

BROWNFIELDS CLEANUP PROGRAM APPLICATION

24 LABORERS WAY SITE 24 Laborers Way Buffalo, New York 14203 BCP # C915385



Submitted to:
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, New York 12233-7020

On Behalf Of:
Laborers Way 2, LLC
700 Second Street, Encinitas, CA

Prepared By:
Wittman GeoSciences, PLLC
8187 Boston Colden Road
Colden, New York 14033
(716) 574-1513



May 10, 2022; Revised June 23, 2022
WGS Project No: 19204.4

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BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

Is this an application to amend an existing BCA with a major modification? Please refer to the application instructions for further guidance related to BCA amendments. ☐ Yes ☒ No
If yes, provide existing site number: _____

Is this a revised submission of an incomplete application? ☐ Yes ☒ No
If yes, provide existing site number: _____

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SECTION I: Property Information

PROPOSED SITE NAME 24 Laborers Way Site

ADDRESS/LOCATION 24 Laborers Way

CITY/TOWN Buffalo

ZIP CODE 14203

MUNICIPALITY (LIST ALL IF MORE THAN ONE) Buffalo

COUNTY Erie

SITE SIZE (ACRES) 5.40

LATITUDE

LONGITUDE

42 ° 50 ' 18.20 " 78 ° 50 ' 57.45 "

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

ATTACH REQUIRED TAX MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section	Block	Lot	Acreage
24 Laborers Way, Buffalo, NY	132.15	2	2	5.40

1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site including a metes and bounds description.	<input checked="" type="radio"/> Y	<input type="radio"/> N
2. Is the required property map provided in electronic format with the application? (Application will not be processed without a map)	<input checked="" type="radio"/> Y	<input type="radio"/> N
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) If yes, identify census tract: Erie 029/0001.10 Percentage of property in En-zone (check one): 0% <input type="radio"/> 1-49% <input type="radio"/> 50-99% <input type="radio"/> 100% <input checked="" type="radio"/>	<input checked="" type="radio"/> Y	<input type="radio"/> N
4. Is the project located within a disadvantaged community? See application instructions for additional information.	<input checked="" type="radio"/> Y	<input type="radio"/> N
5. Is the project located within a NYS Department of State (NYS DOS) Brownfield Opportunity Area (BOA)? See application instructions for additional information.	<input checked="" type="radio"/> Y	<input type="radio"/> N

6. Is this application one of multiple applications for a large development project, where the development spans more than 25 acres (see additional criteria in application instructions)? If yes, identify names of properties and site numbers, if available, in related BCP applications:	Y	N
7. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?	<input type="radio"/>	<input checked="" type="radio"/>
8. Has the property previously been remediated pursuant to Titles 9, 13 or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.	<input type="radio"/>	<input checked="" type="radio"/>
9. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.	<input type="radio"/>	<input checked="" type="radio"/>
10. Has the property been the subject of or included in a previous BCP application? If yes, please provide the DEC site number:	<input type="radio"/>	<input checked="" type="radio"/>
11. Is the site currently listed on the Registry of Inactive Hazardous Waste Disposal Sites (Class 2, 3, or 4) or identified as a Potential Site (Class P)? If yes, please provide the DEC site number: _____ Class: _____	<input type="radio"/>	<input checked="" type="radio"/>
12. Are there any easements or existing rights-of-way that would preclude remediation in these areas? If yes, identify each here and attach appropriate information. <div style="display: flex; justify-content: space-between;"> <div><u>Easement/Right-of-Way Holder</u></div> <div><u>Description</u></div> </div>	<input type="radio"/>	<input checked="" type="radio"/>
13. List of permits issued by the DEC or USEPA relating to the proposed site (describe below or attach appropriate information): <div style="display: flex; justify-content: space-between;"> <div><u>Type</u></div> <div><u>Issuing Agency</u></div> <div><u>Description</u></div> </div>	<input type="radio"/>	<input checked="" type="radio"/>
14. Property Description and Environmental Assessment – please refer to the application instructions for the proper format of each narrative requested. Are the Property Description and Environmental Assessment narratives included in the prescribed format?	<input checked="" type="radio"/>	<input type="radio"/>
Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.		
15. Is the Requestor seeking a determination that the site is eligible for tangible property tax credits? If yes, Requestor must answer the Supplemental Questions for Sites Seeking Tangible Property Credits Located in New York City ONLY on pages 11-13 of this form.	Y	N
16. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?	<input type="radio"/>	<input type="radio"/>
17. If you have answered YES to Question 16 above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application?	<input type="radio"/>	<input type="radio"/>
NOTE: If a tangible property tax credit determination is not being requested at the time of application, the applicant may seek this determination at any time before issuance of a Certificate of Completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.		
If any changes to Section I are required prior to application approval, a new page, initialed by each Requestor, must be submitted with the application revisions.		
Initials of each Requestor: <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div></div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> </div>		

SECTION II: Project Description

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

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

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

☒ Yes

☐ No

☐ N/A

Investigation completed by GES for NYSDEC in 2019

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

☐ RIWP

☐ RAWP

☐ IRM

☒ No

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

Is this information attached?

☒ Yes

☐ No

See Section II Attachments

SECTION III: Land Use Factors

1. What is the property's current municipal zoning designation? D-IL (Light Industrial)

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

Residential ☐ Commercial ☐ Industrial ☒

3. Current use (select all that apply):

Residential ☐ Commercial ☐ Industrial ☐ Recreational ☐ Vacant ☒

4. Please provide a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date by which the site became vacant.

Is this summary included with the application?

Y

☒

N

☐

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

Residential ☐ Commercial ☒ Industrial ☐

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

☒

N/A

☐

☐

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

☒

☐

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

☐

☒

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

☒

☐

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

☒

☐

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

☒

☐

SECTION IV: Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that contamination of environmental media exists on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the site property and that the site requires remediation. To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit 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). Please do NOT submit paper copies of ANY supporting documents.**
- 2. SAMPLING DATA: INDICATE (BY SELECTING THE OPTIONS BELOW) KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED AS AN ATTACHMENT, WITH LABORATORY REPORTS REFERENCED AND INCLUDED.**

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

*Please describe other known contaminants and the media affected:

- For each impacted medium above, include a site drawing indicating: **See Section IV Attachments**
 - Sample location
 - Date of sampling event
 - Key contaminants and concentration detected
 - For soil, highlight exceedances of reasonably anticipated use
 - For groundwater, highlight exceedances of 6 NYCRR part 703.5
 - For soil gas/soil vapor/indoor air, refer to the NYS Department of Health matrix and highlight exceedances that require mitigation

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

Are the required drawings included with this application? ☒ YES ☐ NO

- Indicate Past Land Uses (check all that apply):

<input type="checkbox"/> Coal Gas Manufacturing	<input type="checkbox"/> Manufacturing	<input type="checkbox"/> Agricultural Co-Op	<input type="checkbox"/> Dry Cleaner
<input type="checkbox"/> Salvage Yard	<input type="checkbox"/> Bulk Plant	<input type="checkbox"/> Pipeline	<input type="checkbox"/> Service Station
<input type="checkbox"/> Landfill	<input type="checkbox"/> Tannery	<input type="checkbox"/> Electroplating	<input type="checkbox"/> Unknown

Other: Former railroad corridor and fill area for slag and historic fill associated with former industrial use

SECTION V: Requestor Information

NAME

Laborers Way 2, LLC

ADDRESS

700 Second Street

CITY/TOWN

Encinitas, CA

ZIP CODE

92024

PHONE

716-908-8383

EMAIL

rherrell@zephyrpartners.com

1. Is the requestor authorized to conduct business in New York State (NYS)?

Y



N



2. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS DOS to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted with this application to document that that requestor is authorized to conduct business in NYS. Is this attached?



3. If the requestor is an LLC, the names of the members/owners need to be provided on a separate attachment. Is this attached?



4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements?



Documents that are not properly certified will not be approved under the BCP.

See Section V Attachments

SECTION VI: Requestor Eligibility

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

1. Are any enforcement actions pending against the requestor regarding this site?

Y



N



2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?



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.



4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of (i) any provision of the ECL Article 27; (ii) any order or determination; (iii) any regulation implementing Title 14; or (iv) any similar statute or regulation of the State or Federal government?



5. Has the requestor previously been denied entry to the BCP? If so, please provide the site name, address, assigned DEC site number, the reason for denial, and any other relevant information regarding the denied application.



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?



SECTION VI: Requestor Eligibility (CONTINUED)

	Y	N
7. Has the requestor been convicted of a criminal offence (i) involving the handling, storing, treating, disposing or transporting or contaminants; or (ii) that involved a violent felony, fraud, bribery, perjury, theft or offense against public administration (as that term is used in Article 195 of the Penal Law) under Federal law or the laws of any state?	<input type="radio"/>	<input checked="" type="radio"/>
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of a false statement in connection with any document or application submitted to DEC?	<input type="radio"/>	<input checked="" type="radio"/>
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="radio"/>	<input checked="" type="radio"/>
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="radio"/>	<input checked="" type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input checked="" type="radio"/>
12. THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405(1) BY CHECKING ONE OF THE BOXES BELOW:		
PARTICIPANT <input type="checkbox"/> <p>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.</p>	VOLUNTEER <input checked="" type="checkbox"/> <p>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.</p> <p>NOTE: By selecting this option, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: (i) stop any continuing discharge; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste.</p> <p>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.</p>	
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?		
Yes <input checked="" type="radio"/> No <input type="radio"/> N/A <input type="radio"/> See Section VI Attachments		

SECTION VI: Requestor Eligibility (CONTINUED)

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

☐ Previous Owner ☐ Current Owner ☒ Potential/Future Purchaser ☐ Other: _____

If the requestor is not the current owner, **proof of site access sufficient to complete remediation must be provided.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an environmental easement on the site.

Is this proof attached?



Yes



No

Landowner Authorization is attached

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

SECTION VII: Requestor Contact Information**REQUESTOR'S REPRESENTATIVE**

Brad Termini

ADDRESS

700 Second Street

CITY

Encinitas, CA

ZIP CODE

92024

PHONE

760-908-8383

EMAIL

rherrell@zephyrpartners

REQUESTOR'S CONSULTANT (CONTACT NAME)

Michele Wittman

COMPANY

Wittman GeoSciences, PLLC

ADDRESS

8187 Boston Colden Road

CITY

Colden

ZIP CODE

14033

PHONE

716-574-1513

EMAIL

michelewittmangeo@gmail.com

REQUESTOR'S ATTORNEY (CONTACT NAME)

Marc Romanowski

COMPANY

Rupp Baase Pfalzgraf Cunningham, LLC

ADDRESS

1600 Liberty Building

CITY

Buffalo

ZIP CODE

14202

PHONE

716-854-3400 xt 295

EMAIL

romanowski@ruppbaase.com

Project Engineer

C&S Companies

141 Elm Street, Suite 100, Buffalo, NY 14203

Dan Riker

716-847-1630

driker@cscos.com

SECTION VIII: Program Fee

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

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

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

Buffalo Urban Development Corporation

CONTACT NAME

Bradi Merriweather, Chairwoman with BUDC

ADDRESS

275 Oak Street

CITY

Buffalo

ZIP CODE

14203

PHONE

716-856-6525

EMAIL

bmerriweather@buffalourbandevelopment.com

OWNERSHIP START DATE

11/29/2006

CURRENT OPERATOR

Buffalo Urban Development Corporation

CONTACT NAME

Brandi Merriweather, Chairwoman of BUDC

ADDRESS

275 Oak Street

CITY

City

ZIP CODE

14023

PHONE

716-856-6525

EMAIL

bmerriweather@buffalourbandevelopment.com

OPERATION START DATE

11/29/2006

SECTION X: Property Eligibility Information

	Y	N
1. Is/was the property, or any portion of the property, listed on the National Priorities List? If yes, please provide additional information.	<input type="radio"/>	<input checked="" type="radio"/>
2. Is/was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Site pursuant to ECL 27-1305? If yes, please provide the DEC site number: <u>915322</u> Class: <u>N</u>	<input checked="" type="radio"/>	<input type="radio"/>

SECTION X: Property Eligibility Information (continued)

	Y	N
3. Is/was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? If yes, please provide: Permit Type: _____ EPA ID Number: _____ Date Permit Issued: _____ Permit Expiration Date: _____	<input type="radio"/>	<input checked="" type="radio"/>
4. If the answer to question 2 or 3 above is YES, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? If yes, attach any available information related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filings and corporate dissolution documents. <div style="text-align: right;">N/A <input type="radio"/></div>	<input checked="" type="radio"/>	<input type="radio"/>
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? If yes, please provide the order number: _____	<input type="radio"/>	<input checked="" type="radio"/>
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? If yes, please provide additional information.	<input type="radio"/>	<input checked="" type="radio"/>

SECTION XI: Site Contact List

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

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and adjacent properties.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property.
- The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

See Section XI Attachments

SECTION XII: 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 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 Chief Executive Officer (title) of Laborers Way 2, LLC (entity); that I am authorized by that entity to make this application and execute a Brownfield Cleanup Agreement (BCA) and all subsequent documents; that this application was prepared by me or under my supervision and direction. If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: 05.09.2022 Signature: 

Print Name: Brad Termini - Authorized Representative for Laborers Way 2, LLC

SUBMITTAL INFORMATION

- Two (2) copies, one unbound paper copy of the application form with original signatures and table of contents, and one complete electronic copy in final, non-fillable 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, 11th Floor
Albany, NY 12233-7020

PLEASE DO NOT SUBMIT PAPER COPIES OF SUPPORTING DOCUMENTS. Please provide a hard copy of ONLY the application form and a table of contents.

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

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.

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Please respond to the questions below and provide additional information and/or documentation as required.	Y	N
1. Is the property located in Bronx, Kings, New York, Queens or Richmond County?	<input type="radio"/>	<input type="radio"/>
2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit?	<input type="radio"/>	<input type="radio"/>
3. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)?	<input type="radio"/>	<input type="radio"/>
4. Is the property upside down or underutilized as defined below?		
Upside down	<input type="radio"/>	<input type="radio"/>
Underutilized	<input type="radio"/>	<input type="radio"/>

From ECL 27-1405(31):

"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.

From 6 NYCRR 375-3.2(I) as of August 12, 2016 (Please note: Eligibility determination for the underutilized category can only be made at the time of application):

375-3.2:

- (I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and
- (1) the proposed use is at least 75 percent for industrial uses; or
- (2) at which:
- (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;
 - (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and
 - (iii) one or more of the following conditions exists, as certified by the applicant:
 - (a) property tax payments have been in arrears for at least five years immediately prior to the application;
 - (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or
 - (c) there are no structures.

"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.

FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)

5. 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*
*Selecting this option 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’ household’s 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 homeowners 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.

FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)

6. Is the site a planned renewable energy facility site as defined below?

- ☐ Yes – planned renewable energy facility site
- ☐ No – not a planned renewable energy facility site

If yes, please provide any documentation available to demonstrate that the property is planned to be developed as a renewable energy facility site.

From ECL 27-1405(33) as of April 9, 2022:

"Renewable energy facility site" shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.

From Public Service Law Article 4 Section 66-p as of April 23, 2021:

(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and meets the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?

- ☐ Yes
- ☐ No

From ECL 75-0111 as of April 9, 2022:

(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.

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BCP APPLICATION SUMMARY (FOR DEC USE ONLY)		
SITE NAME 24 Laborers Way Site		SITE ADDRESS 24 Laborers Way
CITY Buffalo	COUNTY Erie	ZIP 14203
REQUESTOR NAME Laborers Way 2, LLC		REQUESTOR ADDRESS 700 Second Street
CITY Encinitas, CA	ZIP 92024	EMAIL rherrell@zephyrpartners.com

PROPERTY ADDRESS	SECTION	BLOCK	LOT
24 Laborers Way, Buffalo, NY	132.15	2	2

REQUESTOR'S REPRESENTATIVE		
NAME Brad Termini	ADDRESS 700 Second Street	
CITY Encinitas, CA	ZIP 92024	EMAIL rherrell@zephyrpartners
REQUESTOR'S ATTORNEY		
NAME Marc Romanowski	ADDRESS 1600 Liberty Building	
CITY Buffalo	ZIP 14202	EMAIL romanowski@ruppbaase.com
REQUESTOR'S CONSULTANT		
NAME Michele Wittman	ADDRESS 8187 Boston Colden Road	
CITY Colden	ZIP 14033	EMAIL michelewittmangeo@gmail.com

REQUESTOR'S REQUESTED STATUS	PARTICIPANT <input type="checkbox"/>	VOLUNTEER <input checked="" type="checkbox"/>
DEC DETERMINATION	AGREE	DISAGREE

APPLIED FOR FEE WAIVER	YES <input type="radio"/>	NO <input checked="" type="radio"/>
ELIGIBLE FOR FEE WAIVER	YES	NO

PERCENTAGE WITHIN AN EN-ZONE	0% <input type="radio"/>	<50% <input type="radio"/>	50-99% <input type="radio"/>	100% <input checked="" type="radio"/>
DEC DETERMINATION	AGREE		DISAGREE	

BCP APPLICATION SUMMARY (FOR DEC USE ONLY) (CONTINUED)**FOR SITES IN NEW YORK CITY ONLY****IS THE REQUESTOR SEEKING TANGIBLE PROPERTY CREDITS?**

YES

☐

NO

☐**UPSIDE DOWN**

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

UNDERUTILIZED

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

AFFORDABLE HOUSING STATUS

PLANNED

☐

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

DISADVANTAGED COMMUNITY AND CONFORMING BOA

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

RENEWABLE ENERGY FACILITY SITE

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

NOTES:

Section I

Property Information

Figure I-A – Site Location – USGS Map

Figure I-B – Tax Map

Figure I-C – Site Base Map

Figure I-D – Proposed BCP Limits

Figure I-E – Site Survey

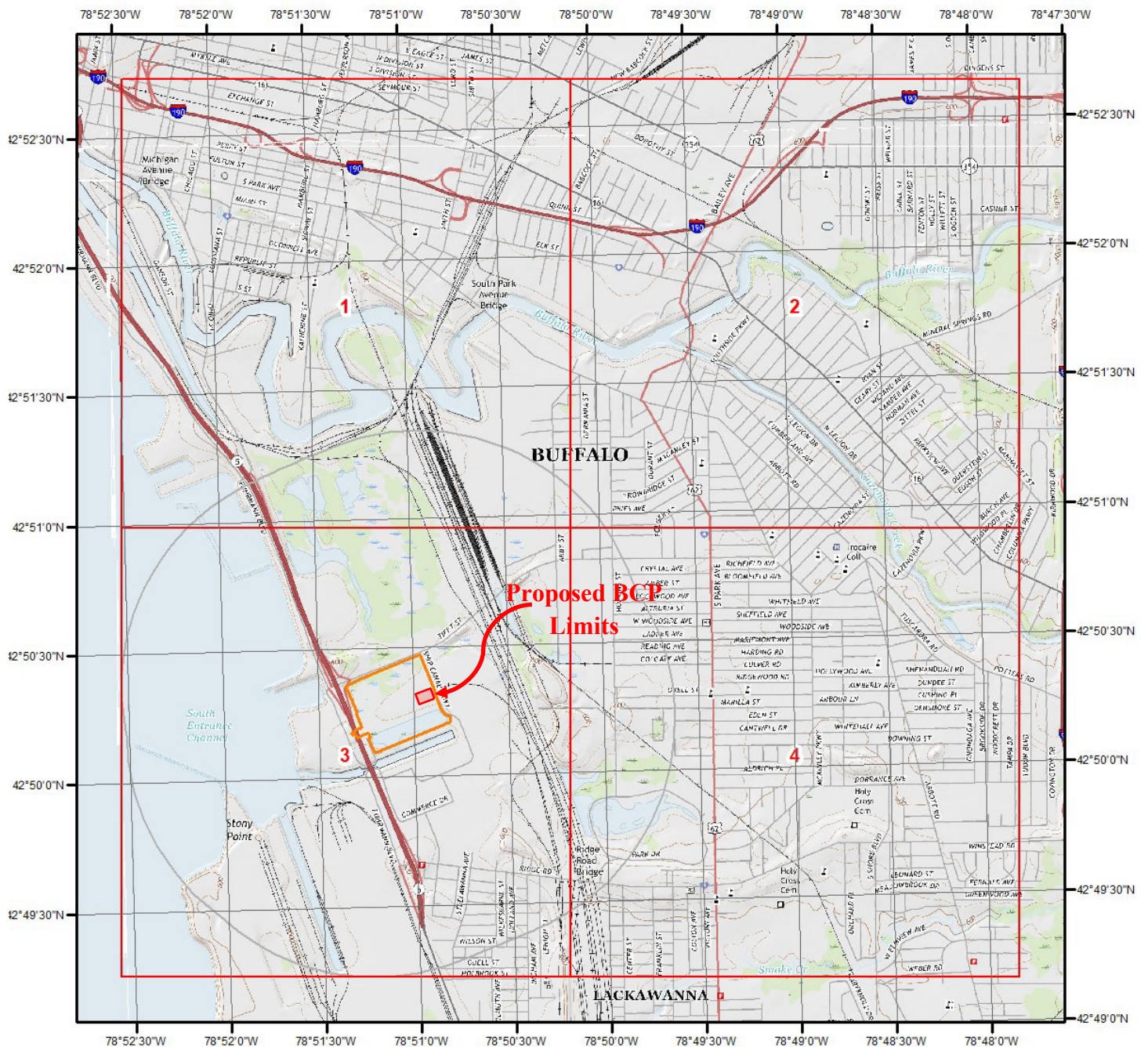
Figure I-F – En-Zone Designation

Figure I-G – Disadvantaged Communities

Figure I-H – Brownfield Opportunity Area

Figure I-I – Proposed Schedule

Property Description Narrative



Current USGS Topo (2016)

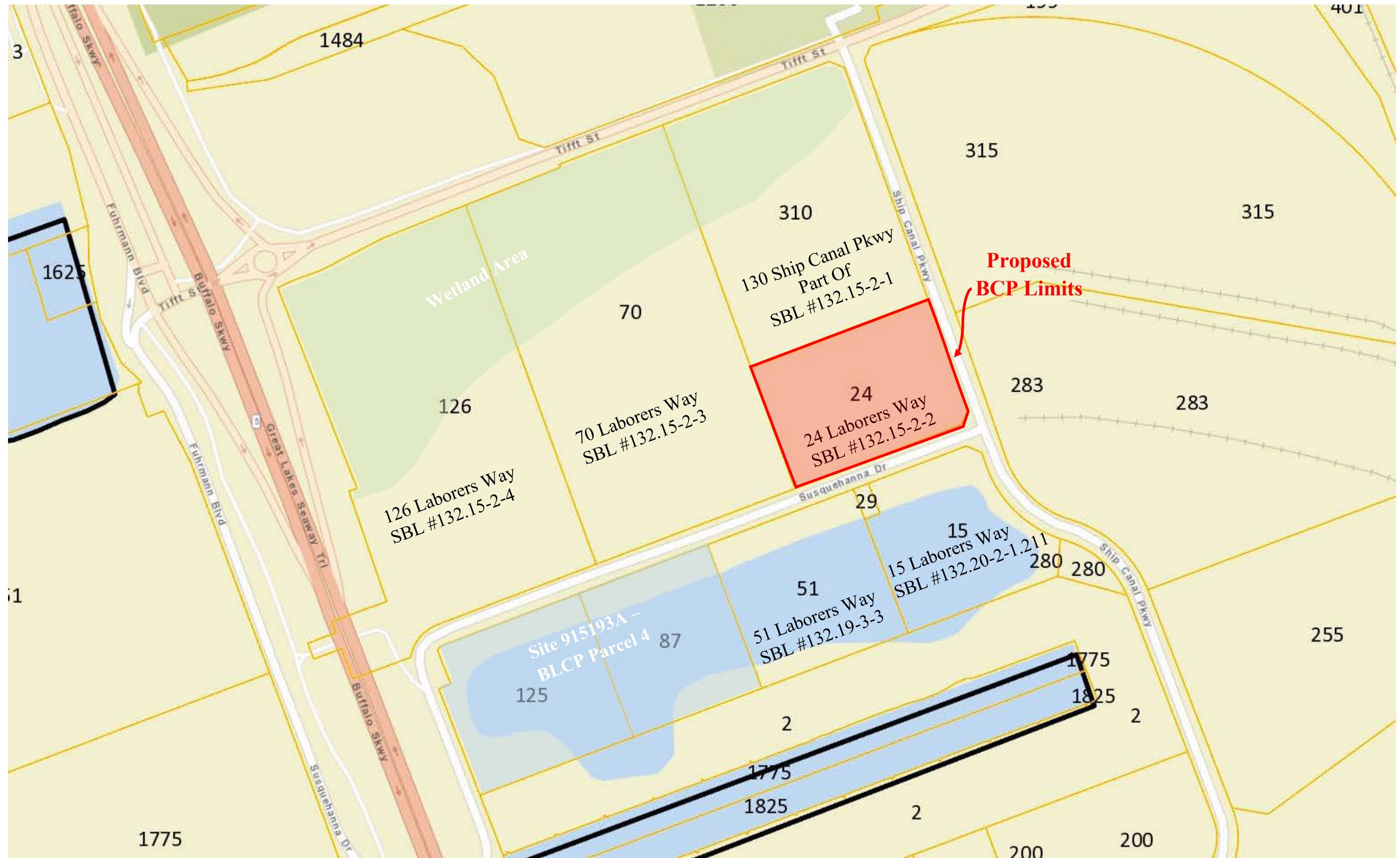
0 0.2 0.4 0.8 1.2 1.6 Miles



Quadrangle(s): Buffalo NE,NY; Buffalo NW,NY; Buffalo SE,NY; Buffalo SE OF W,NY; Lancaster,NY; Orchard Park,NY

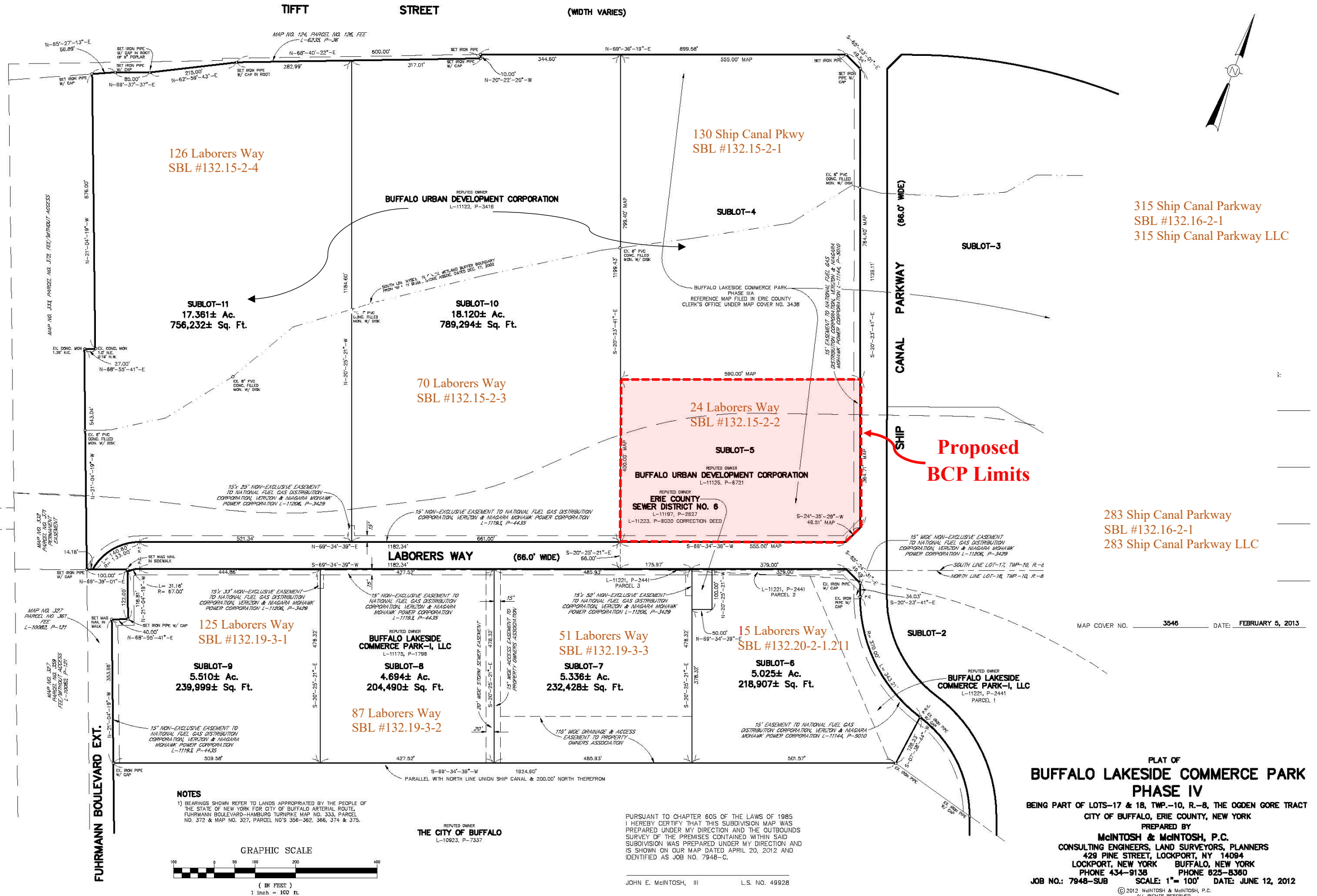
Source: USGS 7.5 Minute Topographic Map

WITTMAN GEOSCIENCES, PLLC	Date: 05/2022	Site Location Plan 24 Laborers Way, Buffalo, NY	Project: 19204.4 Figure: I-A
	Scale: as noted		



WITTMAN GEOSCIENCES, PLLC	Tax Parcel Limits	DRAWN BY: MMW	SCALE: not to scale	PROJECT: 19204.4
	24 Laborers Way, Buffalo, NY	CHECKED BY: MMW	DATE: 06/2022	FIGURE NO: I-B

FUHRMANN BOULEVARD ARTERIAL (N.Y.S. ROUTE NO. 5)
(VARYING WIDTHS)
(HAMBURG TURNPIKE)



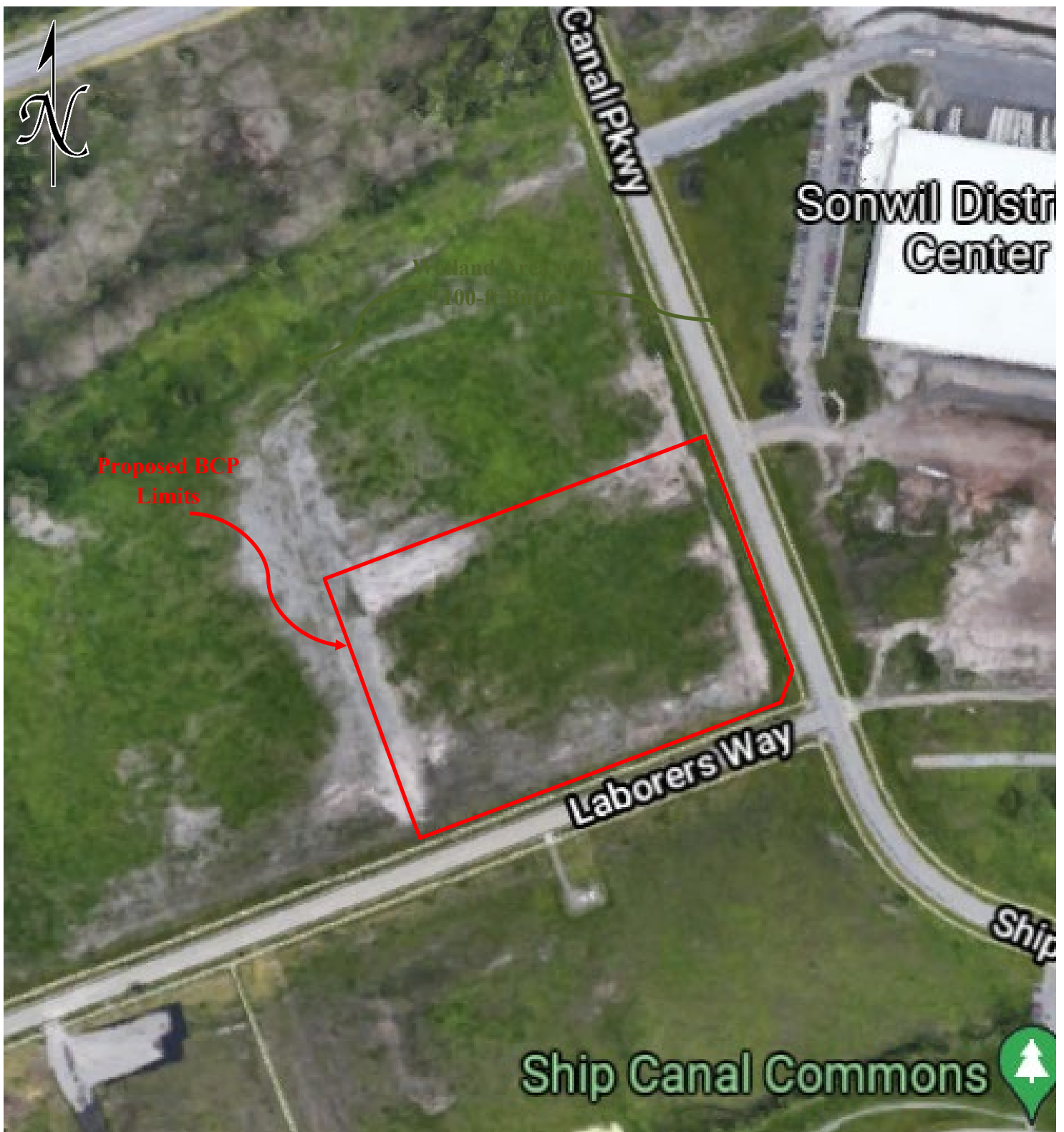
WITTMAN GEOSCIENCES, PLLC

Base Map
24 Laborers Way, Buffalo, NY

DRAWN BY: MMW
CHECKED BY: MMW

SCALE: see map
DATE: 05/2022

PROJECT: 19204.4
FIGURE NO: I-C



WITTMAN GEOSCIENCES, PLLC	Date: 06/2022	Proposed BCP Limits 24 Laborers Way, Buffalo, NY	Project: 19204.4
	Scale: 1"=20'		Figure: I-D

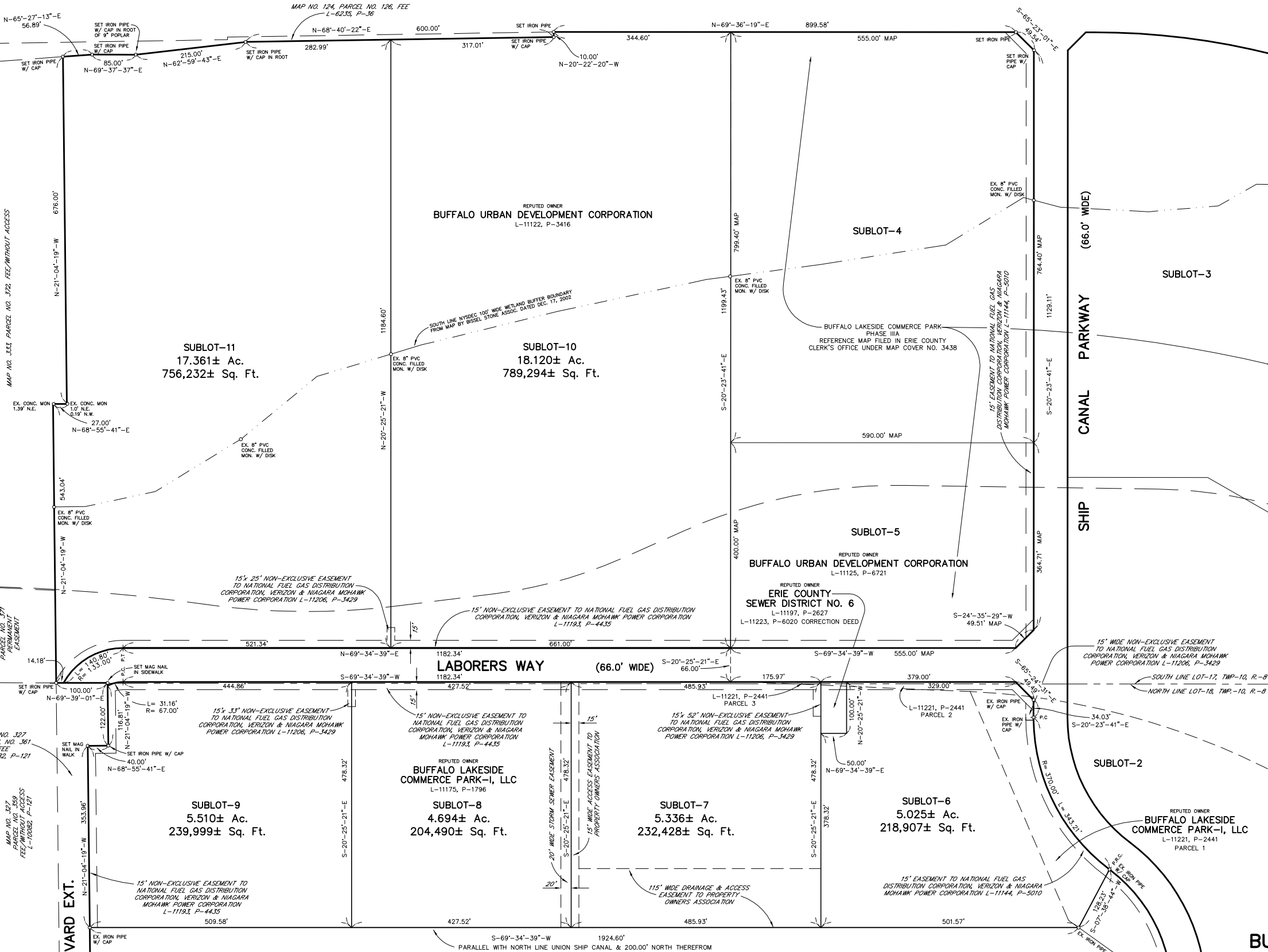
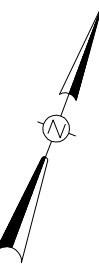
FUHRMANN BOULEVARD ARTERIAL (N.Y.S. ROUTE NO. 5) (VARYING WIDTHS) (HAMBURG TURNPIKE)

FUHRMANN BOULEVARD EXT.

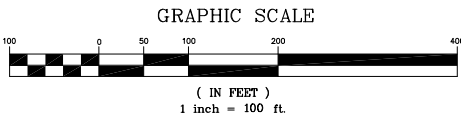
TIFFT STREET (WIDTH VARIES)

CANAL PARKWAY (66.0' WIDE)

SHIP



NOTES
1) BEARINGS SHOWN REFER TO LANDS APPROPRIATED BY THE PEOPLE OF THE STATE OF NEW YORK FOR CITY OF BUFFALO ARTERIAL ROUTE, FUHRMANN BOULEVARD-HAMBURG TURNPIKE MAP NO. 333, PARCEL NO. 372 & MAP NO. 327, PARCEL NO'S 356-362, 366, 374 & 375.



THE CITY OF BUFFALO
L-10923, P-7337

PURSUANT TO CHAPTER 605 OF THE LAWS OF 1985 I HEREBY CERTIFY THAT THIS SUBDIVISION MAP WAS PREPARED UNDER MY DIRECTION AND THE OUTBOUNDS SURVEY OF THE PREMISES CONTAINED WITHIN SAID SUBDIVISION WAS PREPARED UNDER MY DIRECTION AND IS SHOWN ON OUR MAP DATED APRIL 20, 2012 AND IDENTIFIED AS JOB NO. 7948-C.

JOHN E. McINTOSH, III L.S. NO. 49928

PLAT OF BUFFALO LAKESIDE COMMERCE PARK PHASE IV

BEING PART OF LOTS-17 & 18, TWP.-10, R.-8, THE OGDEN GORE TRACT
CITY OF BUFFALO, ERIE COUNTY, NEW YORK

PREPARED BY
McINTOSH & McINTOSH, P.C.
CONSULTING ENGINEERS, LAND SURVEYORS, PLANNERS
429 PINE STREET, LOCKPORT, NY 14094
LOCKPORT, NEW YORK BUFFALO, NEW YORK
PHONE 434-9138 PHONE 625-8360
JOB NO.: 7948-SUB SCALE: 1"= 100' DATE: JUNE 12, 2012

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ALL RIGHTS RESERVED

APPROVED BY THE FOLLOWING CITY OF BUFFALO DEPARTMENTS:
CITY ENGINEER - AS PER CITY ORDINANCE CHAPTER LXXI

DATE: _____

CITY CLERK ACCEPTING DEDICATION OF PUBLIC STREETS

DATE: _____

CITY PLANNING BOARD CHAIRMAN

DATE: _____

OWNER'S CONSENT FOR FILING

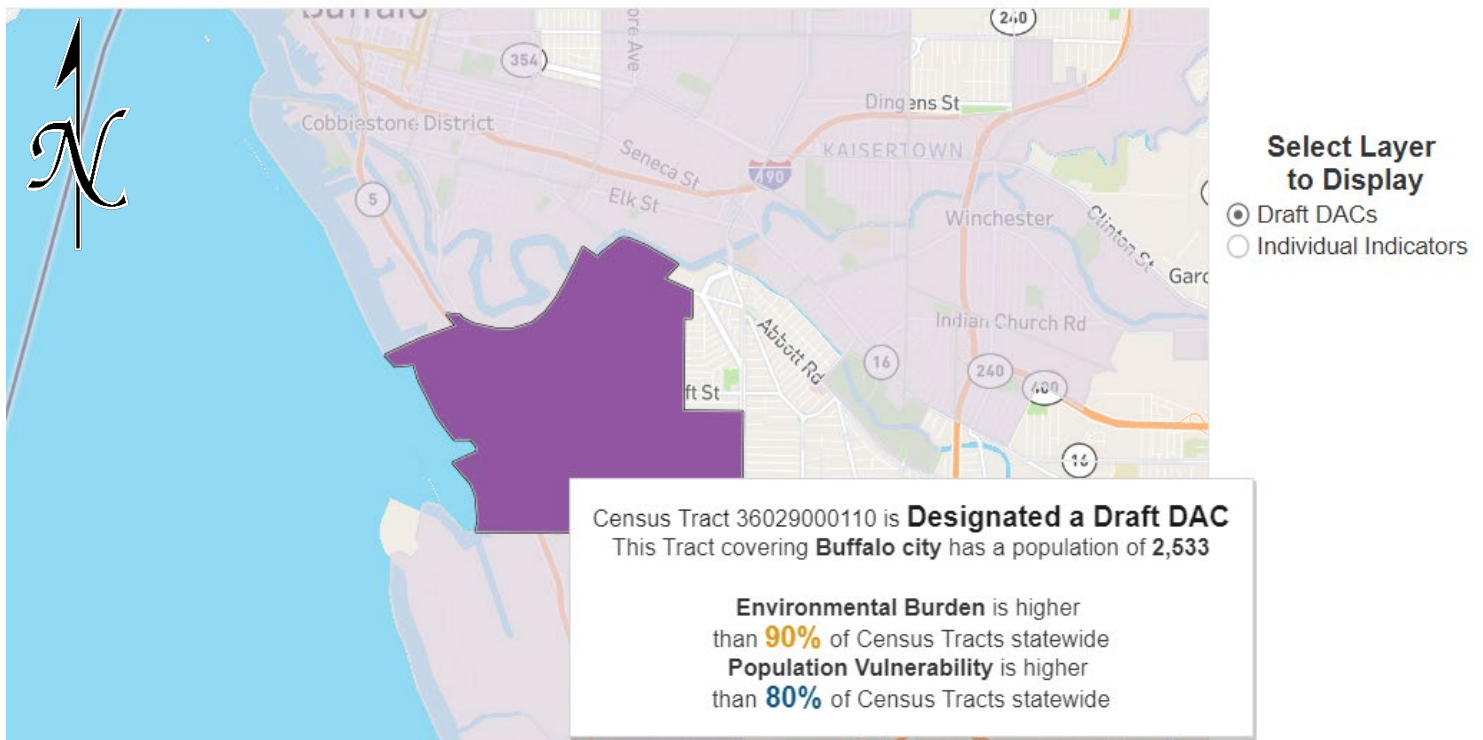
DATE: _____

FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER
MAP COVER NO. **3546** DATE: **FEBRUARY 5, 2013**



Type A En-Zones are shown in green, Type B are shown in blue, and Type AB are shown in pink.

WITTMAN GEOSCIENCES, PLLC	Date: 05/2022	En-Zone Area 24 Laborers Way, Buffalo, NY	Project: 19204.4
	Scale: not to scale		Figure: I-F



Population Characteristics & Vulnerability

Health Impacts & Burdens	Asthma ED visits	62%
	COPD ED visits	60%
	Heart attack (MI) Hospitalization	73%
	Low Birthweight	36%
	Pct Adults Age 65+	46%
	Pct w/ Disabilities	96%
	Pct w/o Health Insurance	19%
	Premature Deaths	81%
Housing, Mobility, Communications	Energy Poverty / Cost Burden	94%
	Homes Built Before 1960	89%
	Housing Cost Burden (Rental C..	62%
	Manufactured Homes	0%
	Pct Renter-Occupied Homes	59%
Income	Pct w/o Internet (home or cellul..	80%
	Pct <100% of Federal Poverty ..	71%
	Pct <80% Area Median Income	74%
	Pct Single-Parent Households	81%
	Pct w/o Bachelor's Degree	90%
Race/Ethnicity	Unemployment Rate	93%
	Historical Redlining Score	71%
	Limited English Proficiency	34%
	Pct Asian	0%
	Pct Black or African American	62%
	Pct Latino/a or Hispanic	77%
	Pct Native American or Indigen..	1%

Environmental Burden & Climate Change Risk

Land Use & Historic Discrimination	Active Landfills	0%
	Housing Vacancy Rate	75%
	Industrial/Manufacturing/Mining La..	95%
	Major Oil Storage Facilities	0%
	Municipal Waste Combustors	0%
	Power Generation Facilities	0%
	Regulated Management Plan (Ch..	99%
	Remediation Sites	100%
Potential Climate Change Risk	Scrap Metal Processing	98%
	Agricultural Land Use	52%
	Coastal Flooding and Storm Risk ..	0%
	Driving Time to Urgent/Critical Care	59%
	Extreme Heat Projections (>90° d..	5%
Potential Climate Change Risk	Inland Flooding Risk Areas	74%
	Agricultural Land Use	52%
	Coastal Flooding and Storm Risk ..	0%
	Driving Time to Urgent/Critical Care	59%
	Extreme Heat Projections (>90° d..	5%
Potential Pollution Exposure	Inland Flooding Risk Areas	74%
	Low Vegetative Land Cover	49%
	Benzene Concentration (Modeled)	26%
	Particulate Matter (PM2.5)	54%
	Traffic: Diesel Trucks	62%
	Traffic: Number of Vehicles	15%
	Wastewater Discharge	44%

Based map adapted from [Disadvantaged Communities Map \(ny.gov\)](https://www.ny.gov/disadvantaged-communities-map)

WITTMAN GEOSCIENCES, PLLC	Date: 05/2022	Disadvantaged Communities 24 Laborers Way, Buffalo, NY	Project: 19204.4
	Scale: not to scale		Figure: I-G



Private and Public Ownership

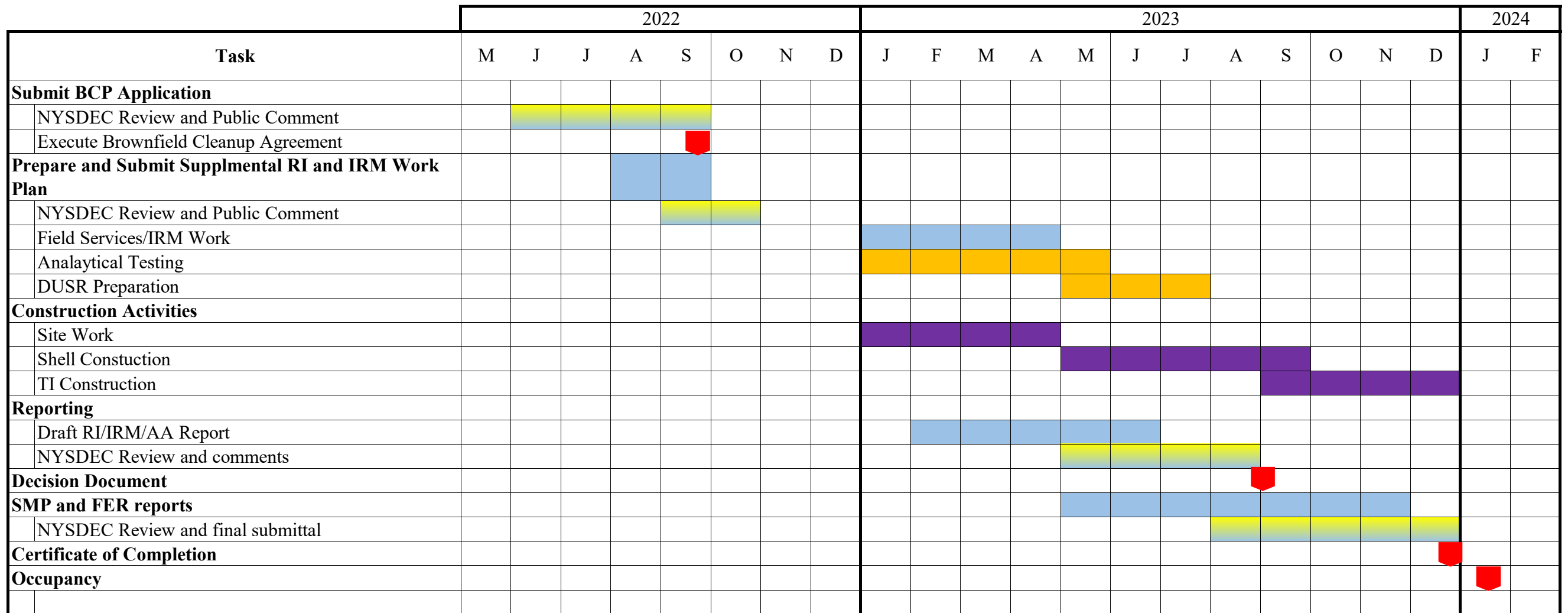
LEGEND







- ● ● ● SOUTH BUFFALO BROWNFIELD OPPORTUNITY AREA
- PUBLIC SECTOR
- PRIVATE SECTOR

Based map adapted from South Buffalo Brownfield Opportunity Area, Executive Summary, Step 3: Implementation Strategy

WITTMAN GEOSCIENCES, PLLC	Date: 05/2022	Brownfield Opportunity Area 24 Laborers Way, Buffalo, NY	Project: 19204.4
	Scale: not to scale		Figure: I-H

Figure I-I
BCP Project Schedule
 24 Laborers Way Site
 24 Laborers Way, Buffalo, New York
 NYSDEC Brownfield Cleanup Program - #TBD



-  Milestone Date
-  Task by WGS/C&S
-  NYSEC Review
-  Public Comment
-  Laboratory analysis/DUSR by Subcontractor
-  Owner/Applicant

Property Description Narrative

Location – The Site is addressed as 24 Laborers Way and includes 5.40 acres of vacant land identified as SBL # 132.15-2-2. The Site is bound to the west by a vacant parcel (70 Laborers Way), to the north by vacant parcel (310 Ship Canal Parkway) to the east beyond which is Sonwil Distribution, and Laborers Way beyond which is additional vacant land (15 and 51 Laborers Way). The property is located within an urban area, utilized for industrial and commercial purposes.

Site Features – The Site is vacant, undeveloped land. Drainage features on site include a drainage ditch along the western property limit.

Current Zoning and Land Use – The site is currently inactive and zoned for light industrial and commercial uses. The surrounding properties are currently used for a combination of commercial, light industrial, and utility rights-of-way. The nearest residential area is over 0.8 miles east of the site.

Past Uses of the Site – The southern portion of the site was part of the former CSX Property and the northern portion was part of Herbert F. Darling Property and included within the previous reports completed for the 5.40 acre proposed BCP site, as well as the adjoining and nearby properties.

- Phase I Environmental Site Assessment Report, CSX (Former Penn 200 Yard) Site, Buffalo, NY; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated August 2006.
 - o The CSX (Former 200 Penn 200 Yard) included 37.94 acres of vacant land, as shown on Figure III-A. The larger 37.94 acre parcel was a former railroad corridor and generally covered with slag and gravel, which was apparently utilized as railroad ballast.
 - o Miscellaneous dumping was noted in various areas of the larger parcel. Materials observed included abandoned drums, scrap automobile parts, household items, tires, and abandoned tank, and railroad ties.
 - o The CSX property was formerly used as a rail yard from about 1926 through at least 1986; and vacant land from 1995 to present. Possible dumping activities were noted on the north and south adjacent properties from the 1960s through 2005.
- Phase II Environmental Site Investigation Report, CSX (Former Pen 200 Yard) Site, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated October 2006
 - o Investigation work included 29 soil borings, soil sampling and installation/sampling of five new monitoring wells throughout the larger parcel, that included the proposed BCP limits.
 - o Elevated levels of acetone and metals including mercury, copper, and manganese were detected within the soil samples at concentration exceeding unrestricted use SCO, but below commercial SCO.

- Several metals were detected above groundwater quality standards.
 - Subsurface conditions were identified as non-native slag fill materials overlying silty clay. The fill material consisted of slag to depths ranging from 0.5 to 10 feet below grade.
 - Groundwater was encountered between about 1 to 4 feet below grade and groundwater generally flowed west and south toward the Union Ship Canal. Groundwater gauging also indicates that the wetland areas on the Darling site influence groundwater flow toward the northwest.
- Phase I Environmental Site Assessment Report, Herbert F. Darling Site, 99 Tifft Street, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated August 2006.
- The Herbert F. Darling Site included 75.5 acres of vacant land, as shown on Figure III-A. The larger 75.5 acre parcel was vacant, undeveloped fallow land, with wetlands present in the northern portion. No buildings were located on the property, and miscellaneous dumping was noted in various areas. Materials included slag/fill piles, scrap automobile parts, household items, apparent asbestos house siding and tires.
 - The larger parcel included three large slag and soil/fill material from an unknown source.
 - The Herbert F. Darling property was formerly used as a slag dumping area and potential railroad corridor from about 1926 through 2005.
 - Possible dumping or landfill activities were noted on the north and south adjacent property from at least 1960s through 2005.
 - Previous historic slag sampling conducted by NYSDEC was completed in July 2002 (note sample results were not included in the report), that note elevated levels of arsenic, barium, and PCBs within at least one slag sample on-site.
- Phase II Environmental Site Investigation Report, Herbert F. Darling Site, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated October 2006.
- Investigation work included ten soil borings, sampling of fill/soil piles, and installation/sampling of five new monitoring wells throughout the larger parcel, that included the 5.11 acres of proposed BCP limits.
 - Elevated levels of metals including manganese and selenium were detected within the soil samples at concentration exceeding unrestricted use SCO, but below commercial SCO.
 - Soil/Fill piles and slag piles identified several metals exceeding commercial use SCO.
 - Several metals were detected above groundwater quality standards as well as elevated pH readings were recorded.
 - Subsurface conditions were identified as non-native slag fill materials overlying silty clay. The fill material consisted of slag to depths ranging from 6 to 16 feet below grade.
 - Groundwater flow appeared to be toward the west and northwest. Additionally, groundwater gauging indicated that the Union Ship Canal located south of the site influences groundwater flow.

- Site Characterization Report, Buffalo Lakeside Commercial Park Parcel 5, Laborers Way and Ship Canal Parkway, Buffalo, NY 14218; NYSDEC Site No. 915322 completed for NYSDEC by GES, dated January 25, 2019.
 - o Investigation work was completed on Parcel 5, which was identified as a 51-acre parcel, of which the 5.40-acre proposed BCP site is included. Historically, the site was used for slag dumping and a railroad corridor.
 - o 50 soil borings were completed on the larger parcel, that included nine soil borings within the proposed BCP limits. Ten monitoring well locations were also completed; including two within the BCP limits (MW101 and MW123).
 - o In general, VOCs, SVOCs, pesticides and PCBs were detected at numerous soil samples on the larger parcel, but at concentrations below commercial use SCO. However, detected metal concentrations exceeded commercial use SCO in 41 sample locations. Cyanide was also noted to exceed commercial use SCO in 8 soil sample locations.
 - o Groundwater sample analysis identified exceedances of VOCs in one location; SVOCs in eight locations; Pesticides at one location; and metals including chromium, iron and sodium at all locations. Additionally, PCBs and cyanide were not detected at any sample location.

The Site, as well as surrounding properties were initially vacant land and used from the mid-1920s through about 2005 as slag dumping and railroad corridor. No records of building or development was identified. The current property owner, Buffalo Urban Development Corporation, completed limited site work, including grading, construction of Ship Canal Road and Laborers Way Road, and installation of utilities including natural gas, electric, municipal water and sewer within the roadways with connections available for site and surrounding properties.

Site Geology and Hydrogeology – Geological conditions at the Site was generally characterized as man-made slag fill materials overlying peat and silty clay. The fill material primarily consists of slag at depths from ground surface to about 8 to 12 feet below grade. Monitoring wells were installed at two on-site soil boring locations as part of past investigation work, as well as on surrounding areas to north and west. Groundwater was encountered about 10-feet below grade, and had a very low gradient, of less than 0.22 feet. Groundwater beneath the site and surrounding area generally flowed westerly direction.

Environmental Assessment – Based on the investigation completed 2018/2019, the primary contaminants of concern in the soil include semi-volatile organic compounds (SVOC), specifically polycyclic aromatic hydrocarbons (PAHs) and metals such as arsenic, barium and cyanide.

Soil – The contamination at the site is primarily due to historical industrial fill which extends about 8 to 12-feet below ground surface. Metals were encountered in the soil samples collected from fill areas at concentrations exceeding CUSCO, including arsenic up to 42 ppm (CUSCO – 16 ppm); cadmium up to 9.8 ppm (CUSCO – 9.3 ppm); copper up to 419 ppm (CUSCO – 270 ppm) and cyanide (total) up to 33.1 ppm (CUSCO – 27 ppm). Additionally, SVOCs were encountered in the soil samples, including benzo(b)fluoranthene up to 27,000 ppm (CUSCO – 5,600 ppm); benzo(a)anthracene up to 18,000 ppm (CUSCO – 5,600 ppm); benzo(a)pyrene at 17,000 ppm (CUSCO – 1,000 ppm); and dibenzo(a)anthracene at 1,500 ppm (CUSCO – 560 ppm).

Groundwater – Groundwater was sampled from existing on-site monitoring wells MW101 and MW123. Metals were encountered in the groundwater samples collected with sodium up to 152 ppb exceeding GWQS of 20 ppb. One monitoring well was on-Site from the Darling Ph II. Metals that exceeded GWQS included iron at 6200 ppb (GWQS 300 ppb); lead at 39 ppb (GWQS at 25 ppb), and manganese at 440 ppb (GWQS 300 ppb). Darling Ph II analytical was on unfiltered groundwater samples. Pesticides, PCBs, VOCs, and SVOCs were not detected at concentrations exceeding GWQS

No additional environmental media was sampled within the proposed BCP limits.

Section II

Project Description

Project Description

The Site is currently located within the Buffalo Lakeside Commerce Park (BLCP) Development and includes approximately 5.40 acres of vacant land which is underutilized, underdeveloped property located in the City of Buffalo. BLCP occupies over 200 acres, which was originally a lake margin swamp. However, in the early 1900s, the BLCP area was purchased by Buffalo Union Steel Corporation for the purpose of manufacturing pig iron, with construction blast furnaces completed by 1915. By 1929, the properties were purchased by National Steel Company, and the new corporate entity became known as Hanna Furnace Corporation.

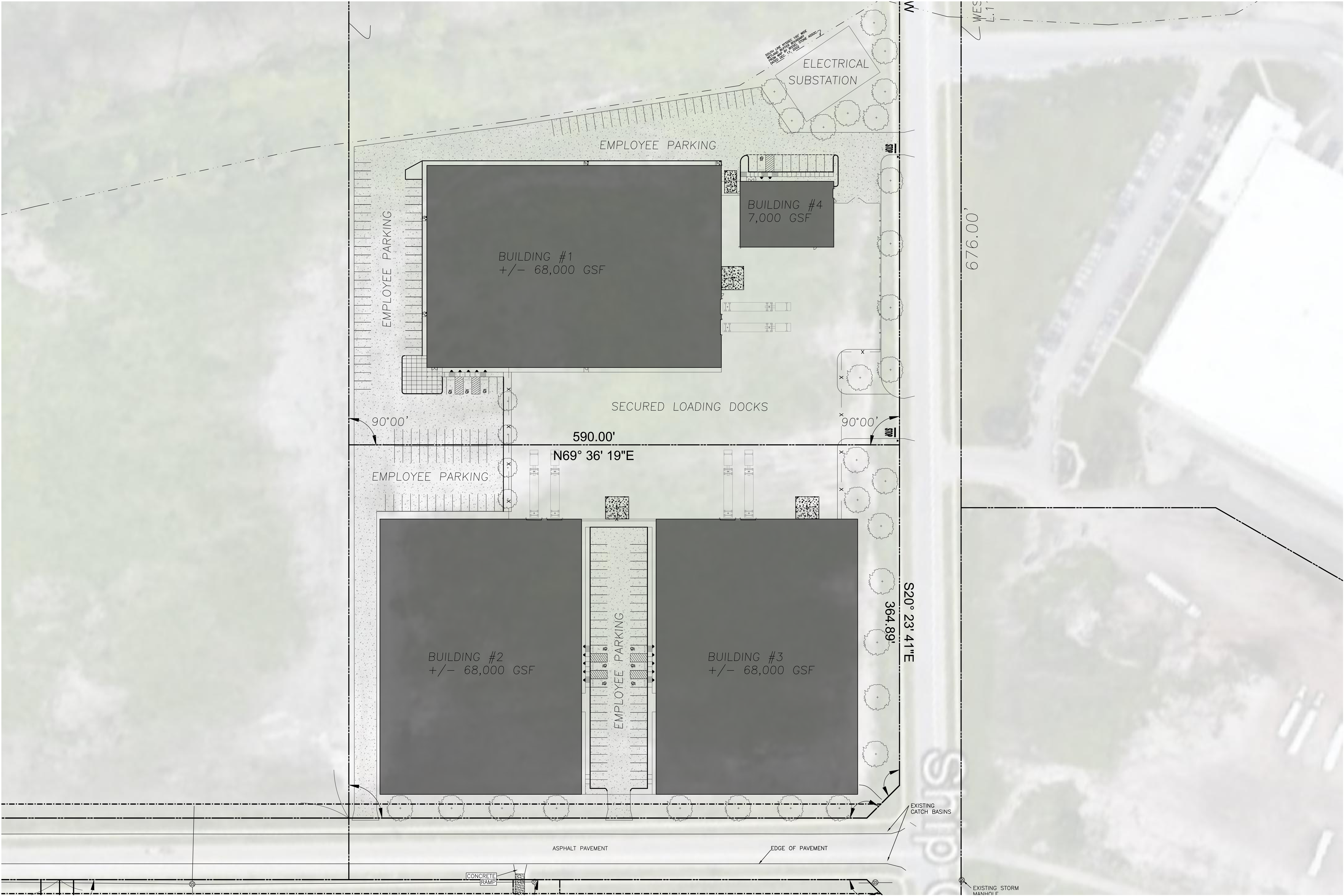
The Site consists of one parcel, addressed as 24 Laborers Way, identified as SBL #132.15-2-2 and includes 5.40 acres of vacant land.

The Site was formerly part of the larger NYSDEC Inactive Hazardous Waste Site (IHWS) #915322, aka “Parcel 5”, which was reclassified on June 22, 2020. The NYSDEC determined that the Site does not qualify for placement on the IHWS Registry. However, NYSDEC and New York State Department of Health (NYSDOH) recognized “there is the potential for exposures to metals in the soil above NYCRR Part 375 soil cleanup objectives for commercial use on the property.

The Site area was historically used for slag dumping and use as a railroad coordinator. Slag and other industrial fill materials use as rail ballasts were noted to be present throughout the properties. Additionally, historical reports also noted possible dumping or landfill activities from at least the 1960s through 2005. A Site Characterization Report has been completed; however further remedial work has not been completed. Soil boring logs identified 8 to 12 feet of fill material, identified as slag debris intermixed with concrete, sand, and silt, underlain by peat, clay and sand.

The Site will be redeveloped and currently planned to include two 68,000-square foot proposed manufacturing buildings parking areas, and landscaped grass areas. The building will be ready for tenant improvements, once a tenant is confirmed. The northern adjoining property, identified as BCP C915322 at 310 Ship Canal Parkway, is planned for development with a 68,000-square foot commercial/warehouse building and 7,000-square foot office building.

Supplemental investigation work is planned for Fall 2022 with remedial activities anticipated to begin in Winter 2022 and continue through building construction into Spring 2023. Development will occur simultaneously with remedial requirements. The Certificate of Completion is anticipated in December 2023.



SOUL LINE INDICED FOR WIRE
INCLUDING 600V BONDING WIRE
PER 17.2003

ELECTRICAL
SUBSTATION

EMPLOYEE PARKING

BUILDING #4
7,000 GSF

BUILDING #1
+/- 68,000 GSF

EMPLOYEE PARKING

SECURED LOADING DOCKS

90°00'

590.00'

N69° 36' 19"E

EMPLOYEE PARKING

90°00'

BUILDING #2
+/- 68,000 GSF

EMPLOYEE PARKING

BUILDING #3
+/- 68,000 GSF

364.89'

S20° 23' 41"E

ASPHALT PAVEMENT

EDGE OF PAVEMENT

CONCRETE
RAMP

EXISTING
CATCH BASINS

EXISTING STORM
MANHOLE

676.00'

Section III

Land Use Factors

Zoning Use – 24 Laborers Way is currently zoned D-IL (Light Industrial),

Current Use – 24 Labors Way is vacant, undeveloped land. The Site was used primarily as a fill area, receiving substantial quantities of slag with 8 to 12 feet of slag present, from the 1920s until about 2005. Additionally, the southern portion of the site was a former CSX Railroad corridor.

Reasonably Anticipated Use Post Remediation – The Site will be redeveloped and currently planned to include two approximately 68,000-square foot proposed manufacturing buildings, parking areas, and landscaped grass areas. The building will be ready for tenant improvements once a tenant is confirmed. Due to the proposed future usage, commercial usage will be cleanup goal/criteria.

Recent Development – The BLCP area redevelopment has been completed in the area since the mid to late 2000s. Laborers Way was constructed by 2013, with Site and area utilities, including municipal water, sewer, electric, and natural gas. The proposed use is consistent with recent development in the area. The Site is currently zoned D-IL (Light Industrial).

Compliance with Zoning Laws, Recent Development, and Community Master Plans – The D-IL district permits commercial or industrial uses, including processing and packaging of a product in an enclosed area. The 2016 City of Buffalo Land Use Plan envisions Commercial Uses in the Lakeside Commerce Park.

Section IV

Property's Environmental History

Table 1 – Subsurface Soil Data Summary Table

Figure IV-A – Historic Site Use

Figure IV-B – Subsurface Soil Results

Figure IV-C – Groundwater Wells and Groundwater Flow Direction

Previous Reports:

- Phase I Environmental Site Assessment Report, CSX (Former Penn 200 Yard) Site, Buffalo, NY; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated August 2006
- Phase I Environmental Site Assessment Report, Herbert F. Darling Site, 99 Tifft Street, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated August 2006
- Phase II Environmental Site Investigation Report, CSX (Former Pen 200 Yard) Site, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated October 2006
 - * due to age of report, analytical data was only hard copy and not available
- Phase II Environmental Site Investigation Report, Herbert F. Darling Site, Buffalo, New York; prepared for Buffalo Urban Development Corporation by Benchmark Environmental Engineering & Science, PLLC, dated October 2006.
 - * due to age of report, analytical data was only hard copy and not available
- Site Characterization Report, Buffalo Lakeside Commercial Park Parcel 5, Laborers Way and Ship Canal Parkway, Buffalo, NY 14218; NYSDEC Site No. 915322 completed for NYSDEC by GES, dated January 25, 2019.
 - * NYSDEC has the lab packages in their files

Table 1
Subsurface Soil Data Summary Table
24 Laborers Way, Buffalo, NY

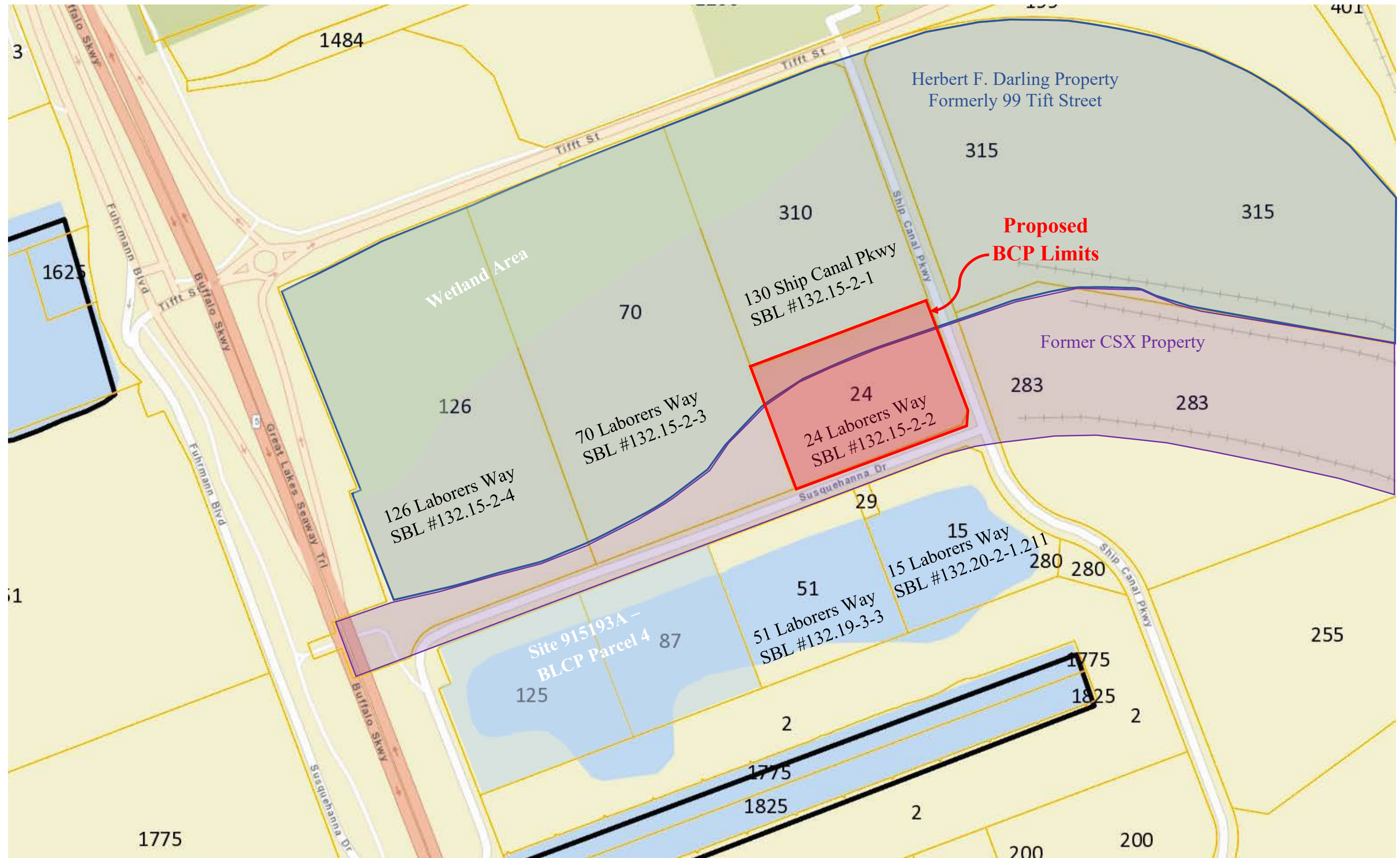
Analytes CUSCO	> Detections > CUSCO	Max Detection (ppm)	CUSCO	Depth (ft bgs)
Arsenic	3	42	16	0-1
Cadmium	1	9.8	9.3	0-1
Copper	1	419	270	0-1
Benzo(b)fluoranthene	1	27000	5600	0-1
Benzo(a)anthracene	1	18000	5600	0-1
Benzo(a)pyrene	2	17000	1000	0-1
dibenzo(a)anthracene	1	1500	560	0-1
Cyanide	3	33.1	27	0-1

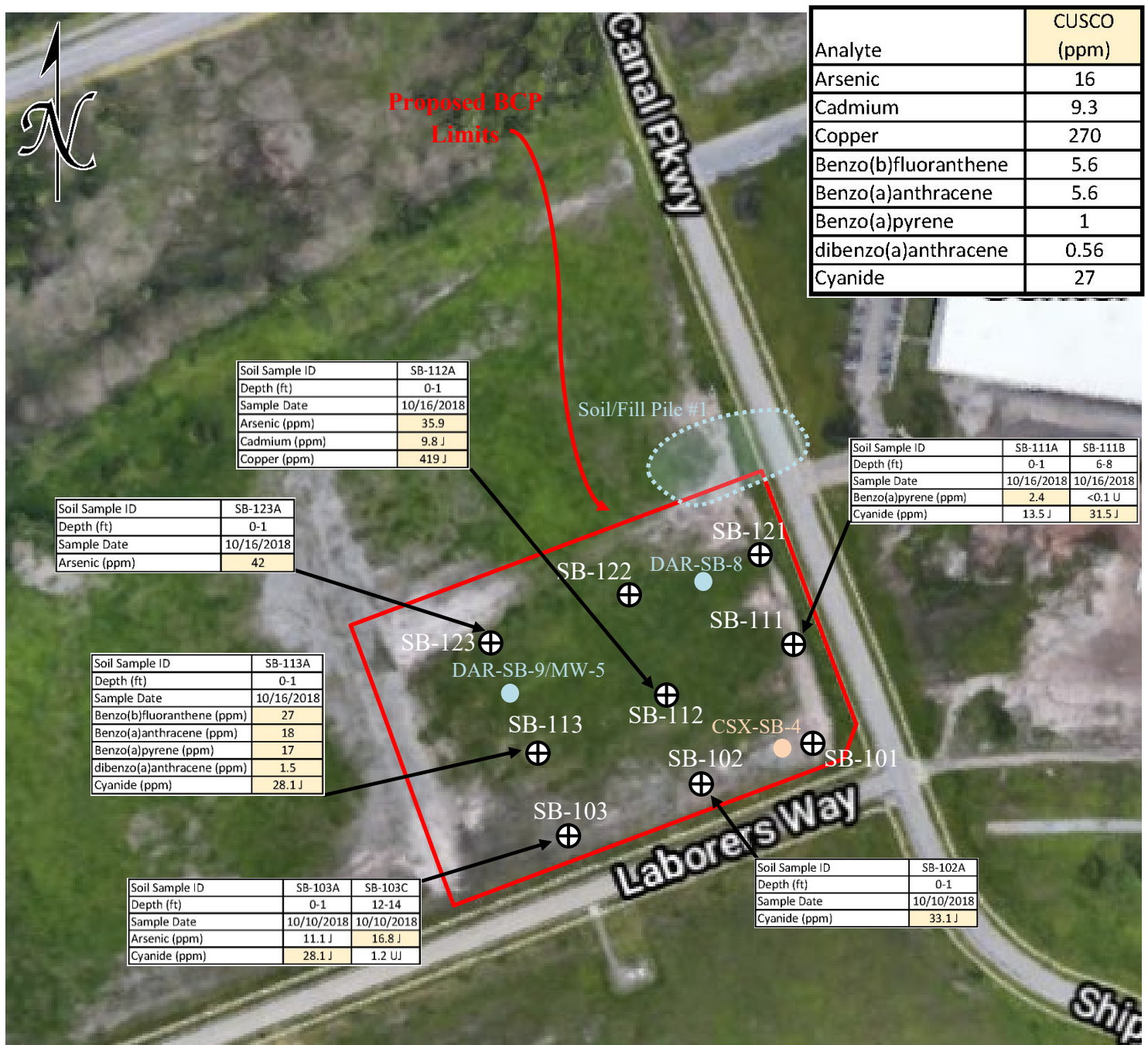
Notes

CUSCO - Commercial Use Soil Cleanup Objectives

Total Number of Samples Collected and Analyzed during January 2019 work done by GES

Location	VOC	SVOC	METALS	PCBS	pesticides
SB101	3	3	3	3	3
SB102	3	3	3	3	3
SB103	3	3	3	3	3
SB111	3	3	3	3	3
SB112	3	3	3	3	3
SB113	3	3	3	3	3
SB121	4	4	4	4	4
SB122	3	3	3	3	3
SB123	3	3	3	3	3
total	28	28	28	28	28





⊕ = Soil boring and soil results from Site Characterization Report, Buffalo Lakeside Commerce Park Parcel 5, NYSDEC Site No. 915322, completed by GES for NYSDEC, dated January 25, 2019

● = Soil boring and soil test results from Phase II Environmental Site Investigation Report, CSX (Former Penn 200 Yard) Site, Buffalo, New York prepared for Buffalo Urban Development Corporation by Benchmark Environmental, dated October 2006

● = Soil boring, soil fill pile, and soil test results from Phase II Environmental Site Investigation Report, Herbert F. Darling Site, Buffalo, New York prepared for Buffalo Urban Development Corporation by Benchmark Environmental, dated October 2006

WITTMAN GEOSCIENCES, PLLC	Date: 07/2022	Subsurface Soil Results 24 Laborers Way, Buffalo, NY	Project: 19204.4 Figure: IV-B
	Scale: 1"=20'		



Soil Boring/Monitoring Well

Groundwater & Environmental Services, Inc.

ID NO. **SB-101/MW-101**

Project: **Buffalo Lakeside Commercial Park** Client: **NYSDEC**

Regulatory Case #: **Site No. 915322**

Address: **Laborers Way & Ship Canal Pkwy, Buffalo, NY**

Regulatory Case Mgr: **Jenelle Gaylord**

County: **Erie**

GES Job #: **0901752**

GES Project Mgr: **Eric D. Popken**

Logged By: **J. Clay/P. Colern**

Date Drilled: **10-10-2018**

Sample Tool Diameter: **NA**

Drilling Company: **Cascade Drilling**

Completion Date: **10-25-2018**

Sample Tool Length: **10 ft.**

Drill Operator: **Arlen Little**

Drilling Method: **Sonic Rig**

Soil Classification System: **Modified Burmister**

Drill Rig Type: **Sonic**

Sampling Method: **Sonic Tube**

Field Screening: **MiniRae3000 10.6 eV**

Latitude: **NA**

Longitude: **NA**

Top of Bentonite Seal: **2 fbgs.**

TOC Elevation: **583.73 famsl.**

Borehole Diameter: **4.5 in.**

Type of Seal: **Bentonite Chips**

Total Depth: **20 fbgs.**

Well Diameter: **2 in.**

Top of Sand: **4 fbgs.**

Refusal Depth: **Not Encountered**

Riser Length: **8 ft. (3 ftag)**

Sand Type: **20-40 Mesh Sand Pack**

Initial Depth to Water: **~6 fbgs.**

Screen Slot Size: **0.010-in.**

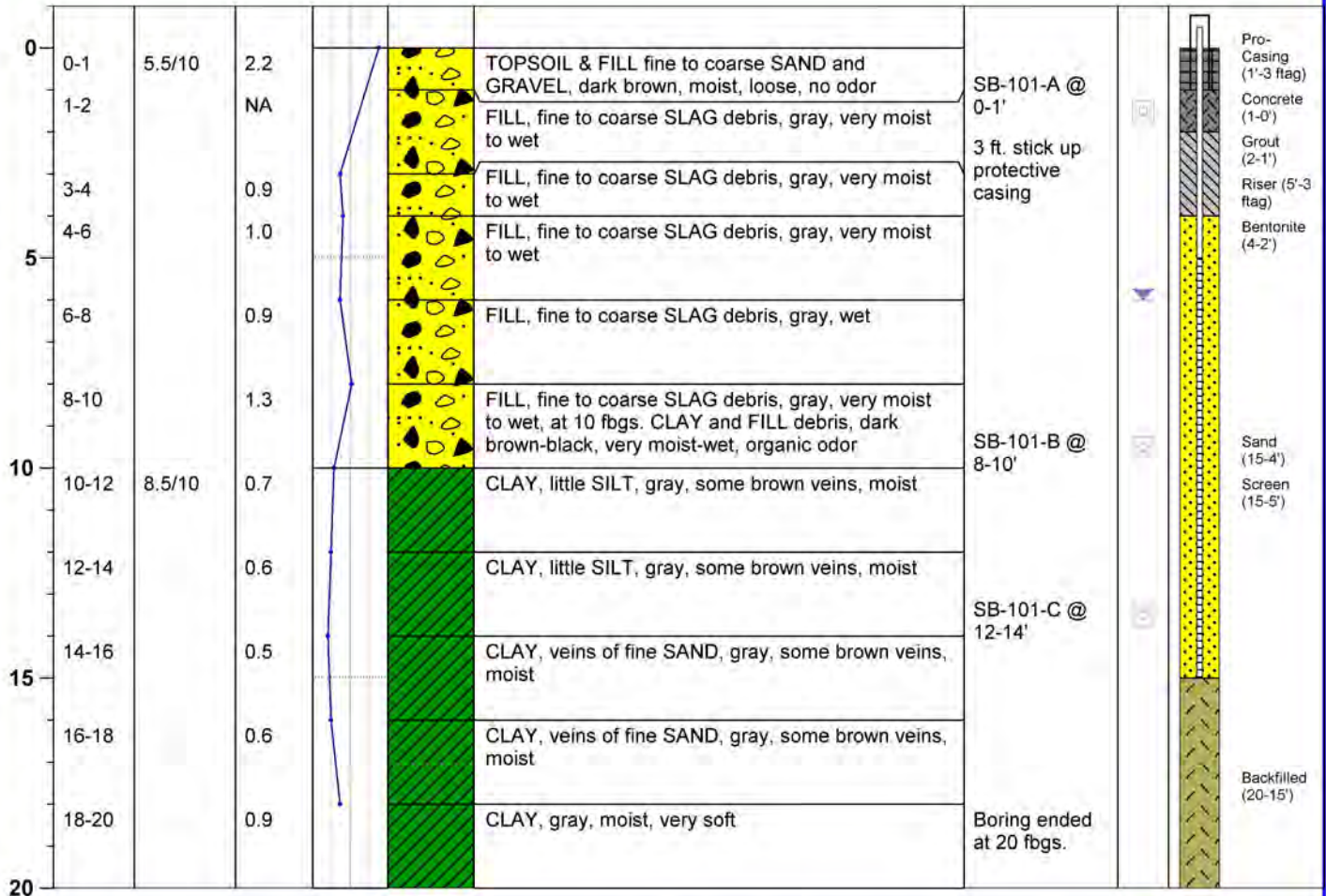
Well Material Type: **Schedule 40 PVC**

Static Depth to Water: **7.31 ft. btoc.**

Screen Length: **10 ft.**

Top of Grout: **1 fbgs.**

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (ppm)	Geologic Description	Comments	Completion Detail
			0 3			



Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftag = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location

SB-101/MW-101 p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-102**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: J. Clay/P. Colern	Date Drilled: 10-10-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-10-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbg.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (pom)	Geologic Description	Comments	Completion Detail
			0 5			
0-1	7.5/10	0.6		TOPSOIL and SLAG debris, brown, slightly moist		
1-4		3.4		SLAG debris, some fine to coarse SAND and GRAVEL, brown and gray, moist	SB-102-A @ 0-1'	
4-6		0.4		SLAG debris, some fine to coarse SAND and GRAVEL, gray, wet	SB-102-B @ 4-6'	
6-8		1.1		SLAG debris, some fine to coarse SAND and GRAVEL, gray, saturated		
8-10		0.6		organic CLAY, wood and SLAG debris, black, wet		
10-12	8/10	0.6		Clay and fine SAND, interbedded layers, gray, slightly moist		
12-14		0.3		CLAY, trace medium GRAVEL, gray and brown, mottling, slightly moist, stiff	SB-102-C @ 12-14'	
14-16		0.2		CLAY, trace medium GRAVEL, gray and brown, mottling, slightly moist, stiff, gray is dominant at 15 fbg.		
16-18		0.1		CLAY and fine SAND, interbedded layers, gray with brown veins, slightly moist		
18-20		0.1		CLAY, gray, slightly moist, soft	Boring ended at 20 fbg.	
20						

Proportions Used:

Trace = <5%
 Little = 6-15%
 Few = 16-30%
 Some = 31-49%
 And = >50%

Notes:

NA = not available; fbg. = feet below ground surface
 in. = inches; ft. = feet; ppm. = parts per million
 Soil Lithologies based on field observations only.
 famsl. = feet above mean sea level
 btoc = below top-of-casing; ftg = feet above grade
 eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location

SB-102 p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-103**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: J. Clay/P. Colern	Date Drilled: 10-10-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-10-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbgs.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (pom)	Geologic Description	Comments	Completion Detail
0-1	7/10	0.3		TOPSOIL and fine to coarse SLAG debris, brown, moist	SB-103-A @ 0-1'	
1-4		0.3		FILL, SLAG debris, some fine to coarse SAND and GRAVEL, brown and gray, moist		
4-6		0.2		FILL, SLAG debris, little fine to coarse SAND and GRAVEL, gray, wet	SB-103-B @ 4-6'	
6-8		0.3		FILL, SLAG debris, little fine to coarse SAND and GRAVEL, gray, wet		
8-10		0.4		Organic CLAY, wood debris, some SLAG debris, black, moist to wet	SB-103-C @ 12-14'	Backfilled with cuttings
10-12	10/10	0.4		Organic CLAY, wood debris, some SLAG debris, black, wet		
12-14		0.3		CLAY, some fine SAND veins, gray, moist		
14-16		0.2		CLAY, gray, moist, stiff		
16-18		0.3		CLAY, gray, moist, stiff		
18-20		0.2		CLAY, gray, very moist, soft		
20					Boring ended at 20 fbgs.	

Proportions Used:

Trace = <5%
 Little = 6-15%
 Few = 16-30%
 Some = 31-49%
 And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
 in. = inches; ft. = feet; ppm. = parts per million
 Soil Lithologies based on field observations only.
 famsl. = feet above mean sea level
 btoc = below top-of-casing; ftg = feet above grade
 eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location

SB-103

p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-111**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: P. Colern/D. Zordan	Date Drilled: 10-16-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-16-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbgs.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (ppm)	Geologic Description	Comments	Completion Detail
			0 100			
0-1	10/10	0.0		TOPSOIL, some SAND and SLAG debris, brown, dry	SB-111-A @ 0-1'	
1-4		0.0		FILL, SLAG debris, some SAND, light gray, slightly moist		
4-6		0.0		FILL, SLAG debris, few SAND and SILT, gray, slightly moist		
6-8		0.0		FILL, large SLAG debris, some SAND and SILT, dark gray to white, moist	SB-111-B @ 6-8'	
8-10		0.0		FILL, large SLAG debris, some SAND and SILT, dark gray to white, wet		
10-13	8/10	0.0		CLAY, some PEAT, few SILT, little SAND, dark brown-gray, wet	Boring ended at 20 fbgs.	Backfilled with cuttings
13-18	NA			CLAY, some SAND, few SILT, gray, slightly moist		
18-20	NA			CLAY, trace SAND and SILT, gray, moist		

Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftg = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-112**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: P. Colern/D. Zordan	Date Drilled: 10-16-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-16-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbgs.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (ppm)	Geologic Description	Comments	Completion Detail
0-1		0.0		TOPSOIL, some SAND and SLAG debris, dark brown, dry	SB-112-A @ 0-1'	
1-4	8/10	0.0		FILL, fine to coarse SAND, some SLAG debris, light brown-white, dry		
4-6		0.0		FILL, SLAG debris, some fine to medium SAND, black-gray, slightly moist		
6-8		0.0		FILL, SLAG debris, some SAND, moist		
8-10		0.0		FILL, fine SAND, some SLAG debris, white, moist	SB-112-B @ 8-10	
10-12	10/10	0.0		PEAT, little CLAY and fine SAND, black		
12-15		0.0		PEAT, little CLAY and fine SAND, black		
15-18		0.0		CLAY, some fine to medium SAND, gray, slightly moist	SB-112-C & DUP-101618 @ 12-15'	
18-20		0.1		CLAY, gray, slightly moist	Boring ended at 20 fbgs.	

Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftg = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location

SB-112 p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-113**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: P. Colern/D. Zordan	Date Drilled: 10-16-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-16-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbgs.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (ppm)	Geologic Description	Comments	Completion Detail
0-1		0.0		TOPSOIL, little fine to coarse SAND and SILT, light brown	SB-113-A @ 0-1'	
1-4	7.5/10	0.0		FILL, fine to coarse SAND and coarse SLAG debris, brown, dry		
4-6		0.0		FILL, fine to coarse SLAG debris, few fine to medium SAND, light gray, dry		
6-8		0.0		FILL, fine to coarse SLAG debris, few fine to medium SAND, dark gray, slightly moist	SB-113-B @ 6-8'	
8-10		0.0		FILL, fine to coarse SLAG debris, few fine to medium SAND, dark gray, slightly moist		
10-12	8/10	0.0		PEAT, black, moist		
12-14		0.0		PEAT, little organic CLAY and SILT, light brown to black, moist	Boring ended at 20 fbgs.	
14-18		0.0		CLAY, some SAND and SILT, gray, moist		
18-20		0.1		CLAY, little SAND and SILT, gray, slightly moist		
20					SB-113-C @ 18-20'	

Backfilled with cuttings

Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftg = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level
Lab Sample Location

SB-113 p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-121**

Project: **Buffalo Lakeside Commercial Park** Client: **NYSDEC**
 Address: **Laborers Way & Ship Canal Pkwy, Buffalo, NY**
 County: **Erie** GES Job #: **0901752**

Regulatory Case #: **Site No. 915322**
 Regulatory Case Mgr: **Jenelle Gaylord**
 GES Project Mgr: **Eric D. Popken**

Logged By: **P. Colern/D. Zordan** Date Drilled: **10-16-2018** Sample Tool Diameter: **NA**
 Drilling Company: **Cascade Drilling** Completion Date: **10-16-2018** Sample Tool Length: **10 ft.**
 Drill Operator: **Arlen Little** Drilling Method: **Sonic Rig** Soil Classification System: **Modified Burmister**
 Drill Rig Type: **Sonic** Sampling Method: **Sonic Tube** Field Screening: **MiniRae3000 10.6 eV**

Latitude: **NA** Longitude: **NA** Top of Bentonite Seal: **NA**
 TOC Elevation: **NA** Borehole Diameter: **4.5 in.** Type of Seal: **NA**
 Total Depth: **20 fbgs.** Well Diameter: **NA** Top of Sand: **NA**
 Refusal Depth: **Not Encountered** Riser Length: **NA** Sand Type: **NA**
 Initial Depth to Water: **NA** Screen Slot Size: **NA** Well Material Type: **NA**
 Static Depth to Water: **NA** Screen Length: **NA** Top of Grout: **NA**

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (pom) 0 10	Geologic Description	Comments	Completion Detail
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0-1	9/10	NA		TOPSOIL, little SAND, light brown, slightly moist	SB-121-A @ 0-1'	
1-4		NA		FILL, SLAG/CONCRETE debris and GRAVEL, some fine to medium SAND, brown-gray, moist		
4-6		NA		FILL, SLAG/CONCRETE debris and GRAVEL, some fine to medium SAND, brown-gray, moist		
6-8		NA		FILL, SLAG/CONCRETE debris and GRAVEL, some fine to medium SAND, brown-gray, slightly moist		
8-10		NA		FILL, SLAG/CONCRETE debris and GRAVEL, some fine to medium SAND, brown-gray, wet	SB-121-B @ 8-10'	
10-12	9/10	9.6		PEAT, little organic CLAY and SILT, black, moist	SB-121-D @ 10-12'	
12-14		9.2		CLAY, some PEAT and SAND, moist		
14-17		NA		CLAY and fine to medium SAND, gray, moist		
17-20		0.0		CLAY, gray, moist	Boring ended at 20 fbgs. SB-121-C @ 17-20'	

Backfilled with cuttings

Proportions Used:

Trace = <5%
 Little = 6-15%
 Few = 16-30%
 Some = 31-49%
 And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
 in. = inches; ft. = feet; ppm. = parts per million
 Soil Lithologies based on field observations only.
 famsl. = feet above mean sea level
 btoc = below top-of-casing; ftg = feet above grade
 eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level
 Lab Sample Location

SB-121

p. 1 of 1



Soil Boring

Groundwater & Environmental Services, Inc.

ID NO. **SB-122**

Project: Buffalo Lakeside Commercial Park	Client: NYSDEC	Regulatory Case #: Site No. 915322
Address: Laborers Way & Ship Canal Pkwy, Buffalo, NY		Regulatory Case Mgr: Jenelle Gaylord
County: Erie	GES Job #: 0901752	GES Project Mgr: Eric D. Popken
Logged By: P. Colern/D. Zordan	Date Drilled: 10-16-2018	Sample Tool Diameter: NA
Drilling Company: Cascade Drilling	Completion Date: 10-16-2018	Sample Tool Length: 10 ft.
Drill Operator: Arlen Little	Drilling Method: Sonic Rig	Soil Classification System: Modified Burmister
Drill Rig Type: Sonic	Sampling Method: Sonic Tube	Field Screening: MiniRae3000 10.6 eV
Latitude: NA	Longitude: NA	Top of Bentonite Seal: NA
TOC Elevation: NA	Borehole Diameter: 4.5 in.	Type of Seal: NA
Total Depth: 20 fbgs.	Well Diameter: NA	Top of Sand: NA
Refusal Depth: Not Encountered	Riser Length: NA	Sand Type: NA
Initial Depth to Water: NA	Screen Slot Size: NA	Well Material Type: NA
Static Depth to Water: NA	Screen Length: NA	Top of Grout: NA

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (pom)	Geologic Description	Comments	Completion Detail
0-2	8/10	9.2		TOPSOIL, some SLAG and ASPHALT/GLASS debris, brown, moist	SB-122-A @ 0-2'	
2-4		0.0		FILL, TOPSOIL and SLAG debris, few fine to medium SAND, brown, moist		
4-6		0.0		FILL, TOPSOIL and SLAG debris, few fine to medium SAND, dark brown, moist		
6-8		NA		FILL, TOPSOIL and SLAG debris, few fine to medium SAND, dark brown, moist		
8-10		NA		FILL, SLAG debris, some SAND and CLAY, gray, wet	SB-122-B @ 8-10'	
10-18	4.5/10	NA		FILL, SLAG debris, some SAND and CLAY, gray, wet		
18-20		NA		CLAY and PEAT, little fine to medium SAND, black	Boring ended at 20 fbgs. SB-122-C @ 18-20'	

Backfilled with cuttings

Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftg = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level

Lab Sample Location

SB-122 p. 1 of 1



Soil Boring/Monitoring Well

Groundwater & Environmental Services, Inc.

ID NO. **SB-123/MW-123**

Project: **Buffalo Lakeside Commercial Park** Client: **NYSDEC**

Regulatory Case #: **Site No. 915322**

Address: **Laborers Way & Ship Canal Pkwy, Buffalo, NY**

Regulatory Case Mgr: **Jenelle Gaylord**

County: **Erie**

GES Job #: **0901752**

GES Project Mgr: **Eric D. Popken**

Logged By: **P. Colern/D. Zordan**

Date Drilled: **10-16-2018**

Sample Tool Diameter: **4.5 in.**

Drilling Company: **Cascade Drilling**

Completion Date: **10-25-2018**

Sample Tool Length: **10 ft.**

Drill Operator: **Arlen Little**

Drilling Method: **Sonic Rig**

Soil Classification System: **Modified Burmister**

Drill Rig Type: **Sonic**

Sampling Method: **Sonic Tube**

Field Screening: **MiniRae3000 10.6 eV**

Latitude: **NA**

Longitude: **NA**

Top of Bentonite Seal: **2 fbgs.**

TOC Elevation: **584.12 famsl.**

Borehole Diameter: **4.5 in.**

Type of Seal: **Medium Bentonite Chips**

Total Depth: **20 fbgs.**

Well Diameter: **2 in.**

Top of Sand: **4 fbgs.**

Refusal Depth: **Not Encountered**

Riser Length: **8 ft. (3 ftag)**

Sand Type: **20-40 Mesh Sand Pack**

Initial Depth to Water: **~10 fbgs.**

Screen Slot Size: **0.010-in.**

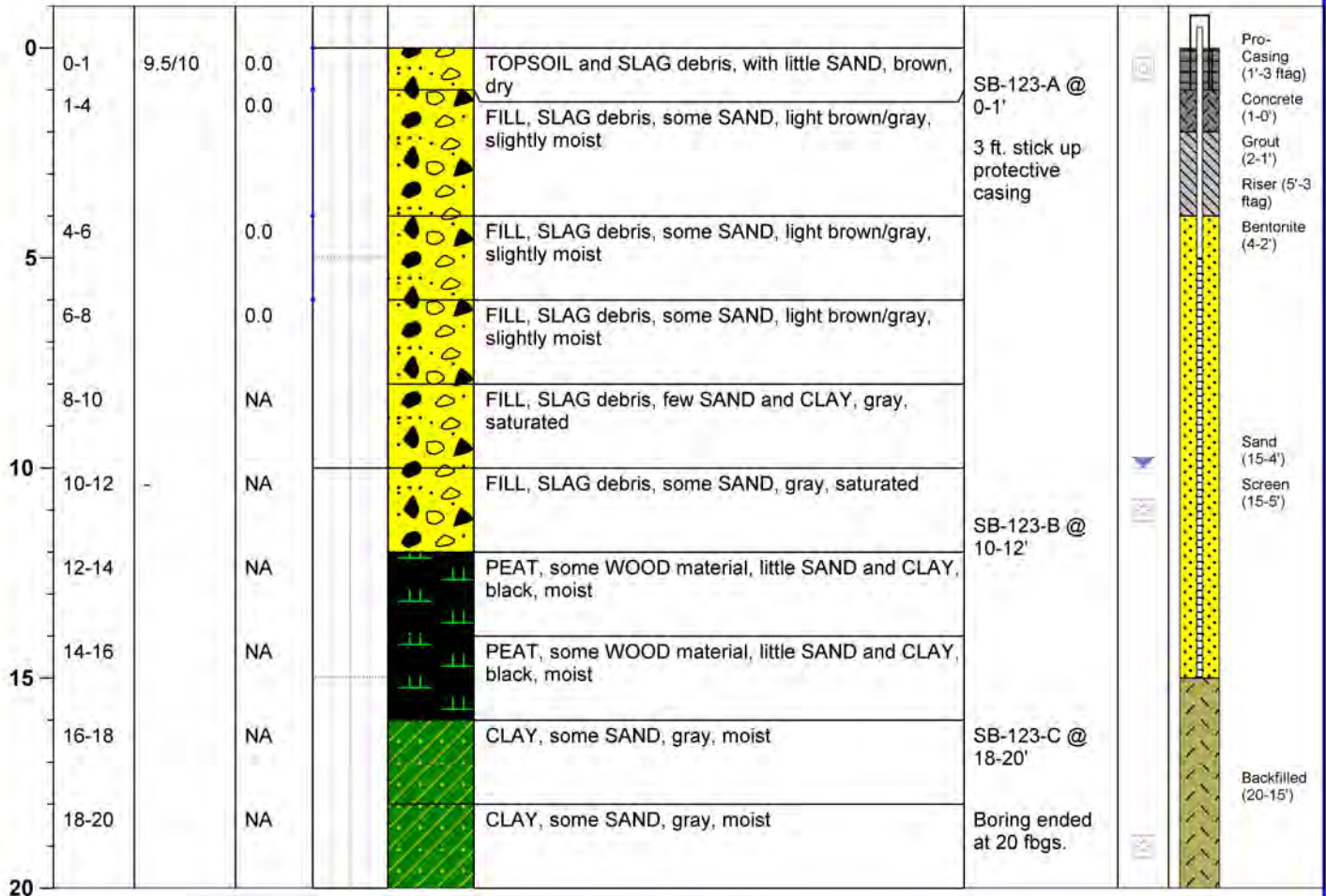
Well Material Type: **Schedule 40 PVC**

Static Depth to Water: **9.46 ft. btoc.**

Screen Length: **10 ft.**

Top of Grout: **1 fbgs.**

Depth (fbgs)	Sample Interval (feet)	Recovery (ft/ft)	Field Screen (ppm) 0 100	Geologic Description	Comments	Completion Detail
-----------------	------------------------------	---------------------	--------------------------------	----------------------	----------	----------------------



Proportions Used:

Trace = <5%
Little = 6-15%
Few = 16-30%
Some = 31-49%
And = >50%

Notes:

NA = not available; fbgs. = feet below ground surface
in. = inches; ft. = feet; ppm. = parts per million
Soil Lithologies based on field observations only.
famsl. = feet above mean sea level
btoc = below top-of-casing; ftag = feet above grade
eV = electron volt; PVC = polyvinyl chloride

Blow Count Penetration Resistance:

Consistency (M&C)	Density (G&S)
<2 = Very Soft	0-4 = Very Loose
2-4 = Soft	4-10 = Loose
4-8 = Medium	10-30 = Medium
8-15 = Stiff	30-50 = Dense
15-30 = Very Stiff	>50 = Very Dense
>30 = Hard	

Symbol Legend

Static Water Level
Lab Sample Location

SB-123/MW-123 p. 1 of 1

Section V

Requestor Information

Laborers Way 2, LLC – Business Entity Information

Laborers Way 2, LLC - business address at 700 Second Street, Encinitas, CA 92024. Brad Termini is authorized person for Laborers Way 2, LLC

Members/owners of Laborers Way 2, LLC:

<u>Name</u>	<u>Title/Office</u>
Brad Termini	Chief Executive Officer
Dann Schuetz	Executive Vice President
Austin Richter	Vice President, Secretary and Treasurer
Seth Levin	Vice President and Assistant Treasurer
Ryan Herrell	Vice President and Assistant Secretary

Document Certification:

Professional Geologist
Wittman GeoSciences, PLLC

Professional Engineer
C&S Companies

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy for LABORERS WAY 2, LLC, File Number 210914001020 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany,
on September 14, 2021.

Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State



APPLICATION FOR AUTHORITY OF

Laborers Way 2, LLC

(Insert name of Foreign Limited Liability Company)

Under Section 802 of the Limited Liability Company Law

FIRST: The name of the foreign limited liability company is:

Laborers Way 2, LLC

If the name does not contain the required words or abbreviation pursuant to Section 204 of the Limited Liability Company Law, the following words or abbreviation is added to the name for use in this state:

(Do not complete this section unless the foreign limited liability company's true name is not available pursuant to §204 of the Limited Liability Company Law.) The fictitious name under which the foreign limited liability company will do business in New York is:

(The fictitious name must contain the words "Limited Liability Company" or abbreviation "LLC" or "L.L.C.")

SECOND: The jurisdiction of organization of the foreign limited liability company is:

Delaware

The date of its organization is: **September 8, 2021**

THIRD: The county within New York state in which the office, or if more than one office, the principal office of the foreign limited liability company is to be located is: **Erie County**

(A county in New York is required. Please note that the limited liability company is not required to have an actual physical office in this state.)

FOURTH: The Secretary of State is designated as agent of the foreign limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process served against him or her is:

**700 Second Street
Encinitas, CA 92024**

FIFTH: *(Check and complete the statement that applies)*

☒ The address of the office required to be maintained in the jurisdiction of its formation is:

c/o The Corporation Trust Company
1209 Orange Street
Wilmington, DE 19801

☐ No office is required to be maintained in the jurisdiction of its formation. The address of the principal office of the foreign limited liability company is:

SIXTH: The foreign limited liability company is in existence in its jurisdiction of formation at the time of filing of this application.

SEVENTH: The authorized officer (e.g. "Secretary of State") in its jurisdiction of its formation where a copy of its articles of organization is filed is:

Jeffrey W. Bullock, Secretary of State of the State of Delaware

The address of the authorized officer is:

John G. Townsend Building
401 Federal St., Suite 4
Dover, DE 19901

X



(Signature)

Brad Termini

(Type or print name)

Capacity of signer *(Check appropriate box):*

- ☐ Member
☐ Manager
☒ Authorized Person

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY "LABORERS WAY 2, LLC" IS DULY FORMED
UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND
HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS
OF THE NINTH DAY OF SEPTEMBER, A.D. 2021.*

*AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN
ASSESSED TO DATE.*



A handwritten signature of Jeffrey W. Bullock in black ink, written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

6222590 8300

SR# 20213206329

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204120936

Date: 09-09-21

Filed with the NYS Department of State on 09/13/2021
Filing Number: 210914001020 DOS ID: 6280153

CT07

APPLICATION FOR AUTHORITY
OF

Laborers Way 2, LLC

(Insert name of Foreign Limited Liability Company)

Under Section 802 of the Limited Liability Company Law

Filer's Name and Mailing Address:

Deborah Abernathy

Name:

Orrick, Herrington & Sutcliffe LLP

Company, if Applicable:

400 Capitol Mall, Suite 3000

Mailing Address:

Sacramento, California 95814

City, State and Zip Code:

NOTES:

1. This form was prepared by the New York State Department of State for filing an application for authority for a foreign limited liability company to conduct business in New York State. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal supply stores.
2. Attach a Certificate of Existence, Certificate of Good Standing or Certificate of Status from the official who files and maintains limited liability company records in the jurisdiction of the foreign limited liability company's formation.
3. The name of the foreign limited liability company and its date of formation provided on this document must exactly match the name of the foreign limited liability company and, if applicable, the date of formation stated in the Certificate of Existence, Certificate of Good Standing or Certificate of Status.
4. The Department of State recommends that legal documents be prepared under the guidance of an attorney.
5. The application for authority must be submitted with a **\$250** filing fee made payable to the Department of State.

(For office use only.)

Drawdown

CST ref#13864877JV

Date of this notice: 09-13-2021

Employer Identification Number:
87-2615046

Form: SS-4

Number of this notice: CP 575 G

LABORERS WAY 2 LLC
BRAD TERMINI SOLE MBR
700 SECOND STREET
ENCINITAS, CA 92024

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 87-2615046. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

- * Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.
- * Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.
- * Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is LABO. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

**THE UNIVERSITY OF THE STATE OF NEW YORK
EDUCATION DEPARTMENT**

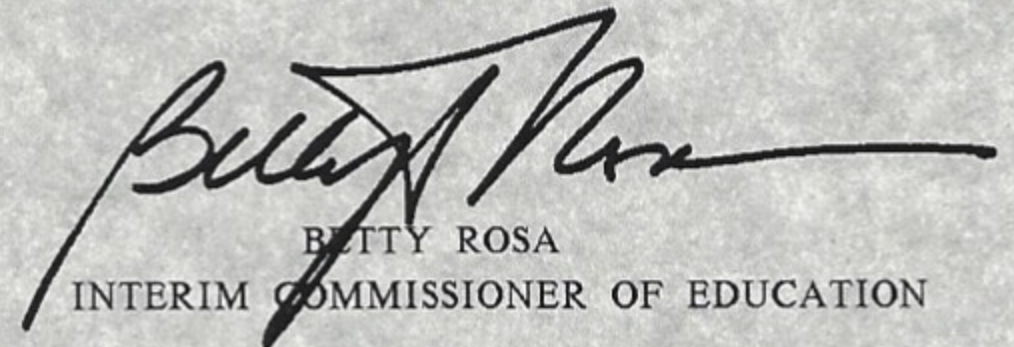
THIS IS TO CERTIFY THAT HAVING MET THE REQUIREMENTS OF SECTION 7210 OF THE
EDUCATION LAW AND IN ACCORDANCE THEREWITH THIS CERTIFICATE OF AUTHORIZATION
IS GRANTED WHICH ENTITLES

**WITTMAN GEOSCIENCES PLLC
8187 BOSTON COLDEN ROAD
COLDEN, NY 14033-0000**

TO PROVIDE GEOLOGY SERVICES IN THE STATE OF NEW YORK FOR THE PERIOD
06/01/2021 TO 05/31/2024.

CERTIFICATE NUMBER
0018564




BETTY ROSA
INTERIM COMMISSIONER OF EDUCATION



NEW YORK STATE **MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE ("MWBE")** **CERTIFICATION**

Empire State Development's Division of Minority and Women's Business Development grants a
Women Business Enterprise (WBE)

pursuant to New York State Executive Law, Article 15-A to:

Wittman GeoSciences, PLLC

Certification Awarded on: October 29, 2021

Expiration Date: October 29, 2026

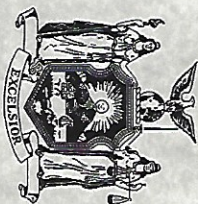
File ID#: 67601-WBE



**Division of Minority
and Women's
Business Development**

A Division of Empire State Development

THE UNIVERSITY OF THE STATE OF NEW YORK
EDUCATION DEPARTMENT



BE IT KNOWN THAT

MICHELE M WITTMAN

HAVING GIVEN SATISFACTORY EVIDENCE OF THE COMPLETION OF PROFESSIONAL
AND OTHER REQUIREMENTS PRESCRIBED BY LAW IS QUALIFIED TO PRACTICE AS A

PROFESSIONAL GEOLOGIST

IN THE STATE OF NEW YORK

IN WITNESS WHEREOF THE EDUCATION DEPARTMENT GRANTS THIS LICENSE
UNDER ITS SEAL AT ALBANY, NEW YORK
THIS TWENTY-THIRD DAY OF JANUARY, 2018.

Karyellen Liu
COMMISSIONER OF EDUCATION
LICENSE NUMBER
000726



Dale E. Hall
DEPUTY COMMISSIONER
FOR THE PROFESSIONS
Dave S. Hylan
EXECUTIVE SECRETARY
STATE BOARD FOR
ENGINEERING, LAND SURVEYING AND GEOLOGY

Section VI

Requestor Eligibility

Volunteer – Laborers Way 2, LLC should be considered a Volunteer to the BCP. Laborers Way 2, LLC has not yet purchased the property, and has not operated the subject site, and therefore does not have responsibility for the contamination present at the site.

24 LABORERS WAY, BUFFALO, NY 14203

**CONSENT OF BUFFALO URBAN DEVELOPMENT CORPORATION FOR
LABORERS WAY 2, LLC TO PARTICIPATE IN THE NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION BROWNFIELD CLEANUP PROGRAM**

THE UNDERSIGNED, Brandye Merriweather, in her capacity as President of the Buffalo Urban Development Corporation,

DOES HEREBY CERTIFY that the Board of Directors of Buffalo Urban Development Corporation ("BUDC") at a meeting held on May 31, 2022, authorized the execution and delivery of an amendment to that certain Agreement, dated December 31, 2021, among BUDC, Buffalo lakeside Commerce Park-I, LLC, Zephyr Investors, LLC, Laborers Way, LLC, Laborers Way 1, LLC and Laborers Way 2, LLC ("Agreement") which include the following terms:

That Laborers Way 2, LLC ("Laborers 2"), purchaser of 24 Laborers Way in Buffalo, New York (Tax parcel ID No. 132.15-2-2), is hereby authorized by BUDC to execute documentation for Laborers' 2 application to participate in the New York State Department of Environmental Conservation Brownfield Cleanup Program ("BCP") located at 24 Laborers Way for the land encompassing approximately 5.4 acres in Buffalo, NY. (the "Site") as described in the attached parcel description; and

That Laborers 2 is hereby authorized to execute documentation, have physical access to and permission to conduct necessary environmental testing at the Site in furtherance of the parties' application for participation in the BCP; and

That Laborers Way, LLC and Laborers 2 shall indemnify and hold harmless BUDC from any and all liabilities arising out of the participation by Laborers 2 in the BCP and any activities conducted on the Site prior to closing of the purchase of the Site; and

That Laborers 2 shall promptly and without cost or demand provide to BUDC copies of all reports, documents, data, and information (including the BCP Application) submitted to NYSDEC in this regard; and

That upon closing of the purchase of the Site, Laborers 2 shall have full access and authority to commence remedial activities at the Site and impose an environmental easement, if necessary.

IN WITNESS WHEREOF, the undersigned has hereto affixed the hand and seal of BUDC this 12th day of July, 2022.

Buffalo Urban Development Corporation



By: Brandye Merriweather

Title: President

Buffalo Urban Development Corporation

Sworn to before me this
12TH day of July, 2022.

Notary Public

EVAN Y. BUSSIERE
Notary Public, State of New York
Qualified in Erie County
No. 02BU6218916
Commission Exp. March 15, 2026

AFFIDAVIT

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.:

RECEIVED

JUL 26 2022

Bur Of Tech. Support

Ryan Herrell, being duly sworn, deposes and says:

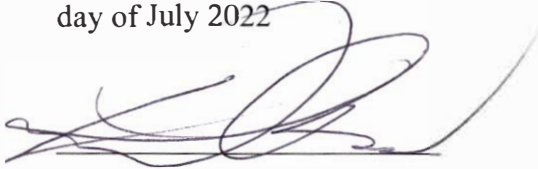
1. Deponent is the sole member of Laborers Way 2, LLC ("***Laborers Way 2***"). Laborers Way 2 is a Delaware corporation with a principal place of business located at 700 Second Street, Encinitas, California and an Applicant for acceptance into the New York State Department of Environmental Conservation ("***NYSDEC***") Brownfield Cleanup Program ("***BCP***") with respect to the approximately 5.4 acre site located at 24 Laborers Way, Buffalo, New York (tax parcel Id.# 132.15-2-2) ("***Site***").
2. That as sole member of Laborers Way 2, I am authorized to make commitments on behalf of Laborers Way 2.
3. That Buffalo Urban Development Corporation ("***BUDC***"), a local development corporation having its office at 95 Perry Street, Suite 404, Buffalo, New York, is the current owner of the Site and Laborers Way 2, LLC is under contract to purchase the Site.
4. That the purchase contract with BUDC for the purchase of the Site prohibits Laborers Way 2 from conducting field work until the transfer of title has occurred.
5. That to facilitate the review and acceptance of the BCP Application, the NYSDEC has requested that Laborers Way 2 commit to the following conditions:
 - a. That upon closing, Laborers Way 2 will begin the field work as reviewed and approved by the NYSDEC under the BCP;
 - b. That if Laborers Way 2P does not take title to the Site, the BCP Application will be withdrawn; and
 - c. That upon closing, Laborers Way 2 will have the ability to effectuate the NYSDEC-approved remedy and impose an environmental easement if necessary.
6. That Laborers Way 2 agrees to these terms as a condition for acceptance into the BCP.

7. That this affidavit is made with the knowledge that the NYSDEC will rely on the veracity of all statements and commitments made herein in dealing with the BCP Application.

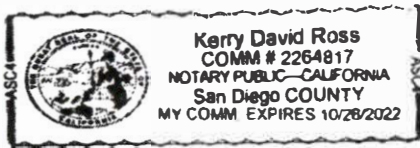


Ryan Herrell

Sworn to before me this 11th
day of July 2022



Notary Public



CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On July 11, 2022 before me, **Kerry David Ross, Notary Public**,
(here insert name and title of the officer)

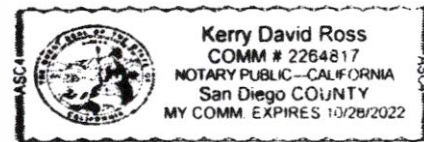
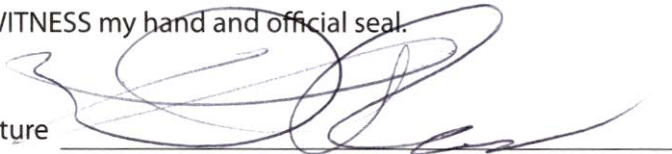
personally appeared Ryan Herrell

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-Fact
☐ Corporate Officer(s) _____ Title(s) _____

☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☒ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)

☐

Section IX

Current Property Owner and Operator Information

Requestor's Relationships

The Requestor is not the current owner. Title search was not available for the Site parcel.

Past owners and relationship with Requestor:

Grantee	Grantor	Date	Last known address/phone	Relationship to Requestor
Herbert F. Darling Jr.		12/22/1980	Unknown	none
Tiff Nature Preserve Inc.	Herbert F. Darling Jr.	11/29/2006	Unknown	none
Buffalo Urban Development Corporation	Tiff Nature Preserve Inc.	11/29/2006	Brandi Merriweather Chairwoman 275 Oak Street Buffalo, NY 14203 716-856-6525	none

24 Laborers Way Site Operators

The Site and properties north, east and west of the site were vacant land until about 1926 then for railroad transportation and vacant/disturbed land. Based on review of aerial photographs and previous reports, the southern portion of the site was used as a railroad coordinator and northern area was slag dumping r. Possible dumping activities were noted from about the 1960s to 2005. The site was formerly owned by Herbert F. Darling, Inc.

The Site has been vacant, undeveloped land. The Requestor, as a Volunteer, has no relationship with any of the past operators.

Section X

Property Eligibility Information

The site parcel was part of NYSDEC Site No. 915322. Investigation work was completed and concluded that the site does not qualify for placement on the Registry. However, the NYSDOH recognizes there is the potential for exposures to metals in the soil above the NYCRR Part 375 soil cleanup objectives for commercial use on the property. The site is under contract to be transferred to Laborers Way 2, LLC, a volunteer for the BCP.

Section XI

Contact List

Contact List

Letter from Repository

Contact List		
Federal Representative		
U.S. Representative Brian Higgins 27 th District Local Office 640 Park Place Niagara Falls, NY 14301 716-282-1274	US Senator Hon. Charles E. Schumer 130 South Elmwood Ave. #660 Buffalo, NY 14202 716-846-4111	US Senator Hon. Kristen Gillibrand 726 Exchange St., Suite 511 Buffalo, NY 14201 716-854-9725
New York Representative		
New York State Senator Timothy Kennedy 37 Franklin Street Suite 550 Buffalo, NY 14202 Phone: 716-826-2683 Fax: 716-826-2793	New York State Assemblyman Jonathan Rivera District Office 65 Grant Street Buffalo, NY 14213 716-885-9630 Fax: 716-885-9636	
Erie County Representative		
Erie County Executive Mark Poloncarz 95 Franklin Street 16th Floor Buffalo, New York 14202 (716) 858-8500	Erie County Clerk Michael P. Kearns 92 Franklin Street Buffalo, New York 14202 (716) 858-8865	Commissioner of Environment and Planning Thomas R. Hersey, Jr. Edward A. Rath County Office Building 95 Franklin Street 10th Floor Buffalo, New York 14202 (716) 858-8390
City of Buffalo Representative		
Office of the Mayor Mayor Byron W. Brown 201 City Hall Buffalo, New York 14202 (716) 852-3300	South District Councilman Christopher Scanlon 65 Niagara Square Rm. 1401 Buffalo, NY 14202 (716) 851-5169	Division of Environment Jason Paananen 65 Niagara Square Room 920 Buffalo, New York 14202 (716) 851-5406
Office of Strategic Planning Brendan Mehaffy, Executive Director 201 City Hall Buffalo, New York 14202 (716) 851-2872	Planning Board John Fell Zoning Administrator 920 City Hall Buffalo, New York 14202 (716) 851-5029	

Adjacent Property Owners		
51 Laborers Way Buffalo Lakeside Commerce c/o Bflo Urban Development Corp Park-I, LLC 275 Oak Street Buffalo, NY 14203	29 Laborers Way County of Erie/Erie County Sewer District No. 6 Rm 1034 95 Franklin Street Buffalo, NY 14202	310 Ship Canal Parkway Buffalo Urban Development Corp 275 Oak Street Buffalo, NY 14203
283 Ship Canal Pkwy 283 Ship Canal Parkway LLC 100 Sonwill Drive Cheektowaga, NY 14225	280 Ship Canal Pkwy Buffalo Lakeside Commerce c/o Bflo Urban Development Corp Park-I, LLC 275 Oak Street Buffalo, NY 14203	2 Ship Canal Pkwy City of Buffalo Perfecting Title 323 City Hall Buffalo, NY 14202
Local News Media		
Buffalo News One News Plaza PO Box 100 Buffalo, NY 14240 716-849-4444	WGRZ-TV Channel 2 259 Delaware Avenue Buffalo, NY 14202 716-849-2222	WIVB-TV Channel 4 2077 Elmwood Avenue Buffalo, NY 14202 716-874-4410
WKBW-ABC Channel 7 7 Broadcast Plaza Buffalo, NY 14202 716-845-6100	WUTV-FOX (Channel 29) 699 Hertel Avenue, Suite 100 Buffalo, New York 14207	
Public Water Supplier		
Buffalo Water Authority 281 Exchange Street Buffalo, New York 14202		
Persons who have requested to be on the list		
None requested		
Administrator of School and Daycare Facilities near the Property		
No schools within 1 mile of the Site		
Local Document Repositories		
Dudley Branch Library 2010 South Park Avnue Buffalo, NY 14220 716-823-1854		

Repository Request - BCP project - 24 Laborers Way, Buffalo

DUD <dud@buffalolib.org>
To: Michele Wittman <michelewittmangeo@gmail.com>

Tue, Apr 5, 2022 at 5:26 PM

Good afternoon Ms. Wittman,

Yes, please consider this confirmation that documents regarding Brownfield Cleanup Program can be submitted to Dudley Branch Library. We will make them available for public review.

Thanks,

Libby Stengel

Library Branch Manager

Dudley Branch Manager

From: Michele Wittman <michelewittmangeo@gmail.com>
Sent: Tuesday, April 5, 2022 4:50 PM
To: DUD
Subject: Repository Request - BCP project - [24 Laborers Way, Buffalo](#)

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

[Quoted text hidden]



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>.

Repository Request - BCP project - 24 Laborers Way, Buffalo

Michele Wittman <michelewittmangeo@gmail.com>
To: dud@buffalolib.org

Tue, Apr 5, 2022 at 4:50 PM

Good afternoon Ms. Stengel,

We are completing a Brownfield Cleanup Program (BCP) project at 24 Laborers Way in Buffalo, NY. We would like to request that the Dudley Branch Library will be the repository for the BCP documents and will be made available for public review.

Please confirm permission to submit future documents and updates to your address at

Dudley Branch Library
2010 South Park Avenue
Buffalo, NY 14220

I appreciate your consideration. Please let me know if you have any questions or require further information. Thank you!

Michele M. Wittman, P.G.
Principal
michelewittmangeo@gmail.com
716-574-1513

Wittman GeoSciences, PLLC
www.wittmangeosciences.com
8187 Boston Colden Road
PO Box 239
Colden, NY 14033