

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

December 29, 2022

Michigan & Best LLC
Dr. Fadi Dagher
50 Lakefront Blvd., Suite 103
Buffalo, NY 14202

Re: Certificate of Completion
Michigan-Best Development
City of Buffalo, Erie County
C915375

Dear Dr. Fadi Dagher:

Congratulations on having satisfactorily completed the remedial program at the Michigan-Best Development site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record the Notice of Certificate of Completion in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:
Matthew King, DER-S
New York State Department of Environmental Conservation
Division of Environmental Remediation
700 Delaware Ave.
Buffalo, NY 14209-2202
- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department will



develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;

If you have any questions, please do not hesitate to contact Matthew King, the Department's project manager, at 716-851-7258.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Dr. Fadi Dagher fdagher@cedarlanddev.com
Christopher Boron cboron@bm-tk.com
Steven Ricca, Esq. sricca@bsk.com
C. Vooris – NYSDOH christine.vooris@health.ny.gov
Charlotte Bethoney charlotte.bethoney@health.ny.gov
Kristin Kulow kristin.kulow@health.ny.gov
Matt Gokey, matthew.gokey@tax.ny.gov
Paul Takac, paul.takac@tax.ny.gov

ec w/o enc.:

Matthew King - NYSDEC
Stanley Radon - NYSDEC
Andrea Caprio - NYSDEC
Michael Cruden - NYSDEC
David Stever - NYSDEC
Kelly Lewandowski - NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name	Address
Michigan & Best LLC	50 Lakefront Boulevard, Suite 103, Buffalo, NY 14202

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 6/2/21 **Agreement Execution:** 6/8/21
Agreement Index No.: C915375-06-21
Application Amendment Approval: 9/27/22 **Agreement Amendment Execution:** 9/27/22

SITE INFORMATION:

Site No.: C915375 **Site Name:** Michigan-Best Development
Site Owner: Michigan & Best LLC
Street Address: 1145 Michigan Avenue
Municipality: Buffalo **County:** Erie **DEC Region:** 9
Site Size: 0.736 Acres
Tax Map Identification Number(s): 100.64-4-1.1
Percentage of site located in an EnZone: 100%

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

Allowable Uses under the BCP: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial
Cleanup Track: Track 1: Unrestricted use
Tax Credit Provisions:
Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50%.

Tangible Property Credit is 20%. Comprised of 10% Base, 5% EnZone, 5% Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

No Environmental Easement has been granted pursuant to ECL Article 71, Title 36 as there are no use restrictions and there is no reliance on the long-term employment of institutional controls.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos
Commissioner
New York State Department of Environmental Conservation

By: Andrew Guglielmi Date: 12/29/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A
Site Description

LEGAL DESCRIPTION

BCP - PARCEL

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 31, Township 11, Range 8 of the Holland Land Company's Survey, described as follows:

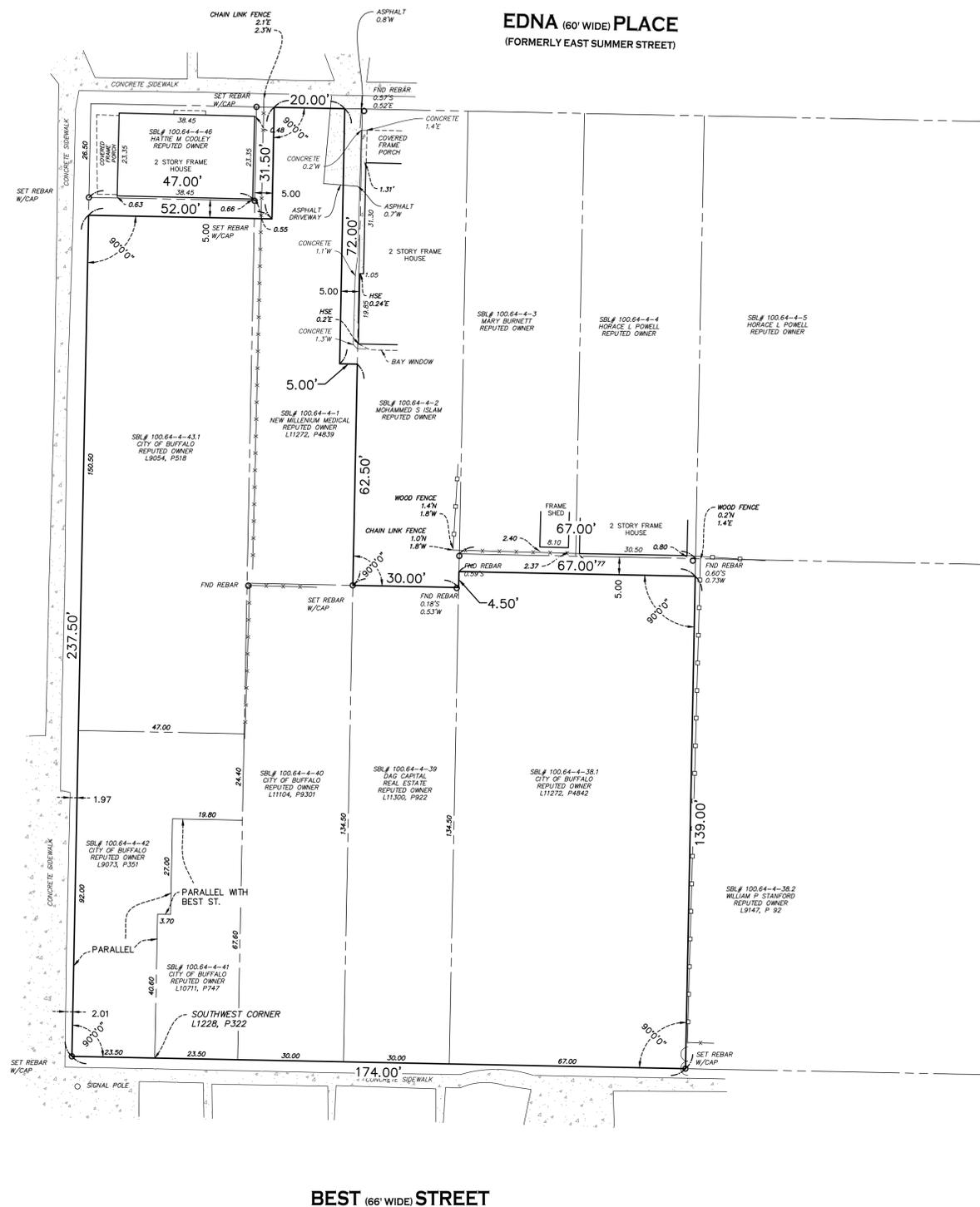
Beginning at a point at the intersection of the north line of Best Street (66 feet wide) and the east line of Michigan Avenue (66 feet wide); Thence north along the east line of Michigan Street a distance of 237.50 feet to a point 5 feet south of the southwest corner of those lands conveyed to Hattie M Cooley by deed recorded in the office of the county clerk, Erie County, New York in Liber 11197 of deeds at Page 7259; Thence east at right angles and 5.00 feet south of the south line of said lands, a distance of 52.00 feet to a point 5.00 feet east of the east line of those lands conveyed to Hattie M Cooley; Thence north at right angles and 5.00 feet east of the east line of the Lands of Cooley, a distance of 31.50 feet to the south line of Edna Place (60 feet wide); Thence east and at right angles along the south line of Edna Place, a distance of 20.00 feet to a point 5.00 feet west of the northwest corner of those lands conveyed to Mohammed S Islam by deed recorded in the office of the county clerk, Erie County, New York in Liber 11345 of deeds at Page 6729; Thence south at right angles and 5.00 feet west of the the west line of the lands of Islam, a distance of 72.00 feet; thence east at right angles, a distance of 5.00 feet to the west line of the lands of Islam, Thence south at right angles and along the west line of the lands of Islam, a distance of 62.50 feet to the southwest corner of said lands of Islam; Thence east at right angles and along the south line of said lands of Islam, a distance of 30.00 feet to the southeast corner of the lands of Islam; thence north at right angles and along the east line of the lands of Islam, a distance of 4.50 feet to a point 5 feet south of the southwest corner of those lands conveyed to Mary Burnett by deed recorded in the office of the county clerk, Erie County, New York in Liber 9873 of deeds at Page 303; thence east at right angles, a distance of 67.00 feet to a point on the west line of those lands conveyed to William P Stanford Et Al. by deed recorded in the office of the county clerk, Erie County, New York in Liber 9147 of deeds at Page 92; Thence south at right angles and along the west line of the lands of Stanford, a distance of 139.00 feet to the north line of Best Street; thence west at right angles and along the north line of Best Street, a distance of 174.00 feet to the point or place of beginning.

Containing 0.736 acres of land more or less.

Exhibit B

Site Survey

MICHIGAN (66' WIDE) AVENUE
(FORMERLY MICHIGAN STREET)



SKETCH AND DESCRIPTION



LOCATION MAP
SCALE: N.T.S.

LEGAL DESCRIPTION
BCP - PARCEL

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lot No. 31, Township 11, Range B of the Holland Land Company's Survey, described as follows:

Beginning at a point at the intersection of the north line of Best Street (66 feet wide) and the east line of Michigan Avenue (66 feet wide); Thence north along the east line of Michigan Street a distance of 237.50 feet to a point 5 feet south of the southwest corner of those lands conveyed to Hattie M Cooley by deed recorded in the office of the county clerk, Erie County, New York in Liber 1197 of deeds at Page 7259; Thence east at right angles and 5.00 feet south of the south line of said lands, a distance of 52.00 feet to a point 5.00 feet east of the east line of those lands conveyed to Hattie M Cooley; Thence north at right angles and 5.00 feet east of the east line of the Lands of Cooley, a distance of 31.50 feet to the south line of Edna Place (60 feet wide); Thence east and at right angles along the south line of Edna Place, a distance of 20.00 feet to a point 5.00 feet west of the northwest corner of those lands conveyed to Mohammed S Islam by deed recorded in the office of the county clerk, Erie County, New York in Liber 11345 of deeds at Page 6729; Thence south at right angles and 5.00 feet west of the west line of the lands of Islam, a distance of 72.00 feet; thence east at right angles, a distance of 5.00 feet to the west line of the lands of Islam; Thence south at right angles and along the west line of the lands of Islam, a distance of 62.50 feet to the southwest corner of said lands of Islam; Thence east at right angles and along the south line of said lands of Islam, a distance of 30.00 feet to the southeast corner of the lands of Islam; thence north at right angles and along the east line of the lands of Islam, a distance of 4.50 feet to a point 5 feet south of the southwest corner of those lands conveyed to Mary Burnett by deed recorded in the office of the county clerk, Erie County, New York in Liber 9873 of deeds at Page 303; thence east at right angles, a distance of 67.00 feet to a point on the west line of those lands conveyed to William P Stanford Et Al. by deed recorded in the office of the county clerk, Erie County, New York in Liber 9147 of deeds at Page 92; Thence south at right angles and along the west line of the lands of Stanford, a distance of 139.00 feet to the north line of Best Street; thence west at right angles and along the north line of Best Street, a distance of 174.00 feet to the point or place of beginning.

Containing 0.736 acres of land more or less.

DATE	DESCRIPTION	REVISION
12/28/2022	REVISED LEGAL DESCRIPTION	1

DESIGNED BY:	DJR
DRAWN BY:	DJR
CHECKED BY:	DJR
DATE:	MARCH 17, 2022



WM SCHUTT ASSOCIATES
37 CENTRAL AVE.
LANCASTER, NY 14086-2143
PH. 716-683-5961
FAX 716-683-0169
WWW.WMSCHUTT.COM

CITY OF BUFFALO
COUNTY OF ERIE, STATE OF NEW YORK
PART OF LOT 31, TOWNSHIP 11, RANGE 8
HOLLAND LAND COMPANY'S SURVEY
BCP - PARCEL SKETCH AND DESCRIPTION
MICHIGAN/BEST/EDNA



THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP-TO-DATE ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

SCALE: 1" = 20'
GRAPHIC SCALE IN FEET

BS-1
DRAWING SCALE: 1" = 20'
SURVEY FILE: D21074-03A
WSA PROJECT NO. 21074

NOTICE OF CERTIFICATE OF COMPLETION
Brownfield Cleanup Program
6 NYCRR Part 375-1.9(d)

Michigan-Best Development, Site ID No. C915375
1145 Michigan Avenue, Buffalo, NY, 14209
City of Buffalo, Erie County, Tax Map Identification Number: 100.64-4-1.1

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to Michigan & Best LLC for a parcel approximately 0.736 acres located at 1145 Michigan Avenue in the City of Buffalo, Erie County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the Remedial Work Plan.

PLEASE TAKE NOTICE, the remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

PLEASE TAKE NOTICE, provided that the Certificate is complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

PLEASE TAKE NOTICE, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

PLEASE TAKE NOTICE, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 Office located at 700 Delaware Ave., Buffalo, NY 14209-2202, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C915375>.

Michigan-Best Development, Site ID No. C915375
1145 Michigan Avenue, Buffalo, NY, 14209

WHEREFORE, the undersigned has signed this Notice of Certificate

Michigan & Best LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
taking acknowledgment

Please record and return to:

Michigan & Best LLC
Dr. Fadi Dagher
50 Lakefront Blvd., Suite 103
Buffalo, NY 14202