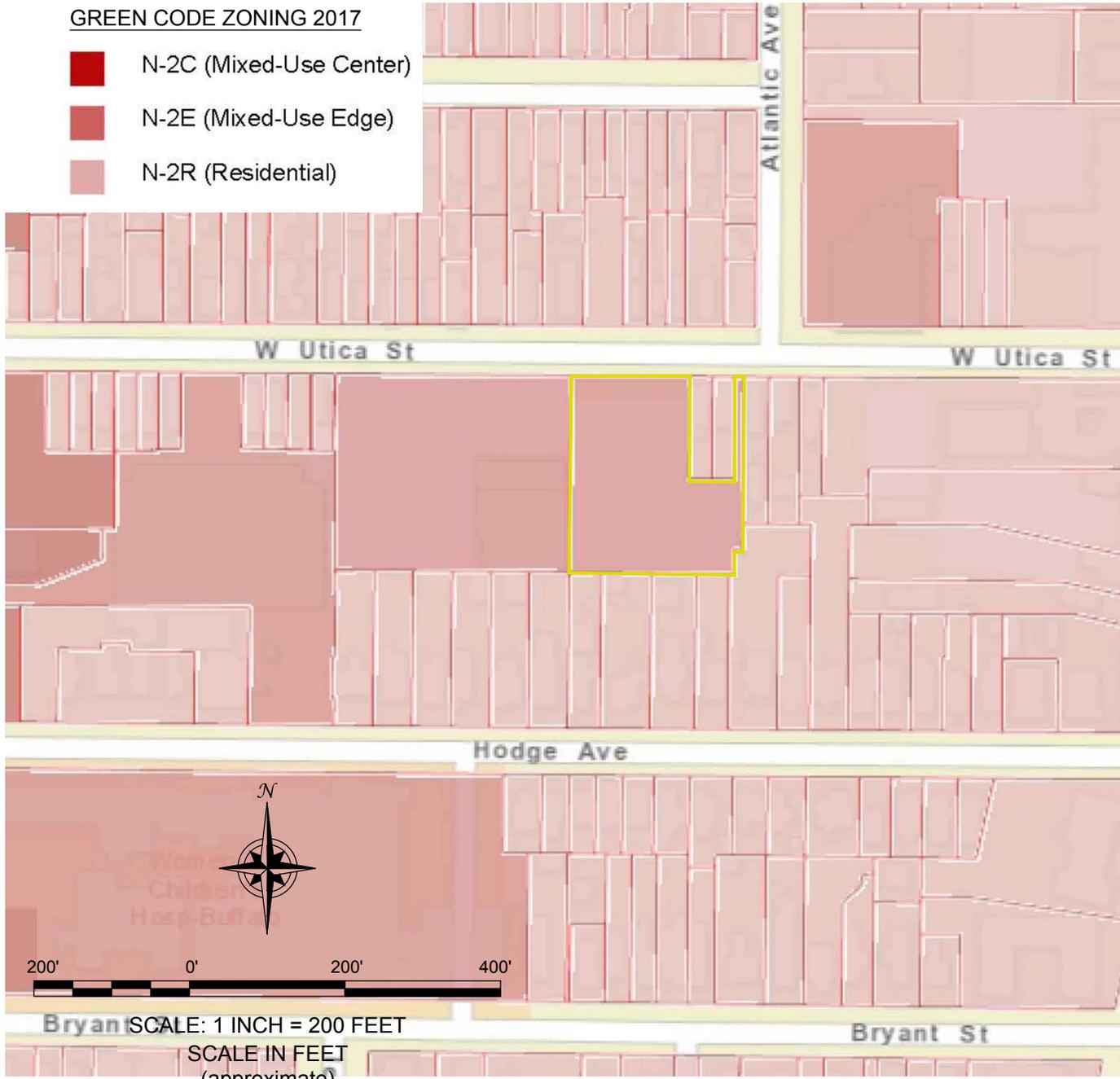
FIGURE 9

LEGEND:

BCP SITE BOUNDARY

GREEN CODE ZONING 2017

-  N-2C (Mixed-Use Center)
-  N-2E (Mixed-Use Edge)
-  N-2R (Residential)



NOTE: MAP PER CITY OF BUFFALO GREEN CODE, JANUARY 2018



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

ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION
188 WEST UTICA STREET SITE

BUFFALO, NEW YORK
PREPARED FOR
EC188, LLC

PROJECT NO.: 0136-018-002

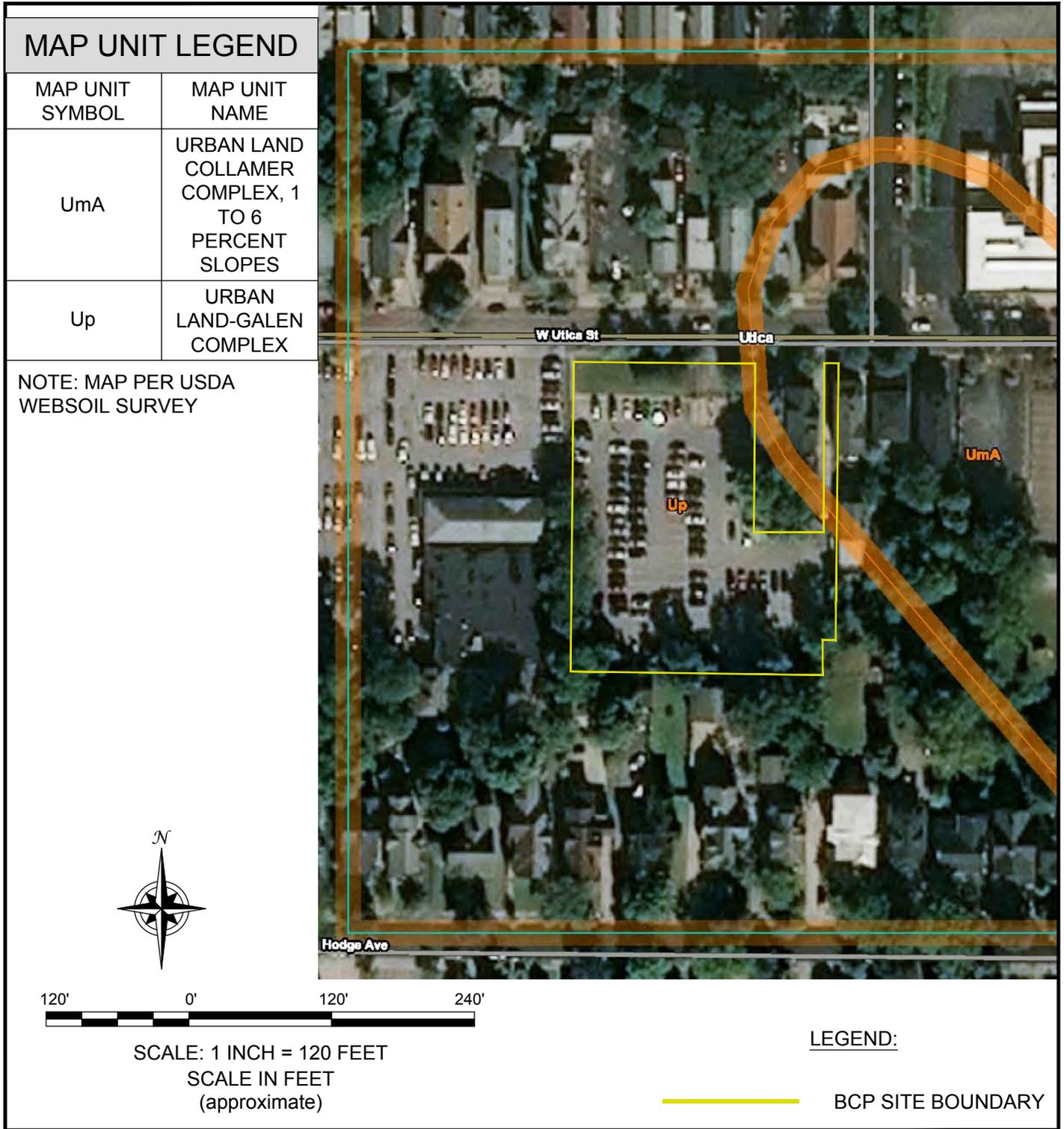
DATE: JUNE 2018

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FIGURE 10

F:\CAD\TurnKey\Ellicott Development\188 West Utica\BCP\Figure 10 - USDA Soil Type Map.dwg, 6/15/2018 1:23:36 PM, DWG To PDF.pc3





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

PROJECT NO.: 0136-018-002

DATE: JUNE 2018

DRAFTED BY: CMS

USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

188 WEST UTICA STREET SITE

BUFFALO, NEW YORK

PREPARED FOR

EC188, LLC

DISCLAIMER:
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APPENDIX A

BCP APPLICATION PART A – SECTIONS I - IV

SECTION I – REQUESTOR INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

SECTION IV – PROPERTY INFORMATION

NYS DOS CORPORATION & BUSINESS ENTITY DATABASE INFORMATION

SIGNATURE RESOLUTION

ERIE COUNTY PARCEL DETAIL REPORT

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

SECTION I – REQUESTOR INFORMATION

The New York State Department of State’s Corporation & Business Entity Database print-out for EC188, LLC is attached.

Benchmark Environmental Engineering and Science, PLLC, a registered NYS engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this BCP project. The Slater Law Firm, PLLC will be acting as the Volunteer’s attorney.

EC188, LLC member/owner information is attached.

SECTION II – PROJECT DESCRIPTION

EC188, LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the Site (see Figures 1-4) under the NYS Brownfield Cleanup Program (BCP), and is submitting this BCP Application for eligibility acceptance into the program.

EC188, LLC, has prepared a Remedial Investigation (RI) Work Plan for concurrent submittal with the BCP Application and is prepared to complete a RI, upon acceptance into the BCP.

A preliminary project schedule is shown on Figure 5.

The Volunteer plans to redevelop the entire ±1.11-acre Site, with the construction of a residential project. The Site Redevelopment Plan estimates capital investment of approximately \$8,000,000.

A preliminary site plan of the development is included as Figure 6.

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

The Project will result in the remediation and redevelopment of an environmentally-impacted Site within a mixed-use residential and commercial area in the City of Buffalo, New York.

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the 188 West Utica Street Site (hereinafter, the “Project Site” or the “Site”) are provided below. Investigation locations and associated analytical results are provided on Figure 7. Electronic copies of the referenced reports are provided individually in a separate electronic folder, identified as Previous Investigation Reports, on the enclosed CD.

Draft Phase I Environmental Site Assessment

Stohl Environmental (Stohl) completed a draft Phase I Environmental Site Assessment (ESA) for the Former Women and Children’s Hospital of Buffalo – 188 and 204 West Utica Street, Buffalo, New York in December 2017.

Below is a summary of the Recognized Environmental Concerns (RECs) as they relate to 188 West Utica Street.

- Historic operations including automotive repair facilities, automotive parts manufacturing, and the City electric garage.
- Municipal records indicate that three (3) USTs were closed in place on-Site. Records also indicate a former pump island and tank vents were located on Site.
- The former buildings and historic uses indicate likely disposal of fill material on the Site.

Geotechnical Drilling

Empire Geo-Services, Inc. completed a geotechnical investigation that included the advancement of three (3) test borings designated as B-6, B-7, and B-8 between December 15, 2017 and December 18, 2017 on Site. No environmental impacts or concerns were identified during the investigation.

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

Limited Phase II Environmental Investigation Report

TurnKey Environmental Restoration, LLC (TurnKey) completed a Ltd. Phase II Environmental Investigation on the Site in January 2018. Ten (10) soil borings were completed across the Site (designated SB-1 through SB-10). Findings of the Phase II are detailed below:

- Odors were noted in seven (7) SB locations, likely related to historic USTs and fuel pumps noted on-Site.
- Elevated polycyclic aromatic hydrocarbons (PAHs) were detected exceeding Residential Use SCOs in 5 of 6 sample locations analyzed for PAHs, with several detections exceeding Industrial Use SCOs. Total PAHs exceeding 100 ppm were detected at SB-4.
- Elevated metals, including arsenic, lead and mercury, were detected exceeding Residential Use SCOs, with several detections exceeding Commercial and Industrial Use SCOs.

SECTION IV – PROPERTY INFORMATION

Parcel Description

The 188 West Utica Street Site, subject to this BCP application, consists of one (1) tax parcel totaling approximately ±1.11-acres, located in a highly developed commercial and residential use area in the City of Buffalo, Erie County, New York (see Figures 1 and 2), and is further identified as:

- **188 West Utica Street, S.B.L. No. 100.46-1-13.1, ±1.11-acres**

A drawing of the tax map parcel is provided as Figure 3. The boundaries of the proposed BCP Site correspond with the tax boundaries. The Erie County parcel detail report for the property is attached for reference.

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is not located within an EN-Zone area.

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

Easements and Permits

EC188, LLC 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-ways along West Utica Street. The Site is supplied with municipal sanitary sewer, electric, natural-gas, and public water.

EC188, LLC is not aware of any other easements or restrictions on the Site.

Location

The Site is located on West Utica Street midway between Elmwood Avenue (west) and Delaware Avenue (east) in a highly developed mixed-use residential and commercial area of the City of Buffalo, Erie County, New York. The Site is bordered by vacant commercial property with one building and asphalt parking to the west and residences to the north, south, and east (see Figures 2 and 4). Adjacent property owners are identified on Figure 8.

Site Features

The Site is currently a vacant asphalt parking lot that covers the majority of the property.

Zoning and Land Use

According to the Buffalo Green Code, Land Use Plan (September 2016), the project area, planned as residential townhouses, is consistent with the zoning assigned to the Site (see Figure 9). The current zoning for the Site is N-2E, which is defined as Neighborhood Center Mixed-Use Edge: a less intensely developed mixed-use residential and commercial area at a neighborhood scale. Planned reuse of the Site as a residential development is consistent with the Land Use Plan zoning.

APPENDIX A
BCP Application – Part A
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188 West Utica Street Site

The current use of the Site is a vacant parking lot, most recently utilized as parking space for the former Women and Children’s Hospital of Buffalo. The surrounding parcels are as follows:

- north – residential and vacant commercial;
- south – residential;
- east – residential; and,
- west - commercial.

Figure 8 identifies the adjacent property owners.

Past Use of the Site

Based on a historic records and previous investigations, the Site was occupied by multiple single-family residences on the northern portion of the property and commercial operations on the southern portion including multiple automotive repair operations, an automotive parts manufacturing company, and city electric garage. Multiple underground storage tanks (USTs), pump islands, and a service building with the potential for remaining hydraulic lifts have been identified on Site. Figure 7 identifies the associated USTs, pump islands, and buildings per the municipal records.

The historic use of the Site as an automotive repair operation, an automotive parts manufacturing company, and city electric garage has impacted the Site, as evidenced by elevated PAH and metals contamination detected during previous investigations.

Site Geology and Hydrogeology

The Site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief that gently slope westward towards the Niagara River, except in the immediate vicinity of major drainage ways. According to the United States Department of Agriculture (USDA) Web soil survey, approximately 96% of Site soils are characterized as Urban Land-Galen complex (Up) and 4% of Site soils are characterized as Urban Land

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

Collamer Complex (UmA). The Up soils consist of nearly level areas of urban land and moderately well drained Galen soil. The UmA soils are identified as nearly level and gently sloping area of urban land and silty, deep and moderately well drained Collamer soils (see Figure 10). Soils within the City of Buffalo are characterized as urban land (Ud) with the soil surface covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment.

The geotechnical report described the Site geology as primarily asphalt cover underlain by fill to approximately 4 feet below ground surface (fbgs), underlain by sand and gravel with varying and lesser amounts of silt and sand to approximately 50 fbgs.

Regional groundwater appears to flow west, northwest towards the Niagara River and Lake Erie.

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

Environmental Assessment Narrative

Based on the findings of the previous investigations, up to three (3) former USTs were closed in place on-Site. Former on-Site commercial and industrial operations, including automotive parts manufacturing, City electric garage and automotive repair operations have impacted the Site. Figure 7 identifies the historic environmental impacts identified in the previous investigations and elevated soil concentrations with comparison to applicable SCOs.

Soil – Shallow fill material is present site wide in the upper 0-4 fbgs, with deepest fill identified to depth of 12 fbgs. Fill material was identified in all 10 subsurface investigation locations completed across the Site.

APPENDIX A
BCP Application – Part A
Section I – Section IV
188 West Utica Street Site

Laboratory analytical results indicate elevated PAHs exceeding Residential Use, Commercial Use and Industrial Use SCOs. Individual PAHs exceeding the Residential Use SCOs were detected in 5 of 6 investigation locations within the upper 1 ft of fill. Elevated total PAHs exceeding 100 ppm was detected at SB-4 (0.25'-1').

Elevated lead was detected above its Residential Use SCO of 400 ppm at SB-5 (503 ppm) and exceeding its Commercial Use SCO of 1,000 ppm at SB-4 (2,750 ppm) and SB-6 (1,040 ppm) within the upper 2 feet; and, elevated arsenic was detected exceeding its Industrial Use SCO of 16 ppm at SB-5 (18.6 ppm).

Elevated laboratory analytical results exceeding the Track 2 Residential Use SCOs (the intended reuse) were detected in 5 of the 6 shallow fill sampled locations.

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

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 7, 2018.

Selected Entity Name: EC188, LLC

Selected Entity Status Information

Current Entity Name: EC188, LLC

DOS ID #: 5275411

Initial DOS Filing Date: JANUARY 29, 2018

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)

EC188, LLC
295 MAIN STREET
SUITE 210
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
JAN 29, 2018	Actual	EC188, 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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EC188, LLC

UNANIMOUS WRITTEN CONSENT OF THE SOLE MEMBER

June 7, 2018

The undersigned being holder of all of the membership interest of EC188, LLC, a New York limited liability company (the "*Company*"), hereby consents 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 William Paladino (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 the Former Women & Children's Hospital Site, Buffalo, New York; and be it further

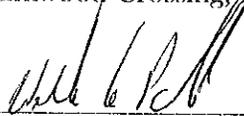
RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the Corporation as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolutions; and be it further

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 Unanimous Written Consent as of the date first set forth above.



Nicholas Sinatra, Member
Elmwood Crossing, LLC



William Paladino, Member
Elmwood Crossing, LLC

ELMWOOD CROSSING, LLC

UNANIMOUS WRITTEN CONSENT OF THE MEMBERS

June 7, 2018

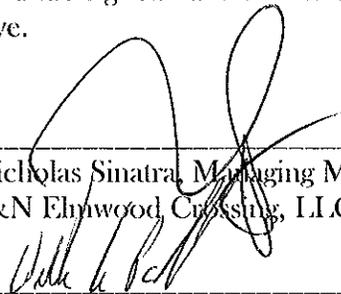
The undersigned being the holders of all of the membership interest of ELMWOOD CROSSING, LLC, a New York limited liability company (the "*Company*"), hereby jointly consent to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company:

RESOLVED, that William Paladino (an "*Authorized Person*") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Corporation, to authorize the Company's subsidiary, EC188, LLC 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 the Former Women & Children's Hospital Site, Buffalo, 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 resolutions; 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 first set forth above.



Nicholas Sinatra, Managing Member
S&N Elmwood Crossing, LLC

William Paladino, Managing Member
2190 Group, LLC

188 WEST UTICA STREET SITE

ORGANIZATIONAL CHART

Volunteer Applicant - Property Owner

EC188, LLC

295 MAIN STREET
BUFFALO, NEW YORK 14203

Sole Shareholder

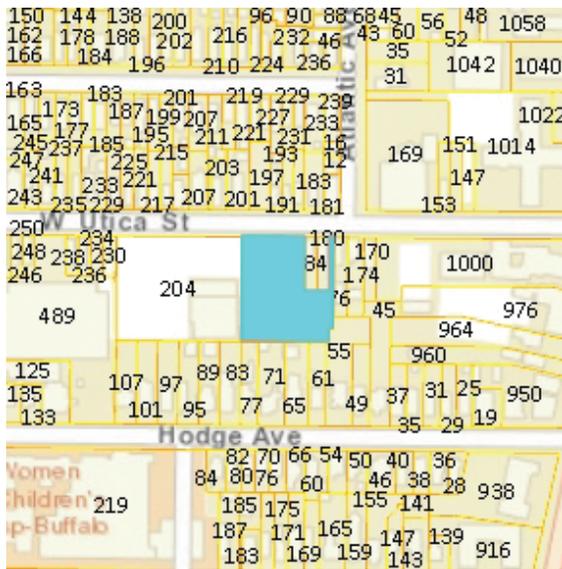
ELMWOOD CROSSING, LLC

295 MAIN STREET
BUFFALO, NEW YORK 14203

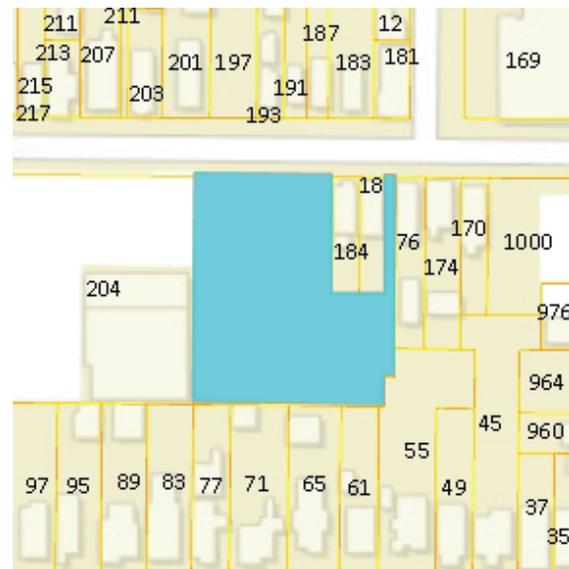
Erie County On-Line Mapping System

Parcel Detail Report

Report generated:
2/2/2018 4:07:35 PM



Parcel Overview Map



Parcel Detail Map

PIN: 1402001004600001013100

SBL: 100.46-1-13.1

Address: 188 UTICA WEST

Owner 1: KALEIDA HEALTH

Owner 2: C/O CORP. REAL ESTATE

Mailing Address: 726 EXCHANGE ST

City/Zip: BUFFALO NY 14210

Municipality: Buffalo

Property Class: 331

Class Description: B - Com vac w/imp

Front: 150

Depth: 250

Deed Roll: 8

Deed Book: 09952

Deed Page: 00173

Deed Date:

Acreage: 1.10708197993

Total Assessment: \$47,500

Land Assessment: \$40,400

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

Fireplace: 0

Beds: 0

Baths: 0

APPENDIX B

BCP APPLICATION PART B – SECTION V - XI

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

SECTION VII – REQUESTOR ELIGIBILITY

SECTION IX – CONTACT LIST

SECTION X – LAND USE FACTORS

DOCUMENT REPOSITORY CONFIRMATION

APPENDIX B
BCP Application – Part B
Section V – Section X
188 West Utica Street Site

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Information for the previous and current owners/operators is provided in the table below, as available.

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
188 West Utica Street (Historic Addresses: 178, 186, 188, 190, 196, & 198 West Utica Street)			
Current Owner/Operator			
EC188, LLC 295 Main Street Buffalo, NY 14203 Phone # 716-854-0060	Commercial	2017 to Current	Owner
Previous Owners/Operators			
Women’s & Children’s Hospital of Buffalo	Hospital	1988 ~ 2017	None - No relationship
No Records	No Records	1975 ~ 1988	None - No relationship
Residential (186, 188, 190, 196)	Residential	1970 ~ 1975	None - No relationship
Residential (178, 186, 188, 190, 196) Associates Discount Corp (178) Align Mfg. Corp (178) Vacant (198)	Residential Garage Conveyor Parts Vacant	1964 ~ 1970	None - No relationship
Residential (186, 188, 190, 196, 198) Associates Discount Corp (178) Align Mfg. Corp (178)	Residential Garage Conveyor Parts	1960 ~ 1964	None - No relationship
Residential (178, 186, 188, 190, 196, 198) Rengles Service Inc. (178)	Residential Auto Storage	1955 ~ 1960	None - No relationship
Residential (178, 186, 188, 190, 196) John J. Rengle (178)	Residential Auto Garage	1950 ~ 1955	None - No relationship

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Residential (178, 186, 188, 190, 196, 198) City Electric Garage (178)	Residential Auto Repair	1946 ~ 1950	None - No relationship
Residential (186, 188, 190, 196, 198) City Electric Garage (178) George D Hall (178)	Residential Auto Repair Garage	1940 ~ 1946	None - No relationship
Residential (186, 188, 190, 196, 198) George D Hall (178)	Residential Garage	1935 ~ 1940	None - No relationship
Residential (186, 188, 190, 196, 198) City Electric Garage (178) George D Hall (178)	Residential Garage	1930 ~ 1935	None - No relationship
Residential (186, 188, 190, 196)	Residential	1925 ~ 1930	None - No relationship

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, EC188, LLC, qualifies and a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6 NYCRR 375-3.2(b)(2).

On-Site contamination is likely related to the historic use of the Site as an automotive repair operation, an automotive parts manufacturing company, and city electric garage. Applicant’s liability arises solely from having taken title to the property (ownership) after the contaminants had already been released at the Site. 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; therefore, EC188, LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

SECTION IX – CONTACT LIST INFORMATION

Site Contact List

The following is the contact list for the subject property. Each contact will be sent fact sheets throughout the project’s duration.

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Erie County Contacts:

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

Erie County Legislator April N.M. Baskin
District 2
790 East Delavan Avenue
Buffalo, NY 14215

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

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

Ms. 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, MD
Erie County Health Department
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 Sq
Buffalo, NY 14219

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

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

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Supplier of Potable Water:

Buffalo Water Department
Veolia Water
2 Porter Avenue
Buffalo, NY 14201

Erie County Water Authority
295 Main Street #350
Buffalo, NY 14203

Local News Media:

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

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

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

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

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

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

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

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

Nearby Schools:

Janet Barnes, Head of School
Oracle Charter School
888 Delaware Avenue
Buffalo, NY 14209

Laura Collins, Principal
Stanley G Falk School
848 Delaware Avenue
Buffalo, NY 14209

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Dr. Hank Stopinski, Principal
Health Sciences Charter School
1140 Ellicott Street
Buffalo, NY 14209

Jennifer Koch, PhD, Executive Director
Community Music School
415 Elmwood Avenue
Buffalo, NY 14222

Ms. Ella Dunne, Principal
International Preparatory School/Grover
Cleveland High School
110 14th Street
Buffalo, NY 14213

Principal
Frank A. Sedita Academy
21 Lowell Street
Buffalo, NY 14213

Other Interested Parties:

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

Document Repository:

Mary Jean Jakubowski
Deputy Director
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Crane Branch of the Buffalo &
Erie County Public Library
633 Elmwood Avenue
Buffalo, NY 14222

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Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site is provided in the table below (see Figure 8).

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
55	Hodge Ave.	2 Family Year-Round Residence	Alexander L. & Michelle R. Thomson 55 Hodge Ave. Buffalo, NY 14222
61	Hodge Ave.	1 Family Year-Round Residence	Nicholas J. Delmonte 61 Hodge Ave. Buffalo, NY 14222
65	Hodge Ave.	Multiple Residences	William Smeltz 65 Hodge Ave. Buffalo, NY 14222
71	Hodge Ave.	Multiple Residences	Claire M. Barry 66 Hodge Ave. Buffalo, NY 14222
77	Hodge Ave.	3 Family Year-Round Residence	GMJ Properties LLC 620 W. Ferry St. Buffalo, NY 14222
83	Hodge Ave.	Apartments	Maureen Turco 419 Richmond Ave., Apt. 1 Buffalo, NY 14222
176	W. Utica. St.	Multiple Residences	Enzert Kirlew 176 W. Utica St. Buffalo, NY 14222

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180	W. Utica. St.	3 Family Year-Round Residence	S&N Buffalo Properties Group 3350 Delaware Ave. Kenmore, NY 14217
181	W. Utica. St.	Religious	World Life Church Inc. 181 W. Utica St. Buffalo, NY 14222
183	W. Utica. St.	1 Family Year-Round Residence	Kenneth J. Ziolkowski 209 Nottingham Terr. Buffalo, NY 14216
184	W. Utica. St.	1 Family Year-Round Residence	S&N Buffalo Properties Group 3350 Delaware Ave. Kenmore, NY 14217
187	W. Utica. St.	2 Family Year-Round Residence	Julie Misegades 187 W. Utica St. Buffalo, NY 14222
191	W. Utica. St.	1 Family Year-Round Residence	Michael C. Dawidowicz 191 W. Utica St. Buffalo, NY 14222
193	W. Utica. St.	Multiple Residences	Annabel Louise Devonshire c/o Michelle Sylves 48 New Broadway Sleepy Hollow, NY 10591
197	W. Utica. St.	Commercial Vacant Land With Minor Improvements	Charles Joy 8620 Sisson Hwy. Eden, NY 14057
201	W. Utica. St.	Residence With Incidental Commercial Use	Lynne S. & Gina K. Vallone 201 W. Utica St. Buffalo, NY 14222
204	W. Utica. St.	Area Or Neighborhood Shopping Center	204 West Utica Street LLC 400 Andrews St. Rochester, NY 14604

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Document Repository

The Buffalo and Erie County Library has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included in Appendix B.

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SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is N-2E (Neighborhood Center Mixed-Use Edge: a less intensely developed mixed-use residential and commercial area at a neighborhood scale) consistent with the Buffalo Green Code Unified Development Ordinance (see Figure 9). The planned redevelopment of the Site is residential townhouses, consistent with the City of Buffalo current Zoning and Land Use plans.

2 – Current Use

The Site is currently a vacant parking lot.

Historic operation of the Site as an automotive repair operation, an automotive parts manufacturing company, and city electric garage from at least the 1930's until the mid-1960's has impacted the Site with PAHs and metals. Historic records indicate multiple USTs, pump islands, and service buildings have been present on-Site. Previous investigations have identified contamination onsite that will require remediation.

3, 4, 5, and 6 – Planned Future Use

The Volunteer plans to redevelop the entire ±1.11-acre Site with a residential development (townhouses). A preliminary project rendering of the development is included as Figure 6.

The planned redevelopment is consistent with the historic and recent development patterns within the Elmwood Village section of the City of Buffalo.

Based on the current zoning for the Site, N-2E (Neighborhood Center Mixed-Use Edge¹), the proposed redevelopment is consistent with current zoning and City of Buffalo Land Use Plan dated September 2016 (Buffalo Green Code).

¹ According to the Land Use Plan of the Buffalo Green Code a Neighborhood Center is defined as mixed-use commercial areas at neighborhood scale and have a zoning codes of N-2C, N-2E, N-3C or N-3E.



January 24, 2018

Ms. Carol Ann Batt
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program
188 West Utica Street Site
Buffalo, New York

Dear Ms. Batt:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Buffalo & Erie County Public Library to act 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,
Benchmark Environmental Engineering & Science, PLLC
TurnKey Environmental Restoration, LLC

A handwritten signature in blue ink that reads "Caroline Bukowski".

Caroline Bukowski
Environmental Engineer

File: 0136-018-001

www.benchmarkturnkey.com

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

Caroline C. Bukowski

From: April Tompkins <tompkinsa@buffalolib.org>
Sent: Wednesday, January 24, 2018 9:41 AM
To: Caroline C. Bukowski
Subject: RE: Document Repository Request - 188 West Utica Street Site

Good morning Caroline,

This is to inform you that the Buffalo and Erie County Library act as the repository for all documents and updates pertaining to the **188 West Utica Street Site**. You may bring or send your document(s) to the Central Library to my attention (Carol Batt has retired since our last correspondence).

Attention: April Tompkins
Re: Repository Documents
Buffalo and Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

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 destination(s). We will process according to our procedure and distribution accordingly. We do not make copies for distribution.

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