**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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December 21, 2022

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

Re: Michigan-Best Development
Site ID No. C915375
City of Buffalo, Erie COUNTY
Remedial Work Plan & Decision Document

Dear Dr. Dagher:

The New York State Department of Environmental Conservation (Department) and the New York State Department of Health (NYSDOH) have reviewed the Remedial Investigation/Interim Remedial Measure/Alternatives Analysis Report (RI/IRM/AAR) for the Michigan-Best Development site dated October 2022 and prepared by Benchmark-Turnkey Environmental, LLC on behalf of Michigan & Best LLC. The RI/IRM/AAR is hereby approved. Please ensure that a copy of the approved RI/IRM/AAR is placed in the document repository(ies). The draft plan should be removed.

Attached is a copy of the Department's Decision Document for the site. The remedy is to be implemented in accordance with this Decision Document. Please ensure that a copy of the Decision Document is placed in the document repository(ies).

Please contact the Department's Project Manager, Matthew King, at 716-851-7258 or matthew.king@dec.ny.gov at your earliest convenience to discuss next steps. Please recall the Department requires seven days notice prior to the start of field work..

Sincerely,

Michael J Cruden

Michael Cruden
Director
Remedial Bureau E
Division of Environmental Remediation

NEW YORK STATE | Department of Environmental Conservation

Enclosure

ec *w/attachments*:

Andrew Guglielmi
Michael Cruden
Stanley Radon
Andrea Caprio
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# DECISION DOCUMENT

Michigan-Best Development
Brownfield Cleanup Program
Buffalo, Erie County
Site No. C915375
December 2022


Prepared by
Division of Environmental Remediation
New York State Department of Environmental Conservation

# DECLARATION STATEMENT - DECISION DOCUMENT

Michigan-Best Development
Brownfield Cleanup Program
Buffalo, Erie County
Site No. C915375
December 2022

**Statement of Purpose and Basis**

This document presents the remedy for the Michigan-Best Development site, a brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (the Department) for the Michigan-Best Development site and the public's input to the proposed remedy presented by the Department.

**Description of Selected Remedy**

During the course of the investigation certain actions, known as interim remedial measures (IRMs), were undertaken at the above referenced site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternatives analysis (AA). The IRM undertaken at this site is discussed in Section 6.2.

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department has selected No Further Action as the remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

**Declaration**

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

12/21/2022

Date

Michael J Cruden

Michael Cruden, Director
Remedial Bureau E

# DECISION DOCUMENT

Michigan-Best Development
Buffalo, Erie County
Site No. C915375
December 2022

## SECTION 1: SUMMARY AND PURPOSE

The New York State Department of Environmental Conservation (the Department), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site resulted in threats to public health and the environment that were addressed by actions known as interim remedial measures (IRMs), which were undertaken at the site. An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the remedial investigation (RI) or alternative analysis (AA). The IRM undertaken at this site is discussed in Section 6.2.

Based on the implementation of the IRM, the findings of the investigation of this site indicate that the site no longer poses a threat to human health or the environment. The IRM conducted at the site attained the remediation objectives identified for this site, which are presented in Section 6.5, for the protection of public health and the environment. No Further Action is the selected remedy. A No Further Action remedy may include continued operation of any remedial system installed during the IRM and the implementation of any prescribed controls that have been identified as being part of the remedy for the site. This DD identifies the IRM conducted and discusses the basis for No Further Action.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance, based on the reasonably anticipated use of the property.

The Department has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

## SECTION 2: CITIZEN PARTICIPATION

The Department seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by the Department in selecting a remedy for the site. Site-related reports and documents were made

available for review by the public at the following document repository:

Buffalo & Erie County Library-Frank E. Merriweather JrBranch
1324 Jefferson Avenue
Buffalo, NY 14208
Phone: (716) 883-4418

Documents can also be found on the DEC info Locator at:
https://www.dec.ny.gov/data/DecDocs/C915375/

Please note that the Department's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at http://www.dec.ny.gov/chemical/61092.html

## SECTION 3: SITE DESCRIPTION AND HISTORY

Location:

The Michigan-Best Development site is an approximately 0.736-acre site located in a highly developed residential/commercial area on the northeast corner of Michigan Avenue and Best Street in the City of Buffalo, Erie County. The site is bordered by Edna Place to the north, Michigan Avenue to the west, Best Street to the south and residential and vacant properties to the east.

Site Features:

The site consists of one vacant lot that historically had residential and/or commercial structures. The site surface generally consists of a mixed vegetative cover with grass, brush, and small trees. The site is currently being developed into multi-family residential housing.

Zoning and Land Use:

The current zoning for the site and the adjacent properties is N-2R, which is Residential (predominantly residential area with a variety of housing options, occasional civic structures, and mixed-use buildings on corner lots). The site is currently vacant. Planned reuse of the site as a residential development is consistent with the City of Buffalo zoning for the area.

Past Use of the Site:

Prior to a recent parcel consolidation, the site formerly included seven vacant lots that were developed with several former residential and commercial buildings. Portions of site were

historically used for automotive repair purposes from at least 1919 through at least 1930. Additional on-site commercial operations were identified as a beauty shop, storefronts, and a restaurant.

A previous investigation identified fill material underlying the site impacted by semi-volatile organic compounds (SVOCs) and metals exceeding 6 NYCRR Part 375 Soil Cleanup Objectives (SCOs).

Site Geology and Hydrogeology:

The site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief that gently slopes westward towards Lake Erie and the Niagara River, except in the immediate vicinity of major drainage ways. According to the United States Department of Agriculture (USDA) Web soil survey, site soils are characterized as Urban Land-Odessa Complex (Ut) and Urban Land-Colonie Complex (UnB). 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. The Urban Land-Odessa Complex is described as gently sloping areas of urban land and silty/clayey, somewhat poorly drained Odessa soils. The Urban Land-Colonie complex is described as gently sloping areas of urban land and sandy, somewhat excessively drained to well drained Colonie soils.

The subsurface conditions of the site consist of varying types of fill materials ranging in depth from 0 to 7 feet below ground surface (fbgs). Fill materials were found at all test pit locations with the exception of TP-6 and TP-14. Native soil was encountered and consists of reddish brown sandy lean clay at depths ranging from 2 to 7 fbgs. Native soils were encountered at shallower depths in the north and western portions of the site. Native soils elsewhere on the site, averaged 4 to 5 fbgs.

Regional groundwater flows in the northwesterly direction, consistent with topography in the vicinity of the site.

A site location map is attached as Figure 1.

## SECTION 4: LAND USE AND PHYSICAL SETTING

The Department may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, an alternative which allows for unrestricted use of the site was evaluated.

A comparison of the results of the investigation against unrestricted use standards, criteria and guidance values (SCGs) for the site contaminants is available in the Remedial Investigation (RI) Report.

## SECTION 5: ENFORCEMENT STATUS

The Applicant under the Brownfield Cleanup Agreement is a Volunteer. The Applicant does not have an obligation to address off-site contamination. However, the Department has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

## SECTION 6: SITE CONTAMINATION

### 6.1: Summary of the Remedial Investigation

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil
- soil vapor

#### 6.1.1: Standards, Criteria, and Guidance (SCGs)

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. The Department has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: http://www.dec.ny.gov/regulations/61794.html

#### 6.1.2: RI Results

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the remedial investigation/interim remedial measures/alternatives analysis report (RI/IRM/AAR) contains a full discussion of the data. The contaminants of concern identified at this site are:

| | |
|---|---|
| benzo(a)anthracene | mercury |
| benzo(a)pyrene | zinc |
| benzo(b)fluoranthene | antimony |
| benzo(k)fluoranthene | DDD |
| chrysene | DDE |
| indeno(1,2,3-cd)pyrene | DDT |
| lead | |

Based on the investigation results, comparison to the SCGs, and the potential public health and environmental exposure routes, certain media and areas of the site required remediation. These media were addressed by the IRM described in Section 6.2. More complete information can be found in the RI/IRM/AA Report.

## 6.2: Interim Remedial Measures

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

The following IRM has been completed at this site based on conditions observed during the RI.

IRM

Based upon investigations conducted prior to the IRM, primary contaminants of concern (COCs) at the site included SVOCs, pesticides, and metals at varying depths beneath the site in both fill material and native soils.

An IRM was implemented to remove all impacted soil and fill in which contaminant concentrations exceeded Unrestricted Soil Cleanup Objectives (USCOs). A total of 10,149 tons of impacted soil/fill material was removed from the site to achieve USCOs. Excavation occurred up to the site boundaries to depths varying from 2.2 to 9.5 feet below ground surface (fbgs). Particulate and VOC air monitoring was performed during the IRM in accordance with the community air monitoring plan (CAMP). Excavation depths were determined using RI test pit sample results that did not exceed USCOs within the native soil horizon. All impacted soil/fill removed from the site was properly handled and disposed of off-site at Town of Tonawanda Landfill as non-hazardous material for use as alternate grading material. A total of 24 post-excavation samples were collected following the IRM. Excavation sidewall samples at the site boundary lines indicate that contamination remains on adjoining properties and is indicative of local fill within the area. Sampling details and results can be found in the site's RI/IRM/AAR.

## 6.3: Summary of Environmental Assessment

This section summarizes the RI and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

The RI was conducted in 2021 and included sampling of surface soil, subsurface soil/fill, groundwater, and soil vapor. The data collected during the RI identified metals, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), herbicides/pesticides and emerging contaminants above unrestricted soil clean up objectives (USCOs) as follows.

Surface soils:

Surface soils were sampled from 0-2 inches bgs and analyzed for SVOCs, metals, PCBs, herbicides/pesticides, and emerging contaminants.

SVOCs detected in surface soil samples included benzo(a)anthracene at concentrations up to 1.8 parts per million (ppm) (USCO 1 ppm), benzo(a)pyrene at concentrations up to 1.8 ppm (USCO 1 ppm), benzo(b)fluoranthene at concentrations up to 2.4 ppm (USCO 1 ppm), benzo(k)fluoranthene at concentrations up to 0.82 ppm (USCO 0.8 ppm), chrysene at concentrations up to 1.8 ppm (USCO 1 ppm) and indeno(1,2,3-cd)pyrene at concentrations up to 1.3 ppm (USCO 0.5 ppm).

Metals detected in surface soil samples included lead at concentrations up to 708 ppm (USCO 63 ppm), mercury at concentrations up to 0.182 ppm (USCO 0.18 ppm) and zinc at concentrations up to 399 ppm (USCO 109 ppm).

No PCBs were detected at concentrations above USCOs at any surface soil location.

The emerging contaminant perfluorooctanesulfonic acid (PFOS) was detected in surface soil samples at concentrations up to 3.06 ppm (USCO 0.88 ppm).

Pesticides and herbicides detected in surface soil samples include 4,4'-DDD at concentrations up to 0.0174 ppm (USCO 0.0033 ppm), 4,4'-DDE at concentrations up to 0.257 ppm (USCO 0.0033 ppm), 4,4'-DDT at concentrations up to 0.199 ppm (USCO 0.0033 ppm) and dieldrin at concentrations up to 0.0118 ppm (USCO 0.005 ppm).

Subsurface soils:

Subsurface soils were sampled from 0-12 feet bgs and analyzed for volatile organic compounds (VOCs), SVOCs, metals, herbicides/pesticides, PCBs and emerging contaminants. There were no exceedances of USCOs for PCBs identified in these samples.

The VOC acetone was detected at up to 0.1 ppm (USCO 0.5 ppm) in surface soil samples.

SVOCs detected in subsurface samples included benzo(a)anthracene at concentrations up to 1.8 ppm (USCO 1 ppm), benzo(a)pyrene at concentrations up to 1.3 ppm (USCO 1 ppm), benzo(b)fluoranthene at concentrations up to 1.6 ppm (USCO 1 ppm), chrysene at concentrations up to 1.7 ppm (USCO 1 ppm) and indeno(1,2,3-cd)pyrene at concentrations up to 0.79 ppm (USCO 0.5 ppm).

Metals detected in subsurface soil included arsenic at 19.2 ppm (USCO 13 ppm), barium at 353 ppm (USCO 350 ppm), copper at concentrations up to 551 ppm (USCO 50 ppm), lead at concentrations up to 57,100 ppm (USCO 63 ppm), mercury at concentrations up to 1.77 ppm (USCO 0.18 ppm), nickel at concentrations up to 61.8 ppm (USCO 30 ppm) and zinc at concentrations up to 4,330 ppm (USCO 109 ppm).

Pesticides/herbicides detected in subsurface soil included 4,4'-DDD at concentrations up to 0.0327 ppm (USCO 0.0033 ppm), 4,4'-DDE at concentrations up to 0.0643 ppm (USCO 0.0033 ppm) and 4,4'-DDT at concentrations up to 0.0089 ppm (USCO 0.0033 ppm).

Emerging contaminants detected in subsurface soil included perfluorooctanoic acid (PFOA) at concentrations up to 0.661 ppm (USCO 0.66 ppm) and perfluorooctanesulfonic acid (PFOS) at concentrations up to 1.76 ppm (USCO 0.88 ppm).

Groundwater:

Groundwater samples were analyzed for VOCs, SVOCs, metals, pesticides/herbicides, PCBs, and emergent contaminants. Samples were evaluated against the NYS Groundwater Quality Standards (GWQS). No exceedances of GWQS for VOCs, herbicides/pesticides, emerging contaminants, or PCBs were identified.

SVOCs detected in groundwater included benzo(a)pyrene at concentrations up to 0.02 parts per billion (ppb) (GWQS ND), benzo(b)fluoranthene at concentrations up to 0.02 ppb (GWQS 0.002 ppb), benzo(k)fluoranthene at concentrations up to 0.01 ppb (GWQS 0.002 ppb), chrysene at concentrations up to 0.01 ppb (GWQS 0.002 ppb) and indeno(1,2,3-cd)pyrene at concentrations up to 0.03 ppb (GWQS 0.002 ppb).

Metals detected above GWQS included antimony at 5.55 ppb (GWQS 3 ppb), magnesium at concentrations up to 50,200 ppb (GWQS 35,000 ppb) and sodium at concentrations up to 656,000 ppb (GWQS 20,000 ppb). Magnesium and sodium are naturally occurring minerals and are not considered contaminants of concern for this site.

Soil Vapor:

Soil vapor studies included the collection and testing of soil vapor samples from two locations within the site boundary. Samples were analyzed for VOCs. Soil vapor sampling results did not indicate a level of concern for potential soil vapor intrusion.

The subsequent IRM excavation removed all impacted soil and fill materials on-site. Laboratory analysis of post-excavation samples concluded that within the site boundary, unrestricted SCOs have been achieved and no potential future environmental impacts are presented by the site following the IRM excavation of impacted soil/fill material.

### 6.4: Summary of Human Exposure Pathways

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure.*

Actions taken during implementation of the Interim Remedial Measure have removed the source of soil contamination at the site, thus eliminating potential contact with site contaminants. Drinking contaminants in water is not expected as the area is supplied with public water not affected by this site. Volatile organic compounds in soil vapor (air spaces within the soil) can move into buildings and affect indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Environmental sampling indicates soil vapor intrusion is not a concern for this site.

### 6.5: Summary of the Remediation Objectives

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

**Groundwater**

**RAOs for Public Health Protection**

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.

**Soil**

**RAOs for Public Health Protection**

- Prevent ingestion/direct contact with contaminated soil.

**RAOs for Environmental Protection**

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

## SECTION 7: ELEMENTS OF THE SELECTED REMEDY

The elements of the selected remedy are as follows:

Based on the results of the investigations at the site, the IRM that has been performed, and the evaluation presented here, the Department has selected No Further Action as the remedy for the site. The Department believes that this remedy is protective of human health and the environment and satisfies the remediation objectives described in Section 6.5.

The completed IRM met the requirements for a Track 1 Unrestricted Use cleanup and does not require additional remedial action, including any institutional or engineering controls.

No groundwater use restriction is needed because the area is served by public water not affected by this site and the City of Buffalo code (21 NYCRR § 10085.3) requires all water use to be obtained from municipal water mains.

**FIGURE 1**


## SITE LOCATION AND VICINITY MAP

FINAL ENGINEERING REPORT

MICHIGAN-BEST DEVELOPMENT
BCP SITE NO. C915375
BUFFALO, NEW YORK
PREPARED FOR
MICHIGAN & BEST LLC

BENCHMARK IN ASSOCIATION WITH TURNKEY ENVIRONMENTAL RESTORATION, LLC

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

PROJECT NO.: T0569-021-001
DATE: AUGUST 2022
DRAFTED BY: CNK

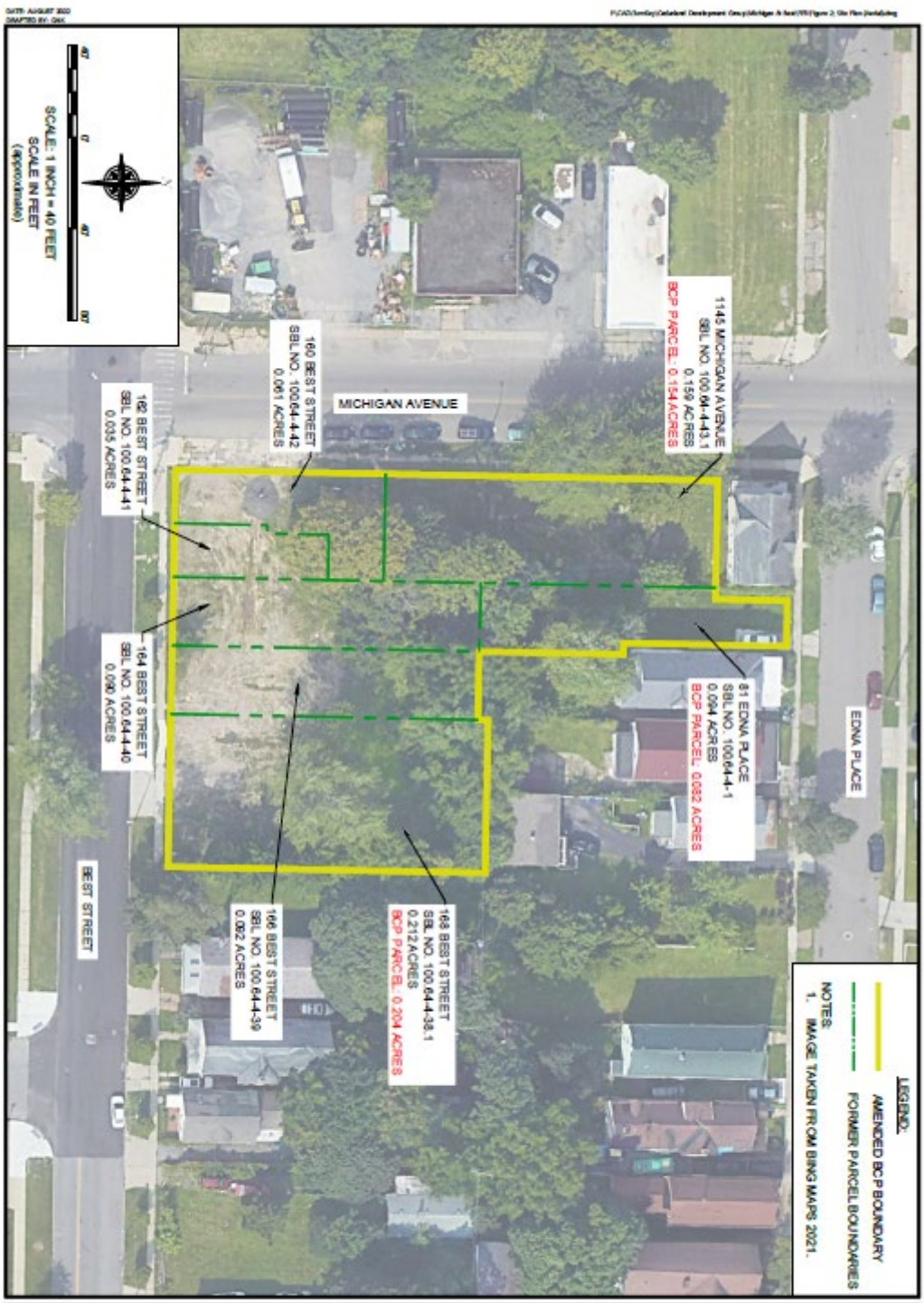


**FIGURE 2**

**SITE PLAN (AERIAL)**

FINAL ENGINEERING REPORT

MICHIGAN-BEST DEVELOPMENT
BCP SITE NO. C915375
BUFFALO, NEW YORK
PREPARED FOR
MICHIGAN & BEST LLC

BENCHMARK and TURNKEY

JOB NO.: T0569-020-001

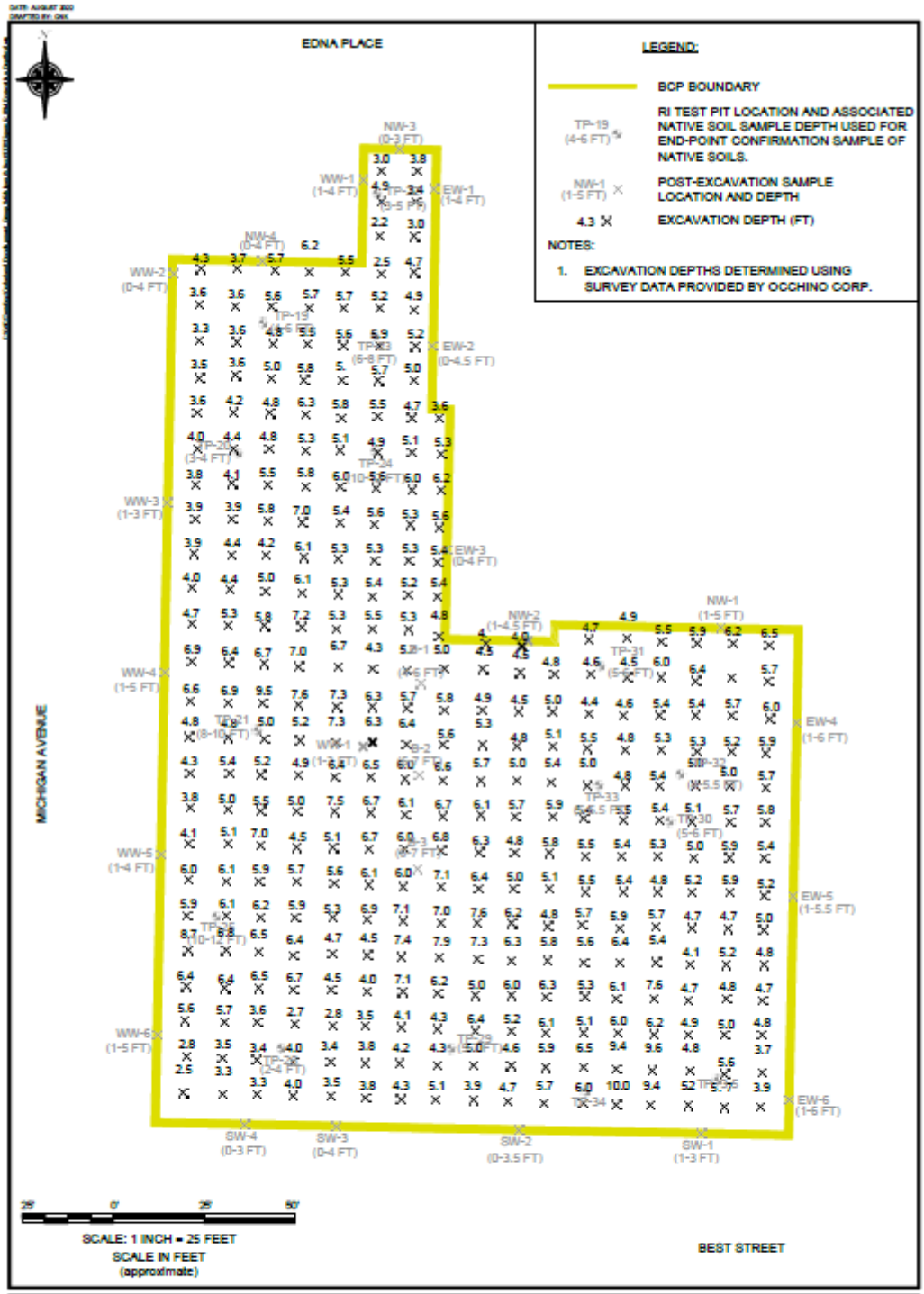


FIGURE 3

## IRM EXCAVATION DEPTHS

FINAL ENGINEERING REPORT

MICHIGAN-BEST DEVELOPMENT
BCP SITE NO. C915375
BUFFALO, NEW YORK
PREPARED FOR
MICHIGAN & BEST LLC

BENCHMARK

JOB NO.: T0569-021-001