

Brownfield Cleanup Program Application

*100 Botsford Place
Buffalo, New York*

Revised March 2020

0136-018-004

Prepared For:

5001 Group, LLC



Prepared By:



2558 Hamburg Turnpike, Suite 300, Buffalo, New York | phone: (716) 856-0635 | fax: (716) 856-0583



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

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

Yes No If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) BCP App Rev 10

Section I. Requestor Information - See Instructions for Further Guidance DEC USE ONLY BCP SITE #: NAME 5001 Group, LLC 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 Is the requestor authorized to conduct business in New York State (NYS)? Do all individuals that will be certifying documents meet the requirements detailed below?

Section II. Project Description 1. What stage is the project starting at? Investigation Remediation NOTE: If the project is proposed to start at the remediation stage, a Remedial Investigation Report (RIR) at a minimum is required to be attached, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Work Plan are also attached (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, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): Yes No NA 3. Please attach a short description of the overall development project, including: the date that the remedial program is to start; and the date the Certificate of Completion is anticipated.

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). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

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			
Chlorinated Solvents			
Other VOCs			
SVOCs			
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 6
- **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 checked="" type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: Wood treatment/preservation _____

Section IV. Property Information - See Instructions for Further Guidance

PROPOSED SITE NAME 100 Botsford Place

ADDRESS/LOCATION 96 Botsford Place

CITY/TOWN Buffalo ZIP CODE 14216

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

COUNTY Erie SITE SIZE (ACRES) 0.76

LATITUDE (degrees/minutes/seconds)	LONGITUDE (degrees/minutes/seconds)
42 ° 57 ' 5.09 "	-78 ° 52 ' 30.73 "

Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed, 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 far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section No.	Block No.	Lot No.	Acreage
96 Botsford Place	78.54	5	6.1	0.76

1. Do the proposed site boundaries correspond to tax map metes and bounds? Yes No
 If no, please attach an accurate map of the proposed site. See Appendix A; Section IV

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

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
See Figure 7 If yes, identify census tract : 50
 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

<u>Easement/Right-of-way Holder</u>	<u>Description</u>
None/Unknown	

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

<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>
Chemical Bulk Storage	NYSDEC	9-000229 (closed)
RCRA Generator	USEPA	NYD067527515

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

Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? Yes No
 If yes, requestor must answer questions on the supplement at the end of this form. Not Applicable

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? Yes No
Not Applicable

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
Not Applicable

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: uxy _____

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 #: _____
--	---

NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE 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. Thomas Forbes		
ADDRESS 2558 Hamburg Turnpike		
CITY/TOWN Buffalo	ZIP CODE 14218	
PHONE 716-856-0635	FAX 716-856-0583	E-MAIL tforbes@bm-tk.com
NAME OF REQUESTOR'S ATTORNEY Mr. Craig Slater, Esq		
ADDRESS 500 Seneca Street, Suite 504		
CITY/TOWN Buffalo	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 5001 Group, LLC		OWNERSHIP START DATE: 4/27/2016
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 Same as Requestor
<p>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".</p> <p style="text-align: center; color: red; border: 1px solid red; display: inline-block; padding: 2px;">See Appendix B: Section VI</p> <p>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.</p>		

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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Section VII. Requestor Eligibility Information (continued)

CBS Notice of Violation (CBS # 9-000229 - closed), Request for Information (NYD067527515)

- 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 **Not Applicable**

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. Yes No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? Yes No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? Yes No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? Yes No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? Yes No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information **See Appendix B; Section IX**

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property. **See Figure 8**
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **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 X. Land Use Factors See Appendix B; Section X

1. What is the current municipal zoning designation for the site? D-S

What uses are allowed by the current zoning? (Check boxes, below) See Figure 9

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

See Appendix B; Section X

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

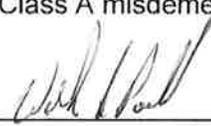
(By requestor who is an individual)

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 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: _____ Signature: _____
Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Authorized Member (title) of 5001 Group, 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: 2/6/20 Signature: 
Print Name: William Paladino (Authorized Member)

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 10

Not Applicable

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):	
<p>"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.</p>	
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:	
<p>(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</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(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</p> <p>(c) there are no structures.</p>	
<p>"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.</p>	

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

Not Applicable

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: 100 Botsford Place
City: Buffalo

Site Address: 96 Botsford Place
County: Erie **Zip:** 14216

Tax Block & Lot
Section (if applicable): 78.54 **Block:** 5 **Lot:** 6.1

Requestor Name: 5001 Group, LLC
City: Buffalo
Requestor Address: 295 Main Street, Suite 210
Zip: 14203 **Email:** bpaladino@ellicottdevelopment.com

Requestor's Representative (for billing purposes)
Name: William Paladino **Address:** 295 Main Street, Suite 210
City: Buffalo **Zip:** 14203 **Email:** bpaladino@ellicottdevelopment.com

Requestor's Attorney
Name: Mr. Craig Slater, Esq **Address:** 500 Seneca Street, Suite 504
City: Buffalo **Zip:** 14204 **Email:** cslater@cslaterlaw.com

Requestor's Consultant
Name: Mr. Thomas Forbes **Address:** 2558 Hamburg Turnpike
City: Buffalo **Zip:** 14218 **Email:** tforbes@bm-tk.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:

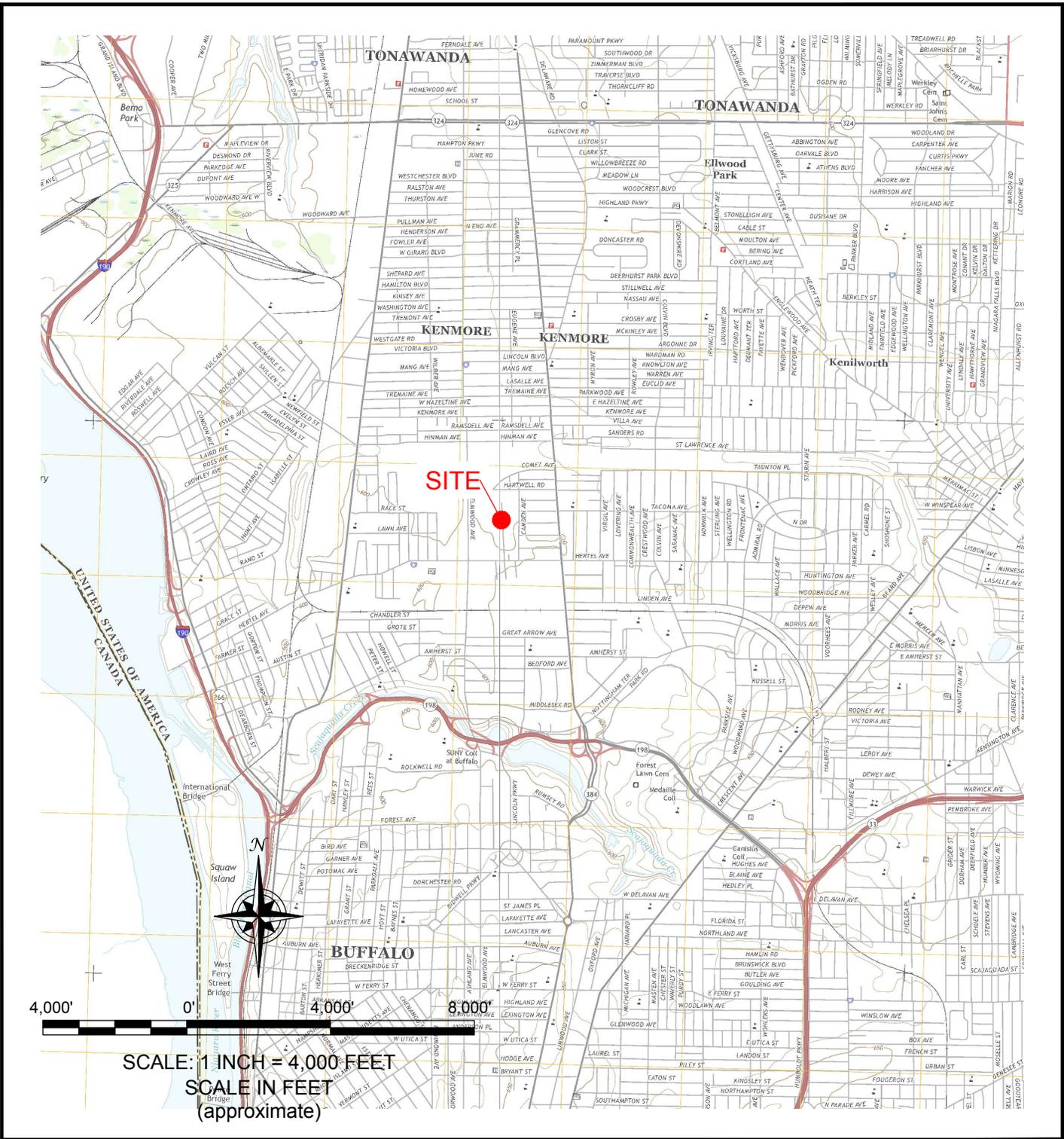
Does Requestor Claim Affordable Housing Status: Yes No Planned, No Contract

DER/OGC Determination: Agree Disagree Undetermined

Notes:

FIGURES

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



BENCHMARK
 ENVIRONMENTAL
 ENGINEERING &
 SCIENCE, PLLC

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

PROJECT NO.: T0136-018-004

DATE: DECEMBER 2019

DRAFTED BY: CCB

SITE LOCATION & VICINITY MAP
 BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
 BUFFALO, NEW YORK
 PREPARED FOR
 5001 GROUP, LLC

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

LEGEND:

 BCP BOUNDARY



SCALE: 1 INCH = 50 FEET
SCALE IN FEET
(approximate)



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

SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC

PROJECT NO.: T0136-018-004

DATE: DECEMBER 2019

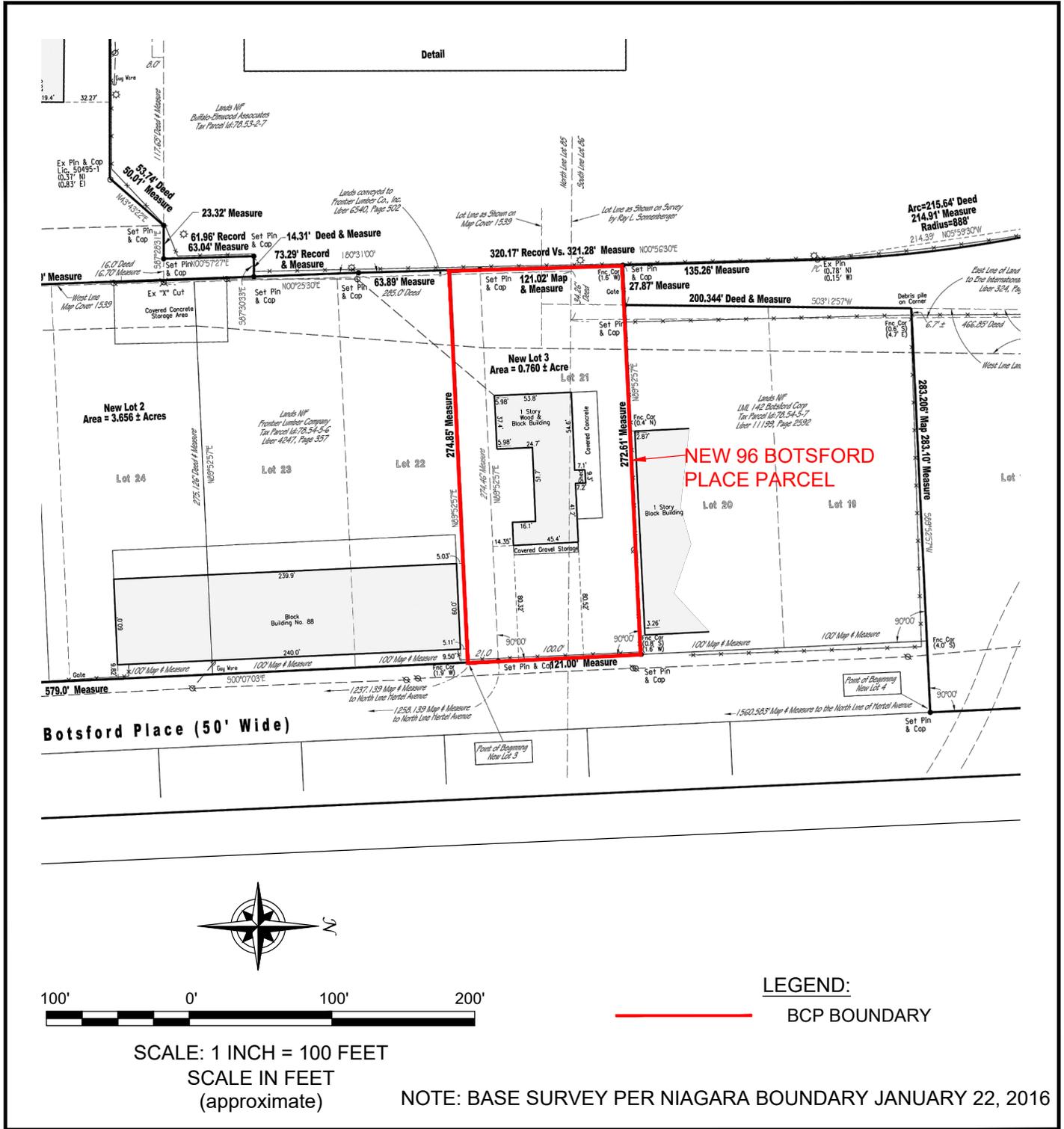
DRAFTED BY: CCB

FIGURE 2

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

FIGURE 3A

F:\CAD\TurnKey\Ellicott Development\100 Botsford Place - Woodtreater's\BCP Application\Figure 3A; Tax Map.dwg



BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC
 2558 HAMBURG TURNPIKE SUITE 300
 BUFFALO, NY 14218
 (716) 856-0599

PROJECT NO.: T0136-018-004
 DATE: FEBRUARY 2020
 DRAFTED BY: CCB

PARCEL MAP
 BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
 BUFFALO, NEW YORK
 PREPARED FOR
 5001 GROUP, LLC

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

LEGEND:

-  BCP BOUNDARY
-  PARCEL

ADDRESS: FORMER 0.03-ACRE PORTION OF
 2005 ELMWOOD AVENUE
 FORMER S.B.L.: 78.53-2-5.111
 FORMER OWNER: 5001 GROUP, LLC

ADDRESS: 96 BOTSFORD PLACE
 S.B.L.: 78.54-5-6.1
 OWNER: 5001 GROUP, LLC
 FORMER SIZE: 0.73-ACRES
 NEW SIZE: 0.76-ACRES

BCP SITE
 0.76- ACRES

BOTSFORD PL



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

TAX PARCEL SUBDIVISION MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
 BUFFALO, NEW YORK

PREPARED FOR
 5001 GROUP, LLC

FIGURE 3B



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

PROJECT NO.: T0136-018-004

DATE: MARCH 2020

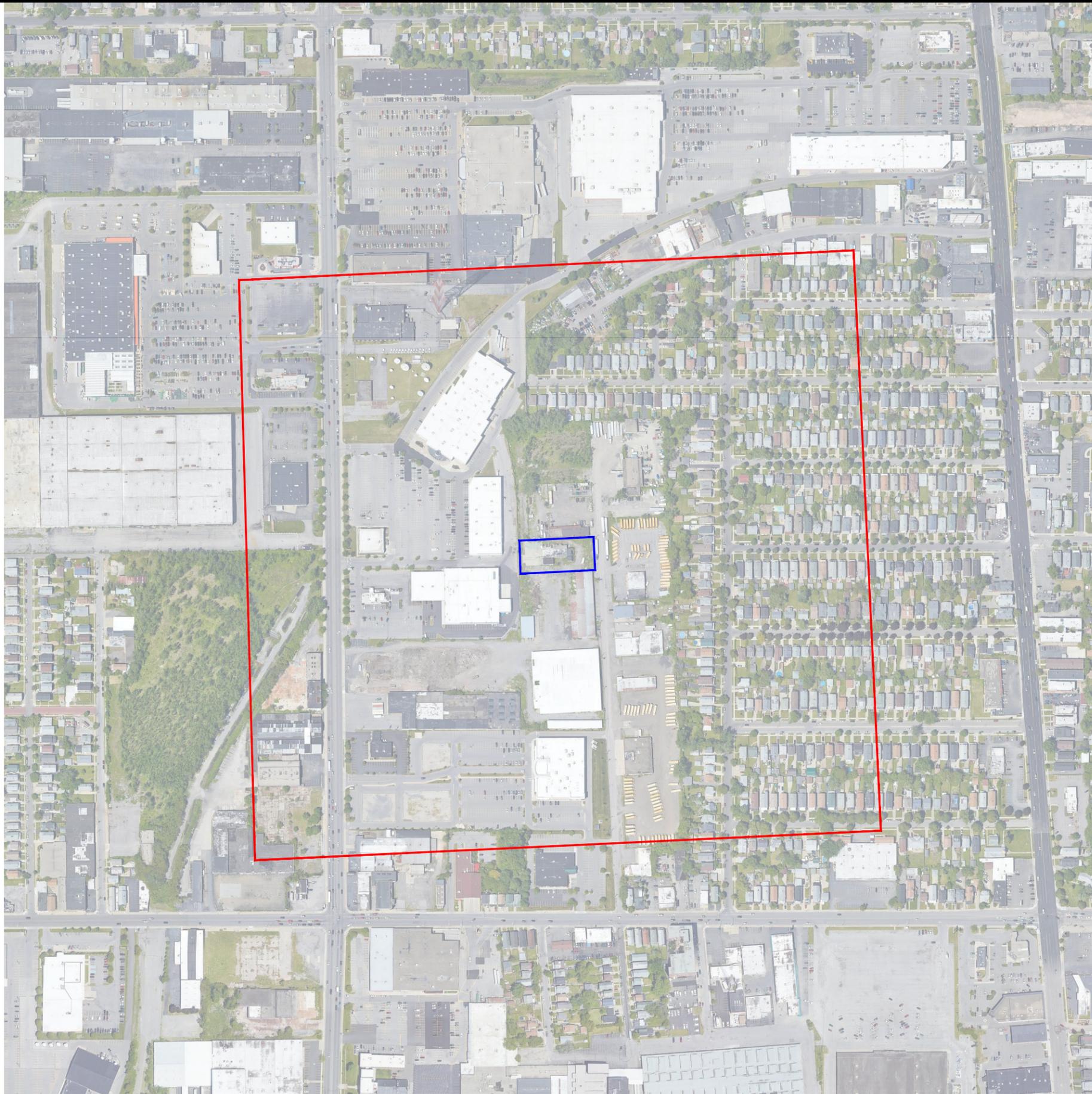
DRAFTED BY: CCB

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

LEGEND:
 BCP BOUNDARY
 1,000' SETBACK
NOTE: BASE MAP GOOGLE EARTH 2017



SCALE: 1 INCH = 400 FEET
SCALE IN FEET
(approximate)



PROPERTY BASE MAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC



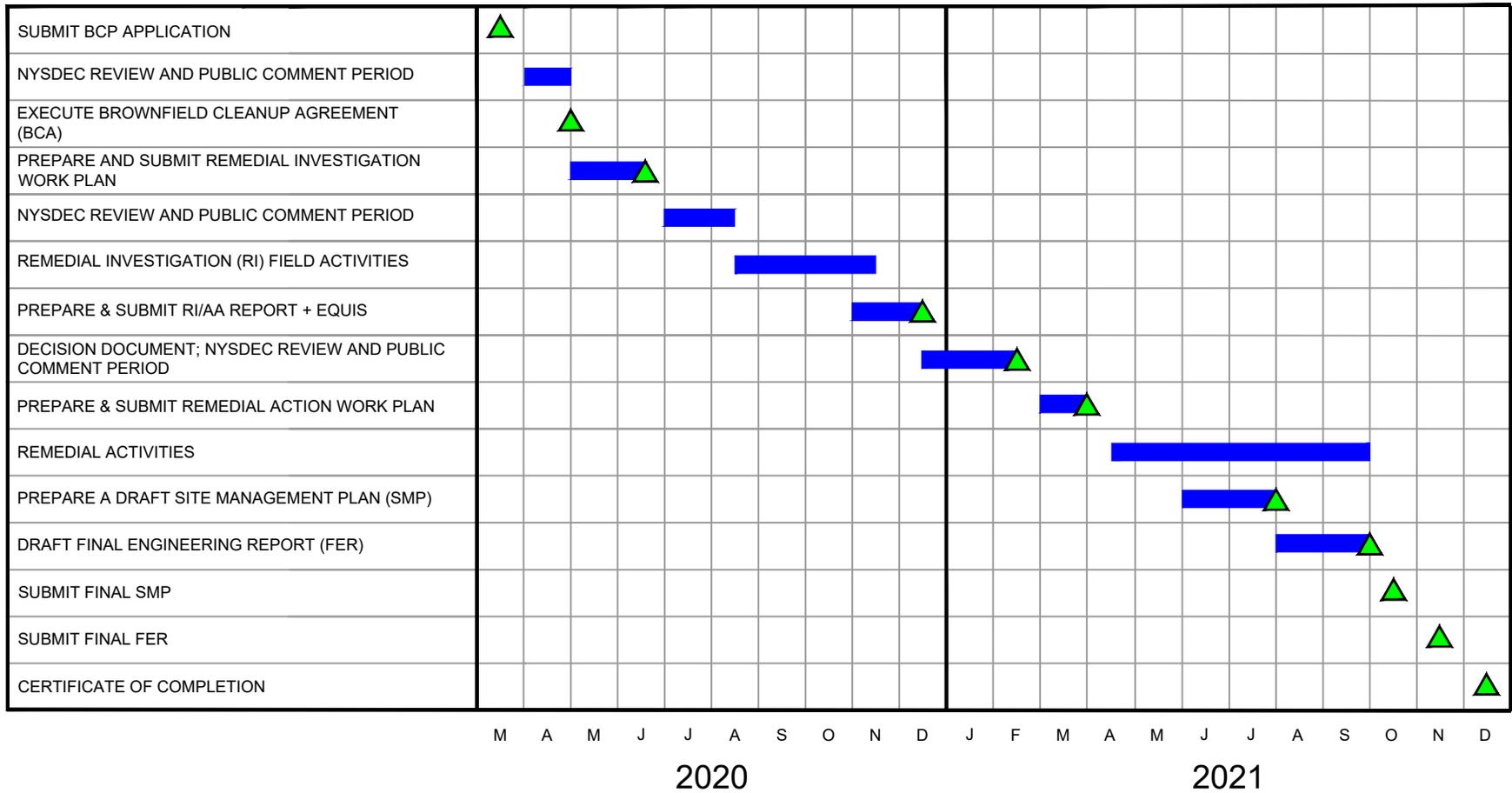
2556 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: T0136-018-004

FIGURE 4

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

PROJECT TASKS:



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

PROJECT NO.: T0136-018-004

DATE: MARCH 2020

DRAFTED BY: CCB

PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK

PREPARED FOR
5001 GROUP, LLC

FIGURE 5

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

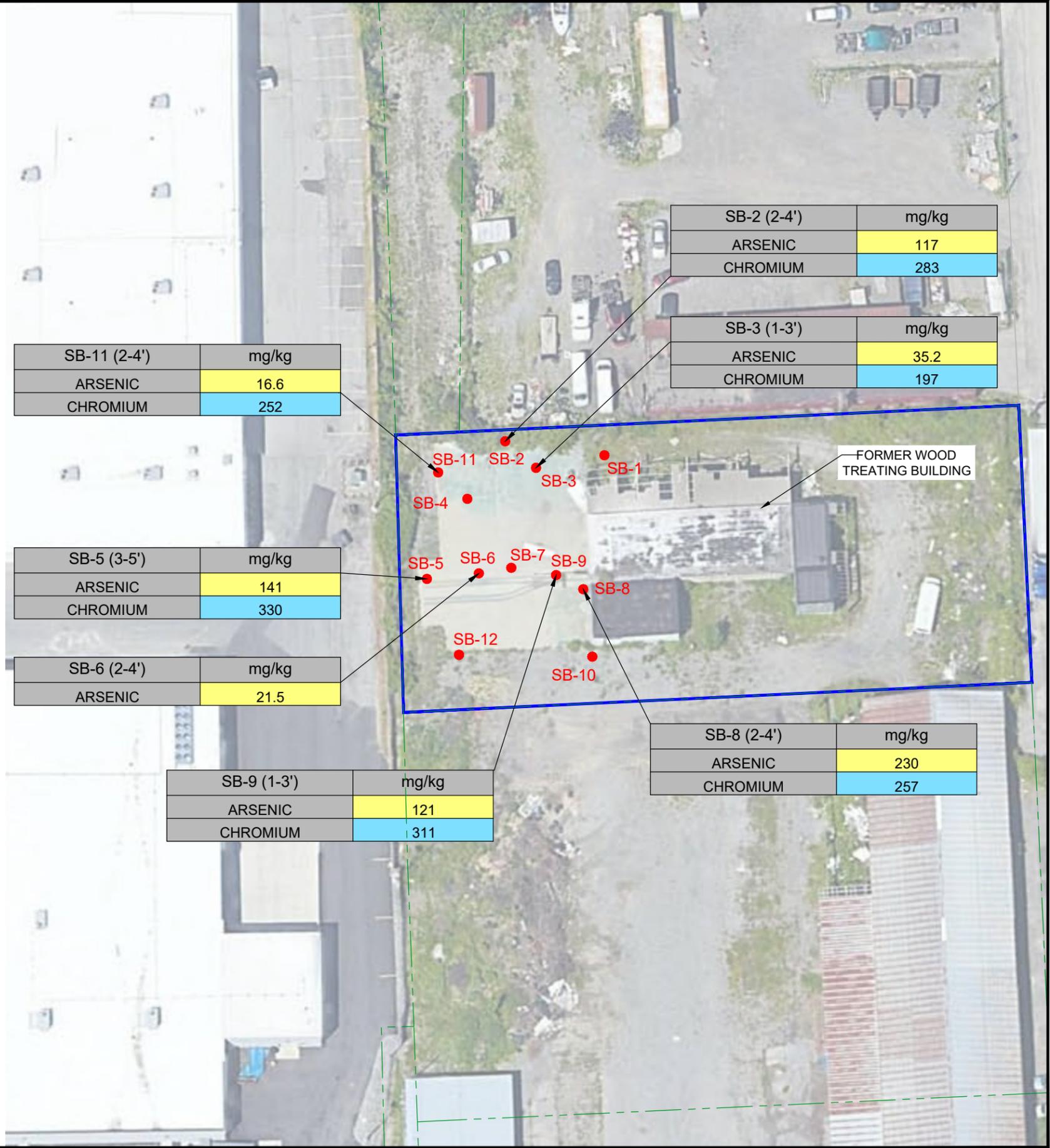
LEGEND:

-  BCP BOUNDARY
-  PARCEL
-  SB-1 ● SOIL BORING LOCATION MARCH 2019
-  EXCEEDS PART 375 RESTRICTED-RESIDENTIAL USE SCOs
-  EXCEEDS PART 375 COMMERCIAL USE SCOs

BASE MAP GOOGLE EARTH 2017

SAMPLE LOCATIONS	WC METALS-1	WC METALS-2
TCLP METALS	mg/L	mg/L
ARSENIC	0.407 J	0.081
BARIUM	0.193 J	0.312
CADMIUM	ND	ND
CHROMIUM	0.032 J	3.91
LEAD	ND	0.034
MERCURY	ND	ND
SELENIUM	ND	0.052
SILVER	ND	ND

GENERAL CHEMISTRY	SAMPLE ID	RESULTS (mg/kg)
HEXAVALENT CHROMIUM	CR 6 COMP	ND



SCALE: 1 INCH = 50 FEET
SCALE IN FEET (approximate)

BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2556 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: T0136-018-004

INVESTIGATION LOCATIONS & AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC

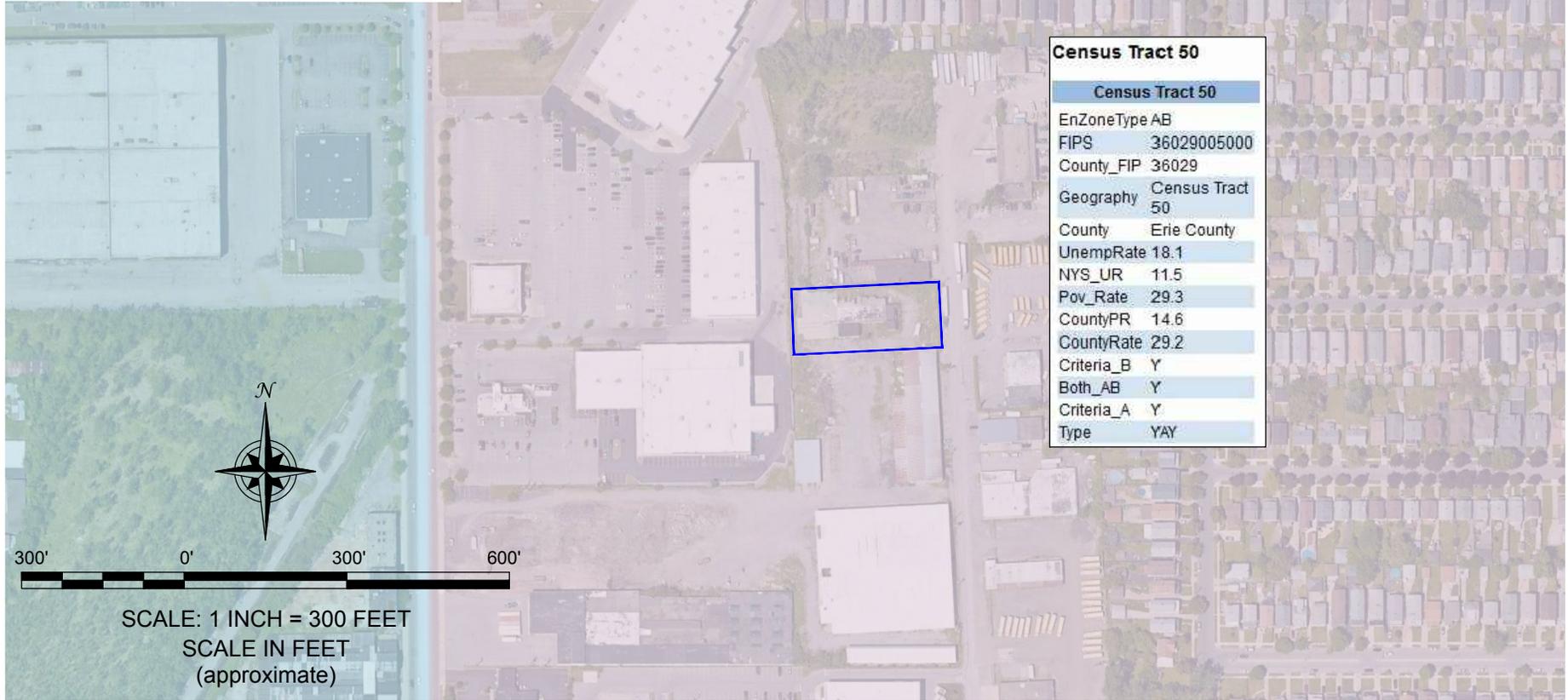
FIGURE 6

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

LEGEND:

— BCP BOUNDARY

NOTE: BASE MAP GOOGLE EARTH 2017



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

PROJECT NO.: T0136-018-004

DATE: DECEMBER 2019

DRAFTED BY: CCB

EN-ZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK

PREPARED FOR
5001 GROUP, LLC

FIGURE 7

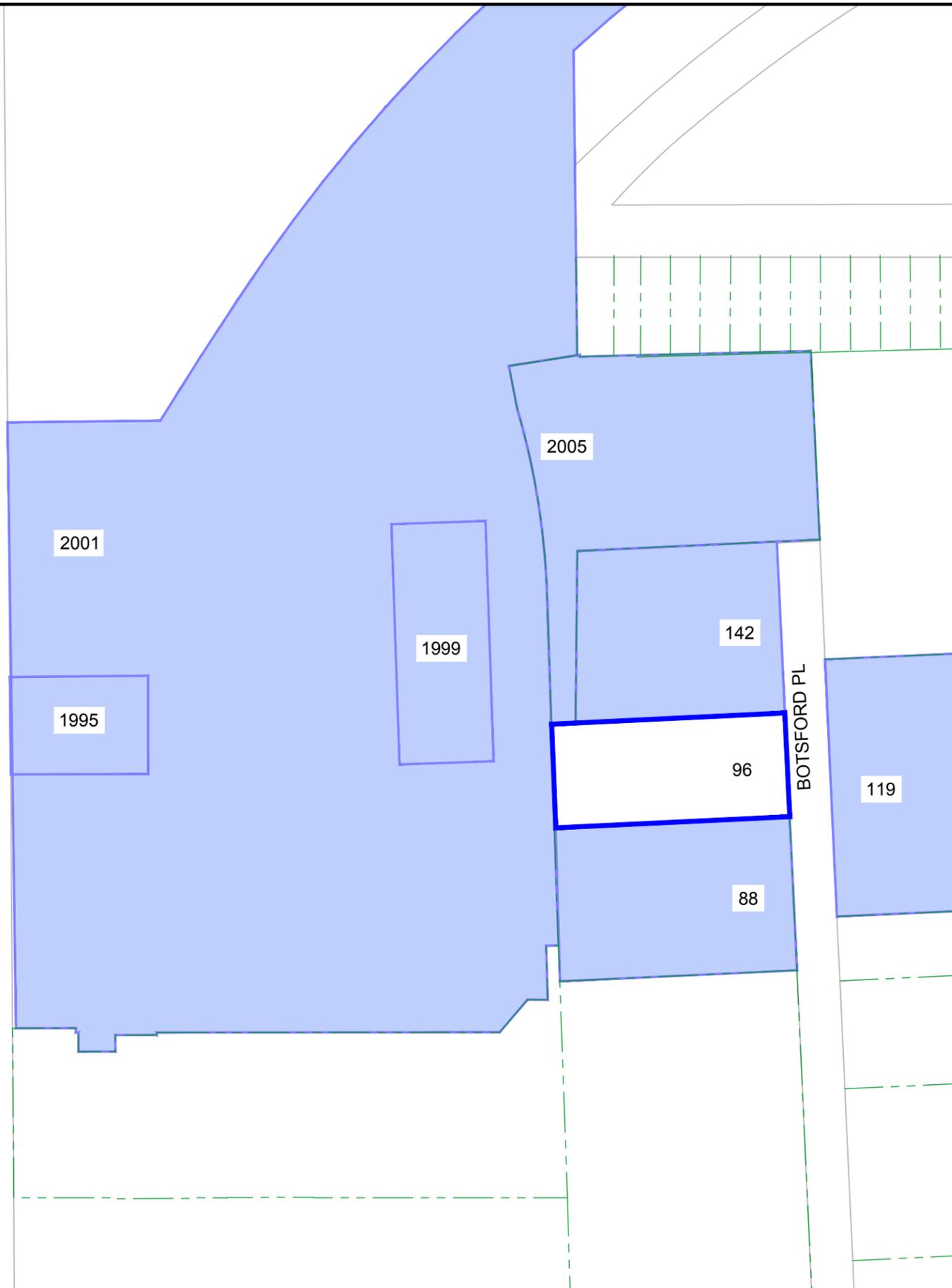
DISCLAIMER:
PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN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

LEGEND:

-  BCP BOUNDARY
-  PARCEL

Adjacent Property Address			
No.	Street	Property Use	Property Owner Mailing Address
142	Botsford Place	Commercial: Auto Body, Tire Shops, Related Auto Sales	Acumen Reality, LLC 142 Botsford Place Buffalo, NY 14216
119	Botsford Place	Public Services: Motor Vehicle	Cottrell Bus Service Inc. C/O First Student, Inc. P.O. Box 52427 Atlanta, GA 30355
88	Botsford Place	Commercial: Storage, Warehouse, and Distribution	1238 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203
1995	Elmwood Avenue	Commercial	Autozone Northeast Inc. C/O Melanie Overman 123 South Front Street Memphis, TN 38103
1999	Elmwood Avenue	Commercial: Large Retail Outlets	G&I IX Empire Elmwood Regal Center LLC C/O DLC Management Corp. 565 Taxter Road
2001	Elmwood Avenue	Recreation and Entertainment: Motion Picture Theaters	G&I IX Empire Elmwood Regal Center LLC 580 White Plains Road Tarrytown, NY 10591
2005	Elmwood Avenue	Vacant Commercial	5001 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203

ELMWOOD AVE



SCALE: 1 INCH = 150 FEET
SCALE IN FEET
(approximate)



JOB NO.: T0136-018-004

ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC

FIGURE 8

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

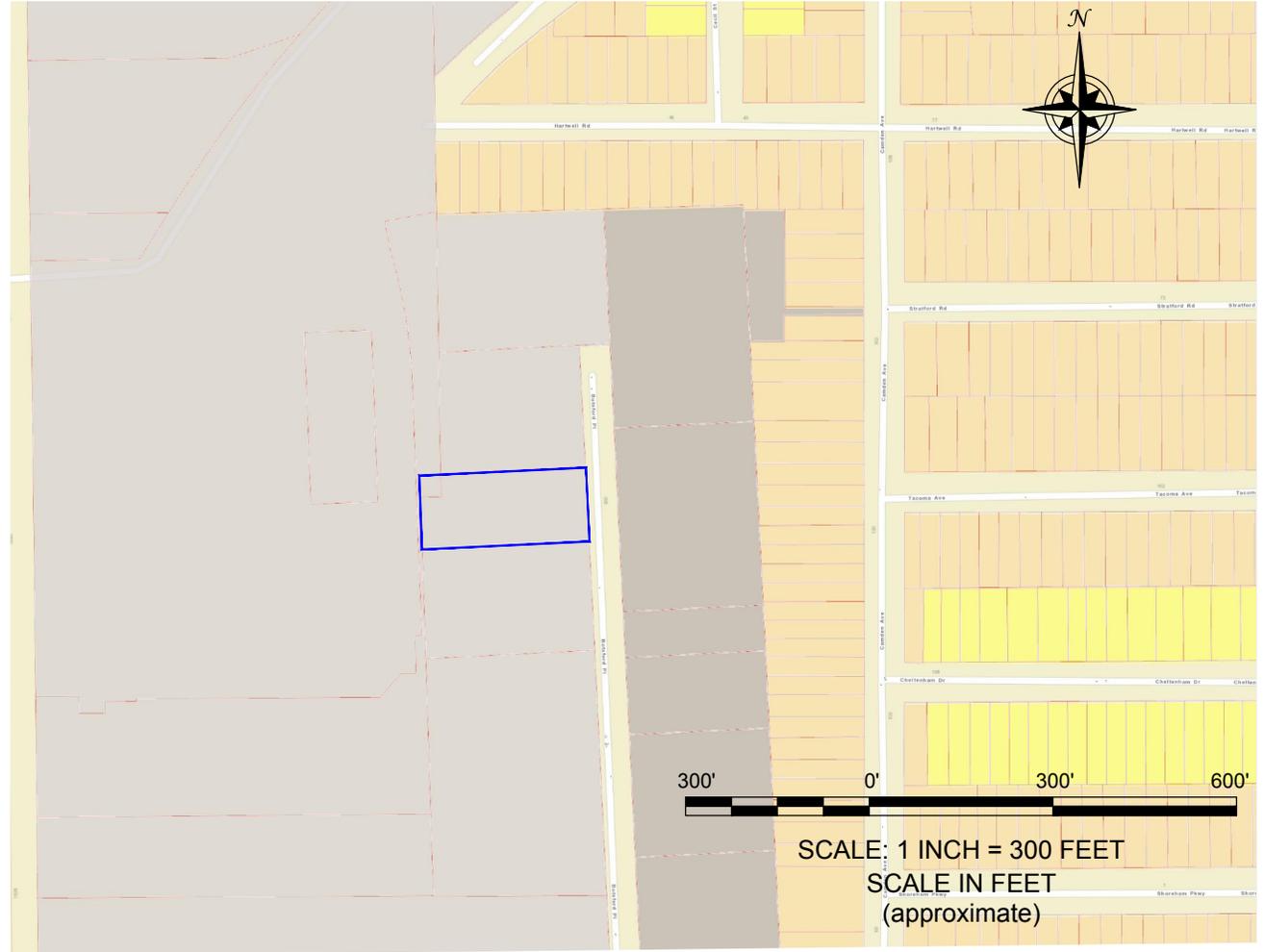
LEGEND:

BCP BOUNDARY

NOTE: BASE MAP PER CITY OF BUFFALO
UNIFIED DEVELOPMENT ORDINANCE
JANUARY 2017

Green Code Zoning 2017

-  N-1D (Downtown Hub)
-  N-1C (Mixed-Use Core)
-  N-1S (Secondary Employment Cen)
-  N-2C (Mixed-Use Center)
-  N-2E (Mixed-Use Edge)
-  N-2R (Residential)
-  N-3C (Mixed-Use Center)
-  N-3E (Mixed-Use Edge)
-  N-3R (Residential)
-  N-4-30 (Single Family)
-  N-4-50 (Single Family)
-  D-OS (Square)
-  D-OG (Green)
-  D-ON (Natural)
-  D-R (Residential Campus)
-  D-E (Educational Campus)
-  D-M (Medical Campus)
-  D-S (Retail Strip)
-  D-C (Flex Commercial)
-  D-IL (Light Industrial)



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

ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC

FIGURE 9

PROJECT NO.: T0136-018-004

DATE: DECEMBER 2019

DRAFTED BY: CCB

DISCLAIMER:

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

LEGEND:

BCP BOUNDARY

NOTE: BASE MAP PER USDA NATURAL RESOURCES CONSERVATION SERVICE WEB SOIL SURVEY.

Map Unit Symbol	Map Unit Name
Ud	Urban land
Ug	Urban land-Cayuga complex



SCALE: 1 INCH = 300 FEET
SCALE IN FEET
(approximate)



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

USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

100 BOTSFORD PLACE
BUFFALO, NEW YORK
PREPARED FOR
5001 GROUP, LLC

PROJECT NO.: T0136-018-004

DATE: DECEMBER 2019

DRAFTED BY: CCB

FIGURE 10

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

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

5001 GROUP, LLC ORGANIZATIONAL CHART

SIGNATURE RESOLUTION

ERIE COUNTY PARCEL DETAIL REPORT (FORMER PARCEL)

CITY OF BUFFALO ASSESSOR'S DATABASE SCREENSHOT

SURVEY

PROPERTY DESCRIPTION

DEED TO RECONFIGURE LOT FILING RECEIPT

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

SECTION I – REQUESTOR INFORMATION

The New York State Department of State's Corporation & Business Entity Database print-out for 5001 Group is attached.

5001 Group, LLC member/owner information is attached.

Benchmark Environmental Engineering and Science, PLLC (Benchmark), a registered New York State (NYS) engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this Brownfield Cleanup Program (BCP) project.

SECTION II – PROJECT DESCRIPTION

5001 Group, acting as a Volunteer, is willing to complete additional investigation and remediate the 100 Botsford Place Site (see Figures 1-4) under the NYS BCP, and is submitting this BCP Application for eligibility acceptance into the program.

A preliminary project schedule is shown on Figure 5.

The planned future use of the Site is not yet determined.

The Project will result in the remediation and future redevelopment of an environmentally impacted Site in the City of Buffalo, New York.

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous investigation findings completed for the 100 Botsford Place Site is provided below.

Chemical Bulk Storage (CBS) 9-000229 / RCRA NYD067527515 - Tank Closure Activities Report – May 2018

Between February and March 2018, TurnKey provided tank closure consulting and oversight at the former WoodTreaters of Buffalo NY Site, on behalf of 5001 Group, LLC. The former WoodTreaters Site used chromated copper arsenate (CCA) as a wood preservative and utilized multiple on-Site storage tanks for its operations.

As part of the tank closure activities, 5001 Group, LLC updated the facility’s US Environmental Protection Agency (USEPA) generator information, and completed inspection, tank and equipment cleaning, and disposal in accordance with the NYSDEC CBS requirements.

In total eight (8) former CBS and Resource Conservation and Recovery Act (RCRA) chemical tanks were cleaned out by Environmental Services Group, (ESG) and cleaning residual were properly disposed as hazardous and non-hazardous wastes. Based on the tank closure activities, the CBS and RCRA tanks were closed. A copy of the tank closure report is provided electronically.

RCRA Soil Assessment Activities – March-April 2019

Based on the historic use of the Site as a wood preservation operation, and the registered RCRA facility, as referenced above, a secondary soil assessment was requested by the Department to finalize RCRA closure of the Site.

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

On behalf of 5001 Group, LLC, TurnKey prepared and submitted a Limited Soil Assessment Work Plan for the Department's review and approval. Soil assessment activities included the advancement of twelve (12) soil borings of the former concrete pad.

The soil results indicated elevated arsenic, related to the use of CCA wood preservative, in the upper fill layer (0-4 ft), with non-impacted underlying native soils beyond 5 ft. Findings of the limited assessment, including summary table, sample location figure, and laboratory analytical report were provided to the Department. Copies of the soil assessment findings are provided electronically

Preliminary TAGM 3028 Determination Request – July-August 2019

Based on the results of the RCRA Soil Assessment, a preliminary request to use TAGM 3028 to remediate the site was prepared and submitted. In correspondence with the Department in preparation for the submittal, additional analytical samples, including chromium speciation (hexavalent and trivalent) and toxicity characteristic leaching protocol (TCLP) samples were collected from sample locations exhibiting elevated arsenic.

TCLP results did not show hazardous characteristics, and chromium speciation results indicated non-detect (ND) for hexavalent chromium.

Based on the additional results, the Department approved the TAGM 3028 Contained-In determination for remediation of the Site. Copies of the Department's correspondence are provided electronically.

Investigation locations and findings are summarized on Figure 6.

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

SECTION IV – PROPERTY INFORMATION

Parcel Description

The 100 Botsford Place Site, subject to this BCP Application, consists of a newly combined 0.76-acre parcel addressed as 96 Botsford Place, Buffalo, New York, and identified with SBL No. 78.54-5-6.1. The Site includes the former 96 Botsford Place (0.73 acre) and a 0.03-acre portion of the adjoining 2005 Elmwood Avenue parcel.

A copy of the combination survey and parcel description are attached. Please note that 96 Botsford Place is referenced as “New Lot 3” on the survey. A copy of the former Erie County parcel report and current City of Buffalo Assessor’s database screenshot are attached. As shown on the Assessor’s report, the new 0.76-acre parcel is identified as SBL No. 78.54-5-6.1. At this time the County has not issued an updated tax map for the combined parcel. Once the new map is issued, a copy will be provided to the Department.

Both parcels referenced are owned by 5001 Group, LLC. Copies of the combination deed filing receipt, survey and property description are attached.

The property is located in a highly developed commercial and residential area in the City of Buffalo, Erie County, New York (see Figures 1-3).

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located within an EN-Zone AB area, designated census tract 50 (see Figure 7).

Easements and Permits

Benchmark-TurnKey, nor 5001 Group, LLC, are 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.

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

5001 Group, LLC has resolved the NYSDEC Notice of Violation (NOV) related to the former CBS and RCRA tanks and is currently working with the Department to address the RCRA request for information. 5001 Group, LLC is not aware of other formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property.

Utilities are located in the right-of-way along Botsford Place. The Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water. Benchmark-TurnKey and 5001 Group is not aware of any easements or restrictions on the Site.

Permits identified for the site include:

- NYSDEC Chemical Bulk Storage (CBS) 9-000229 permit (closed).
- RCRA Identification - NYD067527515.

NYSDEC Spill No. 9708261 was identified for the former Frontier Lumber facility (former owner/operator of Wood Treaters of Buffalo on adjoining parcels). Based on the available database records, it is unknown if the spill is related to the 100 Botsford Place Site.

Location

The Site is located on Botsford Place, in a highly developed commercial, industrial and residential area in the City of Buffalo, Erie County, New York. The Site is bordered by commercial and vacant properties to the north, commercial retail properties to the south, Botsford Place to the east with mixed use beyond, and commercial retail to the west (see Figures 2-4). Adjacent property owners are identified on Figure 8.

Site Features

The Site includes one (1) vacant building with an exterior concrete storage pad. The remaining areas of the Site are covered by vegetation and gravel.

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

Zoning and Land Use

According to the Buffalo Green Code Land Use Plan, the current zoning for the Site is D-S, defined as Strip Retail, which allows for residential and commercial mixed use (see Figure 9).

The Site is currently vacant.

The surrounding parcels are as follows:

- north – commercial, vacant;
- south – commercial retail/hospitality;
- east – public road with commercial and residential use beyond; and
- west –commercial retail.

Past Use of Site

The Site was part of the larger Frontier Lumber facility operated since the 1940s. Historic records indicate that the wood treating facility was operated from the 1970s until 2008. Wood Treaters of Buffalo Co. manufactured treated wood using CCA wood preservative.

The historic use of the Site as a wood preservation facility has impacted the Site with CCA constituents that will require additional investigation and remediation prior to Site redevelopment.

Previous investigation reports are provided electronically on the enclosed CD.

Site Geology and Hydrogeology

The Site is located within the Erie-Ontario Lowlands, which is typified by little topographic relief, and gently slopes westward towards Lake Erie, except in the immediate vicinity of major drainage ways. The surficial geology of the Erie-Ontario Lowlands has developed from lacustrine deposits or till that may contain both limestone and shale. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are

APPENDIX A
BCP Application – Part A
Section I – Section IV
100 Botsford Place Site

characterized as Urban land (Ud). Soils within the City of Buffalo are characterized as urban land (Ud) with surface covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment (See Figure 10).

Based on the limited soil assessment, on-Site overburden soil-fill, including brick, block, cinders, ash were generally identified in the upper 4 feet, with underlying native clay. Depth to bedrock was not identified during the previous investigation.

Regional groundwater would be assumed to flow west towards the Niagara River. Local groundwater flow, however, may be influenced by subsurface features, such as utilities and localized fill-conditions.

Additional work is required to investigate groundwater flow direction and quality at the Site.

Environmental Assessment Narrative

Past use of the Site as a wood preservation facility has impacted the Site. Figure 6 summarizes the environmental impacts identified in the previous investigations.

Soil – Elevated arsenic exceeded its Part 375 RRSCO, CSCO, and ISCO of 16 ppm at seven (7) locations (SB-2, SB-3, SB-5, SB-6, SB-8, SB-9, and SB-11) and chromium exceeded its RRSCO of 180 ppm at six (6) locations (SB-2, SB-3, SB-5, SB-8, SB-9, and SB-11). The highest concentrations of arsenic in shallow fill included 230 ppm at SB-8 and 141 ppm at SB-5; and highest chromium included 330 ppm at SB-5 and 283 ppm at SB-2.

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

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through September 5, 2019.

Selected Entity Name: 5001 GROUP, LLC

Selected Entity Status Information

Current Entity Name: 5001 GROUP, LLC

DOS ID #: 4897220

Initial DOS Filing Date: FEBRUARY 17, 2016

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)

5001 GROUP, 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
FEB 17, 2016	Actual	5001 GROUP, 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.

[Search Results](#) | [New Search](#)

[Services/Programs](#) | [Privacy Policy](#) | [Accessibility Policy](#) | [Disclaimer](#) | [Return to DOS](#)
[Homepage](#) | [Contact Us](#)

100 BOTSFORD PLACE SITE

ORGANIZATIONAL CHART

Volunteer Applicant - Property Owner

5001 Group, LLC

295 MAIN STREET, SUITE 210
BUFFALO, NEW YORK 14203

Authorized Member: William Paladino

Sole Owner

1238 Group, LLC

295 MAIN STREET, SUITE 210
BUFFALO, NEW YORK 14203

Manager: William Paladino

5001 GROUP, LLC

UNANIMOUS WRITTEN CONSENT OF THE MEMBERS

February 6, 2020

The undersigned being holder of all of the membership interest of **5001 GROUP, 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 of 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 located at 100 Botsford Street, Buffalo, New York; and be it further

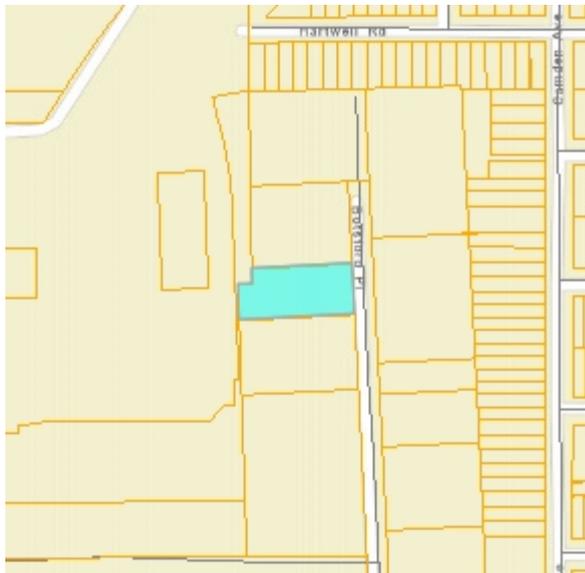
RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the Corporation as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolutions; and be it further

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



William Paladino, Manager
5001 Group, LLC



Parcel Overview Map



Parcel Detail Map

PIN: 1402000785400005006100

SBL: 78.54-5-6.1

Address: 96 BOTSFORD

Owner 1: 5001 GROUP LLC

Owner 2:

Mailing Address: 295 MAIN ST

City/Zip: BUFFALO NY 14203

Municipality: City of Buffalo

Property Class: 330

Class Description: B - Vacant comm

Front: 121

Depth: 268.55

Deed Roll: 1

Deed Book: 11295

Deed Page: 2339

Deed Date:

Acreage: 0.73146297785

Total Assessment: \$16,550

Land Assessment: \$16,550

County Taxes: \$16,550

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



78.54-5-6.1
5001 Group LLC
96 Botsford

140200 Buffalo Active R/S: 1 School: **Buffalo School**
 Roll Year: **2020** Curr Yr **Other Storage** Land AV: **240,000**
 Land Size: **121.00 x 268.55** Non-Homestead Total AV: **245,000**

- Parcel 78.54-5-6.1
 - History
 - Assessment
 - Spec.Dist(s)
 - Description
 - Owner(s)
 - Images
 - Gis
 - Site (1) Com
 - Land(s)
 - Bldg 1 Sec 1
 - Com Use
 - Valuation
 - Sale04/26/16
 - Site (1) Com
 - Land(s)
 - Valuation

Total 1 Land Types: To open, click the appropriate row (Right Click to Add)

Land type	Acres	Front	Depth	SQFT	Soil Rating
Primary	0.76	121.00	268.55	33,106	

Site No: 1

Land Type:	<input type="text" value="01 Primary"/>	Depth Factor:	<input type="text"/>
Front:	<input type="text" value="121.00"/>	Infl Pct:	<input type="text"/>
Depth:	<input type="text" value="268.55"/>	Infl Code1:	<input type="text"/>
Acres:	<input type="text" value=".76"/>	Infl Code2:	<input type="text"/>
Sqft:	<input type="text" value="33,106"/>	Infl Code3:	<input type="text"/>
Soil Rating:	<input type="text"/>	Land Value:	297,950
Waterfront Type:	<input type="text"/>	Unit Price:	392,039.474



Map References:

- Map filed in the Erie County Clerk's Office under Cover 622.
Map filed in the Erie County Clerk's Office under Cover 1539.
Boundary Survey of 160 Botsford Avenue by Ray L. Sonnenberger dated May 11, 1990, Sheet 61727 No. 90-318.
Boundary Survey by Herthe & Sonnenberger dated April 14, 1960 Sheet 28501, NO. 59-3575-B.
Boundary Survey by WSA (William Schutt & Associates, PC) dated August 23, 2000, project No. 00345.

Notes:

- 1. North as shown on this Map of Survey is assumed.

Legend

Table with columns: Abbreviations, Symbols, Line Styles. Lists various survey symbols and their corresponding line styles for features like Sanitary Sewer, Storm Sewer, Gas Line, etc.



Proposed Legal Description New Lot 4

Niagara Boundary Job No. 9118-18

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Farm Lot No. 86, Township 11, Range 8 of the Holland Land Company's Survey, being more particularly bounded and described as follows:

Beginning at a point in the easterly line of Botsford Place, which said point is distant 1560.583 feet north of the point of intersection of the northerly line of Hertel Avenue with the easterly line of Botsford Place, said point being the south east corner of Lot No. 18, as shown on Map filed in the Erie County Clerk's Office under Cover 1539;

Thence along the south line of said Lot 18 S 89°52'57" W a distance of 283.10 feet to the south west corner of said Lot 18 and the north west corner of Lot 19;

Thence along the west line of Lot 19 and Lot 20, S 3°12'57" W a distance of 200.344 feet to the south west corner of Lot 20;

Thence westerly, along a extension of the southerly line of Lot 20, S 89°52'57" W a distance of 27.87 to a point on the west line of Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502;

Thence along the east line of Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502, N 0°56'30" E a distance of 135.26 feet to a point of curve;

Thence continuing along the west line of Frontier Lumber Co. Inc., along an arc 214.91 feet to the left, having a radius of 888.00 feet, the chord of which is N 5°59'30" W for a distance of 214.39 feet to a point of reverse curve;

Thence continuing along the west line of Frontier Lumber Co. Inc., along an arc 71.65 feet to the right, having a radius of 490.04 feet, the chord of which is N 8°44'11" W for a distance of 71.58 feet to the north west corner of lands conveyed to Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502;

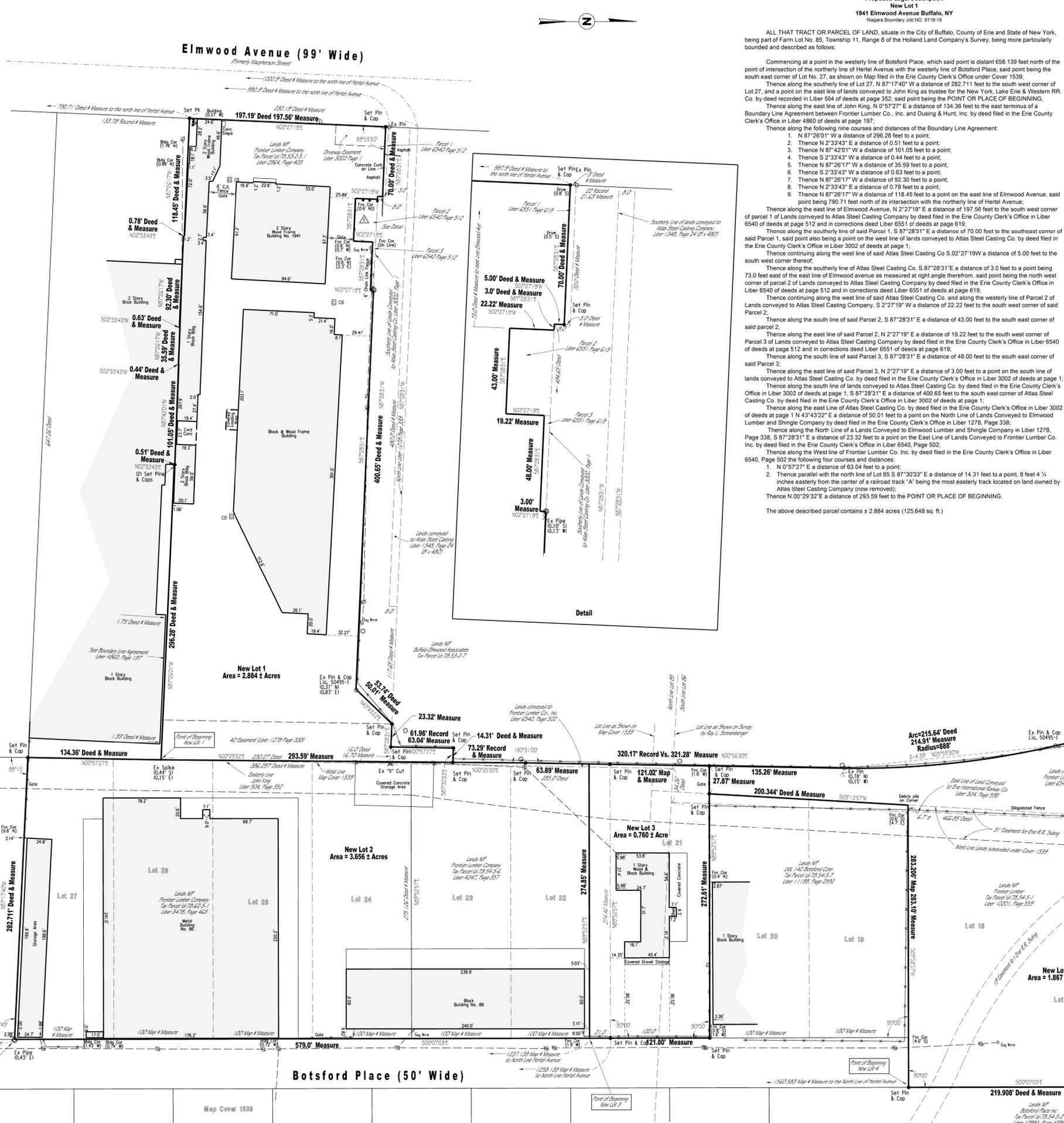
Thence along the north line of Frontier Lumber Co. Inc., N 83°58'23" E a distance of 83.40 feet to a point on the East line of lands conveyed to Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540 of deeds at page 502;

Thence along the east line of lands conveyed to Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540 of deeds at page 502, S 3°12'57" W a distance of 1.99 feet to the north west corner of Lot 18 as shown on Map filed in the Erie County Clerk's Office under Cover 1539;

Thence along the north line of Lot 18 and Lot 17, S 8°51'03" E a distance of 270.007 feet to the north east corner of Lot 17;

Thence along the east line of Lots 17 & 18, S 0°07'03" E a distance of 219.908 feet and the POINT OF BEGINNING.

The above described parcel contains ± 1.867 acres (81,337 sq. ft.)



Proposed Legal Description New Lot 2, 1941 Elmwood Avenue Buffalo, NY. Includes map references, notes, and a table with columns: LOT, SECTION, TOWNSHIP, RANGE. The table shows Section 11, Township 11, Range 8. It also includes a table for 'Map Showing Boundary Survey of Property Owned by Frontier Lumber Company, Inc.' with columns: LOT, SECTION, TOWNSHIP, RANGE. The table shows Lot 8, Section 11, Township 11, Range 8. It also includes a table for 'Map Showing Boundary Survey of Property Owned by Frontier Lumber Company, Inc.' with columns: LOT, SECTION, TOWNSHIP, RANGE. The table shows Lot 8, Section 11, Township 11, Range 8. It also includes a table for 'Map Showing Boundary Survey of Property Owned by Frontier Lumber Company, Inc.' with columns: LOT, SECTION, TOWNSHIP, RANGE. The table shows Lot 8, Section 11, Township 11, Range 8.

Property Description

96 Botsford Place

Buffalo, NY 14216

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Farm Lots No. 85 & 86, Township 11, Range 8 of the Holland Land Company's Survey, being more particularly bounded and described as follows:

Beginning at a point in the westerly line of Botsford Place, which said point is distant 1237.139 feet north of the point of intersection of the northerly line of Hertel Avenue with the westerly line of Botsford Place, said point being the a point on the east line of Lot No. 22, as shown on Map filed in the Erie County Clerk's Office under Cover 1539;

Thence through Lot No. 22 as shown on said Map S 89°52'57"W a distance of 274.85 feet to a point the East line of Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502;

Thence along the north line of Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502, N 0°56'30"E a distance of 121.02 feet to a point, said point being the intersection of the East line of Lands Conveyed to Frontier Lumber Co. Inc. by deed filed in the Erie County Clerk's Office in Liber 6540, Page 502 with the north line of Lot 21 as shown on Map Cover 1539 filed in the Erie County Clerk Office as extended westerly;

Thence along the extension of the north line of Lot 21, and the north line of Lot 21 N 89°52'57"E a distance of 272.61 feet to a point on the west line of Botsford Place;

Thence along the west line of Botsford Place S 0°07'03"E a distance of 121.00 feet to the Point or Place of Beginning.

The above described parcel contains \pm 0.760 acres (33,121 sq. ft.)

Description per Niagara Boundary – Boundary Survey, January 22, 2016. New Lot 3 Description

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE: 5/13/2019
TIME: 2:37:56 PM
RECEIPT: 19074575

KATHLEEN LINHARDT
ACCOUNT #: 0

ITEM - 01 DEED
RECD: 5/13/2019 2:46:35 PM
FILE: 2019092980 BK/PD D 11344/3259
Deed Sequence: TT2018020241
5001 GROUP LLC
5001 GROUP LLC
Recording Fees 55.00
RP5217 CNTY \$9 9.00
RP5217 ST-NON RES \$241 241.00
TP584 10.00
Subtotal 315.00

ITEM - 02 DEED
RECD: 5/13/2019 2:46:35 PM
FILE: 2019092981 BK/PD D 11344/3262
Deed Sequence: TT2018020242
5001 GROUP LLC
5001 GROUP LLC
Recording Fees 55.00
RP5217 CNTY \$9 9.00
RP5217 ST-NON RES \$241 241.00
TP584 10.00
Subtotal 315.00

ITEM - 03 DEED
RECD: 5/13/2019 2:46:35 PM
FILE: 2019092982 BK/PD D 11344/3265
Deed Sequence: TT2018020243
1238 GROUP LLC
1238 GROUP LLC
Recording Fees 55.00
RP5217 CNTY \$9 9.00
RP5217 ST-NON RES \$241 241.00
TP584 10.00
Subtotal 315.00

TOTAL DUE \$945.00
PAID TOTAL \$945.00
PAID CHECK \$945.00
Check #001359: 315.00
Check #001358: 630.00

REC BY: Megan
COUNTY RECORDER

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
100 Botsford Place 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
96 Botsford Place			
Current Owner/Operator			
5001 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203	Vacant	April 2016 to Current	Applicant
Previous Owner/Operator			
Frontier Lumber Company 1941 Elmwood Avenue Buffalo, NY 14207	Commercial - Lumber;	1947 – 2016 Operated until 2009	Former Owner/Operator No relationship
Wood Treaters of Buffalo Co Inc. 1941 Elmwood Avenue Buffalo, NY 14207	Wood Preservation	1970's - 2008	Former Operator No relationship
Kittinger Company, Inc.	Unknown	Approx. 1926 to 1947	No relationship
Steel Barrel Corp.	Unknown	Approx. 1931 to 1945	No relationship
Arco Building and Improvement	Unknown	1923	No relationship
American Radiator	Unknown	1920	No relationship

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, 5001 Group, LLC (5001 Group), qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2) based on the following:

5001 Group, LLC took ownership of the Site in April 2016. The Volunteer Applicant had no relationship to the property prior to taking ownership. 5001 Group never owned, operated or managed the former wood preservation operation. 5001 Group’s liability for the property arises solely as a result of taking ownership of the Site.

Additionally, 5001 Group LLC has exercised appropriate care since taking ownership. 5001 Group, LLC has worked diligently with the Department since taking ownership of the Site, including ongoing administrative and remedial activities as summarized below.

April 2016 – 5001 Group acquires property.

January – May 2018 – Tank Closure Activities

In January 2018, 5001 Group LLC received correspondence from the NYSDEC Chemical Bulk Storage (CBS) Notice of Violation (NOV) related to the former tanks (CBS 9-000229). At that time, 5001 Group, LLC was not aware that the former owners-operators had not properly closed the facility.

5001 Group LLC began working with the Department to properly update the CBS registration administratively, update the USEPA registration for the facility, and prepare to properly close the CBS and RCRA tanks left on the Site. 5001 Group LLC completed site inspections to determine the scope of work required to properly close the tanks, contracted properly licensed remedial contractors, and submittal of Department closure documents.

The CBS and RCRA tanks were properly cleaned and closed in March 2018, and the Tank Closure Summary Report was prepared and submitted to the Department in May 2018. The

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

CBS Notice of Violation has been closed. Copies of the Department correspondence and related documents are attached electronically.

February 2018 – Current – RCRA Request For Information Activities

In association with the tank closure activities, described above, a Request for Information related to the former RCRA facility NYD067527515 was received in the Department's February 2018 correspondence. At that time, a request was made to complete the tank closure activities prior to addressing the information request. The request was approved by the Department.

After completion of tank closure activities, additional meetings were held with the Department to understand the requirements for addressing the Request for Information and complete the additional soil sampling.

In December 2018, 5001 Group, LLC submitted a Soil Assessment Work Plan to detail the planned on-Site sampling, for the Department's review and approval. On-Site soil assessment field activities were completed in March 2019. It should be noted that the field activities were delayed until March (with Department approval) due to unsafe extreme cold winter weather conditions. Sample locations and analytical results were provided to the Department for review.

Based on the results of the soil assessment, additional discussions with the Department were conducted to review remedial requirements to properly close the former wood treating facility and discuss potential remedial programs to address the on-Site contamination.

In May 2019, 5001 Group LLC began the process to determine if a TAGM 3028 Contained-In Determination would be possible to remediate and close the former wood treating facility. In preparation for Contained-In submittal, additional soil waste characterization samples were collected, and results were non-hazardous. The Request for Contained-In

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

Determination was submitted to the Department in July 2019. In response to the initial submittal, the Department requested additional samples be collected for chromium speciation. The additional samples were collected, and results submitted to the Department

In August 2019 the Contained-In Determination request was approved. Based on the approval, it was determined in consultation with the Department that the NYS BCP would be the most suitable remedial program to address the remediation of the Site. As such, this BCP Application submittal has been prepared for that purpose. Copies of the Department correspondence are included electronically.

In summary, 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; and, as clearly evidenced above has acted responsibly and with due care during their ownership, therefore, 5001 Group, 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.

Erie County Contacts:

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

Erie County Legislator Hon. Lisa M Chimera
District 3
92 Franklin Street, 4th Floor
Buffalo, NY 14202

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

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

Mr. Robert M. Graber
Erie County Legislature Clerk
92 Franklin Street, 4th Floor
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 W. Brown, Major
City of Buffalo
65 Niagara Square, Room 201
Buffalo, NY 14202

Joseph Golombek, Jr., Councilman
City of Buffalo, North District
65 Niagara Square, Room 1502
Buffalo, NY 14202

James A. Morrell, Chairman
City of Buffalo Planning Board
65 Niagara Square, Room 901
Buffalo, NY 14202

Supplier of Potable Water:

Buffalo Water Department
281 Exchange Street
Buffalo, NY 14204

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

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

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:

Mr. Marlon Lee, Principal
PS #79 Grabiarez School of Excellence
225 Lawn Avenue
Buffalo, NY 14207

Mr. Eric Klapper, Executive Director
Tapestry Charter School
65, 111 Great Arrow Avenue
Buffalo, NY 14216

Ms. Cecelie Owens, Principal
PS #94 West Hertel Academy
489 Hertel Avenue
Buffalo, NY 14207

Mr. Marck Abraham, Principal
PS #305 McKinley High School
1500 Elmwood Avenue
Buffalo, NY 14207

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

Ms. Marquita Bryant, Principal
PS #64 Frederick Law Olmstead School
874 Amherst Street
Buffalo, NY 14216

Mr. Christopher Burner, Head of School
Nichols School
1250 Amherst Street
Buffalo, NY 14216

Ms. Rose Schneider, Principal
PS # 66 North Park Middle Academy
780 Parkside Avenue
Buffalo, NY 14216

David Quackenbush, President
Charter High School for Applied Technologies
2303 Kenmore Avenue
Buffalo, NY 14207

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

North Park Branch of the Buffalo &
Erie County Public Library
975 Hertel Avenue
Buffalo, NY 14216

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

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	
142	Botsford Place	Commercial: Auto Body, Tire Shops, Related Auto Sales	Acumen Reality, LLC 142 Botsford Place Buffalo, NY 14216
119	Botsford Place	Public Services: Motor Vehicle	Cottrell Bus Service Inc. C/O First Student, Inc. P.O. Box 52427 Atlanta, GA 30355
88	Botsford Place	Commercial: Storage, Warehouse, and Distribution	1238 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203
1941	Elmwood Avenue	Vacant Commercial	1238 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203
1995	Elmwood Avenue	Commercial	Autozone Northeast Inc. C/O Melanie Overman 123 South Front Street Memphis, TN 38103
1999	Elmwood Avenue	Commercial: Large Retail Outlets	G&I IX Empire Elmwood Regal Center LLC C/O DLC Management Corp. 565 Taxter Road Elmsford, NY 10523

APPENDIX B
BCP Application – Part B
Section V – Section X
100 Botsford Place Site

2001	Elmwood Avenue	Recreation and Entertainment: Motion Picture Theaters	G&I IX Empire Elmwood Regal Center LLC 580 White Plains Road Tarrytown, NY 10591
2005	Elmwood Avenue	Vacant Commercial	5001 Group, LLC 295 Main Street, Suite 210 Buffalo, NY 14203

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 this Appendix B.

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is D-S (Strip Retail – Residential and Commercial). The current and planned development is consistent with the Buffalo Green Code Land Use Plan (see Figure 9).

2 – Current Use

The Site is currently vacant. The Site includes the former wood treatment building, exterior concrete pad, and surrounding vegetated and gravel areas.

The Site was used as a wood preservation operation from the 1970’s until 2008. The Site has been vacant since it closed in 2009.

3, 4, 5 and 6 – Planned Future Use

There are currently no redevelopment plans for the Site. Any future development will be in accordance with the applicable zoning and land use requirements.

From: [April Tompkins](#)
To: [Chelsea N. Kanaley](#)
Subject: RE: Document Repository Request - 100 Botsford Place Site
Date: Thursday, December 5, 2019 1:08:40 PM
Attachments: [Document Repository Request - 100 Botsford Place Site.pdf](#)

Good afternoon Chelsea,

Per your request, 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 **100 Botsford Place Site, Buffalo, New York**. These documents will be made available for public review at the **North Park 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:

- Documents (including updates) for public review 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 for the Central/Downtown library are made available on the first floor in the Information Services Department within a day or two after receipt. If received by Friday morning, they are usually made available the following Monday. If you would like a confirmation that your document was received, you will need to provide an email address.
- 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 distribute accordingly. We do not make copies for distribution.
- You have the choice regarding the format (hard copy print and / or disk) you wish to submit. If submitting in both formats, please be sure that they are titled/labeled accordingly. **If CD's 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 disc in-house. If optional, an alternative is the availability to go online using a provided link for patrons to

read/review/print. Patrons are not allowed to take original repository documents out of the Library.

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

Regards,
April

April Tompkins, Sr. Library Clerk
Office of Chief Operating Officer & Technical Support
Buffalo and Erie County Public Library
1 Lafayette Square | Buffalo, NY 14203
Voice: 716-858-7129 | Fax: 716-858-6211
E-mail: tompkinsa@buffalolib.org

From: Chelsea N. Kanaley <ckanaley@bm-tk.com>
Sent: Thursday, December 5, 2019 11:20 AM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: Document Repository Request - 100 Botsford Place Site

Dear Ms. Tompkins,

Please see the attached document repository request for the Brownfield Cleanup Program.

Thank you,
Chelsea Kanaley

Chelsea N. Kanaley
Geologist
ckanaley@bm-tk.com

TurnKey Environmental Restoration, LLC
www.benchmarkturnkey.com
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
Phone: (716) 856-0635, Mobile: (716) 220-1093, Facsimile: (716) 856-0583

Strong Advocates | Effective Solutions | Integrated Implementation

DISCLAIMERS:

Confidentiality Notice: The information contained in this message is intended only for the use of the addressee, and may be confidential and/or privileged. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately.

Virus Warning: While reasonable precautions have been taken to protect against viruses in this message, we accept no responsibility for any damages arising from the potential presence of such viruses.

Contracts: Nothing in this message shall be construed as legally binding upon Benchmark or TurnKey.

Professional Opinions: Views expressed in this message may only be relied upon as professional opinion if and when provided by principals of the Companies to authorized representatives of the organization with which we have an active client-engineer relationship and when directly pertaining to a binding contract scope of work.

Buffalo & Erie County Public Libraries have more than 3.2 million materials - books, eBooks, DVDs, music & more. Free library cards (traditional and eLibrary) are available to Erie County, New York residents and to those who work and/or attend school in Erie County, NY. Follow the library on [Facebook](#), [Twitter](#), [Instagram](#), [Pinterest](#), [Flickr](#) and on our podcast [All Booked Up!](#) Information: 716-858-8900 or <http://www.buffalolib.org>.

DISCLAIMERS:

Confidentiality Notice: The information contained in this message is intended only for the use of the addressee, and may be confidential and/or privileged. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately.

Virus Warning: While reasonable precautions have been taken to protect against viruses in this message, we accept no responsibility for any damages arising from the potential presence of such viruses.

Contracts: Nothing in this message shall be construed as legally binding upon Benchmark or TurnKey.

Professional Opinions: Views expressed in this message may only be relied upon as professional opinion if and when provided by principals of the Companies to authorized representatives of the organization with which we have an active client-engineer relationship and when directly pertaining to a binding contract scope of work.

December 5, 2019

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

Re: Document Repository for Brownfield Cleanup Program
100 Botsford Place Site
Buffalo, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Environmental Engineering and Science, PLLC in association with TurnKey Environmental Restoration, LLC would like to request the Buffalo & Erie County Public Library – North Park Branch 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 and Science, PLLC
TurnKey Environmental Restoration, LLC



Chelsea Kanaley
Geologist

File: 0136-018-004

Strong Advocates, Effective Solutions, Integrated Implementation

www.benchmarkturnkey.com

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