



Department of  
Environmental  
Conservation

## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

Please refer to the attached instructions for guidance on completing this application.

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment seeks to add or subtract more than an insignificant acreage of property to the BCA, applicants are encouraged to consult with the DEC project team prior to submitting this application.

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification(s) requested:

☐

Amendment to modify the existing BCA (check one or more boxes below):

☐

Add applicant(s)

☐

Substitute applicant(s)

☐

Remove applicant(s)

☐

Change in name of applicant(s)

☒

Amendment to reflect a transfer of title to all or part of the brownfield site:

- a. A copy of the recorded deed must be provided. Is this attached? Yes ☒ No ☐
- b. ☒ Change in ownership ☐ Additional owner (such as a beneficial owner)
- c. Pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been submitted prior to a transfer of ownership. If this has not yet been submitted, include the form with this application. Is this form attached? Yes ☒ No ☐ Submitted on: \_\_\_\_\_  
Attached

☒

Amendment to modify description of the property(ies) listed in the existing BCA

☐

Amendment to expand or reduce property boundaries of the property(ies) listed in the existing BCA

☐

Sites in Bronx, Kings, New York, Queens or Richmond Counties ONLY: amendment to request determination that the site is eligible for tangible property credit component of the brownfield redevelopment tax credit.

☐

Other (explain in detail below)

2. REQUIRED: Please provide a brief narrative describing the specific requests included in this amendment:

1) Subdivision of larger 2101 Kenmore Avenue parcel (formerly SBL No. 77.08-1-1) into:  
- 2101 Kenmore Avenue (SBL No. 77.08-1-1.1, Subdivision Lot No. 1) The LeRoy Properties Inc.  
- 2075 Kenmore Avenue (SBL No. 77.08-1-1.2, Subdivision Lot No. 2) Wood and Brooks Properties LLC

2) Property transfer of 2075 Kenmore Avenue parcel to Wood and Brooks Properties LLC

**SECTION I: CURRENT AGREEMENT INFORMATION***This section must be completed in full. Attach additional pages as necessary.*

BCP SITE NAME: 2101 Kenmore Avenue Site	BCP SITE CODE: C915391
NAME OF CURRENT APPLICANT(S): Wood and Brooks Properties LLC	
INDEX NUMBER OF AGREEMENT: C915391-12-22	DATE OF ORIGINAL AGREEMENT: 04/03/2023

**SECTION II: NEW REQUESTOR INFORMATION***Complete this section only if adding new requestor(s) or the name of an existing requestor has changed.*

NAME:				
ADDRESS:				
CITY/TOWN:			ZIP CODE:	
PHONE:	EMAIL:			
REQUESTOR CONTACT:				
ADDRESS:				
CITY/TOWN:			ZIP CODE:	
PHONE:	EMAIL:			
REQUESTOR'S CONSULTANT:		CONTACT:		
ADDRESS:				
CITY/TOWN:			ZIP CODE:	
PHONE:	EMAIL:			
REQUESTOR'S ATTORNEY:		CONTACT:		
ADDRESS:				
CITY/TOWN:			ZIP CODE:	
PHONE:	EMAIL:			
			<b>Y</b>	<b>N</b>
1. Is the requestor authorized to conduct business in New York State?			<input type="radio"/>	<input type="radio"/>
2. If the requestor is a corporation, LLC, LLP, or other entity requiring authorization from the NYS Department of State (NYSDOS) to conduct business in NYS, the requestor's name must appear exactly as given above in the NYSDOS Corporation & Business Entity Database. A print-out of entity information from the NYSDOS database must be submitted with this application. Is this print-out attached?			<input type="radio"/>	<input type="radio"/>
3. Requestor must submit proof that the party signing this application and amendment has the authority to bind the requestor. This would be documentation showing the authority to bind the requestor in the form of corporate organizational papers, a Corporate Resolution or an Operating Agreement or Resolution for an LLC. Is this proof attached?			<input type="radio"/>	<input type="radio"/>
4. If the requestor is an LLC, the names of the members/owners must be provided. Is this information attached?			N/A <input type="radio"/>	<input type="radio"/>
5. Describe the new requestor's relationship to all existing applicants:				

**SECTION III: CURRENT PROPERTY OWNER/OPERATOR INFORMATION***Complete this section only if a transfer of ownership has taken place. Attach additional pages if necessary.*

Owner listed below is: <input checked="" type="checkbox"/> Existing Applicant		<input type="checkbox"/> New Applicant	<input type="checkbox"/> Non-Applicant
OWNER'S NAME: Wood and Brooks Properties LLC		CONTACT: Michael Wopperer	
ADDRESS: 2101 Kenmore Avenue			
CITY/TOWN: Tonawanda		ZIP CODE: 14207	
PHONE: (716) 874-6470	EMAIL: michael@frontierinsulation.com		
OPERATOR: Same as owner		CONTACT: Same as owner	
ADDRESS: Same as owner			
CITY/TOWN: Same as owner		ZIP CODE: Same as owner	
PHONE: Same as owner	EMAIL: Same as owner		

**SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION***Complete this section only if adding new requestor(s). Attach additional pages if necessary.*

If answering "yes" to any of the following questions, please provide additional information as an attachment. Please refer to ECL § 27-1407 for details.

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input type="radio"/>
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="radio"/>	<input type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for the site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input type="radio"/>
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of (i) any provision of the subject law; (ii) any order or determination; (iii) any regulation implementing ECL Article 27 Title 14; or (iv) any similar statute or regulation of the state or federal government? If so, provide additional information as an attachment.	<input type="radio"/>	<input type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as site name, address, DEC site number, reason for denial, and any other relevant information.	<input type="radio"/>	<input type="radio"/>
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting or contaminants?	<input type="radio"/>	<input type="radio"/>
7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting of contaminants; or (ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?	<input type="radio"/>	<input type="radio"/>
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?	<input type="radio"/>	<input type="radio"/>

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION (continued)		Y	N
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 type="radio"/>	<input 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 type="radio"/>	<input type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
12. THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405(1) BY CHECKING ONE OF THE BOXES BELOW:			
<input type="checkbox"/> <b>PARTICIPANT</b>  A requestor who either (1) was the owner of the site at the time of the disposal of contamination 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 contamination.	<input type="checkbox"/> <b>VOLUNTEER</b>  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 a hazardous waste or discharge of petroleum.  NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that they have exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: (i) stop any continuing discharge; (ii) prevent any threatened future release; (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste.  <b>If a requestor's liability arises solely as a result of ownership, operation of or involvement with the site, they must submit a statement describing why they should be considered a volunteer – be specific as to the appropriate care taken.</b>		
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?	N/A <input type="radio"/>	Y <input type="radio"/>	N <input type="radio"/>
14. Requestor's relationship to the property (check all that apply):  <input type="checkbox"/> Prior Owner <input type="checkbox"/> Current Owner <input type="checkbox"/> Potential/Future Purchaser <input type="checkbox"/> Other: _____			
15. If the requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before being added to the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?	N/A <input type="radio"/>	Y <input type="radio"/>	N <input type="radio"/>

**SECTION V: PROPERTY DESCRIPTION AND REQUESTED CHANGES**

*Complete this section only if property is being added to or removed from the site, a lot merger or other change to site SBL(s) has occurred, or if modifying the site address for any reason.*

1. Property information on current agreement (as modified by any previous amendments, if applicable):

ADDRESS: 2101 Kenmore Avenue (portion of)

CITY/TOWN Tonawanda

ZIP CODE: 14207

CURRENT PROPERTY INFORMATION

TOTAL ACREAGE OF CURRENT SITE: 2.4

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

p/o 2101 Kenmore Avenue

77.08

1

1

2.4

2. Requested change (check appropriate boxes below):

☐

a. Addition of property (may require additional citizen participation depending on the nature of the expansion – see instructions)

PARCELS ADDED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE ADDED: \_\_\_\_\_

☐

b. Reduction of property

PARCELS REMOVED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE REMOVED: \_\_\_\_\_

☒

c. Change to SBL (e.g., lot merge, subdivision, address change)

NEW PROPERTY INFORMATION:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

p/o 2101 Kenmore Avenue

77.08

1

1.1

0.275

p/o 2075 Kenmore Avenue

77.08

1

1.2

2.125

3. TOTAL REVISED SITE ACREAGE: 2.4

4. For all changes requested in this section, documentation must be provided. Required attachments are listed in the application instructions. Is the required documentation attached?

Y N

☒ ☐

**APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT SUPPLEMENT  
QUESTIONS FOR SITE SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY**

*Complete this section only if the site is located within the five counties comprising New York City and the requestor is seeking a determination of eligibility for tangible property credits. Provide supporting documentation as required. Refer to the application instructions for additional information.*

	Y	N
1. Is the site 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 Tax Law 21(6)? Please see DEC's website for more information.	<input type="radio"/>	<input type="radio"/>
4. Is the property upside down as defined below?	<input type="radio"/>	<input type="radio"/>
<p><b>From ECL 27-1405(31):</b></p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>		
5. Is the project and affordable housing project as defined below?	<input type="radio"/>	<input type="radio"/>
<p><b>From 6 NYCRR 375-3.2(a) as of August 12, 2016:</b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>		

APPLICATION SUPPLEMENT FOR NYC SITES (continued)	Y	N
<p>6. Is the project a planned renewable energy facility site as defined below?</p> <p><b>From ECL 27-1405(33) as of April 9, 2022:</b></p> <p>"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.</p> <p><b>From Public Service Law Article 4 Section 66-p as of April 23, 2021:</b></p> <p>(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.</p>	<input type="radio"/>	<input type="radio"/>
<p>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?</p> <p><b>From ECL 75-0111 as of April 9, 2022:</b></p> <p>(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.</p>	<input type="radio"/>	<input type="radio"/>



**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT****EXISTING AGREEMENT INFORMATION**

BCP SITE NAME: 2101 Kenmore Avenue Site

BCP SITE CODE: C915391

NAME OF CURRENT APPLICANT(S): Wood and Brooks Properties LLC

INDEX NUMBER OF AGREEMENT: C915391-12-22

DATE OF ORIGINAL AGREEMENT 04/03/2023

**Declaration of Amendment:**

By the requestor(s) and/or applicant(s) signature(s) below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from obligations held under the Agreement or those same laws.

**STATEMENT OF CERTIFICATION AND SIGNATURES: NEW REQUESTOR**

*Complete the appropriate section (individual or entity) below only if this Amendment adds a new requestor. Attach additional pages as needed.*

(Individual)

I hereby affirm that the 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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am \_\_\_\_\_ (title) of \_\_\_\_\_ (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and 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.

\_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_



**STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)**

*An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.*

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am Managing Member (title) of Wood and Brooks Properties LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Mr. Michael Wopperer signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 2/7/24 Signature: Mike WoppererPrint Name: Michael Wopperer**PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS****REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

**PARTICIPANT**

A requestor who either (1) was the owner of the site at the time of the disposal of contamination 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 contamination.

**VOLUNTEER**

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement: \_\_\_\_\_

Signature by the Department:

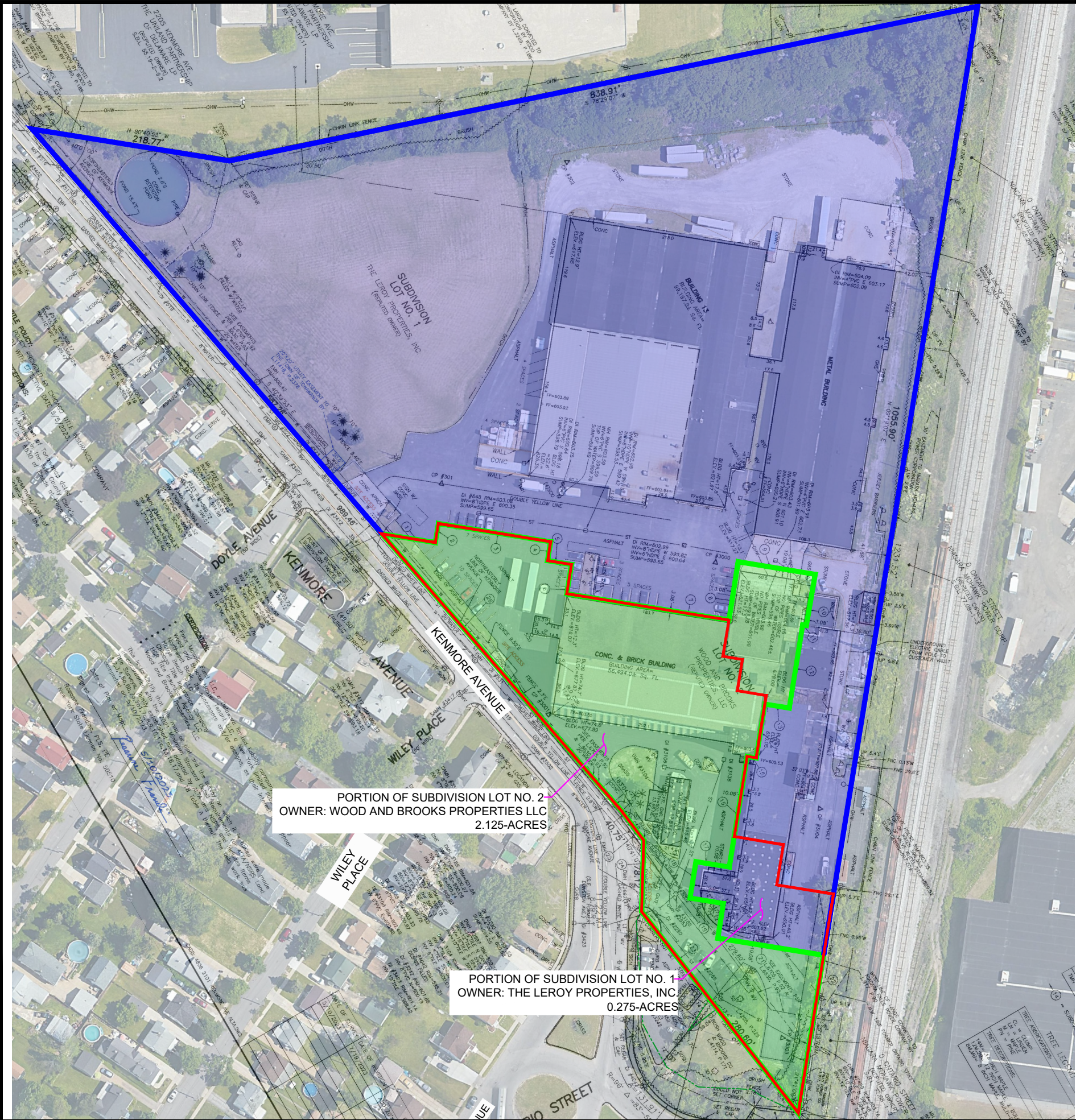
DATED: 3/28/24NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:

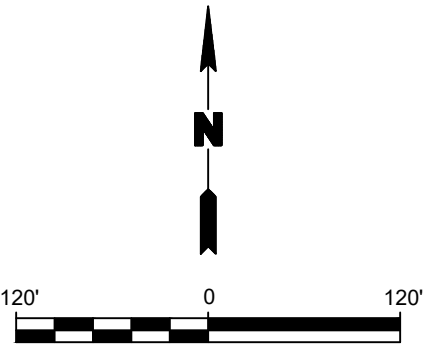
David HarringtonDavid Harrington, Assistant Director  
Division of Environmental Remediation



F:\CAD\BENCHMARK\FRONTIER INSULATION\FIGURE XX: UPDATED SURVEY OVERLAY.DWG



- LEGEND:
- BCP BOUNDARY (2.40-ACRES)
  - LOT 1 PARCEL BOUNDARY
  - LOT 2 PARCEL BOUNDARY



Title:

PARCEL AND SURVEY OVERLAY

2101 KENMORE AVENUE SITE

BCP SITE NO. C915391

BUFFALO, NEW YORK

Prepared for:

WOOD AND BROOKS PROPERTIES LLC

<div>ROUX</div>	Compiled by: CMS	Date: JANUARY 2024	<div>FIGURE</div> <div>X</div>
	Prepared by: CMS	Scale: AS SHOWN	
	Project Mgr: NTM	Project: B0562-023-002	
	File: FIGURE XX: UPDATED SURVEY OVERLAY.DWG		





2919 Delaware Avenue - Room 3 • Kenmore, New York 14217-2393 • (716) 877-8811  
Fax (716) 877-4412

Office of the Assessor  
JILL M. MURPHY, SCA  
Assessor

**Mr. Ryan P. McCarthy, Esq.**  
**Partner**  
**726 Main Street – Suite B**  
**East Aurora, NY 14052**

**Dear Mr. McCarthy,**

**This letter to verify that the parcel located at 2101 Kenmore Avenue has been split and is now identified as follows on the 2024 Assessment Roll:**

**Deleted Parcel:**  
**77.08-1-1**  
**2101 Kenmore Avenue**

**Newly Created Parcels:**  
**77.08-1-1.1**  
**2101 Kenmore Avenue**

**77.08-1-1.2**  
**2075 Kenmore Avenue**

**Please do not hesitate to contact me if you need any further information.**

**Sincerely,**

*Jill M. Murphy, SCA*

**Jill M. Murphy, SCA**  
**Assessor**







**60-Day Advance Notification of Site Change of Use, Transfer of  
Certificate of Completion, and/or Ownership**

Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

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

**I. Site Name:** 2101 Kenmore Avenue Site **DEC Site ID No.** C915391

**II. Contact Information of Person Submitting Notification:**

Name: Michael Wopperer  
Address1: 2101 Kenmore Avenue  
Address2: Tonawanda, New York 14207  
Phone: 716-874-6470 E-mail: michael@frontierinsulation.com

**III. Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- ☐ Change in Ownership or Change in Remedial Party(ies)  
☐ Transfer of Certificate of Completion (CoC)  
☒ Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy): Jan 2024

**IV. Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

- 1) Subdivision of larger 2101 Kenmore Avenue parcel (formerly SBL No. 77.08-1-1) into:  
~~- 2101 Kenmore Avenue (SBL No. 77.08-1-1.1, Subdivision Lot No. 1) The LeRoy Properties Inc.~~  
~~- 2075 Kenmore Avenue (SBL No. 77.08-1-1.2, Subdivision Lot No. 2) Wood and Brooks Properties LLC~~  
2) Property transfer of 2075 Kenmore Avenue parcel to Wood and Brooks Properties LLC

If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

The subdivision and property transfer will not affect completion of the remedial activities within the BCP Site boundary.

- V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name: Mike Wopperer 2/7/24  
(Signature) (Date)

Michael Wopperer  
(Print Name)

Address1: 2101 Kenmore Avenue  
Address2: Tonawanda, New Yor 14207  
Phone: 716-874-6470 E-mail: michael@frontierinsulation.com

- VI. **Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

☐ Prospective Owner ☐ Prospective Remedial Party ☐ Prospective Owner Representative

Name: \_\_\_\_\_  
Address1: \_\_\_\_\_  
Address2: \_\_\_\_\_  
Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Certifying Party Name: \_\_\_\_\_  
Address1: \_\_\_\_\_  
Address2: \_\_\_\_\_  
Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**VII. Agreement to Notify DEC after Transfer:** If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Print Name)

Address1: \_\_\_\_\_

Address2: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_



**COPY**

**WARRANTY DEED - LIEN COVENANT**

FILED

AUG 04 2023

ERIE COUNTY  
CLERK'S OFFICE

THIS INDENTURE, made this 2<sup>nd</sup> day of August, 2023

BETWEEN

THE LEROY PROPERTIES, INC., also known as LEROY PROPERTIES, INC., a validly subsisting business corporation formed under the laws of the State of New York, having an office for conducting business at 2101 Kenmore Avenue, Tonawanda, New York, 14207, GRANTOR, and

WOODS & BROOKS PROPERTIES LLC, a validly subsisting limited liability company formed under the laws of the State of New York, having an office for conducting business at 2101 Kenmore Avenue, Tonawanda, New York, 14207, GRANTEE

WITNESSETH, that the Grantor(s), in consideration of ONE AND MORE Dollars (\$1.00 & more), lawful money of the United States of America, received by the Grantor(s), and paid by the Grantee, do(es) hereby grant and release unto the Grantee(s), the survivor of them, their distributees and assigns forever,

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Tonawanda, County of Erie and State of New York, being part of Lot No. 42, Township 12, Range 8 of the Holland Land Company's Survey known as Subdivision Lot No. 2 according to a map filed in the Erie County Clerk's Office under Map Cover 3916 and being more particularly bounded and described as follows:

COMMENCING at the intersection of the northeasterly line of Kenmore Avenue and the southerly line of lands conveyed to Defense Plant Corporation by Wood and Brooks company by Deed recorded in the Erie County Clerk's Office in Liber 3289 of Deeds at page 188; thence S 40°39'53" E along the northeasterly line of Kenmore Avenue (49.5 feet wide) a distance of 587.26 feet to the POINT of BEGINNING; thence continuing along the following twenty-six courses:

- 1) S 80°38'13"E a distance of 59.70' to a point;
- 2) thence N 09°21'47" E a distance of 21.00 feet to a point;
- 3) thence S 80°38'13" E a distance of 125.00 feet to a point;
- 4) thence S 09°21'47" W a distance of 21.00 feet to a point;
- 5) thence S 80°38'13" E a distance of 26.53 feet to a point;
- 6) thence S 09°21'47"W a distance of 32.70 feet to a point;
- 7) thence S 80°37'37"E a distance of 180.61 feet to a point;
- 8) thence N 09°01'13"E a distance of 64.98 feet to a point;
- 9) thence S 80°37'56"E a distance of 85.70 feet to a point;

10) thence S 10°07'59"W a distance of 57.37 feet to a point;  
11) thence N 80°24'12"W a distance of 4.08 feet to a point;  
12) thence S 09°15'52"W a distance of 92.49 feet to a point;  
13) thence N 80°37'37"W a distance of 26.78 feet to a point;  
14) thence S 09°22'23"W a distance of 59.62 feet to a point;  
15) thence N 80°37'37"W a distance of 10.26 feet to a point;  
16) thence S 09°18'14"W a distance of 123.11 feet to a point;  
17) thence N 80°36'24"W a distance of 37.02 feet to a point;  
18) thence S 09°24'05"W a distance of 40.65 feet to a point;  
19) thence S 80°56'26"E a distance of 37.09 feet to a point;  
20) thence S 09°26'09"W a distance of 38.65 feet to a point;  
21) thence S 80°35'18" E a distance of 117.84 feet to a point on the westerly line of lands conveyed to the Niagara Falls Power Company by deed recorded in the Erie County Clerk's Office in Liber 917 of Deeds at page 90;  
22) thence S 09°19'07" W along the west line of said Power Company's lands a distance of 175.62 feet to the northerly line of Kenmore Avenue, being also the division line between the Town of Tonawanda on the northeast and the City of Buffalo on the southwest;  
23) thence S 37°36'04" W along said division line between the Town of Tonawanda on the northeast and the City of Buffalo on the southwest a distance of 280.60 feet to the easterly line of Kenmore Avenue;  
24) thence N 01°43'07" E and continuing along the easterly line of Kenmore Avenue a distance of 78.12 feet to the northeasterly line of Kenmore Avenue;  
25) thence N 37°35'53" W along the northeasterly line of Kenmore Avenue a distance of 40.75 feet to a point;  
26) thence N 40°39'53" W and continuing along the northeasterly line of Kenmore Avenue a distance of 402.20 feet to the point of beginning.

AND ALSO

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, being part of Lot No. 1 of the Jones Tract and part of former Ontario Street, bounded and described as follows:

BEGINNING at the southeast corner of a parcel of land conveyed to Wood and Brooks Company by the City of Buffalo by deed recorded in the Erie County Clerk's Office in Liber 4243 of Deeds at page 72; thence running westerly parallel with the northerly line of New Kenmore Avenue (Ontario Street diverted) 45.01 feet to the northwesterly line of former Ontario Street; thence southwesterly along said northwesterly line of former Ontario Street 22.42 feet to the northerly

line of New Kenmore Avenue (Ontario Street diverted); thence westerly and northerly along the northerly and easterly line of New Kenmore Avenue to its intersection with the southerly line of Lot No. 41 of the Allen Tract; thence northeasterly along said southerly line of Allen Tract 20.51 feet to the southwesterly line of former Kenmore Avenue; thence southeasterly along said southwesterly line of former Kenmore Avenue and the extension thereof 257.33 feet to the point of beginning.

EXCEPTING THEREFROM a triangular piece approximately 13 feet by 40 feet conveyed to the City of Buffalo by the County of Erie by deed recorded in the Erie County Clerk's Office in Liber 4508 of Deeds at page 414.

ALSO EXCEPTING THEREFROM that part thereof, subject to a perpetual easement by reason of grade crossing elimination, Case No. 6244 in accordance with a Notice of Appropriation recorded in the Erie County Clerk's Office in Liber 2673 of Deeds at page 463.

And said Grantor(s) covenant as follows:

FIRST, that the Grantor(s) are seized of said premises in fee simple and have good right to convey the same;

SECOND, that the Grantee(s) shall quietly enjoy the said premises;

THIRD, that the Grantor(s) will forever warrant the title to said premises;

FOURTH, that this conveyance is subject to the Trust Fund provisions of Section Thirteen of the Lien Law; and

FIFTH, that the Grantor is a validly existing business corporation formed pursuant to the laws of the State of New York, the signature of the individual executing this Deed alone is sufficient to transact the business of the Grantor including the conveyance effected hereby, this conveyance is not all or substantially all of the property of the Grantor, and is not made to defraud creditors but is made in the regular course of business actually conducted by the Grantor.

Singular terms herein shall be read to include the plural when the context requires.

IN WITNESS WHEREOF, the Grantor(s) have hereunto set their hand(s) the day and year first above written.

In Presence of

THE LEROY PROPERTIES, INC.

Christopher Eashak

By: Christopher Eashak, Vice-President

STATE OF NEW YORK ) ss.:

COUNTY OF ERIE )

On this 3<sup>rd</sup> day of August, 2023, before me, the undersigned, a notary public in and for said state, personally appeared Christopher Eashak, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to within this instrument, and acknowledged to me that that he is the Vice-president of The Leroy Properties, Inc., the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.

Deanna M. Good

Notary Public

DEANNA M. GOOD  
NOTARY PUBLIC, STATE OF NEW YORK  
Reg. No. 01GO6076737  
QUALIFIED IN ERIE COUNTY  
My Commission Expires July 1, 2026