

# Brownfield Cleanup Program Application

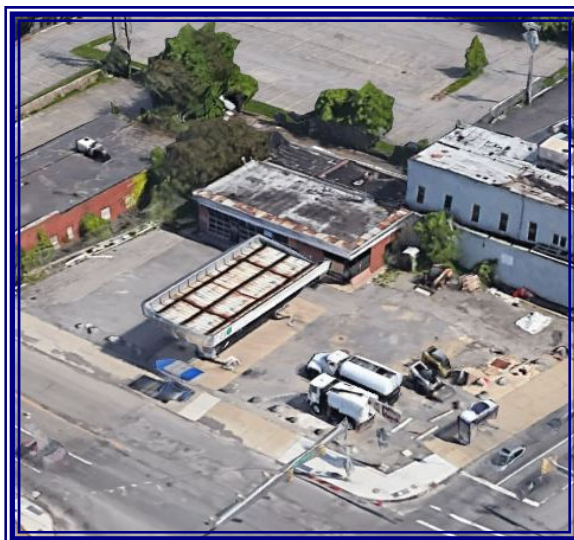
1395 Delaware Avenue Site  
BCP Site No. C915343  
Buffalo, New York

Revised June 2023

0136-018-005

Prepared For:

1395 Group, LLC



Prepared By:



**Brownfield Cleanup Program Application**  
**1395 Delaware Avenue Site**  
**BCP Site No. C915343**  
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| <b>Environmental Reports Separately Attached on CD:</b><br>TurnKey Environmental Restoration, LLC, <i>1395 Delaware Avenue, NYSDEC PBS – 9-041602, UST Removal Activities Letter Report</i> , November 20, 2015.<br><br>TurnKey Environmental Restoration, LLC, <i>Phase I Environmental Site Assessment (ESA), 1395 Delaware Avenue, Buffalo, New York</i> , April 2018.<br><br>TurnKey Environmental Restoration, LLC, <i>Limited Phase II Environmental Investigation Report, 1395 Delaware Avenue Site, Buffalo, New York</i> , May 2018.<br><br>TurnKey Environmental Restoration, LLC, <i>1395 Delaware Avenue Buffalo NY Site, NYSDEC PBS – 9-041602, Tank Removal Activities Letter Report</i> , September 16, 2019. | (on external storage device) |

Copies of the previous investigation(s) are provided in a separate folder on the full electronic submittal CD.



**SUBMITTAL INSTRUCTIONS:**

1. Compile the application package in the following manner:
  - a. one file in non-fillable PDF of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - b. one individual file (PDF) of each previous environmental report; and,
  - c. one file (PDF) of each work plan being submitted with the application, if applicable.
2. Compress all files (PDFs) into one zipped/compressed folder.
3. Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method – do NOT submit both email and ground mail.**

a. VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service. (<http://fts.dec.state.ny.us/fts>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: “*BCP Application NEW - \*Proposed Site Name\**”
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) – do NOT copy Site Control staff.

b. VIA GROUND MAIL:

- Save the application file(s) and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:  
Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, NY 12233-7020

**PROPOSED SITE NAME:** 1395 Delaware Avenue Site

**Is this an application to amend an existing BCA with a major modification?** Please refer to the application instructions for further guidance related to BCA amendments.

If yes, provide existing site number: \_\_\_\_\_

☐

Yes

☒

No

**Is this a revised submission of an incomplete application?**

If yes, provide existing site number: C915343

☒

Yes

☐

No



BCP App Rev 15 – May 2023

**SECTION I: Property Information**

PROPOSED SITE NAME **1395 Delaware Avenue Site**

ADDRESS/LOCATION **1395 Delaware Avenue**

CITY/TOWN **Buffalo**

ZIP CODE **14209**

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

COUNTY **Erie**

SITE SIZE (ACRES) **0.33**

LATITUDE

LONGITUDE

42° 55' 19.8" -78° 52' 0.6"

Provide tax map information for all tax parcels included within the proposed site boundary below. If a portion of any lot is to be included, please indicate as such by inserting "p/o" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding acreage column.

**ATTACH REQUIRED TAX MAPS PER THE APPLICATION INSTRUCTIONS.**

| Parcel Address       | Section | Block | Lot | Acreage |
|----------------------|---------|-------|-----|---------|
| 1395 Delaware Avenue | 89.79   | 3     | 40  | 0.33    |
|                      |         |       |     |         |
|                      |         |       |     |         |

|  | Y                                | N                                |
|--|----------------------------------|----------------------------------|
| 1. Do the proposed site boundaries correspond to tax map metes and bounds?<br>If no, please attach an accurate map of the proposed site including a metes and bounds description.  | <input checked="" type="radio"/> | <input type="radio"/>            |
| 2. Is the required property map included with the application?<br>(Application will not be processed without a map) <span style="border: 1px solid red; padding: 2px;">See Figures 1 through 3</span>  | <input checked="" type="radio"/> | <input type="radio"/>            |
| 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)<br>If yes, identify census tract: _____<br>Percentage of property in En-zone (check one): 0% <input checked="" type="radio"/> 1-49% <input type="radio"/> 50-99% <input type="radio"/> 100% <input type="radio"/> | <input type="radio"/>            | <input checked="" type="radio"/> |
| 4. Is the project located within a disadvantaged community?<br>See application instructions for additional information.  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 5. Is the project located within a NYS Department of State (NYS DOS) Brownfield Opportunity Area (BOA)? See application instructions for additional information.   | <input type="radio"/>            | <input checked="" type="radio"/> |
| 6. Is this application one of multiple applications for a large development project, where the development spans more than 25 acres (see additional criteria in application instructions)?<br>If yes, identify names of properties and site numbers, if available, in related BCP applications: _____  | <input type="radio"/>            | <input checked="" type="radio"/> |



| SECTION I: Property Information (CONTINUED)  |  | Y                                | N                                |
|--|--|----------------------------------|----------------------------------|
| 7. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?  |  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 8. 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?<br>If yes, attach relevant supporting documentation.  |  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 9. Are there any lands under water?<br>If yes, these lands should be clearly delineated on the site map.   |  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 10. Has the property been the subject of or included in a previous BCP application?<br>If yes, please provide the DEC site number: C915343   |  | <input checked="" type="radio"/> | <input type="radio"/>            |
| 11. Is the site currently listed on the Registry of Inactive Hazardous Waste Disposal Sites (Class 2, 3, or 4) or identified as a Potential Site (Class P)?<br>If yes, please provide the DEC site number: _____ Class: _____  |  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 12. Are there any easements or existing rights-of-way that would preclude remediation in these areas? If yes, identify each here and attach appropriate information.<br><br><div style="display: flex; justify-content: space-between;"> <div><u>Easement/Right-of-Way Holder</u></div> <div><u>Description</u></div> </div> None/unknown  |  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 13. List of permits issued by the DEC or USEPA relating to the proposed site (describe below or attach appropriate information):<br><br><div style="display: flex; justify-content: space-between;"> <div><u>Type</u></div> <div><u>Issuing Agency</u></div> <div><u>Description</u></div> </div> Petroleum Bulk Storage      NYSDEC<br>(PBS) - 9-041602   |  | <input checked="" type="radio"/> | <input type="radio"/>            |
| 14. Property Description and Environmental Assessment – please refer to the application instructions for the proper format of each narrative requested. Are the Property Description and Environmental Assessment narratives included in the prescribed format?  |  | <input checked="" type="radio"/> | <input type="radio"/>            |
| <b>Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.</b>   |  |                                  |                                  |
| 15. Is the Requestor seeking a determination that the site is eligible for tangible property tax credits?<br>If yes, Requestor must answer the Supplemental Questions for Sites Seeking Tangible Property Credits Located in New York City ONLY on pages 11-13 of this form.   |  | <input type="radio"/>            | <input type="radio"/>            |
| 16. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?  |  | <input type="radio"/>            | <input type="radio"/>            |
| 17. If you have answered YES to Question 16 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?  |  | <input type="radio"/>            | <input type="radio"/>            |
| <b>NOTE:</b> If a tangible property tax credit determination is not being requested at the time of application, 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.<br><b>If any changes to Section I are required prior to application approval, a new page, initialed by each Requestor, must be submitted with the application revisions.</b><br><b>Initials of each Requestor:</b><br><div style="display: flex; justify-content: space-between;"> <div>LIB</div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> |  |                                  |                                  |

## SECTION II: Project Description

1. The project will be starting at: ☒ Investigation ☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, at a minimum, a Remedial Investigation Report (RIR) must be included, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Action Work Plan (RAWP) are also included (see [DER-10, Technical Guidance for Site Investigation and Remediation](#) for further guidance), then a 45-day public comment period is required.

2. If a final RIR is included, does it meet the requirements in ECL Article 27-1415(2)?

☐ Yes ☐ No ☒ N/A

3. Have any draft work plans been submitted with the application (select all that apply)?

☒ RIWP ☐ RAWP ☒ IRM ☐ No

4. Please provide a short description of the overall project development, including the date that the remedial program is to begin, and the date by which a Certificate of Completion is expected to be issued.

Is this information attached? ☒ Yes ☐ No

See Figure 8

## SECTION III: Land Use Factors

1. What is the property's current municipal zoning designation? N-2C

2. What uses are allowed by the property's current zoning (select all that apply)?

See Figure 5

Residential ☒ Commercial ☒ Industrial ☐

3. Current use (select all that apply):

Residential ☐ Commercial ☐ Industrial ☐ Recreational ☐ Vacant ☒

4. Please provide 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 by which the site became vacant.  
Is this summary included with the application?

Y ☒ N ☐

5. Reasonably anticipated post-remediation use (check all that apply):

Residential ☒ Commercial ☒ Industrial ☐

If residential, does it qualify as single-family housing?

N/A ☐

Y ☐ N ☒

6. Please provide a statement detailing the specific proposed post-remediation use.  
Is this summary attached?

Y ☒ N ☐

7. Is the proposed post-remediation use a renewable energy facility?  
See application instructions for additional information.

Y ☐ N ☒

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

Y ☒ N ☐

9. Is the proposed use consistent with applicable zoning laws/maps?  
Please provide a brief explanation. Include additional documentation if necessary.

Y ☒ N ☐

10. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans?  
Please provide a brief explanation. Include additional documentation if necessary.

Y ☒ N ☐

## SECTION IV: Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that contamination of environmental media exists on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the site property and that the site requires remediation. To the extent that existing information/studies/reports are available to the requestor, please attach the following:

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](#)). **Please submit a separate electronic copy of each report in Portable Document Format (PDF). Please do NOT submit paper copies of ANY supporting documents.**
2. **SAMPLING DATA: INDICATE (BY SELECTING THE OPTIONS BELOW) KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED AS AN ATTACHMENT, WITH LABORATORY REPORTS REFERENCED AND INCLUDED.**

| CONTAMINANT CATEGORY    | SOIL                                | GROUNDWATER              | SOIL GAS                 |
|-------------------------|-------------------------------------|--------------------------|--------------------------|
| Petroleum               | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chlorinated Solvents    | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Other VOCs              | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| SVOCs                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Metals                  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pesticides              | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| PCBs                    | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| PFAS                    | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| 1,4-dioxane             | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Other – indicated below | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |

\*Please describe other known contaminants and the media affected:

3. For each impacted medium above, include a site drawing indicating:

- Sample location
- Date of sampling event
- Key contaminants and concentration detected
- For soil, highlight exceedances of reasonably anticipated use
- For groundwater, highlight exceedances of 6 NYCRR part 703.5
- For soil gas/soil vapor/indoor air, refer to the NYS Department of Health matrix and highlight exceedances that require mitigation

See Figure 7

These drawings are to be representative of all data being relied upon to determine if the site requires remediation under the BCP. Drawings should be no larger than 11"x17" and should only be provided electronically. These drawings should be prepared in accordance with any guidance provided.

Are the required drawings included with this application?

☒ YES

☐ NO

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: Automotive service and repair and filling station(s)



**SECTION V: Requestor Information**

NAME 1395 Group, LLC

ADDRESS 295 Main Street, Suite 700

CITY/TOWN Buffalo

STATE NY

ZIP CODE 14203

PHONE (716) 854-0060

EMAIL bpaladino@ellicottdevelopment.com

|  | Y                                | N                     |
|--|----------------------------------|-----------------------|
| 1. Is the requestor authorized to conduct business in New York State (NYS)?  | <input checked="" type="radio"/> | <input type="radio"/> |
| 2. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS DOS to conduct business in NYS, the requestor's name must appear, exactly as given above, in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a> . A print-out of entity information from the database must be submitted with this application to document that the requestor is authorized to conduct business in NYS. Is this attached? | <input checked="" type="radio"/> | <input type="radio"/> |
| 3. If the requestor is an LLC, a list of the names of the members/owners is required on a separate attachment. Is this attached? N/A <input type="radio"/>   | <input checked="" type="radio"/> | <input type="radio"/> |
| 4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of <a href="#">DER-10: Technical Guidance for Site Investigation and Remediation</a> and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements?<br><b>Documents that are not properly certified will not be approved under the BCP.</b>  | <input checked="" type="radio"/> | <input type="radio"/> |

**SECTION VI: Requestor Eligibility**

If answering "yes" to any of the following questions, please provide appropriate explanation and/or documentation as an attachment.

|   | Y                     | N                                |
|---|-----------------------|----------------------------------|
| 1. Are any enforcement actions pending against the requestor regarding this site?   | <input type="radio"/> | <input checked="" type="radio"/> |
| 2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?  | <input type="radio"/> | <input checked="" type="radio"/> |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?<br>Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.  | <input type="radio"/> | <input checked="" type="radio"/> |
| 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 or regulation of the State or Federal government?   | <input type="radio"/> | <input checked="" type="radio"/> |
| 5. Has the requestor previously been denied entry to the BCP? If so, please provide the site name, address, assigned DEC site number, the reason for denial, and any other relevant information regarding the denied application. <span style="border: 1px solid red; padding: 2px;">Previous BCP Application submittal details described in Section VI attached</span> | <input type="radio"/> | <input checked="" type="radio"/> |
| 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?   | <input type="radio"/> | <input checked="" type="radio"/> |

## SECTION VI: Requestor Eligibility (CONTINUED)

|   |   |                                    |
|---|---|------------------------------------|
| 7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting or contaminants; or (ii) that involved 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?  | <input type="radio"/> Y   | <input checked="" type="radio"/> N |
| 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 a false statement in connection with any document or application submitted to DEC?  | <input type="radio"/>   | <input checked="" type="radio"/>   |
| 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?  | <input type="radio"/>   | <input checked="" type="radio"/>   |
| 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?   | <input type="radio"/>   | <input checked="" type="radio"/>   |
| 11. Are there any unregistered bulk storage tanks on-site which require registration? <span style="border: 1px solid red; padding: 2px;">TBD</span>   | <input type="radio"/>   | <input checked="" type="radio"/>   |
| 12. 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:   |   |                                    |
| <b>PARTICIPANT</b> <input checked="" type="checkbox"/><br>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. | <b>VOLUNTEER</b> <input type="checkbox"/><br>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.<br><br>NOTE: By selecting this option, 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; and, (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste.<br><br><b>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.</b> |                                    |
| 13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?   |   |                                    |
| Yes <input type="radio"/> No <input type="radio"/> N/A <input checked="" type="radio"/>   |   |                                    |

**SECTION VI: Requestor Eligibility (CONTINUED)**

14. Requestor relationship to the property (check one; if multiple applicants, check all that apply):

☐ Previous Owner    ☐ Current Owner    ☒ Potential/Future Purchaser    ☐ Other: \_\_\_\_\_  
1395 Group, LLC future owner and applicant

If the requestor is not the current owner, **proof of site access sufficient to complete remediation must be provided.** 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 environmental easement on the site.

Is this proof attached?



Yes



No



N/A

**Note:** A purchase contract or lease agreement does not suffice as proof of site access.

**SECTION VII: Requestor Contact Information**

REQUESTOR'S REPRESENTATIVE William Paladino

ADDRESS 295 Main Street, Suite 700

CITY Buffalo

STATE NY

ZIP CODE 14203

PHONE (716) 854-0060

EMAIL bpaladino@ellicottdevelopment.com

REQUESTOR'S CONSULTANT (CONTACT NAME) Mr. Mike Lesakowski

COMPANY Benchmark Civil/Environmental Engineering & Geology, PLLC

ADDRESS 2558 Hamburg Turnpike, Suite 300

CITY Buffalo

STATE NY

ZIP CODE 14218

PHONE (716) 856-0599

EMAIL mlesakowski@bm-tk.com

REQUESTOR'S ATTORNEY (CONTACT NAME) Lori Carbaugh

COMPANY Ellicott Development Company

ADDRESS 295 Main Street, Suite 700

CITY Buffalo

STATE NY

ZIP CODE 14203

PHONE (716) 854-0060

EMAIL lcarbaugh@ellicottdevelopment.com

**SECTION VIII: Program Fee**

Upon submission of an executed Brownfield Cleanup Agreement to the Department, the requestor is required to pay a non-refundable program fee of \$50,000. Requestors may apply for a fee waiver based on demonstration of financial hardship.

|  | Y                                | N                                |
|--|----------------------------------|----------------------------------|
| 1. Is the requestor applying for a fee waiver based on demonstration of financial hardship?  | <input type="radio"/>            | <input checked="" type="radio"/> |
| 2. If yes, appropriate documentation to demonstrate financial hardship must be provided with the application. See application instructions for additional information. |                                  |                                  |
| Is the appropriate documentation included with this application? N/A   | <input checked="" type="radio"/> | <input type="radio"/>            |

**SECTION IX: Current Property Owner and Operator Information**

|                                    |   |                        |
|------------------------------------|---|------------------------|
| CURRENT OWNER 9187 Group, LLC      |   |                        |
| CONTACT NAME William Paladino      |   |                        |
| ADDRESS 295 Main Street, Suite 700 |   |                        |
| CITY Buffalo                       | STATE NY                                | ZIP CODE 14203         |
| PHONE (716) 854-0060               | EMAIL bpaladino@ellicottdevelopment.com |                        |
| OWNERSHIP START DATE June 14, 2013 |   |                        |
| CURRENT OPERATOR Same as owner     |   |                        |
| CONTACT NAME Same as owner         |   |                        |
| ADDRESS Same as owner              |   |                        |
| CITY Same as owner                 | STATE Same as owner                     | ZIP CODE Same as owner |
| PHONE Same as owner                | EMAIL Same as owner                     |                        |
| OPERATION START DATE Same as owner |   |                        |

**SECTION X: Property Eligibility Information**

|   | Y                     | N                                |
|---|-----------------------|----------------------------------|
| 1. Is/was the property, or any portion of the property, listed on the National Priorities List?<br>If yes, please provide additional information as an attachment.  | <input type="radio"/> | <input checked="" type="radio"/> |
| 2. Is/was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Site pursuant to ECL 27-1305?<br>If yes, please provide the DEC site number: _____ Class: _____ | <input type="radio"/> | <input checked="" type="radio"/> |



## SECTION X: Property Eligibility Information (continued)

|   | Y                     | N                                |
|---|-----------------------|----------------------------------|
| 3. Is/was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?<br>If yes, please provide:<br>Permit Type: _____ EPA ID Number: _____<br><br>Date Permit Issued: _____ Permit Expiration Date: _____   | <input type="radio"/> | <input checked="" type="radio"/> |
| 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?<br>If yes, attach any available information related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filings and corporate dissolution documents. | <input type="radio"/> | <input type="radio"/>            |
| 5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10?<br>If yes, please provide the order number: _____   | <input type="radio"/> | <input checked="" type="radio"/> |
| 6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?<br>If yes, please provide additional information as an attachment.   | <input type="radio"/> | <input checked="" type="radio"/> |

## SECTION XI: Site Contact List

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 mailing 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 adjacent properties. See Figure 4
- 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.
- The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

**SECTION XII: Statement of Certification and Signatures**

(By a requestor other than an individual)

I hereby affirm that I am Authorized Member (title) of 1395 Group, LLC (entity); that I am authorized by that entity to make this application and execute a Brownfield Cleanup Agreement (BCA) and all subsequent documents; that this application was prepared by me or under my supervision and direction. If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (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 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: 5/15/23

Signature: 

Print Name: William Paladino

**PLEASE REFER TO THE APPLICATION COVER PAGE AND BCP APPLICATION INSTRUCTIONS FOR DETAILS OF PAPERLESS DIGITAL SUBMISSION REQUIREMENTS.**

**Brownfield Cleanup Program Application**  
**1395 Delaware Avenue Site (BCP Site No. C915343)**

**SECTION I – PROPERTY INFORMATION**

Parcel Description

The 1395 Delaware Avenue Site (hereinafter, the “Project Site” or the “Site”), subject to this BCP application, consists of one (1) tax parcel totaling  $\pm 0.33$ -acres, located in a mixed use commercial and residential area in the City of Buffalo, Erie County, New York (see Figures 1 through 3), and is further identified as:

- **1395 Delaware Avenue, S.B.L. No. 89.79-3-40,  $\pm 0.33$ -acres**

The boundaries of the BCP Site correspond with the tax parcel boundary. A tax parcel map is provided on Figure 3. The Erie County parcel detail report is attached.

An application to the NYS BCP was previously submitted in December 2018 for the Site and identified as C915343. Additional information related to the previous submittal and regulatory activities are provided in Section IV and Section V below.

Easements and Permits

1395 Group, LLC is not aware of any institutional controls recorded for the Site. Utilities are located in the right-of-way along Delaware Avenue and West Delavan Avenue. The Site is supplied with municipal sanitary sewer, electric, natural-gas, and public potable water. 1395 Group, LLC are not aware of any other easements or restrictions of the Site.

The Site is identified in the NYSDEC Petroleum Bulk Storage (PBS) (9-041602) and references in the NYSDEC Spills database (1800334 - active). All USTs identified in PBS file 9-041602 are classified as “closed-removed” by the NYSDEC; however, Spill No. 1800334 remains classified as “open.”

Property Description Narrative

Location

The Site is located on the southeast corner of Delaware Avenue and West Delavan Avenue in a highly developed mixed use (residential and commercial) area of the City of Buffalo,

**Brownfield Cleanup Program Application**  
**1395 Delaware Avenue Site (BCP Site No. C915343)**

Erie County, New York. The Site is bordered by West Delavan Avenue and Forest Lawn Cemetery to the north, vacant and occupied commercial businesses to the south, commercial businesses to the east, and Delaware Avenue and Sunoco filling station to the west (see Figure 2). Adjacent property owners are identified on Figure 4.

Site Features

The Site currently consists of one (1) vacant automobile repair building, with the existing filling station canopy, and pump islands. Three (3) fuel system vent lines are present along the southern boundary of the Site. Known USTs listed in the PBS database (9-041602) have been removed; however, historic USTs and product lines likely remain on-Site.

Zoning and Land Use

According to the Buffalo Green Code Unified Development Ordinance, the project area, planned as a mixed-use commercial and residential area, is consistent with the zoning assigned to the Site (see Figure 5). The current zoning for the Site is N-2C which is defined as Neighborhood Center Mixed-Use Center: a less intensely developed mixed-use residential and commercial area at a neighborhood scale.

The current use of the Site is vacant.

The surrounding parcels are as follows:

- north – Delevan Avenue with Forest Lawn Cemetery beyond;
- south – commercial use;
- east – commercial use; and
- west – Delaware Avenue with commercial use beyond.

Past Use of the Site

Based on historic records and previous investigations, the Site was primarily used as a gasoline station and automotive repair and greasing facility from the 1920s until 2013. The existing building has been utilized for automotive repair and greasing operations and is

**Brownfield Cleanup Program Application**  
**1395 Delaware Avenue Site (BCP Site No. C915343)**

currently vacant. Multiple USTs and pumps/dispensers have been identified in connection with the Site.

The historic use of the Site as a gasoline station and automotive repair has impacted the Site as evidenced by petroleum contamination detected during previous investigations.

Previous investigation reports are provided electronically on the enclosed CD.

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, Site soils are characterized as Urban Land-Collamer complex (UmA). This complex consists of nearly level areas of urban land and moderately well drained Collamer soil (see Figure 6). 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.

Regional groundwater appears to flow north towards Scajaquada Creek. Local groundwater flow, however, may be influenced by subsurface features, such as underground utilities, and localized fill-conditions.

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

Past use of the site as an automobile service and filling station has impacted the site. Figure 7 summarizes the environmental impacts identified in the previous investigations.

Soil – Grossly contaminated petroleum soils were identified on-Site during previous investigations. Oily product and sheen were identified at four (4) sample locations.

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**1395 Delaware Avenue Site (BCP Site No. C915343)**

Evidence of a historic tank or fuel system lines was identified at SB-10. Strong petroleum odors were detected in 11 of 13 locations with the highest PID readings detected in SB-2 (283 parts per million (ppm)), SB-3 (700 ppm), SB-4 (1,326 ppm), SB-5 (1,695 ppm), and SB-10 (620 ppm).

Laboratory analytical results from the previous investigation indicate elevated petroleum related volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), and metals exceeding 6 NYCRR Part 375 Restricted-Residential Use Soil Cleanup Objectives (RRSCOs) and/or NYSEDC Commissioner's Policy- (CP-) 51 Soil Cleanup Levels (SCLs). Specifically, elevated 1,2,4-trimethylbenzene (a gasoline additive) was detected exceeding its RRSCO of 52 ppm at SB-4 (72 ppm) and SB-10 (120 ppm). Certain individual PAHs, including benzo(a)anthracene, benzo(a)pyrene, and benzo(b)fluoranthene were detected exceeding their RRSCO of 1 ppm at SB-3, SB-7, and SB-8. Lead was detected exceeding its RRSCO of 400 ppm at SB-3 (479 ppm).

Laboratory analytical results from the 2019 tank removal indicate elevated petroleum related VOCs exceeding CP-51 SCLs and/or RRSCOs. Specifically, elevated 1,2,4-trimethylbenzene (240 ppm at B-1), 1,3,5-trimethylbenzene (74 ppm at B-1), ethylbenzene (96 ppm at B-1), toluene (120 ppm at B-1), and total xylenes (110 ppm at South Wall and 610 ppm at B-1) were detected exceeding applicable RRSCOs.

Historic documents and previous investigation reports are provided electronically on the enclosed CD.

**SECTION II – PROJECT DESCRIPTION**

1395 Group, LLC, is willing to complete additional investigation and remediate the Site under the NYS BCP and is submitting this BCP Application for eligibility acceptance into the program. Investigation activities are planned to be completed after acceptance into the BCP in Summer-Fall 2023, with assumed remedial activities in 2023 through 2024, and approval and issuance of the Certificate of Completion in 2024.

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A preliminary project schedule is shown on Figure 8.

The project plans to redevelop the Site with a mixed-use commercial and residential redevelopment.

**SECTION III – LAND USE FACTORS**

**1 and 2 - Current Zoning**

The current zoning for the Site is N-2C (Neighborhood Center Mixed-Use Center: a less intensely developed mixed-use residential and commercial area at a neighborhood scale).

Planned reuse of the Site as a mixed-use commercial and residential development consistent with the City of Buffalo Land Use Plan zoning.

**3 and 4 - Current Use**

The current use of the Site is vacant. The Site has been vacant since being acquired by 9187 Group, LLC in 2013.

Based on historic records and previous investigations, the Site was primarily used as a gasoline station(s) and automotive repair/greasing facility from the 1920s until 2013. Multiple repair buildings, USTs and pumps/dispensers have been identified with the Site.

The historic use of the Site as a gasoline station and automotive repair has impacted the Site as evidenced by petroleum contamination detected during previous investigations.

**5-10 - Planned Future Use**

The planned redevelopment is a mixed-use commercial and residential development with associated parking and sidewalks.

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



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Based on the current zoning for the Site, N-2C (Neighborhood Center Mixed-Use Center), the planned redevelopment is consistent with current zoning.

**SECTION IV – PROPERTY’S ENVIRONMENTAL HISTORY**

A summary of the previous environmental investigation findings completed for the 1395 Delaware Avenue Site (hereinafter, the “Project Site” or the “Site”) are provided below.

**Underground Storage Tank Removal Activities PBS 6-041602 – 2019**

TurnKey completed oversight for the removal of two (2) 6,000-gallon USTs and one (1) 8,000-gallon UST on September 9, 2019. The USTs are identified as Tank 1, Tank 2, and Tank 3 in the NYSDEC PBS database (9-041602), respectively. Prior to removal activities, 9187 Group, LLC received two notices of violation from the NYSDEC on July 20, 2018 and August 8, 2019. A letter report detailing the removal activities was provided to the Department dated September 16, 2019. Tanks were uncovered and cleaned of residual contents and disposal documents were completed. After completion of tank cleaning activities, multiple attempts were made to remove the USTs from the subsurface. Based on the condition of the fiberglass USTs, the tanks were destroyed and partially removed with some pieces of the fiberglass tanks remaining. The NYSDEC was notified of the tanks condition, and the tank removal information was added to the existing NYSDEC Spill File 1800334. A PBS closure form was completed, and the USTs were listed as “closed-removed” by the NYSDEC on September 9, 2019. In correspondence with the NYSDEC PBS regarding the condition of the tanks, it was determined that subsurface samples from below the former tanks would be collected. TurnKey remobilized to the Site to collect post-excavation confirmatory sidewall and bottom samples on November 4, 2019. Confirmatory samples were collected for NYSDEC CP-51 VOCs and NYSDEC CP-51 SVOCs. Analytical results indicate that residual contamination remains on-Site at the north sidewall, east sidewall, south sidewall, and bottom sample locations of the PBS UST location. An Expedited Settlement Agreement was issued on January 15, 2020 by the United States Environmental Protection Agency (USEPA) indicating that no additional civil penalties would be pursued as 9187 Group, LLC certified that all violations cited in the Proposed Expedited Settlement Agreement were corrected.

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NYSDEC PBS records (9-041602) and the USEPA Expedited Settlement Agreement are attached, respectively.

Phase I Environmental Site Assessment 2018

TurnKey completed a Phase I Environmental Site Assessment (ESA) for 9187 Group, LLC – 1395 Delaware Avenue, Buffalo, New York in April 2018.

Recognized Environmental Concerns (RECs) are summarized below:

- The Site was utilized as an automobile service/greasing and filling station since at least 1928, including multiple fuel oil tanks, waste oil tanks, in-ground hydraulic lifts and gasoline USTs. One (1) existing and three (3) separate historic pump islands were also noted in the records.
- Numerous historic and existing USTs of varying size were identified in connection with the Site.
- Historic Spills related to the Site.

Locations of the RECs described above are illustrated in Figure 7.

Limited Phase II Environmental Investigation Report 2018

TurnKey completed a *Limited Phase II Environmental Investigation for 9187 Group, LLC – 1395 Delaware Avenue Site, Buffalo, New York* in May 2018. Twelve (12) soil borings were completed across the Site (locations identified on Figure 7). Findings of the Phase II are detailed below:

- Grossly contaminated soils were identified on-Site, including:
  - Oily product and sheen were identified at four (4) sample locations. Evidence of suspect tank or fuel system lines was identified at SB-10.
  - Odors and elevated PID readings were detected in eleven (11) of the thirteen (13) borings, with highest PID reading of 1,695 ppm.
- Elevated VOCs were detected on Site exceeding 6NYCRR Part 375 Restricted Residential Use SCOs (RRSCOs) and NYSDEC CP-51 SCLs.
- Elevated PAHs were detected on-Site exceeding RRSCOs.
- Elevated metals, including lead, was detected on-Site exceeding RRSCOs.

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- Based on the findings of this investigation, additional investigation and remediation would be required to address Spill No. 1800334.

Underground Storage Tank (UST) Removal Activities - 2015

TurnKey completed oversight for the removal of two (2) 1,000-gallon USTs on October 6, 2015. The USTs are identified as Tank 2A and Tank 4 in the NYSDEC PBS 9-041602. A letter report detailing the removal activities was provided to the Department dated November 20, 2015. Prior to removal, tanks were cleaned of residual water-product mixture and disposal documents were completed. During removal of the USTs and upon completion of the UST excavation, no evidence of contamination was discovered. Confirmatory sidewall and bottom samples were collected for NYSDEC CP-51 Volatile Organic Compounds (VOCs) and NYSDEC CP-51 semi-volatile organic compounds (SVOCs). All post-excavation samples were reported below NYSDEC CP-51 Soil Cleanup Levels (SCLs) and no additional investigation was recommended relating to Tank 2A and Tank 4. A PBS Closure form was completed, and the USTs were listed as “closed-removed” by the NYSDEC on October 6, 2015.

NYSDEC PBS records are attached.

**Summary**

Contamination and evidence of additional USTs was observed during the previous investigations, resulting in the issuance of NYSDEC Spill No. 1800334. Based on historical records and on-Site findings, remaining Site contamination is likely related to former gasoline service stations that operated on-Site from the 1930’s until the 2000’s and the presence of historic USTs and product lines not discovered or removed during tank removal activities in 2015 and 2019. Further investigation is required to fully evaluate sources of contamination and cleanup requirements.

Investigation locations and findings are shown on Figure 7. Referenced environmental reports are provided as separate PDF files, on the enclosed CD.

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**SECTION V – REQUESTOR INFORMATION**

The New York State Department of State's (NYSDOS) Corporation & Business Entity Database print-out for 1395 Group, LLC is attached.

Benchmark Civil/Environmental Engineering and Geology, PLLC, a registered NYS engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this BCP project.

1395 Group, LLC member information is attached.

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**1395 Delaware Avenue Site (BCP Site No. C915343)**

**SECTION IX – 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 |
|--|---|----------------------|---------------------------|
| <b>1395 Delaware Avenue</b>  |   |                      |                           |
| <b>Current Owner/Operator</b>  |   |                      |                           |
| 9187 Group, LLC<br>295 Main Street, Suite 210<br>Buffalo, New York 14203<br>716-854-0060             | Vacant                                  | June 2013 to Current | Applicant related Entity  |
| <b>Previous Owners/Operators</b>   |   |                      |                           |
| Christopher Polino<br>4583 Clark Street<br>Hamburg, NY 14075   | Gas station and auto service and repair | 2008 ~ 2013          | None - No relationship    |
| Robert S. Polino   | Gas station and auto repair service     | 1994 ~ 2008          | None - No relationship    |
| Socony Vacuum/Mobil Oil<br>130 Pearl Street<br>Buffalo, NY 14202<br>(Historic Address per municipal) | Gas station                             | 1935 ~ 1994          | None - No relationship    |
| Standard Oil Co.   | Gas station                             | 1930 ~ 1935          | None – No relationship    |
| Joseph M. Gohn   | Auto barn with gasoline tanks           | 1910 ~ 1930          | None – No relationship    |

**SECTION X – SITE ELIGIBILITY**

**SITE ENVIRONMENTAL SUMMARY**

- June 2013 - 9187 Group, LLC acquires property. No relationship to previous owners and/or operators. Previous Petroleum Bulk Storage (9-041602) and Spill (9410686) were closed by the Department at that time per the previous owners (Polina). At the

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**1395 Delaware Avenue Site (BCP Site No. C915343)**

time of purchase, 9187 Group, LLC was exploring the options of reopening the filling station.

- October 2015 – PBS 9-041602 Tank Closure Activities – 9187 Group, LLC closes two (2) USTs. Provides applicable notice, revised registration, and closure report. DEC approvals of removal activities.
- April 2018 – 9187 Group, LLC unable to finalize agreement to reopen filling station and begins preparing for alternative redevelopment. During Limited Phase II Environmental Investigation gross contamination was identified on-site, and NYSDEC Spill hotline is notified Spill No. 1800334.
- January 2019 – Based on results of Ltd. Phase II, 9187 Group, LLC submits Brownfield Cleanup Program (BCP) Application for the Site (C915343).
- February 2019 – Based upon the NYSDEC’s research of the history of the Site, it was discovered that the Site was subject to three outstanding enforcement actions (Notices of Violation) from March 12, 2015 (NYSDEC); July 21, 2017 (USEPA); and July 20, 2018 (NYSDEC). As a result, the BCP Application was denied by the NYSDEC in a letter dated February 27, 2019.
- September 2019 – 9187 Group, LLC removed the remaining three (3) USTs, identified as Tank 1, Tank 2, and Tank 3 from the Site, with notification provided to the NYSDEC prior to removal activities to address the Notices of Violation (NOVs). Upon removal, a Tank Removal Activities Letter Report, dated September 16, 2019, was prepared with supporting information and PBS Closure Form included. The USTs were classified as “closed-removed” by the NYSDEC on September 9, 2019, and this information was added to the Spill file. Subsequent testing of the tank farm area revealed residual contamination above CP-51 Soil Cleanup Levels (SCLs).
- January 2020 – An Expedited Settlement Agreement, dated January 15, 2020, was issued by the United States Environmental Protection Agency (USEPA) indicating all violations cited in the Proposed Expedited Settlement Agreement were corrected and no civil penalties would be enforced.

At that time, all NOVs were addressed and closed by the NYSDEC and USEPA. It is our understanding, based on correspondence between the Department’s counsel (Ms. Jennifer

**Brownfield Cleanup Program Application**  
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Dougherty, Esq.) and applicants counsel (Mr. Craig Slater, Esq. – since retired), that with the NOV's resolved, the Site would be eligible to reapply to the NYS BCP to investigate, remediate and redevelop the Site.

During the BCP Pre-Application meeting with NYSDEC Region 9 staff in November 2022, the Site eligibility was discussed and concurred with the previous opinion that the Site would be eligible for acceptance into the BCP.

**SECTION XI – 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.

*Erie County Contacts:*

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

Honorable April N.M. Baskins  
Erie County Legislator – District 2  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Daniel Castle, AICP  
Commissioner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Thomas E. Baines, Esq.  
Deputy Commissioner of Planning & Economic  
Development  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Mark Rountree  
Chief Planner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Ms. Bonnie Lawrence  
Deputy Commissioner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202



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Mr. Robert M. Graber  
Erie County Legislature Clerk  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. John Cappellino  
Erie County Industrial Development Agency  
95 Perry Street, Suite 403  
Buffalo, NY 14203

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Ms. Gale Burstein, MD, MPH, FAAP  
Commissioner of Health  
Erie County Department of Health  
95 Franklin Street  
Buffalo, NY 14202

Mr. Daniel J. Neaverth, Jr.  
Commissioner  
Erie County Department of Homeland Security  
& Emergency Services  
45 Elm Street  
Buffalo, NY 14203

*City of Buffalo Contacts:*

Byron Brown, Mayor  
City of Buffalo  
65 Niagara Square, Room 201  
Buffalo, NY 14202

Darius G. Pridgen  
Ellicott District  
65 Niagara Square, Room 1315  
Buffalo, NY 14202

James K. Morrell, Chairman  
City of Buffalo  
Planning Board  
65 Niagara Square  
Buffalo, NY 14202

*Supplier of Potable Water:*

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

*Local News Media:*

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

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

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

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

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

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

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

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

*Nearby Schools:*

Ms. Jody Covington  
Principal  
PS 192 Buffalo Academy for Visual and  
Performing Arts  
450 Masten Ave.  
Buffalo, NY 14209

Colleen Robertson  
Principal  
Nardin Academy  
135 Cleveland Avenue  
Buffalo, NY 14222

Terence Jenkins  
Principal  
PS 305 McKinley High School  
1500 Elmwood Avenue  
Buffalo, NY 14207

Mr. Tom Coppola  
Principal  
Canisius High School  
1180 Delaware Avenue  
Buffalo, NY 14209

Ms. Marianna Cecchini  
Principal  
PS 17 Early Childhood Center  
1045 West Delavan Avenue  
Buffalo, NY 14209

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*Nearby Day Care Centers:*

Nanny's Nook Quality Daycare Center,  
Inc.  
1495 Jefferson Ave.  
Buffalo, NY 14208

It Takes a Village CCC  
67 Hamlin Rd.  
Buffalo, NY 14208

Sweet Pea Family Daycare Inc.  
94 Donaldson Rd.  
Buffalo, NY 14208

*Other Interested Parties:*

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

*Document Repository:*

Ms. April Tompkins  
Re: Document Repository  
Buffalo & Erie County Public Library  
1 Lafayette Square  
Buffalo, NY 14203

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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 4).

| ADJACENT PROPERTY ADDRESS |                     |                           | PROPERTY OWNER MAILING ADDRESS  |
|---------------------------|---------------------|---------------------------|---|
| NO.                       | STREET              | PROPERTY USE              |   |
| 1389                      | DELAWARE AVENUE     | RESTAURANT                | 1389 DELAWARE LLC.<br>1499 HERTEL AVE.<br>BUFFALO, NY 14216                               |
| 1390                      | DELAWARE AVENUE     | MINIMART                  | SUNOCO LLC.<br>C/O K.E. ANDREWS & CO.<br>1900 DARLOCK RD.<br>ROWLETT, TX 75088            |
| 1410                      | DELAWARE AVENUE     | RETAIL                    | SPIRIT MASTER FUNDING LLC.<br>C/O RITE AID CORP.<br>P.O. BOX 3165<br>HARRISBURG, PA 17105 |
| 885                       | WEST DELAVAN AVENUE | ONE STORY SMALL STRUCTURE | 9187 GROUP, LLC<br>295 MAIN STREET, SUITE 700<br>BUFFALO, NY 14203                        |
| 2062                      | MAIN STREET         | CEMETERY                  | BUFFALO CITY CEMETERY<br>1411 DELAWARE AVE.<br>BUFFALO, NY 14209                          |

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 attached.

## TABLE

Table 1      Summary of Soil/Fill Sample Analytical Results

**Table 1**

**Summary of Soil/Fill Sample Analytical Results**

**1395 Delaware Avenue Site  
BCP Site No. C915343  
Buffalo, New York**

| <b>Analytes Exceeding RRSCOs</b>                | <b>Detections Exceeding RRSCOs</b>     | <b>Maximum Detection (ppm)</b> | <b>RRSCO (ppm)</b>      | <b>Depth (fbgs)</b> |
|---|--|--------------------------------|-------------------------|---------------------|
| <b>Phase II Soil/Fill Investigation Results</b> |  |                                |                         |                     |
| 1,2,4-Trimethylbenzene                          | 2                                      | 120                            | 52                      | 2-4; 6-8            |
| Benzo(a)anthracene                              | 3                                      | 4.3                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(a)pyrene                                  | 3                                      | 4.3                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(b)fluoranthene                            | 3                                      | 4.5                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(k)fluoranthene                            | 1                                      | 4.3                            | 3.9                     | 0.5-2.5             |
| Chrysene  | 1                                      | 5.2                            | 3.9                     | 0.5-2.5             |
| Indeno(1,2,3-cd)pyrene                          | 3                                      | 3.1                            | 0.5                     | 0.5-2.5; 0.5-1.5    |
| Lead  | 1                                      | 479                            | 400                     | 0.5-2.5             |
| <b>Analytes Exceeding CP-51 SCLs</b>            | <b>Detections Exceeding CP-51 SCLs</b> | <b>Maximum Detection (ppm)</b> | <b>CP-51 SCLs (ppm)</b> | <b>Depth (fbgs)</b> |
| <b>Phase II Soil/Fill Investigation Results</b> |  |                                |                         |                     |
| 1,2,4-Trimethylbenzene                          | 4                                      | 120                            | 3.6                     | 2-4; 6-8            |
| 1,3,5-Trimethylbenzene                          | 3                                      | 22                             | 8.4                     | 2-4; 6-8            |
| Ethylbenzene                                    | 4                                      | 15                             | 1                       | 2-4; 6-8            |
| n-Propylbenzene                                 | 1                                      | 5.9                            | 3.9                     | 2-4                 |
| Toluene   | 2                                      | 1.1                            | 0.7                     | 2-4; 6-8; 8-10      |
| Xylenes, Total                                  | 5                                      | 88                             | 0.26                    | 2-4; 6-8; 8-10      |
| Benzo(a)anthracene                              | 3                                      | 4.3                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(a)pyrene                                  | 3                                      | 4.3                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(b)fluoranthene                            | 3                                      | 4.5                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Benzo(k)fluoranthene                            | 3                                      | 4.3                            | 0.8                     | 0.5-2.5; 0.5-1.5    |
| Chrysene  | 3                                      | 5.2                            | 1                       | 0.5-2.5; 0.5-1.5    |
| Indeno(1,2,3-cd)pyrene                          | 3                                      | 2.1                            | 0.5                     | 0.5-2.5; 0.5-1.5    |

**Definitions:**

RRSCO = 6 NYCRR Part 375 Restricted-Residential Use Soil Cleanup Objective (SCO)

CP-51 SCL = NYSDEC Commissioner Policy (CP) 51 Soil Cleanup Level (SCL)

ppm = parts per million

fbgs = feet below ground surface

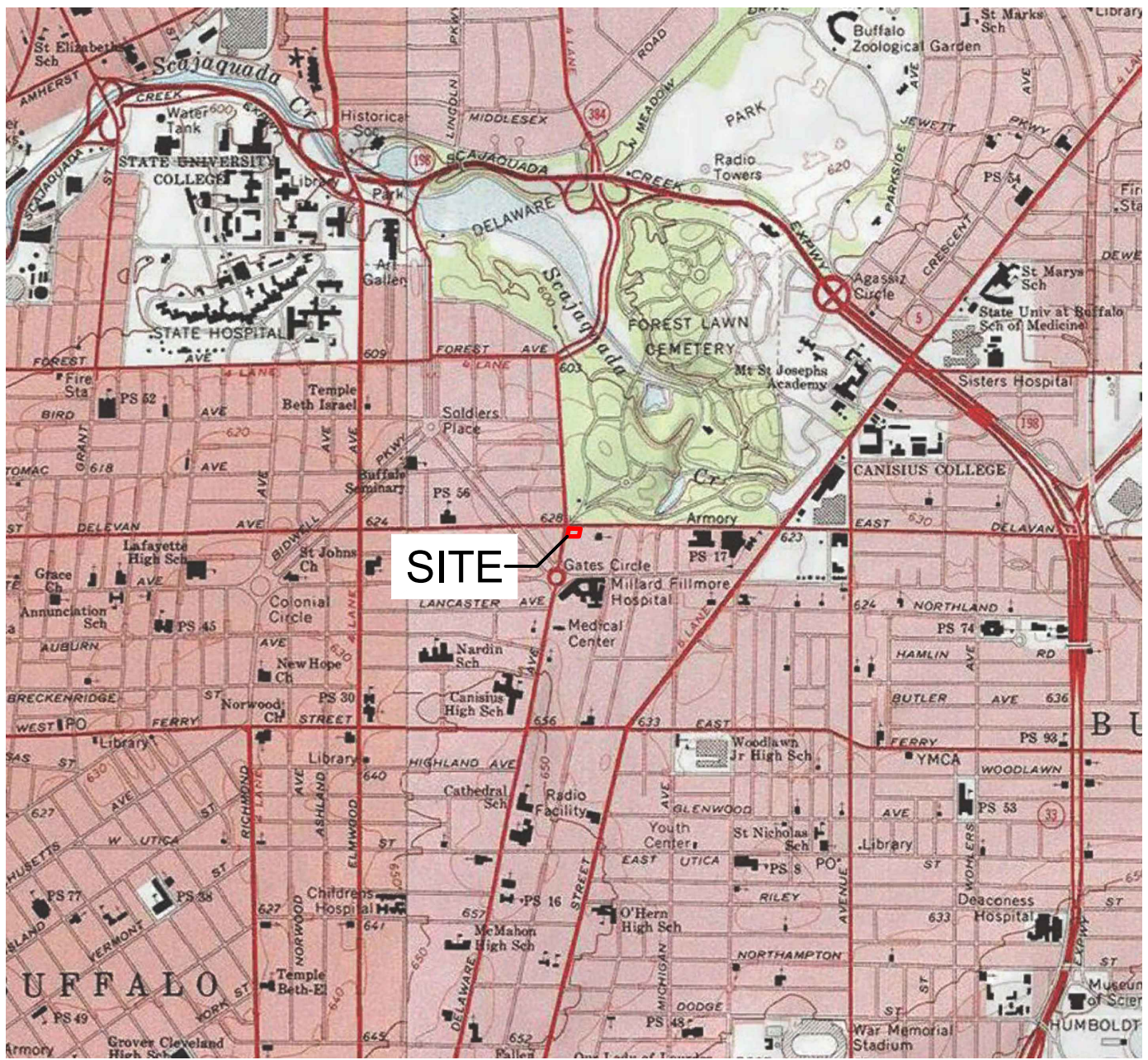


## FIGURES

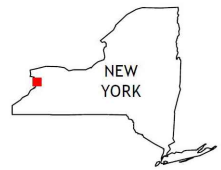
- |          |   |
|----------|---|
| Figure 1 | Site Location and Vicinity Map                        |
| Figure 2 | Site Plan (Aerial)                                    |
| Figure 3 | Tax Map   |
| Figure 4 | Adjacent Property Owners                              |
| Figure 5 | Zoning Map  |
| Figure 6 | USDA Soil Type Map                                    |
| Figure 7 | Historic Investigation Locations and Areas of Concern |
| Figure 8 | Preliminary Project Schedule                          |

FIGURE 1

F:\CAD\TurnKey\Elicott Development\1395 Delaware BCP 2023\Figure 1: Site Location and Vicinity Map 2023.dwg



SCALE: 1 INCH = 2000 FEET  
SCALE IN FEET  
(approximate)



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

PROJECT NO.: B0136-018-005

DATE: MAY 2023

DRAFTED BY: CMS

## SITE LOCATION AND VICINITY MAP

### BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE

BCP SITE NO. C915343

BUFFALO, NEW YORK

PREPARED FOR

1395 GROUP, LLC

**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



FIGURE 2

F:\CAD\TurnKey\Ellcott Development\1395 Delaware\BCP 2023\Figure 2: Site Plan (Aerial).2023.dwg



SCALE: 1 INCH = 30 FEET  
SCALE IN FEET  
(approximate)

**LEGEND:**  
BCP SITE BOUNDARY  
PARCEL BOUNDARY



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

|              |               |
|--------------|---------------|
| PROJECT NO.: | B0136-018-005 |
| DATE:        | MAY 2023      |
| DRAFTED BY:  | CMS           |

**SITE PLAN (AERIAL)**

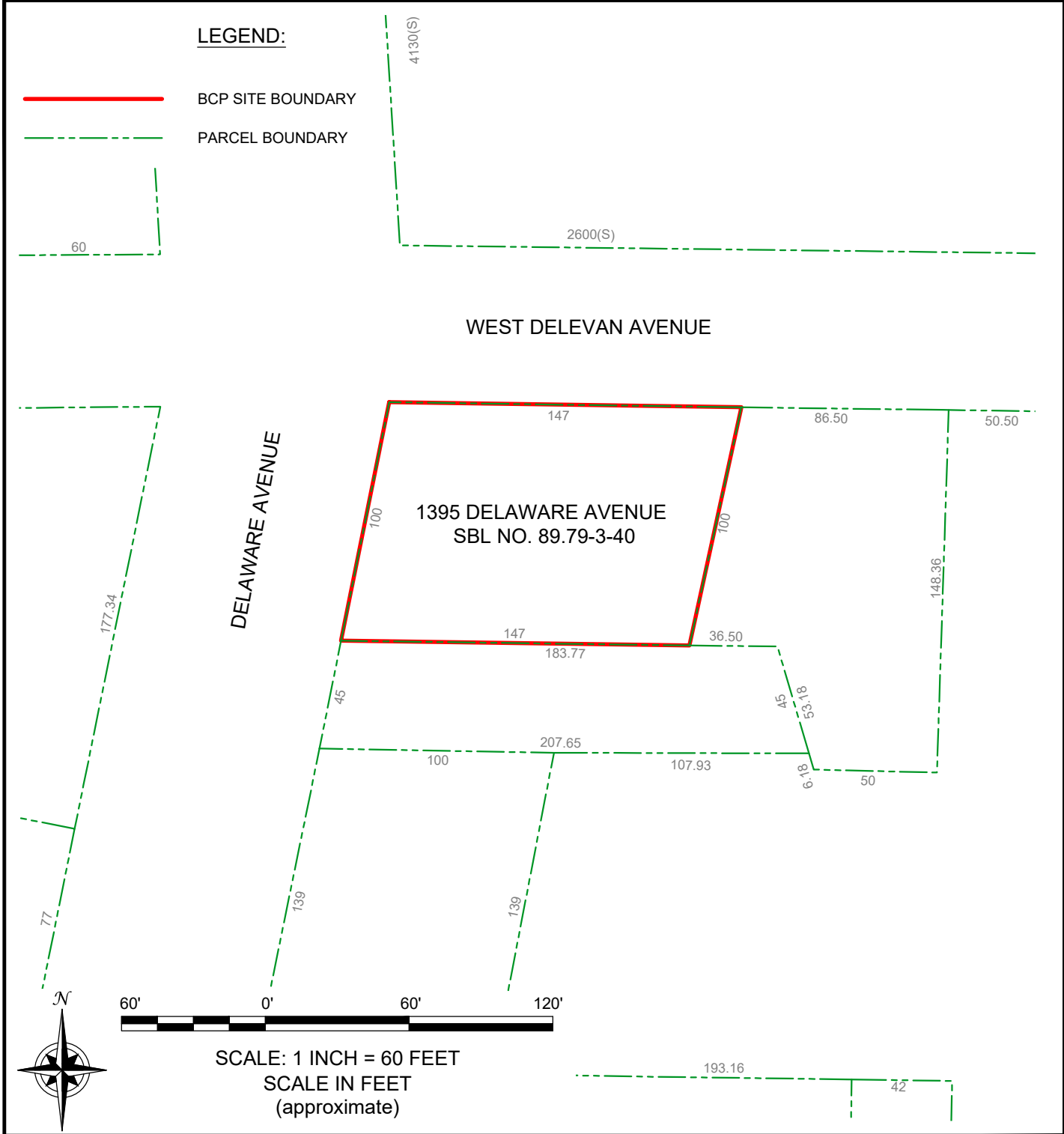
BROWNFIELD CLEANUP PROGRAM APPLICATION



1395 DELAWARE AVENUE SITE  
BCP SITE NO. C915343  
BUFFALO, NEW YORK  
PREPARED FOR  
1395 GROUP, LLC

**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

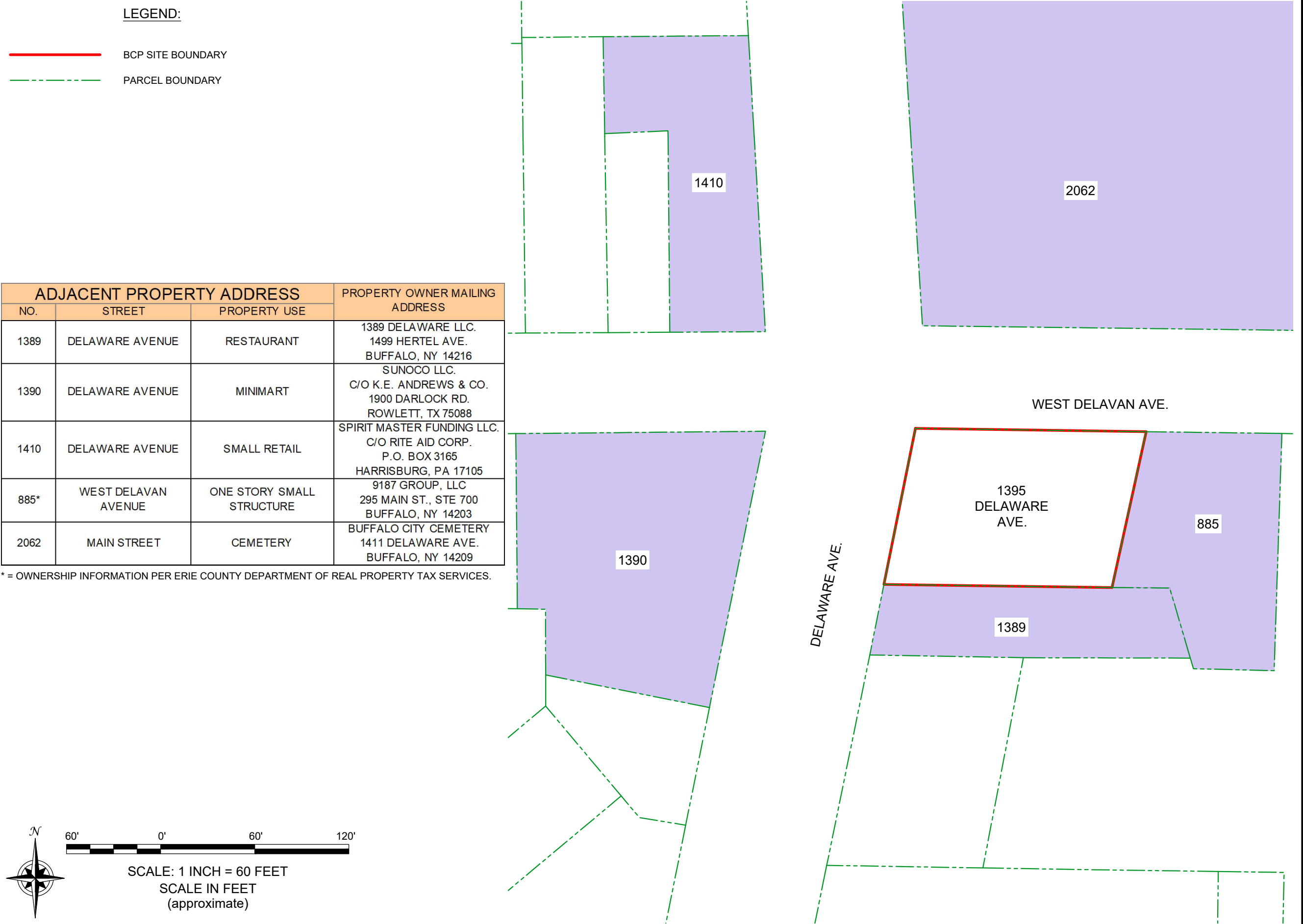
FIGURE 3

F:\CAD\TurnKey\Ellcott Development\1395 Delaware\BCP 2023\Figure 3: Tax Map.dwg



|  |  |
|--|--|
| <br>IN ASSOCIATION WITH<br><br>2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599 | <p><b>TAX MAP</b></p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>1395 DELAWARE AVENUE SITE<br/>BCP SITE NO. C915343<br/>BUFFALO, NEW YORK<br/>PREPARED FOR<br/>1395 GROUP, LLC</p> |
| PROJECT NO.: B0136-018-005   |  |
| DATE: MAY 2023   |  |
| DRAFTED BY: CMS  |  |

**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



IN ASSOCIATION WITH

BENCHMARK

TURNKEY ENVIRONMENTAL RESTORATION, LLC

2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218,  
(716) 856-0599  
JOB NO.: B0136-018-005

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE  
BCP SITE NO. C915343  
BUFFALO, NEW YORK  
PREPARED FOR  
1395 GROUP, LLC

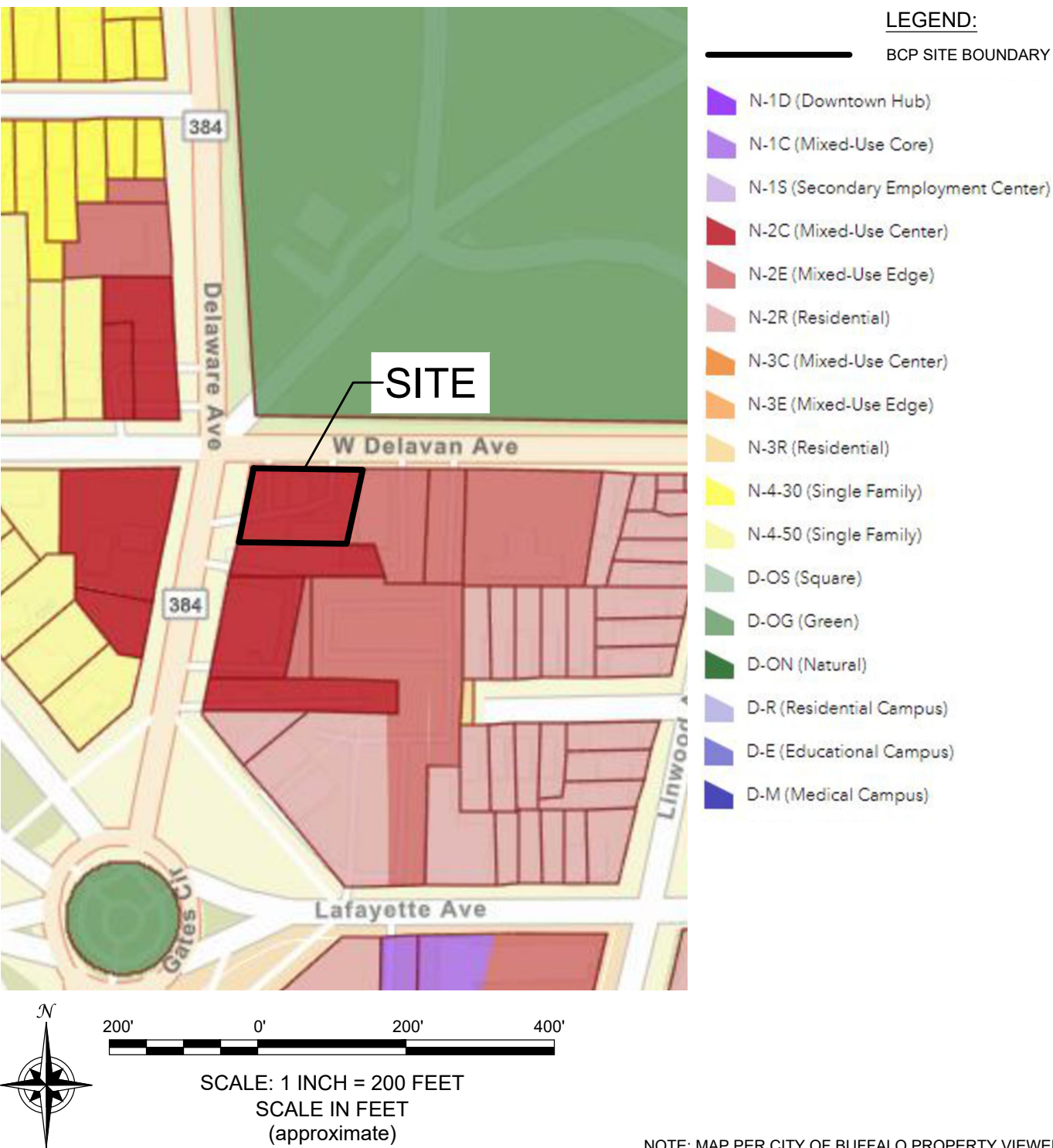
FIGURE 4

DISCLAIMER: PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



FIGURE 5

F:\CAD\TurnKey\Ellcott Development\1395 Delaware BCP 2023\Figure 5: Zoning Map.dwg, cschuster



IN  
ASSOCIATION  
WITH



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

PROJECT NO.: B0136-018-005

DATE: MAY 2023

DRAFTED BY: CMS

## ZONING MAP

### BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE

BCP SITE NO. C915343

BUFFALO, NEW YORK

PREPARED FOR

1395 GROUP, LLC

**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

FIGURE 6

F:\CAD\TurnKey\Ellcott Development\1395 Delaware\BCP 2023\Figure 6: USDA Soil Type Map.dwg, cschuster

LEGEND:



BCP SITE BOUNDARY

| MAP UNIT LEGEND |  |
|-----------------|--|
| MAP UNIT SYMBOL | MAP UNIT NAME                                      |
| UmA             | URBAN LAND-COLLAMER COMPLEX, 1 TO 6 PERCENT SLOPES |
| CsA             | COLLAMER SILT LOAM, 0 TO 3 PERCENT SLOPES          |
| CsB             | COLLAMER SILT LOAM, 3 TO 8 PERCENT SLOPES          |



SCALE: 1 INCH = 100 FEET  
SCALE IN FEET  
(approximate)

NOTE: MAP PER USDA NRCS WEBSOIL SURVEY, JANUARY 2023



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

PROJECT NO.: B0136-018-005

DATE: MAY 2023

DRAFTED BY: CMS

USDA SOIL TYPE MAP

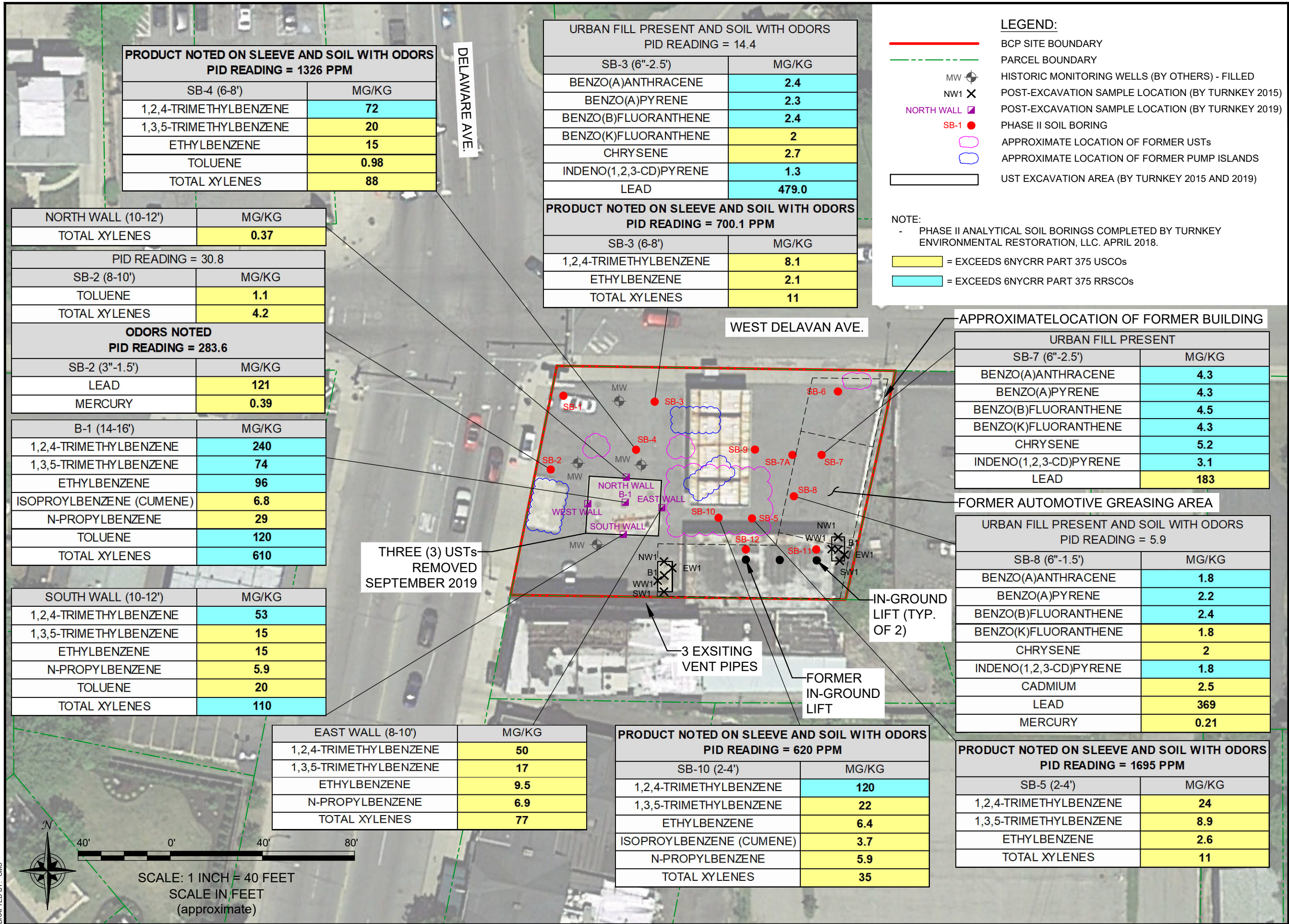
BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE  
BCP SITE NO. C915343  
BUFFALO, NEW YORK

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1395 GROUP, LLC

**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, 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 CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.





## HISTORIC INVESTIGATION LOCATIONS AND AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE

BCP SITE NO. C915343

BUFFALO, NEW YORK

PREPARED FOR

1395 GROUP, LLC



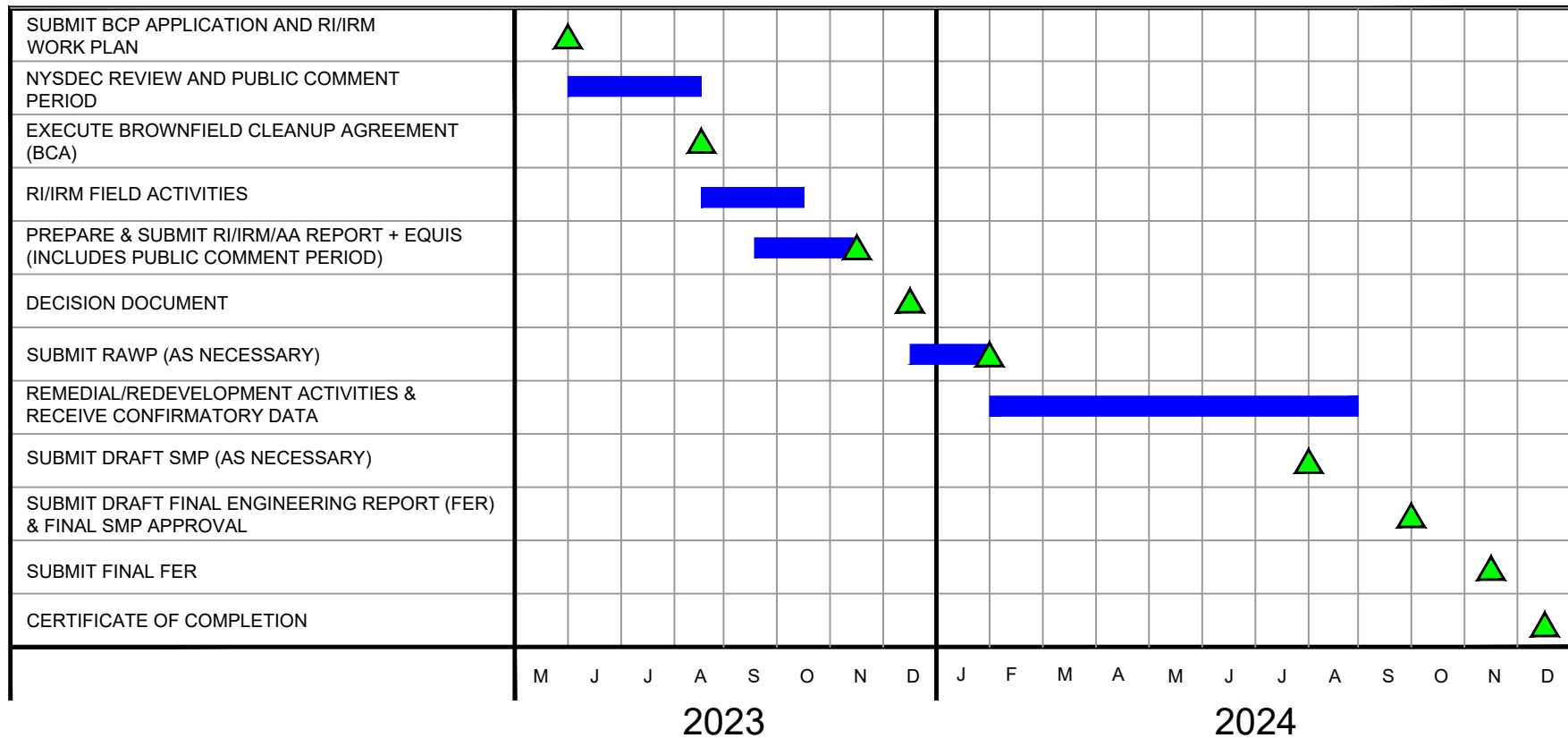
2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218,  
(716) 856-0599

JOB NO.: B0136-018-005

FIGURE 7



### PROJECT TASKS:



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

PROJECT NO.: B0136-018-005

DATE: MAY 2023

DRAFTED BY: CMS

## PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

1395 DELAWARE AVENUE SITE  
BCP SITE NO. C915343  
BUFFALO, NEW YORK

PREPARED FOR  
1395 GROUP, LLC

## FIGURE 8

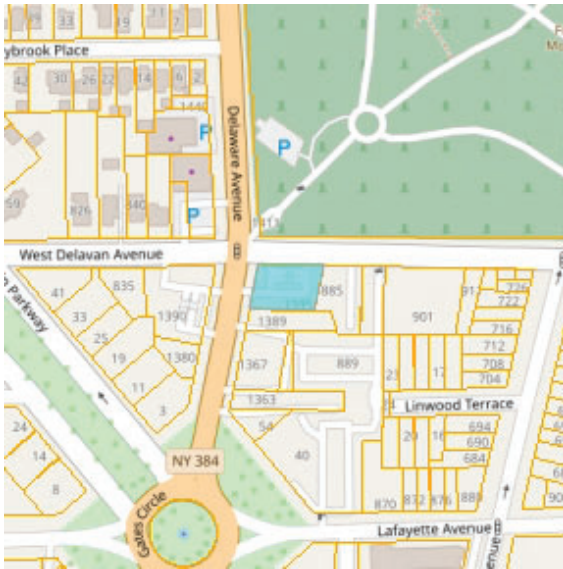
**DISCLAIMER:** PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING & GEOLOGY, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC **IMPORTANT:** THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED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

# ATTACHMENTS

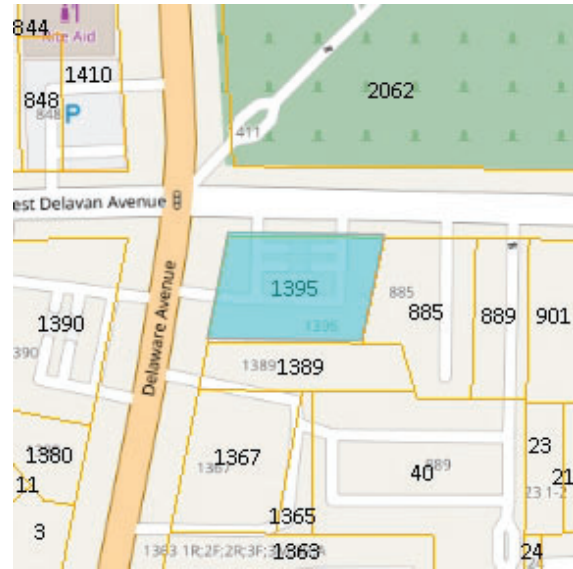
# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
5/11/2023 10:09:39 AM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1402000897900003040000

**SBL:** 89.79-3-40

**Address:** 1395 DELAWARE

**Owner 1:** 9187 GROUP LLC

**Owner 2:**

**Mailing Address:** 295 MAIN ST

**City/Zip:** BUFFALO NY 14203

**Municipality:** City of Buffalo

**Property Class:** 432

**Class Description:** C - Gas station

**Front:** 100

**Depth:** 147

**Deed Roll:** 1

**Deed Book:** 11247

**Deed Page:** 9153

**Deed Date:**

**Acreage:** 0.33464496

**Total Assessment:** \$825,000

**Land Assessment:** \$147,000

**County Taxes:** \$825,000

**Town Taxes:** \$0

**School Taxes:** \$0

**Village Taxes:** \$0

**School District:** CITY OF BUFFALO

**Year Built:** 0

**Sqft Living Area:** 0

**Condition:** 0

**Heating:** 0

**Basement:** 0

**Fireplace:** 0

**Beds:** 0

**Baths:** 0

# Department of State

## Division of Corporations

### Entity Information

[Return to Results](#)[Return to Search](#)

#### Entity Details



|  |  |
|--|--|
| <b>ENTITY NAME:</b> 1395 GROUP, LLC  | <b>DOS ID:</b> 6688747                           |
| <b>FOREIGN LEGAL NAME:</b>   | <b>FICTITIOUS NAME:</b>                          |
| <b>ENTITY TYPE:</b> DOMESTIC LIMITED LIABILITY COMPANY   | <b>DURATION DATE/LATEST DATE OF DISSOLUTION:</b> |
| <b>SECTION OF LAW:</b> LIMITED LIABILITY COMPANY LAW - 203<br>LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY<br>COMPANY LAW | <b>ENTITY STATUS:</b> ACTIVE                     |
| <b>DATE OF INITIAL DOS FILING:</b> 01/04/2023  | <b>REASON FOR STATUS:</b>                        |
| <b>EFFECTIVE DATE INITIAL FILING:</b> 01/04/2023   | <b>INACTIVE DATE:</b>                            |
| <b>FOREIGN FORMATION DATE:</b>   | <b>STATEMENT STATUS:</b> CURRENT                 |
| <b>COUNTY:</b> ERIE  | <b>NEXT STATEMENT DUE DATE:</b> 01/31/2025       |
| <b>JURISDICTION:</b> NEW YORK, UNITED STATES   | <b>NFP CATEGORY:</b>                             |

[ENTITY DISPLAY](#) [NAME HISTORY](#) [FILING HISTORY](#) [MERGER HISTORY](#) [ASSUMED NAME HISTORY](#)

Service of Process on the Secretary of State as Agent

**The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:**

**Name:** 1395 GROUP, LLC

**Address:** 295 MAIN STREET, SUITE 700, BUFFALO, NY, UNITED STATES, 14203

**Electronic Service of Process on the Secretary of State as agent:** Not Permitted

Chief Executive Officer's Name and Address

**Name:**

**Address:**

Principal Executive Office Address

**Address:**

Registered Agent Name and Address

**Name:**

**Address:**

Entity Primary Location Name and Address

**Name:**

**1395 Group, LLC**

**JOINT UNANIMOUS WRITTEN CONSENT  
OF THE MEMBERS AND MANAGER**

May 2, 2023

The undersigned and Members of **1395 Group, 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 **Mr. William Paladino** (an "Authorized Person") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Company, to execute the Brownfield Cleanup Program (BCP) Application, the Brownfield Cleanup Agreement (BCA), 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 located at 1395 Delaware Avenue, Erie County, 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 Company as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolution; and be it further

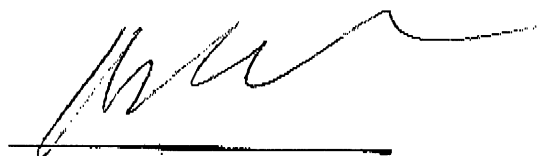
RESOLVED, that any acts of any officer of the Company and of any persons designated and authorized to act by any such officer of the Company, which acts would have been authorized by the forgoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally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

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

9187 GROUP, LLC

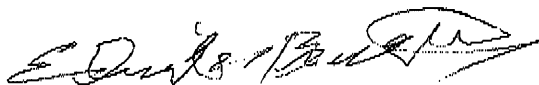
By:  \_\_\_\_\_

Name: William Paladino, its Manager



Name: Kevin Brinkworth

Member



Name: Elizabeth Brinkworth

Member

May 3, 2023

Ms. Kelly Lewandowski, P.E.  
Chief, Site Control Section  
NYSDEC - Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

Re: Property Access Authorization  
NYS Brownfield Cleanup Program (BCP)  
1395 Delaware Avenue Site  
BCP Site No. C915343  
Buffalo, New York

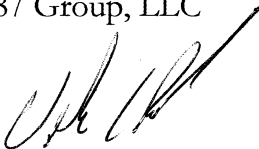
Dear Ms. Lewandowski:

Please be advised that 9187 Group, LLC currently owns the 1395 Delaware Avenue parcel. 9187 Group, LLC is aware of and acknowledges that 1395 Group, LLC will be filing an application to enter the NYS BCP and, subsequent to acceptance into the BCP, will be executing a Brownfield Cleanup Program Agreement ("BCA") with the NYS Department of Environmental Conservation for environmental investigation and/or remediation of the Site.

9187 Group, LLC hereby authorizes 1395 Group, LLC (and any of its designated contractors and consultants) unlimited access to the Site to perform any required work related to and necessary to secure a Certificate of Completion under the BCP, including placing an Environmental Easement on the Site, provided all activities are completed in accordance with NYSDEC requirements and the provisions of the BCP and the BCA.

Sincerely,

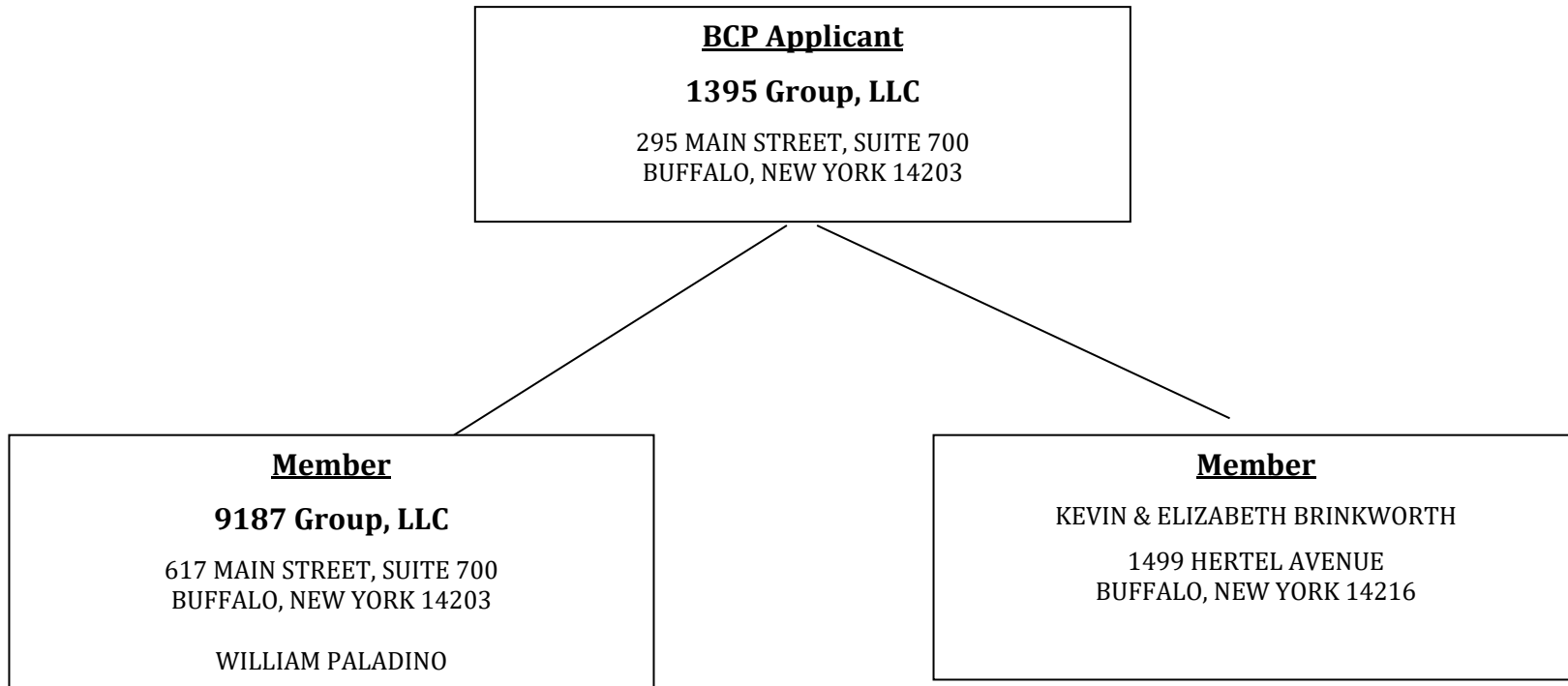
9187 Group, LLC



Mr. William Paladino,  
Managing Member

1395 DELAWARE AVENUE SITE

ORGANIZATIONAL CHART







May 3, 2023

Ms. April Tompkins  
Repository Documents  
Buffalo & Erie County Public Library  
1 Lafayette Square  
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program  
1395 Delaware Avenue Site  
BCP Site No. C915343  
Buffalo, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Civil/Environmental Engineering & Geology, 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 Civil/Environmental Engineering & Geology, PLLC  
TurnKey Environmental Restoration, LLC

A handwritten signature in blue ink that reads "Chad M. Schuster".

Chad M. Schuster  
Environmental Scientist

File: 0136-018-005

[www.benchmarkturnkey.com](http://www.benchmarkturnkey.com)

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

## Chad Schuster

---

**From:** April Tompkins <tompkinsa@buffalolib.org>  
**Sent:** Wednesday, May 3, 2023 4:07 PM  
**To:** Chad Schuster  
**Subject:** RE: Document Repository Request / Permission for 1395 Delaware Ave Site  
**Attachments:** 1395 Delaware Ave Site - Document Repository Request.pdf

Good afternoon Chad,

Per your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all documents (and updates) submitted by your company for the Brownfield Cleanup Program at the **1395 Delaware Avenue Site, Buffalo, New York**. These documents will be made available for public viewing at the **Central (downtown) Library** and/or any other library of your choice. Please refer to our procedure below.

We prefer that you do not take and/or send documents to individual libraries. Please bring or send your documents and cover letter to the Central Library. We will process according to our procedure and distribute to the location(s) of your choice. **If you would like a confirmation that your documents were received, you will need to include the request in your cover letter and provide an email address.**

Please keep the following in mind:

- Documents (including updates) for public viewing should be either brought in person (to my attention) to the Central Library's administrative reception desk located on the second floor or sent via mail carrier. Documents sent via e-mail will not be accepted. The mailing address is:

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

- Documents are made available usually within three business days after receipt, excluding weekends and holidays. Documents for the Central/Downtown library are located on the first floor in the Information Services Department.
- If you would like the documents distributed at **libraries other than Central**, you will need to send or give us the appropriate quantity of copies with labels or a list regarding their destination(s). We will distribution accordingly. We do not make copies for distribution.
- Documents that cannot be stapled, should be kept together in some type of binder. Please do not send 'loose' papers, especially if including a cd or flash drive.
- You have the choice regarding the format (hard copy print and/or disk or flash drive) you wish to submit. If submitting in more than one format (ex: print and disk), please be sure that they are titled/labeled accordingly. **If cd's or flash drives are included, please secure to the corresponding printed document(s) to prevent it from getting lost or separated.** Although CD-ROMs cannot be used on public library computers, patrons may bring in their personal laptop to view the disk in-house. Public computers do have USB ports. If optional, an alternative is the availability to go online using a provided link for patrons to read/print. Patrons are not allowed to take original repository documents out of the Library.

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

Regards,  
April

---

**From:** Chad Schuster <cschuster@bm-tk.com>  
**Sent:** Wednesday, May 3, 2023 2:22 PM  
**To:** April Tompkins <tompkinsa@buffalolib.org>  
**Subject:** RE: Document Repository Request / Permission for 1395 Delaware Ave Site

**CAUTION:** This email originated from outside of the Library. Attachment and links **may not be safe!**

Dear Ms. Tompkins:

Please find attached a letter of transmittal request that the Buffalo and Erie County Library act as the document repository for the **1395 Delaware Avenue Site (BCP Site No. C915343)**. Please note that this is an update to a previous request confirmed in 2019 (see below). Please respond at your earliest convenience and feel free to contact me if you have any questions.

Sincerely,

**Chad M. Schuster**  
*Engineer/Scientist*  
[cschuster@bm-tk.com](mailto:cschuster@bm-tk.com)

**Benchmark Civil/Environmental Engineering & Geology, PLLC**

[www.benchmarkturnkey.com](http://www.benchmarkturnkey.com)

2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218

Phone: (716) 856-0635, Cell: (716) 346-2818, Facsimile: (716) 856-0583

Strong Advocates | Effective Solutions | Integrated Implementation

---

**From:** April Tompkins <[tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)>  
**Sent:** Thursday, January 10, 2019 4:37 PM  
**To:** Chad Schuster <[CSchuster@benchmarkturnkey.com](mailto:CSchuster@benchmarkturnkey.com)>  
**Subject:** RE: Document Repository Request / Permission for 1395 Delaware Ave Site

Hello Chad,

Per our conversation, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all document(s) submitted by your company for the Brownfield Cleanup Program at the 1395 Delaware Avenue Site, Buffalo, New York, 14203. These documents will be made available for public review at the Central Library and/or any other library of your choice. Please refer to our procedure below.

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: