



**SUBMITTAL INSTRUCTIONS:**

1. Compile the application package in the following manner:
  - a. one file in non-fillable PDF of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - b. one individual file (PDF) of each previous environmental report; and,
  - c. one file (PDF) of each work plan being submitted with the application, if applicable.
2. Compress all files (PDFs) into one zipped/compressed folder.
3. Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method – do NOT submit both email and ground mail.**

a. VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service. (<http://fts.dec.state.ny.us/fts>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: "*BCP Application NEW - \*Proposed Site Name\**"
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) – do NOT copy Site Control staff.

b. VIA GROUND MAIL:

- Save the application file(s) and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:  
Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, NY 12233-7020

**PROPOSED SITE NAME:** NORTH TONAWANDA MAIN STREET REDEVELOPMENT SITE

**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.

If yes, provide existing site number: \_\_\_\_\_

☐

Yes

☒

No

**Is this a revised submission of an incomplete application?**

If yes, provide existing site number: C932184

☒

Yes

☐

No

*AT 2-23-24*



BCP App Rev 15 – May 2023

**SECTION I: Property Information**

PROPOSED SITE NAME **NORTH TONAWANDA MAIN STREET REDEVELOPMENT SITE**

ADDRESS/LOCATION **235 River Road**

CITY/TOWN **North Tonawanda**

ZIP CODE **14120**

MUNICIPALITY (LIST ALL IF MORE THAN ONE)

COUNTY **Niagara**

SITE SIZE (ACRES) **±3.1**

LATITUDE

LONGITUDE

43°	01'	38.93"	-78°	52'	46.26"
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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
235 River Road	185.05	1	75	3.1

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.

Y	N
<input type="radio"/>	<input checked="" type="radio"/>

2. Is the required property map included with the application?  
(Application will not be processed without a map)

<input checked="" type="radio"/>	<input type="radio"/>
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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: \_\_\_\_\_

Percentage of property in En-zone (check one): 0% ☐ 1-49% ☐ 50-99% ☐ 100% ☐

<input type="radio"/>	<input checked="" type="radio"/>
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4. Is the project located within a disadvantaged community?  
See application instructions for additional information.

<input checked="" type="radio"/>	<input type="radio"/>
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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"/>	<input type="radio"/>
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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: \_\_\_\_\_

<input type="radio"/>	<input checked="" type="radio"/>
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SECTION I: Property Information (CONTINUED)		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"/>
<b>Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.</b>			
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.		<input type="radio"/>	<input type="radio"/>
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"/>
<b>NOTE:</b> 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.			
<b>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.</b> <b>Initials of each Requestor:</b> <div style="text-align: right; margin-top: 10px;"> </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

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

## SECTION III: Land Use Factors

1. What is the property's current municipal zoning designation? Downtown Mixed Use District ("DD")

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. Include 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. Include 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:

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 checked="" 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:

3. For each impacted medium above, include a site drawing indicating:
  - 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

4. Indicate Past Land Uses (check all that apply):

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

Other:

**SECTION V: Requestor Information**

NAME 235 River Road, LLC

ADDRESS 4727 Camp Road

CITY/TOWN Hamburg

STATE NY

ZIP CODE 14075

PHONE (716) 225-6117

EMAIL bill@alliancehomes.com

	Y	N
1. Is the requestor authorized to conduct business in New York State (NYS)?	<input checked="" type="radio"/>	<input type="radio"/>
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 <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a> . A print-out of entity information from the database must be submitted with this application to document that the requestor is authorized to conduct business in NYS. Is this attached?	<input checked="" type="radio"/>	<input type="radio"/>
3. If the requestor is an LLC, a list of the names of the members/owners is required on a separate attachment. Is this attached? N/A <input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of <a href="#">DER-10: Technical Guidance for Site Investigation and Remediation</a> and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements? <b>Documents that are not properly certified will not be approved under the BCP.</b>	<input checked="" type="radio"/>	<input type="radio"/>

**SECTION VI: Requestor Eligibility**

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

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?	<input type="radio"/>	<input checked="" type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input checked="" 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 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?	<input type="radio"/>	<input checked="" type="radio"/>
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.	<input type="radio"/>	<input checked="" 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 of contaminants?	<input type="radio"/>	<input checked="" type="radio"/>



## SECTION VI: Requestor Eligibility (CONTINUED)

7. Has the requestor been convicted of a criminal offense (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"/> Y	<input checked="" type="radio"/> N
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 checked="" type="radio"/>	<input 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:		
<b>PARTICIPANT</b> <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>	<b>VOLUNTEER</b> <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><b>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.</b></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"/>		

**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☐ N/A**Note:** A purchase contract or lease agreement does not suffice as proof of site access.**SECTION VII: Requestor Contact Information**

REQUESTOR'S REPRESENTATIVE Bill Burke

ADDRESS 4727 Camp Road

CITY Hamburg

STATE NY

ZIP CODE 14075

PHONE (716) 225-6117

EMAIL bill@alliancehomes.com

REQUESTOR'S CONSULTANT (CONTACT NAME) Bryan Bowers

COMPANY AECC

ADDRESS 6308 Fly Road

CITY East Syracuse

STATE NY

ZIP CODE 13057

PHONE (315) 432-9400

EMAIL bbowers@aeccgroup.com

REQUESTOR'S ATTORNEY (CONTACT NAME) Michael A. Fogel, Esq.

COMPANY Fogel &amp; Brown, P.C.

ADDRESS 120 Madison Street, Suite 120

CITY Syracuse

STATE NY

ZIP CODE 13202

PHONE (315) 399-4343

EMAIL mfogel@fogelbrown.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.		
Is the appropriate documentation included with this application? N/A	<input checked="" type="radio"/>	<input type="radio"/>

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

CURRENT OWNER Frank Metzger

CONTACT NAME Frank Metzger

ADDRESS 235 River Road

CITY North Tonawanda

STATE NY

ZIP CODE 14120

PHONE (716) 692-1810

EMAIL Metzger.removal@gmail.com

OWNERSHIP START DATE 1992

CURRENT OPERATOR Metzger Removal, Inc.

CONTACT NAME Frank Metzger

ADDRESS 235 River Road

CITY North Tonawanda

STATE NY

ZIP CODE 14120

PHONE (716) 692-1810

EMAIL Metzger.removal@gmail.com

OPERATION START DATE 1992

**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 as an attachment.	<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: _____ Class: _____	<input type="radio"/>	<input checked="" type="radio"/>

## SECTION X: Property Eligibility Information (continued)

<p>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: _____</p>	<p><b>Y</b></p> <input type="radio"/>	<p><b>N</b></p> <input checked="" type="radio"/>
<p>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</div></p>	<input checked="" type="radio"/>	<input type="radio"/>
<p>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: _____</p>	<input type="radio"/>	<input checked="" type="radio"/>
<p>6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?          If yes, please provide additional information as an attachment.</p>	<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.

## 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 Managing Member (title) of 235 River Road, 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: 02/23/2024

Signature: 

**SIGN HERE**

Print Name: Andrew Romanowski

**PLEASE REFER TO THE APPLICATION COVER PAGE AND BCP APPLICATION INSTRUCTIONS FOR DETAILS OF PAPERLESS DIGITAL SUBMISSION REQUIREMENTS.**

## FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY

Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27-1407(1-a) must be submitted if requestor is seeking this determination.

**BCP App Rev 15**

Please respond to the questions below and provide additional information and/or documentation as required. <i>Please refer to the application instructions.</i>	Y	N
1. Is the property located in Bronx, Kings, New York, Queens or Richmond County?	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
4. Is the property upside down or underutilized as defined below?		
Upside down	<input type="radio"/>	<input checked="" type="radio"/>
Underutilized	<input type="radio"/>	<input checked="" 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 with documentation

☐ Pending – planned renewable energy facility awaiting documentation

\*Selecting this option will result in a “pending” status. The appropriate documentation 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.

☐ 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 plans to meet the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?

☐ Yes - \*Selecting this option will result in a “pending” status, as a BOA conformance determination has not yet been made. Proof of conformance 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.

☐ 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.



# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## BROWNFIELD CLEANUP PROGRAM (BCP) INSTRUCTIONS FOR COMPLETING AND SUBMITTING A BCP APPLICATION

The New York State Department of Environmental Conservation (DEC) strongly encourages all applicants to schedule a pre-application meeting with DEC staff to review the benefits, requirements, and procedures for completing a project in the BCP. Contact your [Regional Office](#) to schedule a meeting. To add a party to an existing BCP Agreement, use the [BCP Agreement Amendment Application](#).

**For further information regarding the determination of a complete application, please refer to the guidance following these instructions, as well as the [NYSDEC BCP website](#).**

### SUBMITTAL INSTRUCTIONS

- Compile the application package in the following manner:
  - one file in non-fillable portable document format (PDF) of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - one individual file (PDF) of each previous environmental report; and,
  - one file (PDF) of each work plan being submitted with the application, if applicable.
- Compress all files (PDFs) into one zipped/compressed folder
- Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method - do NOT submit both via email and via ground mail.**

#### VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service (<https://fts.dec.state.ny.us/fts/>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: *"BCP Application NEW - \*Proposed Site Name\*"*
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) - do NOT copy Site Control staff.

#### VIA GROUND MAIL:

- Save the application file and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:

Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11th Floor  
Albany, NY 12233-7020

SECTION I: Property Information	
<b>PLEASE NOTE</b>	<b>If any changes to SECTION I are required prior to application approval, a new page 2, initialed by each requestor, must be submitted with the revisions.</b>
<b>Proposed Site Name</b>	Provide a name for the proposed site. The name could be an owner's name, current or historical operations (i.e., ABC Furniture) or the general location of the property. Consider whether the property is known by DEC by a particular name, and if so, use that name.
<b>Site Address</b>	Provide a street address, city/town, zip code, and each municipality and county in which the site is located.
<b>Site Size</b>	Provide the approximate acreage of the site.
<b>GIS Information</b>	Provide the latitude and longitude for the approximate center of the property. Show the latitude and longitude in degrees, minutes and seconds.
<b>Tax Parcel Information</b>	Provide the tax parcel address/section/block/lot information and map. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5-minute quad map on which the property appears and clearly indicate the proposed site's location.
<b>Tax Map Boundaries</b>	State whether the boundaries of the site correspond to the tax map boundaries. If no, a metes and bounds description of the property must be attached. The site boundary can occupy less than a tax lot or encompass portions of one or more tax lots and may be larger or smaller than the overall redevelopment/ reuse project area. A site survey with metes and bounds will be required to establish the site boundaries before the Certificate of Completion can be issued.
<b>Site Map</b>	Provide a property base map(s) of sufficient detail, clarity and accuracy to show the following: (i) map scale, north arrow orientation, date, and location of the property with respect to adjacent streets and roadways; and (ii) proposed brownfield property boundary lines, with adjacent property owners clearly identified.
<b>En-zone</b>	If any part of the site is located within an En-zone, please provide a map showing the location of the site with the En-zone overlay. For information on En-zones, please see <a href="#">DEC's website</a> . Note that new En-zone boundaries are effective January 1, 2023.
<b>Disadvantaged Communities</b>	If the site is located within a Disadvantaged Community, please provide a map showing the location of the site with the Disadvantaged Community overlay. For additional information on disadvantaged communities, please refer to the <a href="#">Climate Leadership and Community Protection Act website</a> .

**SECTION I: Property Information (continued)**

<b>Brownfield Opportunity Area (BOA)</b>	If the site is located within a NYS Department of State designated Brownfield Opportunity Area, please provide a map showing the location of the site with the BOA overlay. For more information on designated BOAs, please refer to the <a href="#">NYS DOS website</a> . Additional information on BOA conformance determinations can be found at the <a href="#">Office of Planning and Development website</a> . A BOA conformance determination cannot be made until a Decision Document has been issued for the site.
<b>Multiple Applications</b>	Generally, only one application can be submitted, and one BCA executed, for a development project. In limited circumstances, the DEC may consider multiple applications/BCAs for a development project where (1) the development project spans more than 25 acres; (2) the approach does not negatively impact the remedial program, including timing, ability to appropriately address areas of concern, and management of off-site concerns; and (3) the approach is not advanced to increase the value of future tax credits (i.e., circumvent the tax credit caps provided under New York State Tax Law Section 21).
<b>Previous BCP Applications</b>	If all or part of the proposed site has been the subject of a previous BCP application (whether accepted, denied or withdrawn), please provide the assigned DEC site number from the previous application as well as any relevant information regarding why the property is not currently in the program.
<b>Registry Listing and P-site Status</b>	If all or part of the proposed site is now or ever was listed on the Registry of Inactive Hazardous Waste Disposal Sites or is currently the subject of investigation as a Potential Site, please provide the assigned DEC site number.

## SECTION I: Property Information (continued)

### Property Description Narrative

Provide a property description in the format provided below. Each section should be no more than one paragraph long.

#### Location:

Example: "The XYZ Site is located in an {urban, suburban, rural} area." {Add reference points if address is unspecific; e.g., "The site is approximately 3.5 miles east of the intersection of County Route 55 and Industrial Road."}

#### Site Features:

Example: "The main site features include several large, abandoned buildings surrounded by former parking areas and roadways. About one quarter of the site area is wooded. Little Creek passes through the northwest corner."

#### Current Zoning and Land Use: (Ensure the current zoning is identified)

Example: "The site is currently inactive and is zoned for commercial use. The surrounding parcels are currently used for a combination of commercial, light industrial, and utility rights-of-way. The nearest residential area is 0.3 miles east on Route 55."

Past Use of the Site: include source(s) of contamination and remedial measures (site characterizations, investigations, Interim Remedial Measures, etc.) completed outside of the current remedial program (e.g., work under a petroleum spill incident).

Example: "Until 1992 the site was used for manufacturing wire and wire products (e.g., conduit, insulators) and warehousing. Prior uses that appear to have led to site contamination include metal plating, machining, disposal in a one-acre landfill north of Building 7, and releases of wastewater into a series of dry wells."

When describing the investigations/actions performed outside of the remedial program, include the major chronological remedial events that lead to the site entering a remedial program. The history should include the first involvement by government to address hazardous waste/petroleum disposal. Do not cite reports. Only include remedial activities which were implemented PRIOR to the BCA. Do not describe sampling information.

#### Site Geology and Hydrogeology:

As appropriate, provide a very brief summary of the main hydrogeological features of the site including depth to water, groundwater flow direction, etc.

## SECTION I: Property Information (continued)

<p><b>Environmental Assessment</b></p>	<p>The goal of this section is to describe the nature and extent of contamination at the site. When describing the nature of contamination, identify just the primary contaminants of concern (i.e., those that will likely drive remedial decisions/actions). If there are many contaminants present within a group of contaminants (i.e., volatile organic compounds, semi-volatile organic compounds, metals), identify the group(s) and one or two representative contaminants within the group. When addressing the extent of contamination, identify the areas of concern at the site, contaminated media (i.e., soil, groundwater, etc.), relative concentration levels, and a broad-brush description of contaminated areas/depths. The reader should be able to know if contamination is widespread or limited and if concentrations are marginally or greatly above Standards, Criteria and Guidance (SCGs) for the primary contaminants. If the extent is described qualitatively (e.g., low, medium, high), representative concentrations should be given and compared with appropriate SCGs. For soil contamination, the concentrations should be compared with the soil cleanup objectives (SCOs) for the intended use of the site.</p> <p><b>A typical Environmental Assessment would look like the following:</b></p> <p>Based upon investigations conducted to date, the primary contaminants of concern for the site include cadmium and trichloroethene (TCE).</p> <p><i>Soil</i> - Cadmium is found in shallow soil, mostly near a dry well at the northeast end of the property. TCE is found in deeper soil, predominantly at the north end of the site. Concentrations of cadmium found on site (approximately 5 ppm) slightly exceed the soil cleanup objective (SCO) for unrestricted use (2.5 ppm). Concentrations of TCE found on site (5 ppm to 300 ppm) significantly exceed the soil cleanup objectives for the protection of groundwater (0.47 ppm).</p> <p><i>Groundwater</i> - TCE and its associated degradation products are also found in groundwater at the north end of the site, moderately exceeding groundwater standards (typically 5 ppb), with a maximum concentration of 1500 ppb. A moderate amount of TCE from the site has migrated 300 feet down-gradient off-site. The primary contaminant of concern for the off-site area is TCE, which is present at a maximum concentration of 500 ppb, at 10 feet below the groundwater table near Avenue A.</p> <p><i>Soil Vapor &amp; Indoor Air</i> - TCE was detected in soil vapor at elevated concentrations and was also detected in indoor air at concentrations up to 1,000 micrograms per cubic meter.</p>
<p><b>Questions 15-17: New York City Sites</b></p>	<p>These questions pertain <b>ONLY</b> to sites located within the five counties comprising New York City. If the requestor is seeking a determination that the site is eligible for tangible property tax credits, this section and the <i>Supplemental Questions for Sites Seeking Tangible Property Credits in New York City</i> <b>must</b> be completed.</p>

## SECTION II: Project Description

As a separate attachment, provide complete and detailed information about the project, including the purpose of the project, the date the remedial program is to start, and the date the issuance of the Certificate of Completion is anticipated.

## SECTION III: Land Use Factors

In addition to eligibility information, site history, and environmental data/reports, the application requires information regarding the current, intended and reasonably anticipated future land use.

This information consists of responses to the “land use” factors to be considered relative to the “Land Use” section of the BCP application. The information will be used to determine the appropriate land use in conjunction with the investigation data provided, in order to establish eligibility for the site based on the definition of a “brownfield site” pursuant to ECL 27-1405(2).

This land use information will be used by DEC, in addition to all other relevant information provided, to determine whether the proposed use is consistent with the currently identified, intended and reasonably anticipated future land use of the site at this stage. Further, this land use finding is subject to information regarding contamination at the site or other information which could result in the need for a change in this determination being borne out during the remedial investigation.

<b>Zoning and Current Use</b>	Provide the current municipal zoning designation and uses permitted by that designation. Provide a summary of the current use of the site, including identifying possible contaminant source areas. If the site is no longer in use, provide the date by which operations ceased.
<b>Anticipated Use</b>	Identify the anticipated post-remediation use of the site and provide a detailed description of the specific anticipated post-remediation use as an attachment.
<b>Renewable Energy Facility Site</b>	Indicate if the post-remediation use of the site is proposed to be a renewable energy facility. A “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. Section 66-p of the Public Service Law: "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. Provide any detailed plans or documentation to support this. Appropriate documentation must be provided as follows: for planned renewable energy facilities generating/storing less than twenty-five (25) megawatts, a local land use approval must be provided. For planned renewable energy facilities generating/storing twenty-five (25) megawatts or greater, a permit issued by the Office of Renewable Energy Siting must be provided.
<b>Compliance with Zoning Laws, Recent Development, and Community Master Plans</b>	Provide an explanation to support the responses to each of these items. Attach additional documentation if applicable.



## SECTION IV: Property's Environmental History

For all sites, an investigation report is required that is sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data include site drawings and data summary tables requested in Section IV, #3 of the BCP application form. Specific instructions regarding the data summary tables are attached at the end of these instructions.

## SECTION V: Requestor Information

<b>Requestor Name</b>	<p>Provide the name of the person(s)/entity requesting participation in the BCP (if more than one, attach additional sheets with requested information). The requestor is the person or entity seeking DEC review and approval of the remedial program.</p> <p>If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear exactly as given in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a>. A print-out of entity information from the database must be submitted to DEC with the application, to document that the requestor is authorized to do business in NYS.</p>
<b>Address, etc.</b>	Provide the requestor's mailing address, telephone number and e-mail.
<b>LLC Information</b>	If the requestor(s) is/are an LLC, the names of the members/owners must be provided on a separate attachment.
<b>Document Certification</b>	<p>All documents, which are prepared in final form for submission to DEC for approval, are to be prepared and certified in accordance with Section 1.5 of <a href="#">DER-10</a>. Persons preparing and certifying the various work plans and reports identified in Section 1.5 include:</p> <ul style="list-style-type: none"><li>• New York State licensed professional engineers (P.E.s), as defined at 6 NYCRR 375-1.2(aj) and paragraph 1.3(b)47. Engineering documents must be certified by a P.E. with current license and registration for work that was done by them or those under their direct supervision. The firm by which the P.E. is employed must also be authorized to practice engineering in New York State;</li><li>• qualified environmental professionals as defined at 6 NYCRR 375-1.2(ak) and DER-10 paragraph 1.3(b)49;</li><li>• remedial parties, as defined at 6 NYCRR 375-1.2(ao) and DER-10 paragraph 1.3(b)60; or</li><li>• site owners, which are the owners of the property comprising the site at the time of the certification.</li></ul>

## SECTION VI: Requestor Eligibility

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

<b>Volunteer Statement</b>	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.
<b>Proof of Site Access</b>	If a requestor is not the current owner of the entirety of the site, a site access agreement <b>must be provided</b> that demonstrates that the requestor will have access to the property before signing the BCA and throughout the BCP project. Additionally, the access agreement must include language allowing the requestor the ability to place an environmental easement on the site should the requestor not be the owner at the time remediation is complete and a Track 1 cleanup has not been achieved.

## SECTION VII: Requestor Contact Information

<b>Requestor's Representative</b>	Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc. will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative of Applications determined to be Participants unless another contact name and address is provided with the application.
<b>Requestor's Consultant and Requestor's Attorney</b>	Provide all requested information.

## SECTION VIII: Program Fee

If the requestor is applying for a fee waiver, sufficient documentation must be provided to demonstrate financial hardship. To demonstrate financial hardship, the applicant must show that with the payment of the program fee, remediation of the brownfield site would not be economically viable. This documentation may be in the form of federal tax returns with applicable schedules, financial statements and balance sheets, proof that the applicant has waived its right to tax credits, or any other documentation deemed acceptable by the Department.

If the requestor is applying for a fee waiver based on the requestor's status as a not-for-profit entity, please provide documentation of non-profit designation.

## SECTION IX: Current Property Owner and Operator Information

<b>Owner Information</b>	Provide requested information of the current owner of the property. List <u>all</u> parties holding an interest in the property and, if the requestor is not the current owner, describe the requestor's relationship to the current owner. If the property consists of multiple parcels, be sure to include the ownership start date of each.
<b>Operator Information</b>	Provide requested information of the current operator(s). If multiple operators, attach the requested information for each operator, including the date each operator began utilizing the property.
<b>Historical Owners and Operators</b>	Provide a list of previous owners and a list of previous operators, including dates of ownership or operation and last-known addresses and phone numbers. Describe the requestor's relationship to each previous owner and operator; if no relationship, indicate "none". When describing the requestor's relationship to current and historical owners and operators, include any relationship between the requestor's corporate members and the previous owners and operators.

## SECTION X: Property Eligibility Information

As a separate attachment, provide complete and detailed information in response to the following eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that that information be summarized.

<b>CERCLA / NPL Listing</b>	Has any portion of the property ever been listed on the National Priorities List (NPL) established under CERCLA? If so, provide relevant information.
<b>Registry Listing</b>	Has any portion of the property ever been listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites established under ECL 27-1305? If so, please provide the site number and classification. See the Division of Environmental Remediation (DER) <a href="#">website</a> for a database of sites with classifications.
<b>RCRA Listing</b>	Does the property have a Resource Conservation and Recovery Act (RCRA) TSD Permit in accordance with the ECL 27-0900 et seq? If so, please provide the EPA Identification Number, the date the permit was issued, and its expiration date. Note: for purposes of this application, interim status facilities are not deemed to be subject to a RCRA permit.
<b>Registry/RCRA Sites Owned by Volunteers</b>	If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27- 1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation.

**SECTION X: Property Eligibility Information (CONTINUED)**

<b>Existing Order</b>	Is the property subject to an order for cleanup under Article 12 of the Navigation Law or Article 17 Title 10 of the ECL? If so, please provide information on an attachment. Note: if the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement.
<b>Pending Enforcement Actions</b>	Is the property subject to an enforcement action under Article 27, Titles 7 or 9 of the ECL or subject to any other ongoing state or federal enforcement action related to the contamination which is at or emanating from the property? If so, please provide information as an attachment.

**SECTION XI: Site Contact List**

Provide the names and addresses of the parties on the Site Contact List (SCL) and a letter from the repository acknowledging agreement to act as the document repository for the proposed BCP project. For sites located in a city with a population of one million or more, the appropriate community board must be included as an additional document repository, and acknowledgement of their agreement to act as such must also be provided.

**SECTION XII: Statement of Certification and Signatures**

The requestor must sign the application or designate a representative who is authorized to sign. The requestor's consultant or attorney cannot sign the application. If there are multiple parties applying, then each requestor must sign a signature page. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the entity's name must appear exactly as given in the NYS Department of State's Corporation & Business Entity Database.

## DATA SUMMARY TABLE INSTRUCTIONS

Data summary tables should include the following columns:

Soil Table:

Analytes > SCOs <sup>a</sup>	Detections > SCOs <sup>b</sup>	Max. Detection (ppm) <sup>c</sup>	SCO (ppm) <sup>d</sup>	Depth (ft bgs)
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Groundwater Table:

Analytes > AWQS <sup>e</sup>	Detections > AWQS <sup>f</sup>	Max. Detection (ppb) <sup>c</sup>	AWQS (ppb) <sup>g</sup>
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Soil Gas Table:

Analytes <sup>h</sup>	Total Detections	Max. Detection (ug/m3) <sup>c</sup>	Type <sup>i</sup>
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<sup>a</sup> Include all contaminants over the applicable soil cleanup objectives (SCOs). Column header should specify which SCOs are being compared to. (i.e., "RRSCOs" for Restricted Residential SCOs)

<sup>b</sup> Number of detections over applicable SCOs. Specify which SCOs are being compared to in column header.

<sup>c</sup> Maximum detection in parts per million (ppm) for soil, parts per billion (ppb) for groundwater, or micrograms per cubic meter (ug/m3) for soil gas.

<sup>d</sup> List the respective SCO. Specify which SCOs are being compared to in column header.

<sup>e</sup> Include all contaminants over Class GA Ambient Water Quality Standards (AWQS).

<sup>f</sup> Number of detections over AWQS.

<sup>g</sup> List the respective AWQS.

<sup>h</sup> Include all chlorinated volatile organic compound (VOCs) detections.

<sup>i</sup> Specify type: soil vapor, sub-slab or indoor air.

## Example Data Summary Tables

**Soil Table:**

Analytes > RR SCOs	Detections > RR SCOs	Maximum Detection (ppm)	RR SCO (ppm)	Depth (ft bgs)
Benzo(a)anthracene	3	11	1	5 – 7
Benzo(a)pyrene	4	15	1	5 – 7
Benzo(b)fluoranthene	5	15	1	5 – 7
Benzo(k)fluoranthene	1	5.3	3.9	5 – 7
Indeno(1,2,3-cd)pyrene	7	8.4	0.5	5 – 7
barium	2	967	400	0.5 – 2.5
cadmium	2	94.1	4.3	6 – 8
lead	3	1,790	400	0.5 – 2.5

**Groundwater Table:**

Analytes > AWQS	Detections > AWQS	Max. Detection (ppb)	AWQS (ppb)
Benz(a)anthracene	2	0.2	0.002
Benzo(a)pyrene	2	0.221	ND
Benzo(b)fluoranthene	2	0.179	0.002
Benzo(k)fluoranthene	2	0.189	0.002
Indeno(1,2,3-cd)pyrene	2	0.158	0.002
Tetrachloroethene (PCE)	1	12	5

**Soil Gas Table:**

Analytes	Total Detections	Max. Detection (µg/m³)	Type
Carbon tetrachloride	1	0.84	Soil vapor
Methylene chloride	1	2.6 J	Soil vapor
Tetrachloroethene	2	47	Soil vapor
Trichloroethene	1	1.2	Soil vapor
Trichlorofluoromethane	1	21	Soil vapor



# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## DETERMINATION OF A COMPLETE APPLICATION

1. The first step in the application review and approval process is an evaluation to determine if the application is complete. To help ensure that the application is determined complete, requestors should review the list of common application deficiencies and carefully read these instructions.
2. DEC will send a notification to the requestor within 30 calendar days of receiving the application, indicating whether such application is complete or incomplete.
3. An application must include the following information relative to the site identified by the application, necessary for making an eligibility determination, or it will be deemed incomplete. (Please note: the application as a whole requires more than the information outlined below to be determined complete). The application must include:
  - a. for all sites, an investigation report sufficient to demonstrate the site requires remediation in order to meet the requirements of the program, and that the site is a brownfield site at which contaminants are present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. Required data includes site drawings requested in Section IV, #3 of the BCP application form.
  - b. for those sites described below, documentation relative to the volunteer status of all requestors, as well as information on previous owners or operators that may be considered responsible parties and their ability to fund remediation of the site. This documentation is required for:
    - i. real property listed in the registry of inactive hazardous waste disposal sites as a class 2 site, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP; or
    - ii. real property that was a hazardous waste treatment, storage or disposal facility having interim status pursuant to the Resource Conservation and Recovery Act (RCRA) program, which may be eligible provided that DEC has not identified any responsible party for that property having the ability to pay for the investigation or cleanup of the property prior to the site being accepted into the BCP.
  - c. for sites located within the five counties comprising New York City, in addition to (a) and if applicable (b) above, if the application is seeking a determination that the site is eligible for tangible property tax credits, sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a). If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.
  - d. for sites previously remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law, relevant documentation of this remediation.

## DETERMINATION OF A COMPLETE APPLICATION (CONTINUED)

4. If the application is found to be incomplete:
  - a. the requestor will be notified via email or phone call regarding minor deficiencies. The requestor must submit information correcting the deficiency to DEC within the 30-day review time frame; or
  - b. the requestor will receive a formal Letter of Incomplete Application (LOI) if an application is substantially deficient, if the information needed to make an eligibility determination identified in #4 above is missing or found to be incomplete, or if a response to a minor deficiency is not received within the 30-day period. The LOI will detail all of the missing information and request submission of the information. If the information is not submitted within 30 days from the date of the LOI, the application will be deemed withdrawn. In this case, the requestor may resubmit the application without prejudice.
5. If the application is determined to be complete, DEC will send a Letter of Complete Application (LOC) that includes the dates of the public comment period. The LOC will:
  - a. include an approved public notice to be sent to all parties on the Contact List included with the application;
  - b. provide instructions for publishing the public notice in the newspaper on the date specified in the letter, and instructions for mailing the notice to the Contact List;
  - c. identify the need for a certification of mailing form to be returned to DEC along with proof of publication documentation; and
  - d. specify the deadline for publication of the newspaper notice, which must coincide with, or occur before, the date of publication in the Environmental Notice Bulletin (ENB).
    - i. DEC will send a notice of the application to the ENB. As the ENB is only published on Wednesdays, DEC must submit the notice by the Wednesday before it is to appear in the ENB.
    - ii. The mailing to parties on the Contact List must be completed no later than the Tuesday prior to ENB publication. If the mailings, newspaper notice and ENB notice are not completed within the timeframes established by the LOC, the public comment period on the application will be extended to ensure that there will be the required comment period.
    - iii. Marketing literature or brochures are prohibited from being included in mailings to the Contact List.

March 1, 2024

New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233

**RE: Brownfield Cleanup Program (BCP) Application Form Revision 01**  
**North Tonawanda Main Street Redevelopment Site (C932184)**  
**Requestor: 235 River Road, LLC**

To Whom It May Concern:

Please use this letter and the enclosed exhibits as supplemental documentation to accompany the Brownfield Cleanup Program Application Form (the "BCP Application") Revision 01 for the North Tonawanda Main Street Redevelopment Site (the "Site") in North Tonawanda, New York. The following exhibits shall address all requests for information in the BCP Application:

**SECTION I: PROPERTY INFORMATION**

- Exhibit 1:** Property Description & Environmental Assessment Narrative  
**Exhibit 2:** Metes & Bounds Description, prepared by Nussbaumer & Clarke, Inc.  
**Exhibit 3:** Figure 1, Property Boundary & Topographic Survey (dated 03/30/2023), prepared by Nussbaumer & Clarke, Inc.  
**Exhibit 4:** Warranty Deed; filed with Niagara County Clerk  
**Exhibit 5:** Figure 2, Niagara County Tax Map & Contact List  
**Exhibit 6:** Figure 3, Site Location Figure  
**Exhibit 7:** Figure 4, NYSERDA Disadvantaged Communities Overlay Map  
**Exhibit 8:** Figure 5, Brownfield Opportunity Area (BOA) Map  
**Exhibit 9:** Figure 6, North Tonawanda Brownfield Opportunity Area Map  
**Exhibit 10:** Figure 7, North Tonawanda Downtown Mixed-Use District; Subarea Zoning Map

**SECTION II: PROJECT DESCRIPTION**

- Exhibit 11:** Project Description Narrative  
**Exhibit 12:** Figure 8, Summary of Soil Sample Exceedances

**SECTION III: LAND USE FACTORS**

- Exhibit 13:** Land Use Analysis & Future Development  
**Exhibit 14:** Site Plan Concept Drawing C-100 (Dated 11/07/2023), prepared by Christopher Wood, PE, of Carmina Wood Design

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**SECTION IV: PROPERTY'S ENVIRONMENTAL HISTORY**

- Exhibit 15:** Phase I ESA, C&S Companies  
**Exhibit 16:** Limited Site Investigation Report, AECC

**SECTION V: REQUESTOR INFORMATION**

- Exhibit 17:** NYS Department of State Articles of Organization (Certified Copy)  
**Exhibit 18:** List of Members of Requestor  
**Exhibit 19:** Authorization to Complete Remedial Requirements

**SECTION VI: REQUESTOR ELIGIBILITY**

- Exhibit 20:** Volunteer Eligibility Statement  
**Exhibit 21:** Proof of Site Access

**SECTION VII: REQUESTOR CONTACT INFORMATION**

*Note: Information included in BCP Application*

**SECTION VIII: PROGRAM FEE**

*Note: Information included in BCP Application*

**SECTION IX: CURRENT PROPERTY OWNER INFORMATION**

- Exhibit 22:** Historical Owners & Operators

**SECTION X: PROPERTY ELIGIBILITY INFORMATION**

*Note: Information included in BCP Application*

**SECTION XI: SITE CONTACT LIST**

- Exhibit 23:** Site Contact List  
**Exhibit 24:** Repository Acknowledgement

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## **EXHIBIT 1**

### **PROPERTY DESCRIPTION & ENVIRONMENTAL ASSESSMENT NARRATIVE**

#### **PROPERTY LOCATION**

The North Tonawanda Main Street Redevelopment Site (“Site”) is a 3.10 +/- acre parcel located at 235 River Road (SBL No. 185.05-1-75.1), in North Tonawanda, New York 14120, as further described in the metes and bounds description, attached hereto as **Exhibit 2**. The Site is a triangular shaped parcel that contains frontage on Main Street, Thompson Street, River Road, and Island Street. A boundary survey that includes topographic elevations is attached hereto as **Exhibit 3**. The Site is at a critical transportation and pedestrian travel node, positioned at the northern gateway to Downtown North Tonawanda.

The Site was historically comprised of multiple tax parcels (185.05-1-75, 185.05-1-77.1, 185.05-1-73, and 185.05-1-81.11), prior to being consolidated into a sole parcel by means of a warranty deed filed with the Niagara County Clerk’s office. A copy of the deed, filed on December 14, 2023, is attached hereto as **Exhibit 4**. The address of 235 River Road and SBL No. 185.05-1-75.1 were issued by the Niagara County Land Records for the combined parcel. The Niagara County tax map, attached hereto as **Exhibit 5**, reflects the combination of parcels comprising the Site. It must be noted that as of the time of this application, the online mapping has not yet been updated to reflect the consolidation of the parcels.

#### **SITE FEATURES**

The Site currently consists of two (2) commercial buildings containing a combined total of approximately 10,400 square feet of gross floor area. The buildings are slab-on-grade, single-story structures. The building situated proximate to River Road is currently utilized for material storage and vehicular storage, while the building situated along Main Street is currently utilized as an automotive and heavy equipment repair facility. A USGS quadrangle map depicting the site location is attached hereto as **Exhibit 6**.

The remainder of the Site has been used for heavy equipment storage and the salvage of equipment parts. The majority of the Site consists of broken asphalt, overgrown gravel parking areas, and grass.

#### **CURRENT ZONING & LAND USE**

The City of North Tonawanda adopted an amendment to their Zoning Code and Zoning Map in 2018. The Site was historically classified in the M-1 Light Manufacturing zoning district. Upon adopting the new form-based Zoning Code in 2018, a Downtown Mixed-Use District (“Downtown District”) was established for a large portion of Downtown North Tonawanda. The Site is located within the Downtown Mixed-Use District, under sub-area River Road (“RR”). A copy of the Zoning Map has been attached as **Exhibit 10**.

The neighboring properties are primarily utilized for light manufacturing and general commercial uses.

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## **PAST USE OF SITE**

The following history of owners and operators of the Site were obtained from Section 5 of the Phase I Environmental Site Assessment (dated February 2021), prepared by C&S Engineers, Inc.

In 1886, the Subject Property ("SP") and the surrounding area appear to be dedicated to industrial activities related to lumber processing and milling. The SP is noted be primarily be used as a lumber yard for multiple corporations. A rail line runs north to south through the middle of the SP and additional lines exist on the southern half of the SP. A lumber shed owned by Hollister Bros. is located in the southeast corner of the SP. Two planing mills are located adjacent to the SP with one to the south and one to the east across Main Street. The American Boiler Works is also located across Main Street to the east. Docks and water access are noted to the north and west.

In 1889, the SP and surrounding area have not changed drastically. The ownership of the northern portion of the SP seems to have changed to Amdodge Co. but uses appear not to have changed. The lumber shed in the southeast corner appears to have increased in size. The planing mill to the south has increased in size

In 1893, the SP is generally the same; however, an unmapped portion of the site is now shown on the northwest side. The American Boiler Works building to the east no longer exists and has been replaced with a coal bin or coal storage area.

In 1897, the SP and surrounding area are shown with substantial development focusing around the adjacent waterways. The SP is shown to have multiple rail lines running through and surrounding it.

In 1900, the SP appears to now have a few structures onsite and the surrounding areas have not changed noticeably.

In 1910, the SP uses are still shown to be a lumber yard and lumber shed. A wagon shed is shown on the east side of the SP. Lumber processing operations to the east and south have continued to expand with additional development. A new planing mill is now shown to the southwest, adjacent to the SP. The Durd Lithe Co. is shown to the east across Main Street where the former coal storage area once was. Residential uses are shown to the southeast.

In 1948, the SP and surrounding area now show less rail lines and roads have been constructed in the area. The SP now shows two different structures on the west side of the property.

In 1951, the SP and the surrounding area continue to support the lumber industry, with new development occurring on the SP. A lumber warehouse, woodworking building, painting booth, and sash and door storage building are now shown along the west side of the property. The former lumber shed on the northeast corner of the SP has been removed and been replaced with a smaller commercial office building. Adjacent residential and light commercial properties have begun to develop north east across Thompson Street. The planing mill adjacently east of the SP is now shown as a lumberyard. A cement block factory is shown adjacently southeast across Main Street. A planing mill has been developed just south of the SP. Another lumber yard and other light commercial uses are now shown to the south as well.

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In 1965, the SP no longer shows buildings along the west side of the parcels. Less buildings are shown throughout the surrounding area. River Road is now depicted adjacently west to the SP. The rail line through the middle of the SP is still shown.

In 1967, the SP is now shown with additional buildings. River Road is now shown on the west side of the SP. The rail lines are still shown running through the SP. The current building used as a repair garage has been constructed and is labeled a lumber warehouse. Benman Manufacturing Co. is now labeled on the west side of the property and appears to produce various wood furniture and cabinetry pieces. Finishing and spray booths are noted. A lumber shed, lumber storage, and an additional woodworking building are now constructed and labeled as Meyer's Lumber Co., Inc. Surrounding property uses to the north, east, and south have not changed. Across River Road to the west, Tonawanda Electric Steel Casting Corp. is shown and is noted as having an earth floor. From 1964-1976 the SP was occupied by Benman Co. Cabinet Maker & Twin City Ceramic Supplies, at 190 Main Street.

In 1985, the SP was occupied by Benman Collision, Benman Co. Cabinet Maker, & Precision Auto Detail Spray & Repair, at 190 Main Street.

In 1989, the SP was deemed to be vacant.

Since 1992, the SP has been occupied by Metzger Removal, Inc. A 2013 entry shows the SP in its present state with no rail lines noted.

The Requestor (and its sole member) has no relationship to any previous owner or operator of the Site.

## **SITE GEOLOGY & HYDROGEOLOGY**

The Site is situated at an elevation of approximately 572-576 feet above mean sea level and is generally flat. The surrounding areas are also relatively flat. The nearest surface water feature is the Niagara River, which is located approximately 200 feet west of the Site.

The soil at the Site is considered Urban Land. The term Urban Land indicates that a significant portion of the Site is covered by impervious surface (i.e., buildings, pavement), or that the soils have been significantly altered by past development activities. The characterization of Site soils as Urban Land is not unexpected given the urban history of the Site and surrounding areas. During the Geotechnical Boring event, materials consistent with fill or disturbed soils were observed at depths ranging from the surface to approximately 5' below ground surface (BGS).

According to the New York State Geological Survey - Surficial Geologic Map of New York (Niagara Sheet), the native soil overburden materials consist primarily of lacustrine laminated silt and clay. These silt and clay deposits are associated with proglacial lake deposition. They are usually calcareous and laminated, with variable thicknesses up to 165-feet. During geotechnical boring activities, materials consistent with silt and clay deposits were observed at average depths ranging from approximately 3' to approximately 25' BGS; however, one (1) soil boring (SB-03) was advanced to approximately 45' BGS with clay and silt deposits noted from 3'-45' BGS.

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The New York State Geological Survey - Geologic Map of New York (Niagara Sheet) reveals that the bedrock in the area of the Site is shale and dolostone (Salina Formations - Upper Silurian in age). Based upon the geotechnical survey conducted in March 2023, bedrock is anticipated to be at an elevation of approximately 20-30 feet BGS and groundwater is anticipated to be at an elevation of approximately 4-20 feet BGS, flowing towards the west toward the Niagara River.

There are no surface waters or wetlands on or in the immediate vicinity of the Site. The Niagara River is present approximately 200 feet west of the site (since no surface water bodies are present on the Site, a fish and wildlife resource impact analysis will not be performed).

## **ENVIRONMENTAL ASSESSMENTS**

It is recommended that the reader refer to the Site Drawings contained herein and the Historical Environmental Summary Reports in **Exhibits 15 and 16** (reports provided as separate attachments) to this BCP Application re-submission. To date, the following environmental assessments and investigations have occurred at the Site:

Phase I ESA - A February 2021 Phase I Environmental Site Assessment (ESA), prepared by C&S Companies, revealed multiple recognized environmental conditions (RECs) associated with the subject property. These conditions included the historical industrial use of the property, presence of former rail lines, use of the repair garage as an automotive service facility with evidence of stains, and the presence of above ground storage tanks (ASTs) with evidence of staining on the adjacent gravel driveway.

Limited Environmental Sampling Event - In order to address the RECs presented in the Phase I ESA, AECC conducted additional investigation / sampling activities in March and June 2023 ("Limited Environmental Sampling Events"). The Limited Environmental Sampling Events addressed the following:

- Two (2) ASTs: Two (2) ASTs were observed on the west side of the northernmost structure on the Site. Although both ASTs were present within containment structures, the driveway adjacent to the ASTs showed signs of staining. AECC collected samples at both the surface and sub-surface consistent with other site borings. Nuisance odors were noted, analytical results only indicated the presence of several semi-volatile organic compounds (SVOCs) in exceedance of NYS Restricted Residential Soil Cleanup Objectives (SCOs) and metals in exceedance of NYS Unrestricted SCOs at the surface (similar to other contamination found at the Site, as opposed to a unique spill). Upon acceptance into the Brownfield Cleanup Program, the Requestor plans to arrange for the registration, removal and close-out of the two (2) ASTs.
- Site Soils Investigation: In March 2023, a total of nine (9) borings were advanced on the Site to a depth of 23-45 feet BGS. Soil samples were collected at the surface at each boring location and analyzed for SVOCs and metals. Sub-surface soils, collected generally at the lower limit of observed fill materials at depths ranging from approximately 3' to 8' BGS, were analyzed for volatile organic compounds (VOCs), SVOCs, and metals. In June 2023, surface soil samples were collected at ten (10) additional locations. Eighteen (18) samples were submitted for laboratory analysis for SVOCs and metals, while, eleven (11) samples were submitted for laboratory analysis for VOCs, SVOCs, and metals. The laboratory analysis reports revealed the following SVOC and metals exceedances of applicable Soil Cleanup Objectives (SCOs):

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### Soil Sampling Laboratory Results

Compound	USCO	RRSCO	SB-03-SS	SB-04-SS	SB-06-SS	SB-06-3-4'	SB-07-3-3.5'	SB-08-SS
Benzo[a]anthracene	1	1	ND	2.1	0.99	0.030	1.2	1.5
Benzo[a]pyrene	1	1	ND	2.6	1.2	ND	1.2	1.4
Benzo[b]fluoranthene	1	1	ND	3.6	1.6	0.041	1.6	1.9
Benzo[k]fluoranthene	0.8	3.9	ND	ND	0.76	ND	.62	0.95
Chrysene	1	3.9	ND	ND	1.1	ND	1.3	1.6
Dibenz[a,h]anthracene	0.33	0.33	ND	ND	ND	ND	ND	ND
Indeno[1,2,3-cd]pyrene	0.5	0.5	ND	ND	0.78	ND	0.67	0.90
2-Methylnaphthalene	NS	0.41**	ND	5.2	ND	ND	ND	ND
Arsenic	13	16	12.6	2.8	4.7	30	4.2	4.3
Chromium, Total	1/30*	110/180*	25.3	10.7	14.7	21.1	16.7	14.3
Copper	50	270	85.6	13.2	20.0	39.2	12.4	25.2
Lead	63	400	610	38.8	34.6	14.5	28.2	64.0
Mercury	0.18	0.81	0.075	0.028	0.057	0.19	0.016	0.055
Zinc	109	2200	86.5	688	70.2	25.1	890	113

Compound	USCO	RRSCO	SB-08-7-7.5'	SS-02	SS-03	SS-04	SS-05	SS-06
Benzo[a]anthracene	1	1	1.1	ND	0.61	13	0.37	2.8
Benzo[a]pyrene	1	1	1.4	ND	0.60	13	0.42	3.2
Benzo[b]fluoranthene	1	1	1.8	1.2	0.87	18	0.63	4.4
Benzo[k]fluoranthene	0.8	3.9	0.90	ND	0.38	6.2	0.22	1.8
Chrysene	1	3.9	1.1	ND	0.72	14	0.45	3.0
Dibenz[a,h]anthracene	0.33	0.33	ND	ND	ND	0.57	ND	0.43
Indeno[1,2,3-cd]pyrene	0.5	0.5	0.88	ND	0.40	8.7	0.33	2.1
2-Methylnaphthalene	NS	0.41**	ND	ND	0.56	ND	0.75	ND
Arsenic	13	16	4.6	ND	7.0	ND	5.2	4.2
Chromium, Total	1/30*	110/180*	13.3	13	17	15	16	25
Copper	50	270	25.0	18	33	37	28	44

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Compound	USCO	RRSCO	SB-08-7-7.5'	SS-02	SS-03	SS-04	SS-05	SS-06
Lead	63	400	54.5	<b>63</b>	<b>90</b>	<b>110</b>	48	<b>110</b>
Manganese	1600	2000	479	920	730	610	<b>1800</b>	660
Mercury	0.18	0.81	0.032	0.045	0.10	ND	<b>0.22</b>	0.054
Zinc	109	2200	<b>120</b>	<b>140</b>	<b>110</b>	<b>130</b>	<b>360</b>	<b>250</b>

Compound	USCO	RRSCO	SS-08	SS-09	SS-10
Benzo[a]anthracene	1	1	0.54	<b>2.9</b>	<b>1.0</b>
Benzo[a]pyrene	1	1	0.65	<b>3.6</b>	<b>1.2</b>
Benzo[b]fluoranthene	1	1	0.91	<b>6.5</b>	<b>1.9</b>
Benzo[k]fluoranthene	0.8	3.9	0.37	<b>2.4</b>	0.79
Chrysene	1	3.9	0.63	<b>4.4</b>	<b>1.1</b>
Dibenz[a,h]anthracene	0.33	0.33	ND	<b>0.56</b>	0.23
Indeno[1,2,3-cd]pyrene	0.5	0.5	<b>0.51</b>	<b>2.4</b>	<b>0.98</b>
2-Methylnaphthalene	NS	0.41**	ND	<b>0.60</b>	ND
Arsenic	13	16	ND	9.8	4.0
Chromium, Total	1/30*	110/180*	<b>8.7</b>	<b>21</b>	<b>15</b>
Copper	50	270	16	<b>55</b>	25
Lead	63	400	43	<b>150</b>	57
Manganese	1600	2000	470	720	560
Mercury	0.18	0.81	0.041	0.089	0.045
Zinc	109	2200	<b>140</b>	<b>190</b>	<b>110</b>

#### **Table Notes**

All results presented in mg/kg (ppm)

\* - The SCO for chromium is represented as "hexavalent chromium / trivalent chromium", as such, the values shown may or may not trigger exceedances if the compound is speciated in future sampling

\*\* - Value indicates Residential SCO, there is no Restricted Residential SCO for this compound; value derived from NYSDEC Policy CP-51.

**Bold:** Sample exceeds USCO

**Shaded:** Sample exceeds RRSCO

The results of this sampling demonstrate the existence of significant SVOC and metals contamination above RRSCOs.

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## **Conclusions**

AECC presents the following conclusions regarding the prior environmental assessments and investigations:

- The Site is a 3.10± acre parcel of land, which historically supported multiple industrial uses. These uses included lumber processing / milling, rail lines, lumber treatment / storage, furniture manufacturing, an automotive collision shop, and heavy equipment repair / storage.
- The current plan for redevelopment includes the construction of mixed-use buildings (retail and apartment use).
- Laboratory results show that SVOC and metals contamination is widespread in soils across the Site. The observed concentrations suggest that the contamination is related to former industrial activities performed at the Site.
- Due to the SVOC and metals contamination exceeding the SCOs for the anticipated future use of the Site, the Site appears to be a good candidate for acceptance within the New York State Brownfield Cleanup Program.

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## **EXHIBIT 2**

### **METES & BOUNDS DESCRIPTION, PREPARED BY NUSSBAUMER & CLARKE, INC.**

ALL THAT TRACT OF LAND SITUATE in the City of North Tonawanda, County of Niagara, State of New York, being Part of Lot 81 of the Mile Reserve, described more particularly as follows:

Beginning at the intersection of the southerly line of Thompson Street, being 94-foot wide, and the southwesterly line of Main Street, being 66 feet wide;

Thence S 36°-41'-45" E, along the southwesterly line of Main Street, a distance of 652.82 feet to a point on north line of lands conveyed to Robert Arbeiter as recorded in the Niagara County Clerk's Office as Instrument number 2023-00051;

Thence northwesterly, along the north line of Robert Arbeiter lands, along a curve to the left, having a radius of 373 feet and a length of 64.52 feet to the northeast corner of lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2015-12362;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 624 feet and a length of 136.24 feet to a point;

Thence N 84°-32'-00" W, along the north line of EZ Industries, LLC, a distance of 70.65 feet to a point;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 312 feet and a length of 33.22 feet to the northeasterly corner lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2016-12867;

Thence southwesterly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 311 feet and a length of 184.12 feet to a point on the northerly line Island Street, being 66 feet wide;

Thence N 82°-40'-26" W, along the northerly line Island Street, a distance of 12.05 feet to a point on the easterly line River Road, being 100 feet wide;

Thence N 05°-21'-14" W, along the easterly line River Road, a distance of 468.89 feet to a point on the southerly line of Thompson Street;

Thence N 74°-46'-17" E, along the southerly line Thompson Street, a distance of 138.17 feet to the Point or Place of Beginning, being 3.10 acres more or less.

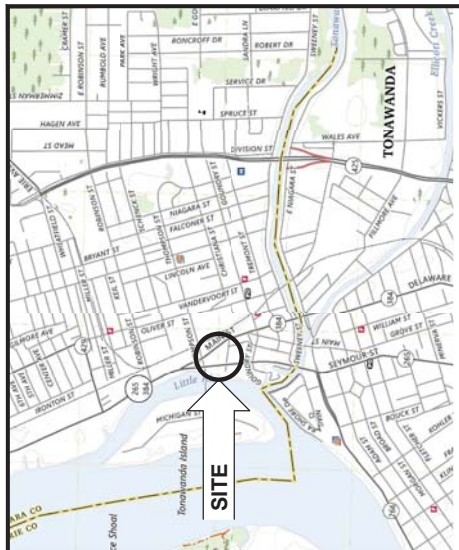
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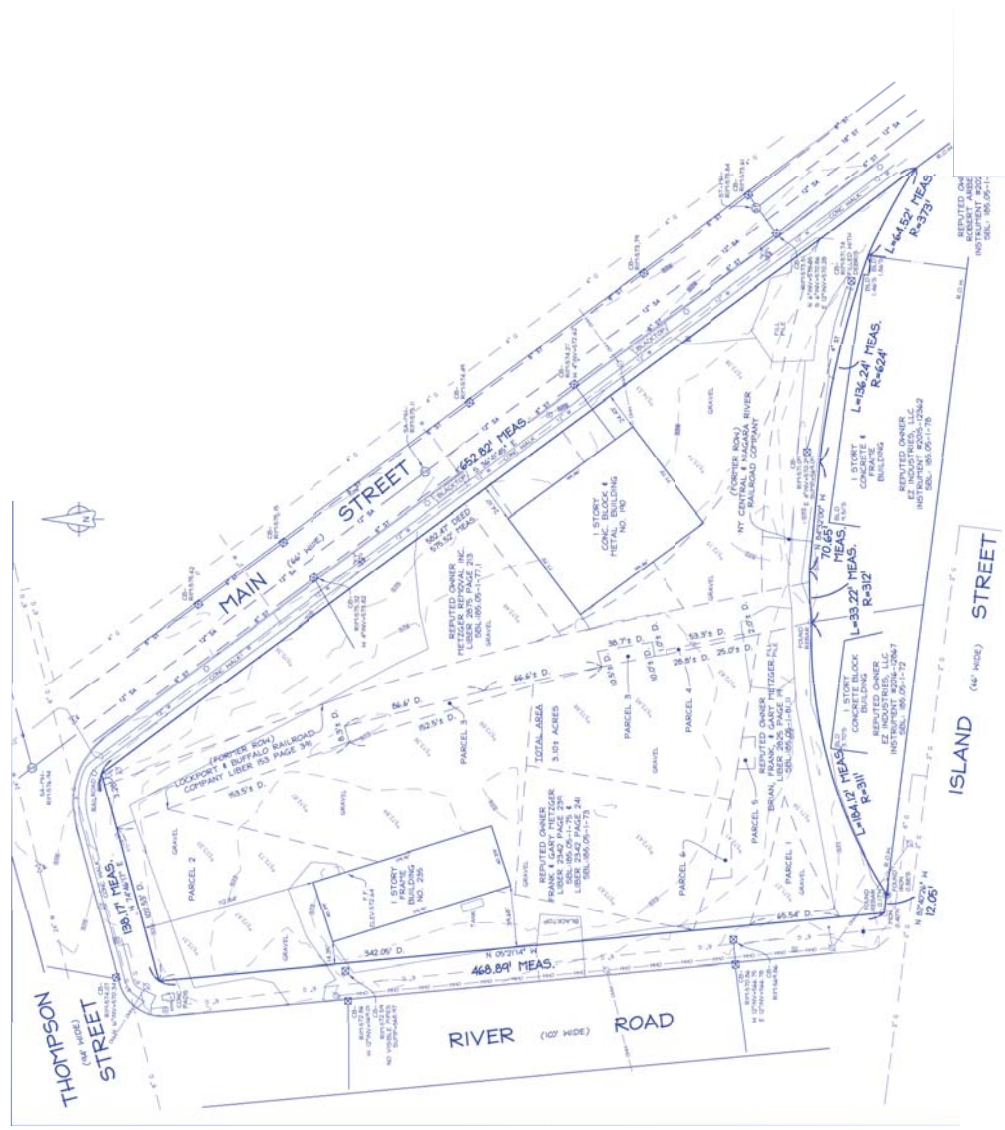
**EXHIBIT 3**

**FIGURE 1, PROPERTY BOUNDARY & TOPOGRAPHIC SURVEY**  
**(DATED 03/30/2023), PREPARED BY NUSSBAUMER & CLARKE, INC.**

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SITE LOCATION



AD 2-23-24

THE INFORMATION INCLUDED ON THIS GRAPHIC WAS PREPARED BY THE CONSULTANT BASED ON A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CONSULTANT MAKES NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, COMPLETENESS, OR QUALITY OF THE INFORMATION OR THE INFORMATION IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PREPARED. THE CONSULTANT SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE INFORMATION OR FOR ANY CONSEQUENCES ARISING FROM THE USE OF THIS GRAPHIC. THE USER OF THIS GRAPHIC SHALL BE RESPONSIBLE FOR VERIFYING THE INFORMATION AT THE SOURCE OF THE INFORMATION AND FOR THE RESULTS OF THE PARTY USING OR HIBING THE INFORMATION.

 Abestos & Environmental Consulting Corporation 6308 Fly Road East Syracuse, NY 13057	PROJECT NO. 23-090	North Tonawanda Main St. Redevelopment Site	
	DRAWN: FEB. 2024	235 River Road	
	DRAWN BY: UF	North Tonawanda, New York 14120	
	CHECKED BY: BB	Property Boundary and Topographic Survey	
		FIGURE	1

**EXHIBIT 4**

**WARRANTY DEED FOR COMBINED PARCEL;**  
**FILED DECEMBER 23, 2023**

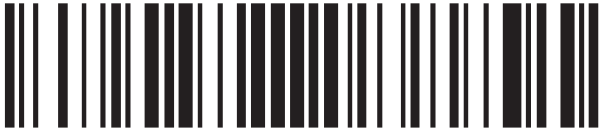
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NIAGARA COUNTY – STATE OF NEW YORK  
JOSEPH A. JASTRZEMSKI – NIAGARA COUNTY CLERK  
P.O. BOX 461, LOCKPORT, NEW YORK 14095-0461

COUNTY CLERK'S RECORDING PAGE

\*\*\*THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH\*\*\*



INSTRUMENT #: 2023-19368

Receipt#: 2023624307

Clerk: DB

Rec Date: 12/14/2023 11:15:37 AM

Doc Grp: DEED

Descrip: DEED

Num Pgs: 12

Party1: METZGER FRANK J  
METZGER GARY J  
METZGER BRIAN KEITH

Party2: METZGER FRANK J  
METZGER GARY J  
METZGER BRIAN KEITH

Town: NORTH TONAWANDA

Recording:

Cover Page	8.00
Recording Fee	38.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00

Sub Total: 321.00

Transfer Tax  
Transfer Tax 0.00

Sub Total: 0.00

Total: 321.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
Transfer Tax #: 2296  
Transfer Tax

Total: 0.00

Record and Return To:

BILL BURKE  
4727 CAMP RD  
HAMBURG NY 14075

WARNING\*\*\*

\*\* Information may change during the verification  
process and may not be reflected on this page.

Joseph A. Jastrzemski  
Niagara County Clerk

**Warranty Deed with Covenant**

*This Indenture*, made the 14<sup>th</sup> day of December, 2023,

Between, **Frank J. Metzger, Gary J. Metzger, and Brian Keith Metzger**, as joint tenants, collectively with an address of 235 River Road, North Tonawanda, NY 14120, party of the first part, and

**Frank J. Metzger, Gary J. Metzger, and Brian Keith Metzger**, as tenants in common collectively with an address of 235 River Road, North Tonawanda, NY 14120, party of the second part,

**WHEREAS THE SOLE PURPOSE OF THIS DEED IS TO COMBINE MULTIPLE TAX PARCELS (OR PORTIONS THEREOF) INTO ONE TAX PARCEL AND THIS CONVEYANCE IS NOT MADE TO DEFRAUD CREDITORS AND DOES NOT RENDER THE PARTY OF THE FIRST PART INSOLVENT.**

**WHEREAS**, Frank J. Metzger, Gary J. Metzger, and Brian Keith Metzger are the owners of parcels of contiguous real property located in the City of North Tonawanda consisting of 175 River Road [SBL No. 185.05-1-73] and 235 River Road [SBL No. 185.05-1-75], acquired collectively by deed recorded August 29, 1991 in Liber 2342 of Deeds on Page 239, attached hereto as **Schedule "A"** (said parcels are herein referred to as "Parcel 1" and Parcel "2", respectively), tax parcels acquired by deed recorded August 29, 1991 in Liber 2342 on Page 241, attached hereto as **Schedule "B"** (said parcels are herein referred to as "Parcel 3", "Parcel 4", "Parcel 5", "Parcel 6", and "Parcel 7", respectively as illustrated on the Survey dated February 5, 1999, included in **Schedule "B"**), 190 Main Street [SBL No. 185.05-1-77.1], acquired by deed recorded the same day herewith, attached hereto as **Schedule "C"** (said parcel is herein referred to as "Parcel 8"), and 173 Main Street [SBL No. 185.05-1-81.11], acquired by deed recorded April 30, 1998 in Liber 2825 of Deeds on Page 19, attached hereto as **Schedule "D"** (said parcel is herein referred to as "Parcel 9") (the combined parcel of Parcel 1, Parcel 2, Parcel 3, Parcel 4, Parcel 5, Parcel 6, Parcel 7, Parcel 8 and Parcel 9 is herein referred to as "Parcel 10"), and the sole purpose of this Deed is to combine said Parcels 1, 2, 3, 4, 5, 6, 7, 8 and 9 into Parcel 10 as described on **Schedule "E"** attached hereto and make a part thereof,

***WITNESSETH**, that the party of the first part, in consideration of ONE AND NO MORE DOLLARS (\$1.00 and no more) lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the second part forever.*

**ALL THAT TRACT OR PARCEL OF LAND**, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Mile Reserve according to a map of the Village of North Tonawanda made by Peter Emslie is known and distinguished as a part of Tract E, and further described on **Schedule "A"**, **Schedule "B"**, **Schedule "C"**, **Schedule "D"** and **Schedule "E"** attached hereto.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

**AND THAT THIS CONVEYANCE** is not all or substantially all of the property of the party of the first part and is made in the regular course of business actually conducted by the party of the first part.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of any improvements and will apply the same first to the payment of the cost of any improvements before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Signature: Frank J. Metzger  
Print Name: Frank J. Metzger

Signature: Gary J. Metzger  
Print Name: Gary J. Metzger

Signature: Brian Keith Metzger  
Print Name: Brian Keith Metzger

STATE OF NEW YORK )  
SS.:  
COUNTY OF NIAGARA )

On the 7 day of December, in the year 2023, before me, the undersigned, a notary public in and for said state, personally appeared Frank J. Metzger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature the individual executed the instrument.

Steven Lohr  
Notary Public

**STEVEN LOHR**  
Notary Public, State of New York  
Qualified in Niagara County  
Reg. No. 01LC6054835  
My Commission Expires 2/12/20 21

North Carolina  
STATE OF NEW YORK )  
SS.:  
COUNTY OF Mecklenburg )

On the 1 day of December, in the year 2023, before me, the undersigned, a notary public in and for said state, personally appeared Gary J. Metzger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature the individual executed the instrument.

Gary J. Metzger  
Notary Public  
Commission expires 02/17/25

STATE OF NEW YORK )  
SS.:  
COUNTY OF NIAGARA )

On the 7 day of December, in the year 2023, before me, the undersigned, a notary public in and for said state, personally appeared Brian Keith Metzger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature the individual executed the instrument.

Steven Lohr  
Notary Public

**STEVEN LOHR**  
Notary Public, State of New York  
Qualified in Niagara County  
Reg. No. 01LC6054835  
My Commission Expires 2/12/20 21

**SCHEDULE A**  
**DEED RECORDED AUGUST 29, 1991 IN LIBER 2342, PAGE 239**

**PARCEL 1 [SBL No. 185.05-1-73]**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Mile Reserve according to a map of the Village of North Tonawanda made by Peter Emslie is known and distinguished as a part of Tract E, bounded and described as follows:

BEGINNING at a point on the east line of River Road at its intersection with the northwesterly line of a branch of the New York Central Railroad as acquired by deed recorded December 2, 1882 in Liber 168 of Deeds at page 186; thence northeasterly along said northwest line to its intersection with the southerly line of another branch of said Railroad by the same deed; thence westerly along said south line of the secondly described Railroad branch to the east line of River Road; thence southerly along the west line of River Road a distance of 65.54 feet to the point of beginning.

**PARCEL 2 [SBL No. 185.05-1-75]**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Mile Reserve according to a map of the Village of North Tonawanda made by Peter Emslie is known and distinguished as a part of Tract E, bounded and described as follows:

BEGINNING at a point on the south line of Thompson Street as now laid out at its intersection with the west line of land conveyed to The Lockport and Buffalo Railway Company by deed recorded December 24, 1880 in Liber 153 of Deeds at page 391; thence southerly along said Railway Company's west line to the north line of land conveyed to The New York Central and Niagara River Railroad Company by deed December 2, 1882 in Liber 168 of Deeds at page 186; thence westerly along the north line of said New York Central and Niagara River Railroad Company land to the east line of River Road; thence northerly along the east line of River Road a distance of 342.05 feet to the south line of Thompson Street as now laid out; thence easterly along the south line of Thompson Street a distance of 102.53 feet to the point of beginning and more.

THE ABOVE PARCELS ARE NOT CONTIGUOUS.



**SCHEDULE B**  
**DEED RECORDED AUGUST 29, 1991 IN LIBER 2342, PAGE 241**

**PARCEL 3**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and more particularly bounded and described as follows:

BEGINNING at a point located on the westerly line of a 33 ft. wide right-of-way of the Erie Railroad, said point being 153.5 (more or less) feet southerly from the southerly highway boundary of Thompson Street (94 ft. wide) as measured along the westerly right-of-way of the Erie Railroad; thence easterly along the northerly wall of a Concrete Block and Metal Frame Building a distance of 8.3 (more or less) feet; thence southerly along the easterly wall of the Concrete Block and Metal Frame Building a distance of 86.8 feet; thence continuing along the easterly wall of the Concrete Block and Metal Frame Building a distance of 66.6 (more or less) feet; thence northerly along the westerly right-of-way of the Erie Railroad, along a curve to the left having a radius of 2529.98 feet, a distance of 152.5 (more or less) feet to the point or place of beginning.

**PARCEL 4**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and more particularly bounded and described as follows:

BEGINNING at a point located on the westerly line of a 33 ft. wide right-of-way of the Erie Railroad, said point being 324.0 (more or less) feet southerly from the southerly highway boundary of Thompson Street (94 ft. wide) as measured along the westerly right-of-way of the Erie Railroad; thence easterly along the northerly wall of a Concrete Block and Metal Frame Building a distance of 10.5 (more or less) feet; thence southerly along the easterly wall of the Concrete Block and Metal Frame Building a distance of 38.7 feet; thence westerly along a southerly wall of the Concrete Block and Metal Frame Building a distance of 10.0 (more or less) feet; thence northerly along the westerly right-of-way of the Erie Railroad, along a curve to the left having a radius of 2529.98 feet, a distance of 37.7 (more or less) feet to the point or place of beginning.

**PARCEL 5**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and more particularly bounded and described as follows:

BEGINNING at a point located on the westerly line of a 33 ft. wide right-of-way of the Erie Railroad, said point being 371.7 (more or less) feet southerly from the southerly highway boundary of Thompson Street (94 ft. wide) as measured along the westerly right-of-way of the Erie Railroad; thence easterly along the northerly wall of the Concrete Block and Metal Frame Building a distance of 1.0 (more or less) feet; thence southerly along the easterly wall of the Concrete Block and Metal Frame Building a distance of 53.3 feet; thence westerly along the southerly wall of the Concrete Block and Metal Frame Building a distance of 2.0 (more or less) feet; thence northerly along the westerly right-of-way of the Erie Railroad a distance of 25.0 (more or less) feet; thence continuing northerly along the westerly right-of-way of the Erie Railroad, along a curve to the left having a radius of 2529.98 feet, a distance of 28.8 (more or less) feet to the point or place of beginning.

**PARCEL 6**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and more particularly bounded and described as follows.

BEGINNING at a point located on the northerly line of a 33 ft. wide right-of-way of the New

York Central Railroad, said point being 119.5 (fore or less) feet easterly from the easterly highway boundary of River Road (100 ft. wide) as measured along the northerly line of the 33 ft. wide right-of-way of the New York Central Railroad; thence southerly along a westerly wall of the Concrete Block and Metal Frame Building a distance of 9.3 (more or less) feet; thence easterly along the southerly wall of the Concrete Block and Metal Frame Building a distance of 22.0 (more or less) feet; thence northerly along an easterly wall of the Concrete Block and Metal Frame Building a distance of 7.5 (more or less) feet; thence westerly along the northerly line of the 33 ft. wide right-of-way of the New York Central Railroad, along a curve to the right having a radius of 387.94 feet, a distance of 22.3 (more or less) feet to the point or place of beginning.

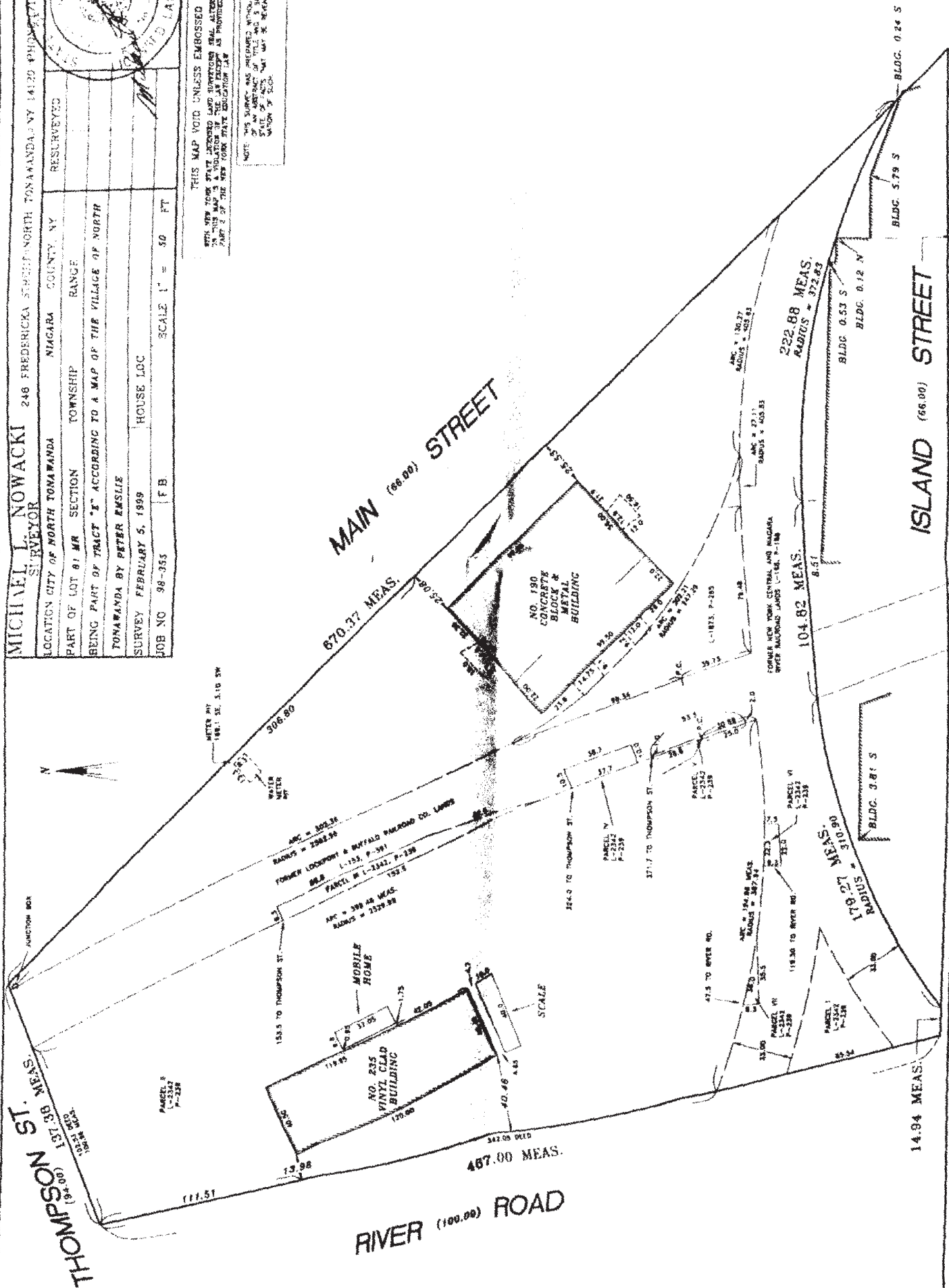
#### **PARCEL 7**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and more particularly bounded and described as follows:

BEGINNING at a point located on the northerly line of a 33 ft. wide right -of-way of the New York Central Railroad, said point being 47.5 (more or less) feet easterly from the easterly highway boundary of River Road (100 ft. wide) as measured along the northerly line of the 33 ft. right-of-way of the New York Central Railroad; thence southerly along a westerly wall of the Concrete Block and Metal Frame Building a distance of 8.3 (more or less) feet; thence easterly along the southerly wall of the Concrete Block and Metal Frame Building a distance of 35.5 (more or less) feet; thence westerly along the northerly line of the 33 ft. wide right-of-way of the New York Central Railroad, along a curve to the right having a radius of 387.94 feet, a distance of 36.0 (more or less) feet to the point or place of beginning.

WITH NEW YORK STATE LICENSED LAND SURVEYORS SEAL. ALTERING ANY ITEM ON THIS MAP IS A VIOLATION OF THE LAW ENFORCED AS PROVIDED IN SECTION 208B, PART 2 OF THE NEW YORK STATE EDUCATION LAW.

NOTE: THE ABOVE CHARGES ARE NOT CHARGES OF THE FBI. THE FBI IS NOT A PARTY TO THIS CASE. THE FBI IS NOT A PARTY TO THIS CASE. THE FBI IS NOT A PARTY TO THIS CASE.



**SCHEDULE C**  
DEED RECORDED THIS 14<sup>th</sup> DAY OF December, 2023.

**PARCEL 8 [SBL No. 185.05-1-77.11]**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of North Tonawanda, County of Niagara and State of New York, being part of Lot No. 81 of the Mile Reserve according to a Map of the Village of North Tonawanda made by Peter Emslie is known and distinguished as part of Tract E, bounded and described as follows:

BEGINNING AT A POINT on the west line of Main Street at its intersection with the north line of land conveyed to The New York Central and Niagara River Railroad Company by Deed recorded December 2, 1882 in liber 168 of Deeds at page 186; THENCE WESTERLY along said Railroad Company's north line to the east line of land conveyed to The Lockport and Buffalo Railway Company by Deed recorded December 24, 1880 in liber 153 of Deeds at page 391; THENCE NORTHERLY along the east line of The Lockport and Buffalo Railway Company to the south line of Thompson Street as now located; THENCE EASTERLY along the south line of Thompson Street a distance of 3.28 feet to the west line of Main Street; THENCE SOUTHERLY along the west line of Main Street a distance of 582.47 feet to the point of beginning

EXCEPTING premises conveyed to Tonawanda Island Railroad, Inc. by Deed recorded in Niagara County Clerk's Office in liber 1873 of Deeds at page 265.

**SCHEDULE D**

**DEED RECORDED APRIL 30, 1998 IN LIBER 2825, PAGE 19**

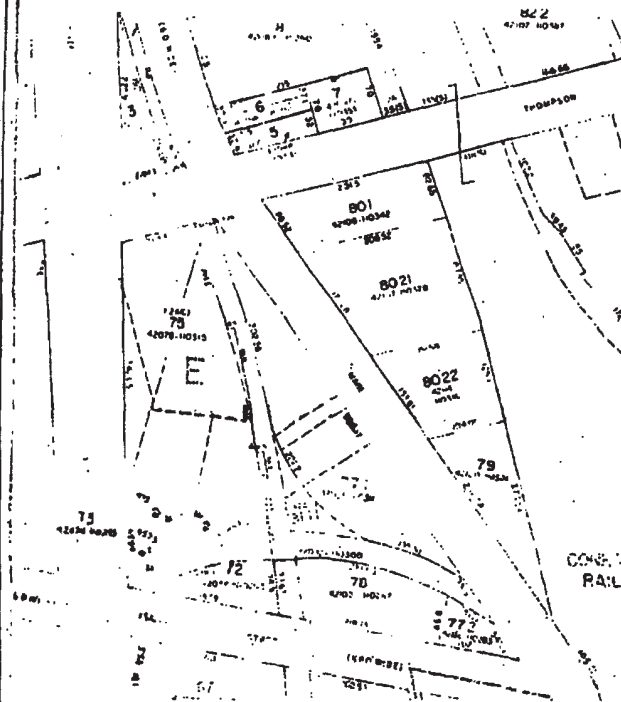
**PARCEL 9 [SBL No. 185.05-1-81.11]**

BOOK 2325 PAGE 21

All that tract or parcel of land, situate in the City (formerly village) of North Tonawanda,  
County of Niagara and State of New York, and more particularly described as follows:

SUBDIVISION

All that tract or parcel of land, situate in the City of North Tonawanda, County of  
Niagara and State of New York, being part of Lot No. 81 of the Niagara River Reservation and  
more particularly described as the parcel denoted as 81 11 on the map below



Scale 1/2" = 50'-00.00'

City of North Tonawanda

PCOR QUALITY  
AT TIME OF  
RECORDING

**SCHEDULE E**  
**LEGAL DESCRIPTION**  
**PARCEL 10 [SBL No. \_\_\_\_\_]**

ALL THAT TRACT OF LAND SITUATE in the City of North Tonawanda, County of Niagara, State of New York, being Part of Lot 81 of the Mile Reserve, described more particularly as follows:

Beginning at the intersection of the southerly line of Thompson Street, being 94 foot wide, and the southwesterly line of Main Street, being 66 feet wide;

Thence S 36°-41'-45" E, along the southwesterly line of Main Street, a distance of 652.82 feet to a point on north line of lands conveyed to Robert Arbeiter as recorded in the Niagara County Clerk's Office as Instrument number 2023-00051;

Thence northwesterly, along the north line of Robert Arbeiter lands, along a curve to the left, having a radius of 373 feet and a length of 64.52 feet to the northeast corner of lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2015-12362;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 624 feet and a length of 136.24 feet to a point;

Thence N 84°-32'-00" W, along the north line of EZ Industries, LLC, a distance of 70.65 feet to a point;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 312 feet and a length of 33.22 feet to the northeasterly corner lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2016-12867;

Thence southwesterly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 311 feet and a length of 184.12 feet to a point on the northerly line Island Street, being 66 feet wide;

Thence N 82°-40'-26" W, along the northerly line Island Street, a distance of 12.05 feet to a point on the easterly line River Road, being 100 feet wide;

Thence N 05°-21'-14" W, along the easterly line River Road, a distance of 468.89 feet to a point on the southerly line of Thompson Street;

Thence N 74°-46'-17" E, along the southerly line Thompson Street, a distance of 138.17 feet to the Point or Place of Beginning, being 3.10 acres more or less.

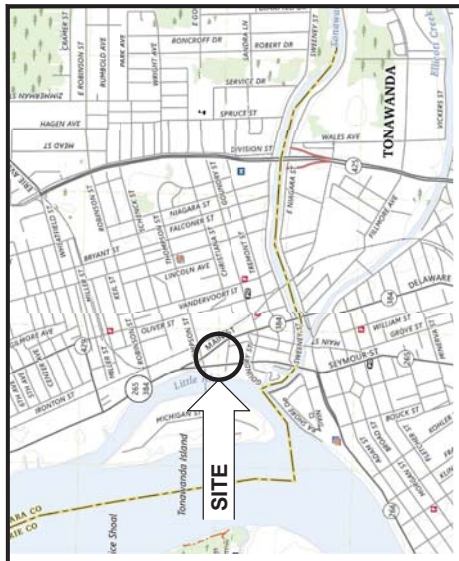




**EXHIBIT 5**

**FIGURE 2, NIAGARA COUNTY TAX MAP & CONTACT LIST**


AT 2-23-24



SITE LOCATION

2-23-24

THE INFORMATION INCLUDED ON THIS GRAPHIC WAS PREPARED BY THE CONSULTANT BASED ON A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CONSULTANT MAKES NO REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE INFORMATION OR THE INFORMATION ON WHICH THE INFORMATION IS BASED. THE CONSULTANT IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE INFORMATION OR FOR ANY CONSEQUENCES OF THE PARTIAL OR MISUSE OF THE INFORMATION.

 <b>AECC</b> Environmental Consulting Asbestos & Environmental Consulting Corporation 6308 Fly Road East Syracuse, NY 13057	PROJECT NO. 23-090	FIGURE	
	DRAWN: FEB. 2024	North Tonawanda Main St. Redevelopment Site	
	DRAWN BY: UF	235 River Road	
	CHECKED BY: BB	North Tonawanda, New York 14120	
		Niagara County Tax Map	

**ADJACENT PROPERTY OWNERS**

<b><u>Parcel Designation</u></b>	<b><u>Tax Parcel Number Property Address Current Use / Occupant</u></b>	<b><u>Owner Name &amp; Address</u></b>
200	Tax Parcel: 185.05-1-71 200 River Road N. Tonawanda, NY 14120 Marina/Spier Machinery/Riverfront Custom Design	J. Thomas Spier 200 River Road N. Tonawanda, NY 14120
17	Tax Parcel: 185.05-1-70.1 17 Island Street N. Tonawanda, NY 14120 Marina	Island Street Foundation 6500 Main Street Williamsville, NY 14221
65	Tax Parcel: 185.05-1-67.1 65 Island Street N. Tonawanda, NY 14120 Big D Tire	EZ Industries, LLC 107 River Road N. Tonawanda, NY 14120
50	Tax Parcel: 185.05-1-72 50 Island Street N. Tonawanda, NY 14120 Misc. manufacturing/warehousing	EZ Industries, LLC 50 Island Street N. Tonawanda, NY 14120
78	Tax Parcel: 185.05-1-78 78 Island Street N. Tonawanda, NY 14120 Warehouse	EZ Industries, LLC 107 River Road N. Tonawanda, NY 14120
174	Tax Parcel: 185.05-1-77.2 174 Main Street N. Tonawanda, NY 14120 Det row bldg	Downtown Auto, LLC 7159 Mallard Court Niagara Falls, NY 14304
3	Tax Parcel: 700.00-44-1 East Side of Main Street N. Tonawanda, NY 14120 Vacant	(NY Central Lines, LLC) CSX Transportation, Inc. 500 Water Street Jacksonville, FL 32202
191	Tax Parcel: 185.05-1-79 191 Main Street N. Tonawanda, NY 14120 Storage	Mark Sutter 1534 Sheridan Drive Kenmore, NY 14217
207	Tax Parcel: 185.05-1-80.22 207 Main Street N. Tonawanda, NY 14120 Parking Garage	Walter E. Imhof 456 Fletcher Street Tonawanda, NY 14150
211	Tax Parcel: 185.05-1-80.21 211 Main Street N. Tonawanda, NY 14120 Vacant Structure	Enterprise Lumber & Silo LLC 62 Webster Street N. Tonawanda, NY 14120

AT 2-23-24

<u>Parcel Designation</u>	<u>Tax Parcel Number</u> <u>Property Address</u> <u>Current Use / Occupant</u>	<u>Owner Name &amp; Address</u>	
235 Main	Tax Parcel: 185.05-1-80.1 235 Main Street N. Tonawanda, NY 14120 Storage	Eric Banas 1679 Sweeney Street N. Tonawanda, NY 14120	
249	Tax Parcel: 185.05-1-5 249 Main Street N. Tonawanda, NY 14120 Betty's Bar and Grill	Lesley Maziarz 217 Main Street N. Tonawanda, NY 14120	
260	Tax Parcel: 185.05-1-4 260 Main Street N. Tonawanda, NY 14120 Vacant Commercial	City of North Tonawanda N. Tonawanda, NY 14120	
250	Tax Parcel: 185.05-1-3 250 Main Street N. Tonawanda, NY 14120 Auto Body	Fast Lane Service Island Inc. 250 Main Street N. Tonawanda, NY 14120	
278	Tax Parcel: 185.05-1-2 278 River Road N. Tonawanda, NY 14120 Marina	Carol Smith 4524 Sheridan Drive Williamsville, NY 14221	Harold Smith 280 Michigan Street N. Tonawanda, NY 14120

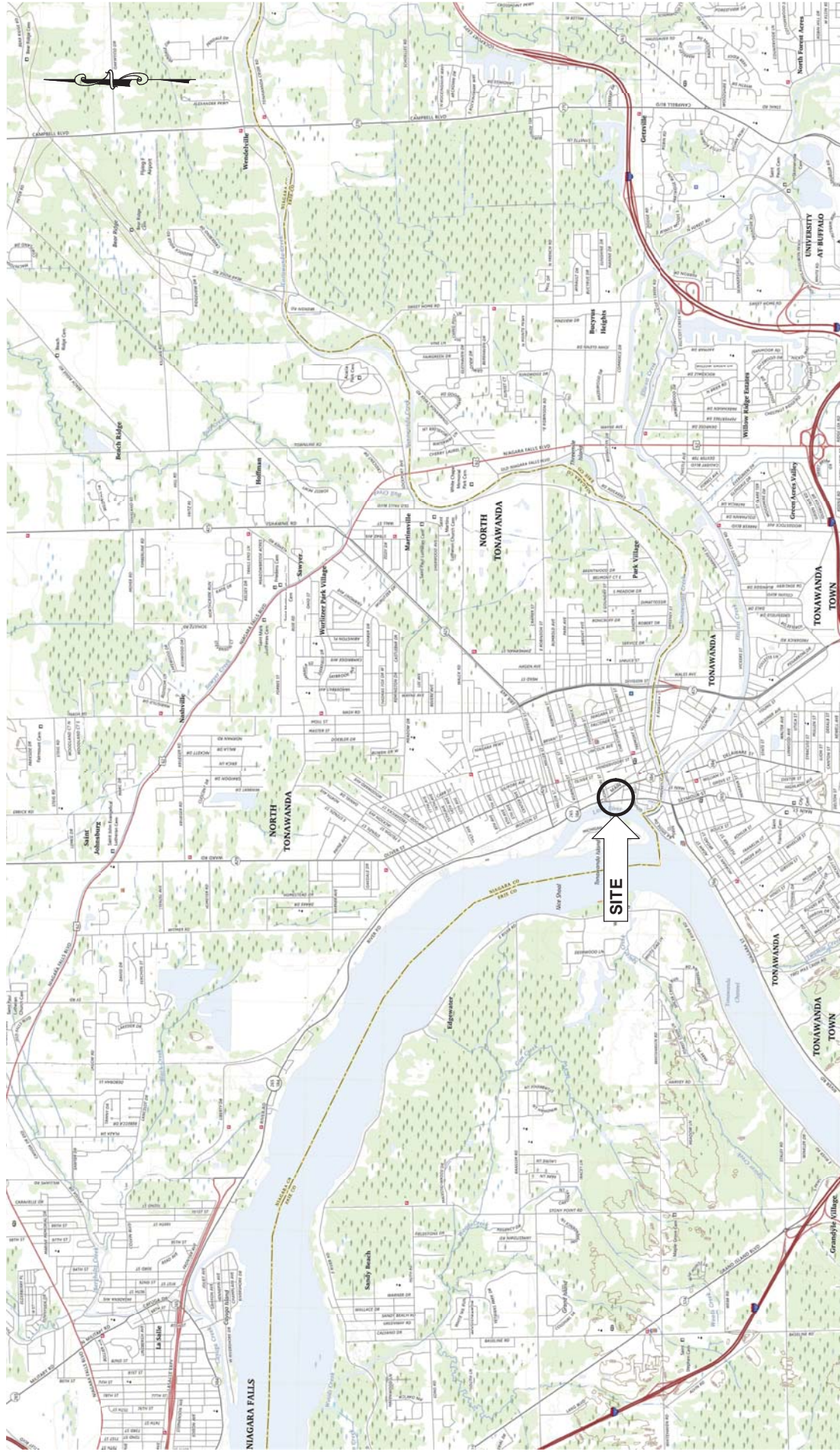
AT 2-23-24

**EXHIBIT 6**

**FIGURE 3, SITE LOCATION FIGURE**

17 2-23-24





THE INFORMATION INCLUDED ON THIS GRAPHIC WAS PREPARED BY AEC&E CONSULTING CORPORATION FOR THE USE OF THE CLIENT. THE INFORMATION IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF AEC&E CONSULTING CORPORATION. THE INFORMATION IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF AEC&E CONSULTING CORPORATION.

*MD 2-23-24*



PROJECT NO. 23-090  
DRAWN: FEB. 2024  
DRAWN BY: UF  
CHECKED BY: BB

North Tonawanda Main St. Redevelopment Site  
235 River Road  
North Tonawanda, New York 14120  
Site Location Figure

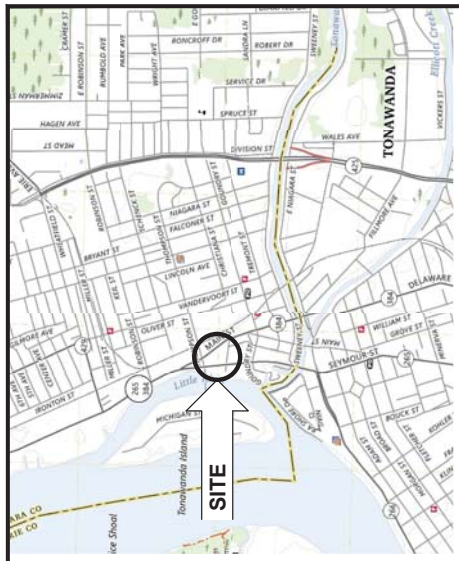
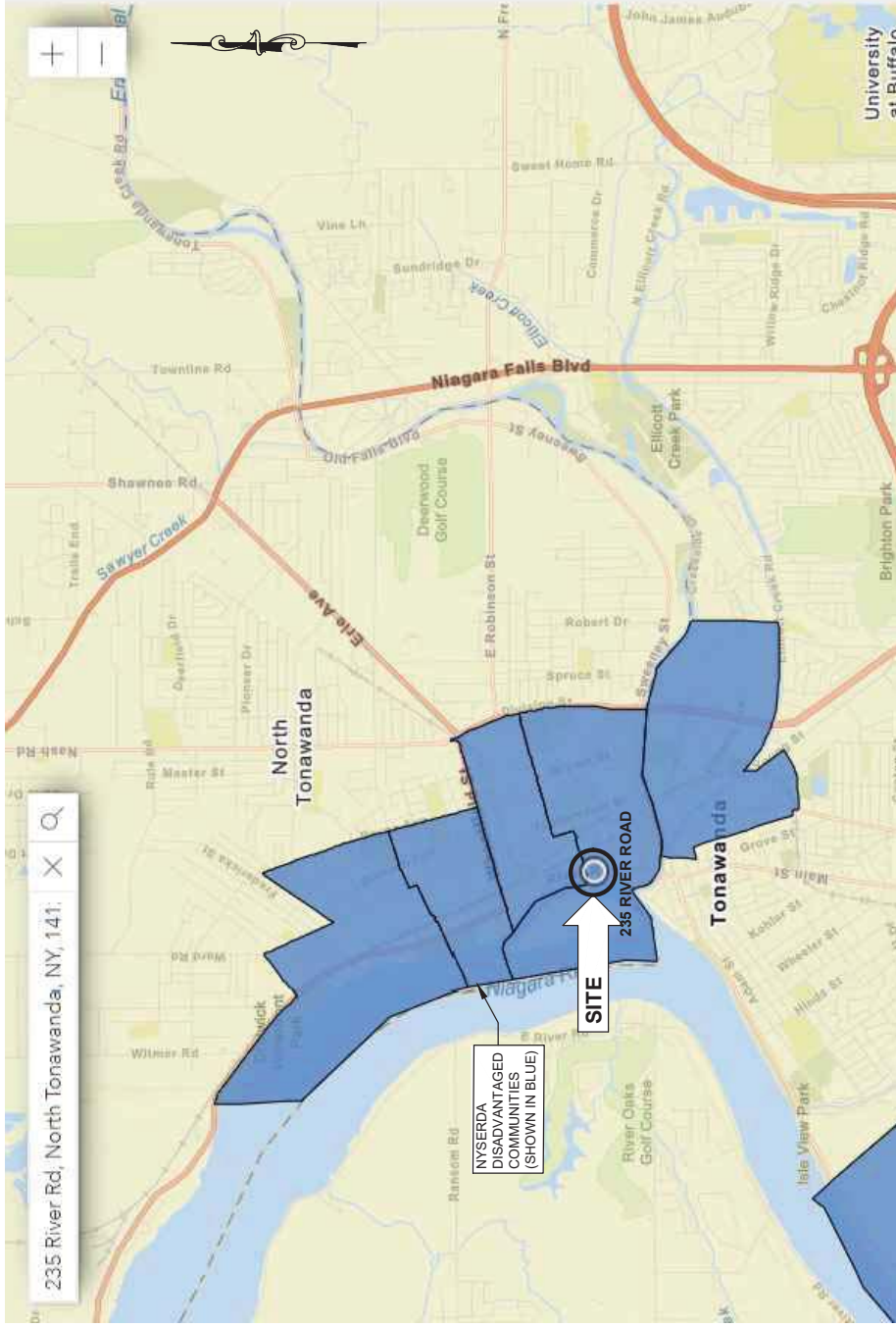


## **EXHIBIT 7**

### **FIGURE 4, NYSERDA DISADVANTAGED COMMUNITIES OVERLAY MAP**

The Site is located in a Disadvantaged Community, as defined by the New York State Climate Leadership and Community Protection Act and further illustrated in the NYSERDA Disadvantaged Community Interactive Map overlay (see Figure 4).


AT 2-23-24



**SITE LOCATION**

*MT 2-23-24*

THE INFORMATION INCLUDED ON THIS GRAPHIC WAS OBTAINED FROM A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. THE USER OF THIS GRAPHIC SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION AND FOR THE PROPER USE OF THE INFORMATION. THE USER OF THIS GRAPHIC SHALL BE RESPONSIBLE FOR THE PROPER USE OF THE INFORMATION AND FOR THE PROPER USE OF THE INFORMATION.

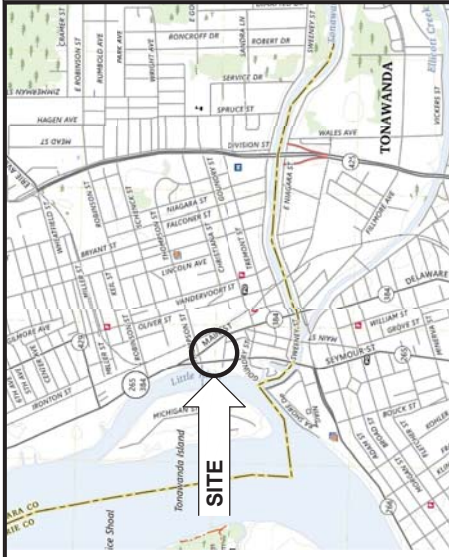
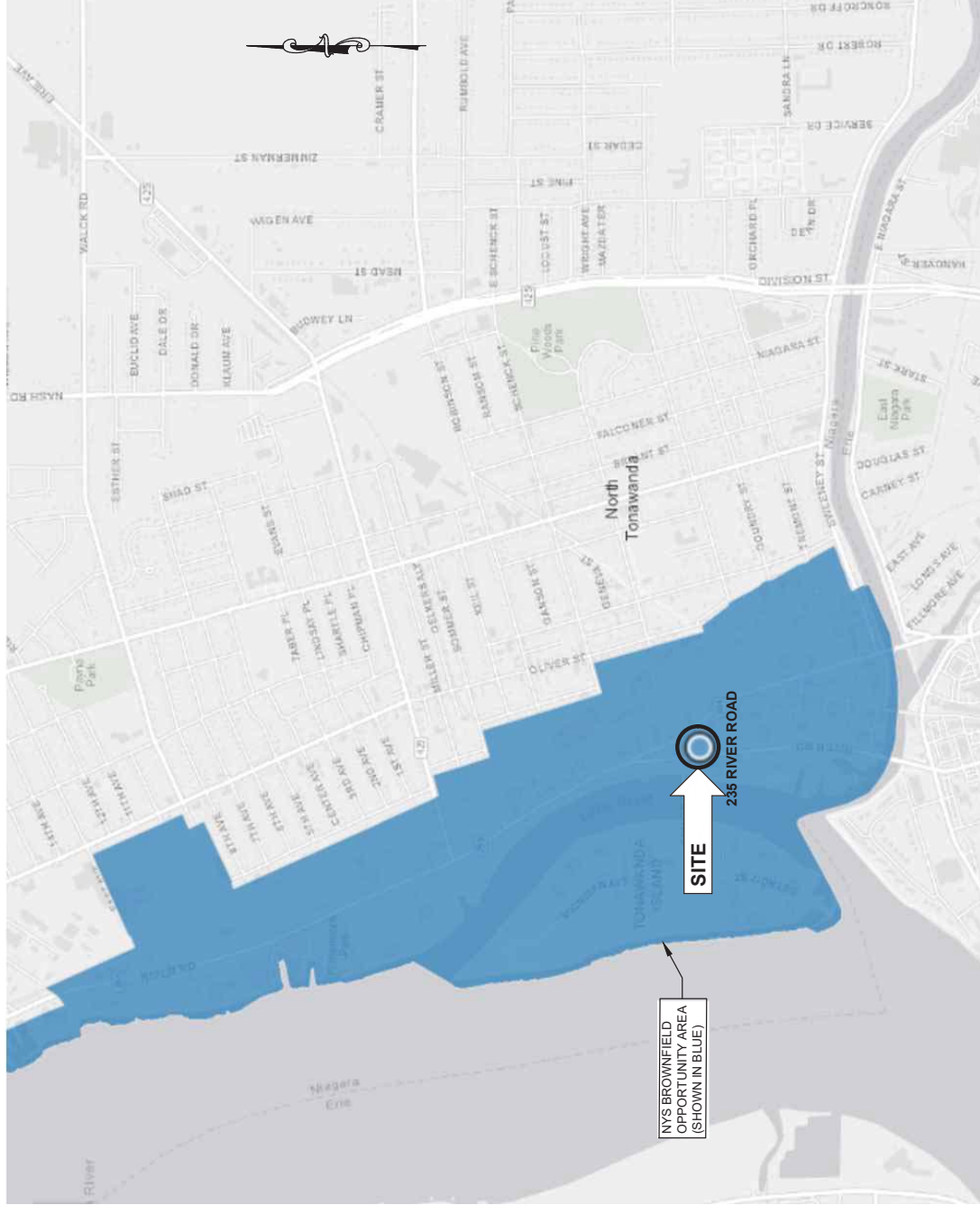
 <p><b>AECC</b> Environmental Consulting Asbestos &amp; Environmental Consulting Corporation 6308 Fly Road East Syracuse, NY 13057</p>	PROJECT NO. 23-090	FIGURE	
	DRAWN: FEB. 2024	North Tonawanda Main St. Redevelopment Site	
	DRAWN BY: UF	235 River Road	
	CHECKED BY: BB	North Tonawanda, New York 14120	
		NYS Disadvantaged Communities Data	

## **EXHIBIT 8**

### **FIGURE 5, NYS BROWNFIELD OPPORTUNITY AREA (BOA)**

The Site is located in a Brownfield Opportunity Area (see Figure 5), which depicts the North Tonawanda Brownfield Opportunity Area overlay.

17 2-23-24



SITE LOCATION

2022-23-24

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**AEC&C**  
ENVIRONMENTAL CONSULTING  
Asbestos & Environmental  
Consulting Corporation  
6308 Fly Road  
East Syracuse, NY 13057

PROJECT NO. 23-090  
DRAWN: FEB. 2024  
DRAWN BY: UF  
CHECKED BY: BB

FIGURE  
North Tonawanda Main St. Redevelopment Site  
235 River Road  
North Tonawanda, New York 14120  
NYS Brownfield Opportunity Area

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## **EXHIBIT 9**

### **FIGURE 6, NORTH TONAWANDA BROWNFIELD OPPORTUNITY AREA MAP**

Figure 6 includes an excerpt from the North Tonawanda BOA Step 3 Implementation Strategy which identifies the Site as an underutilized property, critical to the further development of the North Tonawanda Downtown District.

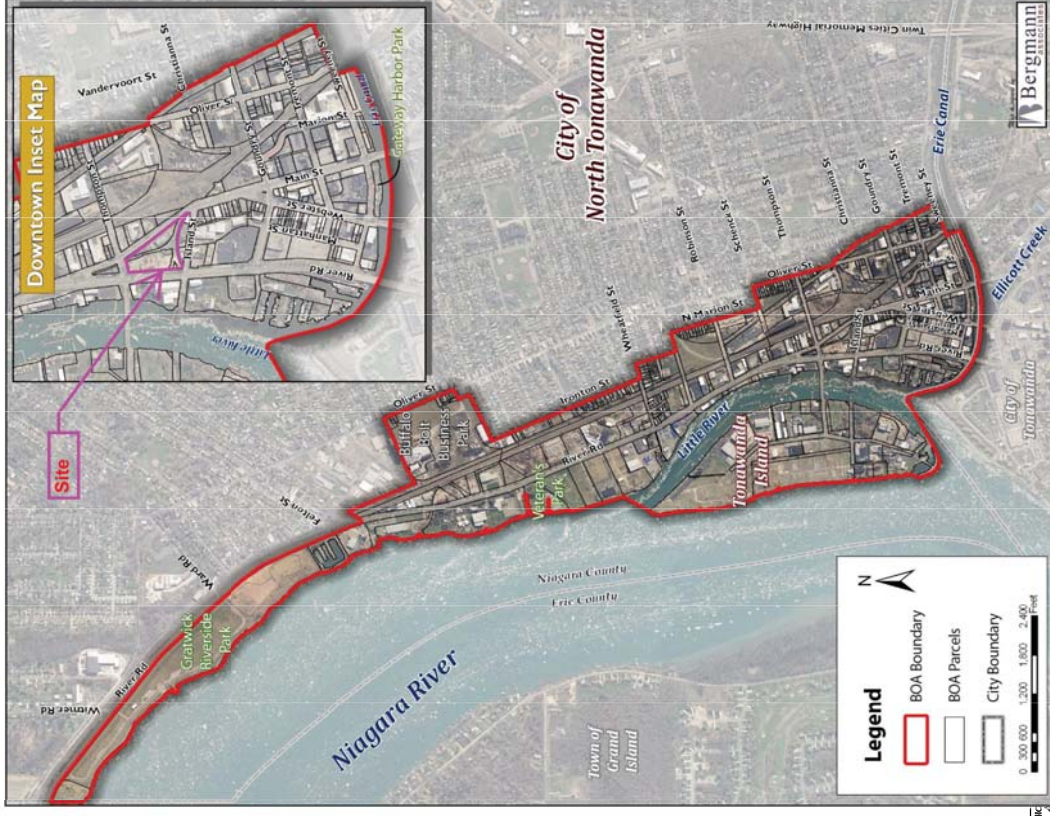
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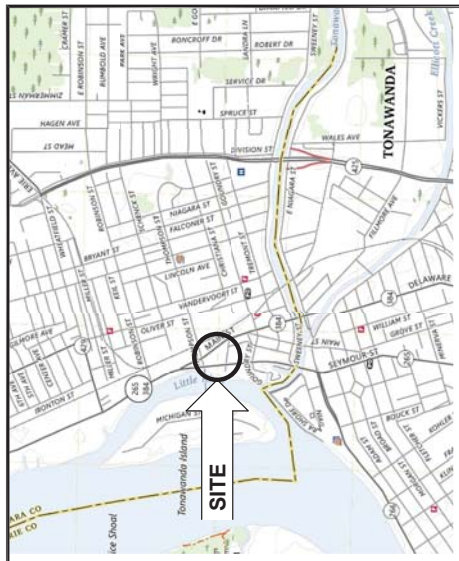
# North Tonawanda Brownfield Opportunity Area Nomination Study

This effort was made possible with the guidance and financial assistance provided by the  
NYS Department of State Brownfield Opportunity Area Program.

## MAP 3 BOA Boundary




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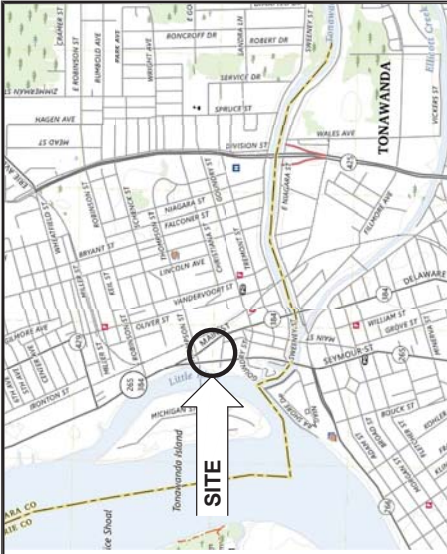
 <p><b>AECC</b> Environmental Consulting Asbestos &amp; Environmental Consulting Corporation 6308 Fly Road East Syracuse, NY 13057</p>	PROJECT NO. 23-090	FIGURE
	DRAWN: FEB. 2024	North Tonawanda Main St. Redevelopment Site 235 River Road North Tonawanda, New York 14120
	DRAWN BY: UF CHECKED BY: BB	6 North Tonawanda Brownfield Opportunity Area

**EXHIBIT 10**

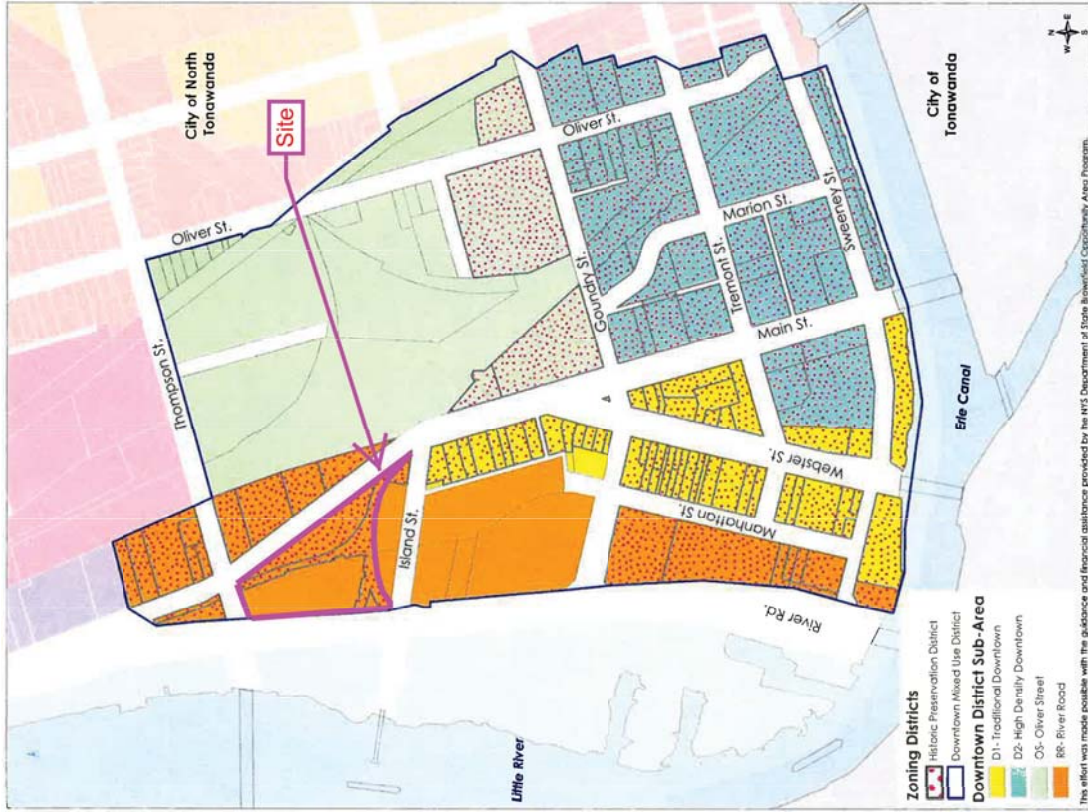
**FIGURE 7, NORTH TONAWANDA DOWNTOWN MIXED-USE DISTRICT;  
SUBAREA ZONING MAP**

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SITE LOCATION



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 <b>AEC&amp;E CONSULTING</b> Asbestos & Environmental Consulting Corporation 6308 Fly Road East Syracuse, NY 13057	PROJECT NO. 23-090	FIGURE
	DRAWN: FEB. 2024	North Tonawanda Main St. Redevelopment Site
	DRAWN BY: UF	North Tonawanda, New York 14120
	CHECKED BY: BB	North Tonawanda Downtown Mixed-Use District

## **EXHIBIT 11**

### **PROJECT DESCRIPTION NARRATIVE**

#### **REDEVELOPMENT PROPOSAL**

The North Tonawanda Main Street Redevelopment Site is a critical location within the City of North Tonawanda. Multiple illustrations published by the City of North Tonawanda and within the North Tonawanda Downtown Revitalization Initiative (the “DRI”) have identified the Site as an under-utilized parcel in need of redevelopment in order to spur additional development in the area, while removing a visually detrimental feature located at the northern edge of the City of North Tonawanda.

A development proposal has been submitted to the City of North Tonawanda for review by the Planning Commission. The proposal features a mixed-use development to include approximately 72 apartment units and 9,400 square feet (SF) of commercial retail space at grade. The development is designed to encourage street-front pedestrian accessibility and activity. The proposal is consistent with future land use including improvements to the existing downtown environment, the stated primary goal of the DRI.

#### **REMEDIAL PROGRAM & PROJECT TIMELINE**

A Phase I Environmental Site Assessment was completed in 2021, while a Limited Environmental Sampling Event was conducted in 2023 (in conjunction with a geotechnical boring activities). The sampling identified soil contamination generally associated with imported fill and historic operations at the Site (manufacturing, automotive / heavy equipment repair, lumber treatment, and previous rail beds). A Remedial Investigation will further define the nature and extent of contamination. This investigation will include areas beneath the existing building slabs.

At this time, it is assumed that Remedial Actions will likely include:

- Excavation of Site soils
- Monitored natural attenuation of groundwater
- Installation of an engineered cover system and/or removal of contaminated soils

**SEE ANTICIPATED SCHEDULE ON NEXT PAGE**

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## **ANTICIPATED SCHEDULE**

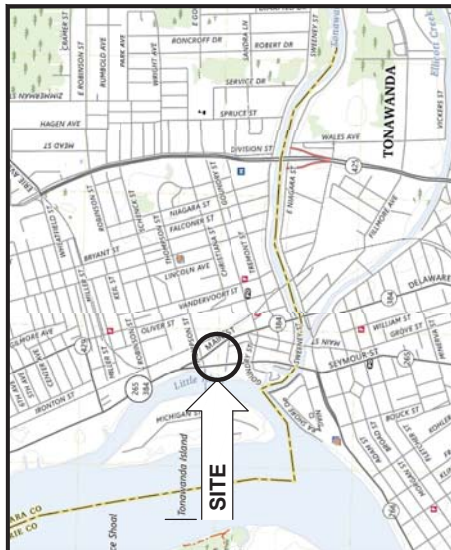
Submittal of BCP Supplemental Documentation .....	March 2024
Letter of Completeness .....	March 2024
End 30-Day Comment Period .....	April 2024
Execute BCP Agreement.....	April 2024
<b>Submit Citizen Participation Plan.....</b>	<b>May 2024</b>
<b>Submit Remedial Investigation (RI) Work Plan .....</b>	<b>May 2024</b>
End 30-Day RI Comment Period .....	June 2024
DEC Approval of RI Work Plan.....	June 2024
Begin RI Field Work .....	July 2024
Complete Investigation Field Work .....	August 2024
<b>Submit RI Report to NYSDEC .....</b>	<b>August 2024</b>
Significant Threat Determination / Fact Sheet.....	August 2024
DEC Approval of RI Report .....	September 2024
<b>Submit Remedial Action (RA) Work Plan with Alternatives Analysis to NYSDEC .....</b>	<b>September 2024</b>
End 45-Day Comment Period .....	October 2024
DEC Approval of RA Work Plan .....	October 2024
Submit Fact Sheet Announcing Start of Remediation / Construction.....	October 2024
<b>Begin Remediation .....</b>	<b>November 2024</b>
Submit Environmental Easement Package .....	February 2025
<b>Submit Draft Site Management Plan .....</b>	<b>February 2025</b>
Submit Executed Environmental Easement Package .....	February 2025
DEC Approval of Site Management Plan .....	March 2025
Environmental Easement Recorded .....	April 2025
<b>Complete Remediation .....</b>	<b>April 2025</b>
<b>Submit Final Engineering Report to NYSDEC.....</b>	<b>May 2025</b>
DEC Approval of Final Engineering Report.....	June 2025
Submit Fact Sheet Announcing Final Engineering Report .....	June 2025
<b>Certificate of Completion .....</b>	<b>July 2025</b>
Fact Sheet Describing Institutional / Engineering Controls.....	August 2025

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**EXHIBIT 12**

**FIGURE 8, SUMMARY OF SOIL SAMPLE EXCEEDANCES**

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SITE LOCATION

SB-05-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Chromium, Total	1/30*	110/180*	25.3	
Lead	63	400	610	

SS-02				
June 21, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.2	
Chromium, Total	1/30*	110/180*	13	
Lead	63	400	63	
Zinc	109	2200	140	

SS-03				
June 21, 2023				
Compound	USCO	RISCO	Result	
2-Methylnaphthalene	N5	0.41**	0.56	
Chromium, Total	1/30*	110/180*	17	
Lead	63	400	105	
Zinc	109	2200	135	

SS-04				
June 21, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.3	
Benzo(b)fluoranthene	1	1	1.8	
Chrysene	0.8	3.9	6.2	
Chrysene	0.8	3.9	14	
Dibenz(a,h)anthracene	0.1	0.5	0.5	
Indeno(1,2,3-cd)pyrene	0.1	0.5	0.5	
Chromium, Total	1/30*	110/180*	15	
Lead	63	400	110	
Zinc	109	2200	130	

SS-05				
June 21, 2023				
Compound	USCO	RISCO	Result	
2-Methylnaphthalene	N5	0.41**	0.75	
Chromium, Total	1/30*	110/180*	16	
Manganese	1600	2000	1900	
Mercury	0.18	0.81	0.22	
Zinc	109	2200	360	

SB-04-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	2.1	
Benzo(b)fluoranthene	1	1	2.6	
Chrysene	1	1	3.6	
2-Methylnaphthalene	N5	0.41**	5.2	
Chromium, Total	1/30*	110/180*	117	
Zinc	109	2200	208	

SB-06-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.2	
Benzo(b)fluoranthene	1	1	1.6	
Chrysene	1	3.9	1.1	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.78	
Chromium, Total	1/30*	110/180*	14.7	

SB-06-3-4				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.2	
Benzo(b)fluoranthene	1	1	1.6	
Chrysene	1	3.9	1.1	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.78	
Chromium, Total	1/30*	110/180*	14.7	

SB-06-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.2	
Benzo(b)fluoranthene	1	1	1.6	
Chrysene	1	3.9	1.1	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.78	
Chromium, Total	1/30*	110/180*	14.7	

SB-06-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.2	
Benzo(b)fluoranthene	1	1	1.6	
Chrysene	1	3.9	1.1	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.78	
Chromium, Total	1/30*	110/180*	14.7	

SB-07-SS				
June 21, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	2.6	
Benzo(b)fluoranthene	1	1	4.4	
Chrysene	1	3.9	1.8	
Dibenz(a,h)anthracene	0.33	0.33	0.43	
Indeno(1,2,3-cd)pyrene	0.5	0.5	2.1	
Chromium, Total	1/30*	110/180*	25	
Lead	63	400	10	
Zinc	109	2200	220	

SB-08-SS				
June 21, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	2.9	
Benzo(b)fluoranthene	1	1	3.6	
Chrysene	1	3.9	4.4	
Dibenz(a,h)anthracene	0.8	0.8	0.96	
Indeno(1,2,3-cd)pyrene	0.33	0.33	0.96	
Chromium, Total	1/30*	110/180*	21	
Copper	50	270	55	
Zinc	109	2200	190	

SB-08-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.5	
Benzo(b)fluoranthene	1	1	1.4	
Chrysene	1	1.9	1.9	
Dibenz(a,h)anthracene	0.8	0.8	0.96	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.9	
Chromium, Total	1/30*	110/180*	14.3	
Lead	63	400	64	
Zinc	109	2200	113	

SB-08-SS				
March 10, 2023				
Compound	USCO	RISCO	Result	
Benzo(a)anthracene	1	1	1.4	
Benzo(b)fluoranthene	1	1	1.8	
Chrysene	0.8	3.9	0.9	
Dibenz(a,h)anthracene	0.5	0.5	0.58	
Indeno(1,2,3-cd)pyrene	0.5	0.5	0.58	
Chromium, Total	1/30*	110/180*	13.3	
Zinc	109	2200	120	

**LEGEND:**

- SS-### Surface Sample Location
- ⊕ SB-### Test Boring Location ID - Sample Depth
- Indicates exceedance of the Unrestricted Soil Cleanup Objective
- Indicates exceedance of the Restricted Residential Soil Cleanup Objective
- \* The SCO for chromium has been represented as "hexavalent chromium / trivalent chromium", and these values may or may not trigger exceedances if the compound is speciated in future sampling events
- \*\* Value indicates Residential SCO, as there is no Restricted Residential SCO for this compound

NOTES:

- BORINGS, BUILDINGS, SITE FEATURES, PROPERTY LINE LOCATIONS AND SCALE OF DRAWING ARE APPROXIMATE. BASE MAP REFERENCE PROVIDED BY BUFFALO DRILLING COMPANY, DATED 3/1/2023.
- ALL SAMPLE LOCATIONS ARE APPROXIMATE.



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**PROJECT NO.** 23-090  
**DRAWN:** FEB. 2024  
**DRAWN BY:** UF  
**CHECKED BY:** BB

**FIGURE**  
 North Tonawanda Main St. Redevelopment Site  
 235 River Road  
 North Tonawanda, New York 14120

**Summary of Soil Sample Exceedances**



## **EXHIBIT 13**

### **LAND USE ANALYSIS & FUTURE DEVELOPMENT**

#### **ZONING & CURRENT USE**

The Site is currently occupied by Metzger Removal, Inc. and is used for the storage and maintenance of fleet vehicles and heavy equipment. An assortment of uses exist under the current operator, including fuel storage, bulk salt storage, heavy equipment repair, heavy equipment storage, and parking.

The Site is within the newly defined Downtown Mixed-Use District (“Downtown District”). The Downtown District is inclusive in terms of allowable uses. All uses permitted within the North Tonawanda Zoning Code Chapter 103 are permitted in the Downtown District, with the exception of the following: adult uses, commercial surface parking, junkyard, automotive graveyard, drive-through establishment, motor vehicle sales, campground, dwelling, single-family, off-premises signage, cemetery, golf courses, scrap metal processing, contractor’s yard, industry heavy, and self-storage. A wide range of uses are allowable, including high-density multifamily residential, commercial, retail, office, hotel, food and beverage, etc. The anticipated redevelopment project includes high-density multifamily residential and commercial retail space intended to promote street-front pedestrian activity.

Future use / operations at the Site are not expected to contribute to Site contamination. The existing contamination appears to be the result of nearly a century of industrial use, as well as the presence of urban fill materials across the Site.

#### **POST-REMEDIATION USE**

The Site is currently under review by the North Tonawanda Planning Commission for a proposed mixed-use redevelopment project consisting of a 4-story residential building with 40 apartments and a 4-story / 1-story building with 32 apartments and approximately 9,400 SF of first floor commercial / retail space, along with related improvements including 166 parking spaces, landscaping, lighting, and utility improvements / connections (collectively the “Project”). The layout of the Project is depicted on the Site Plan Concept (Drawing C-100, dated 11/07/2023) (the “Site Plan”), prepared by Christopher Wood, PE of Carmina Wood Design. A reduced-size copy of the Site Plan is attached hereto as **Exhibit 11**.

The Project is oriented to accentuate the northwest corner of the Site, with the commercial space occupying the streetscape at the intersection of River Road and Thompson Street. The commercial space is flanked by two four-story residential buildings that will consist of a total of 72 apartments for lease. The residential building oriented with frontage along River Road will include 40 residential dwellings while the building oriented with frontage along River Road, Thompson Street, and Main Street will include 9,422 sq. ft. of first floor retail space and 32 residential dwellings.

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The Project is designed to encourage pedestrian accessibility and activity from all three frontage streets. Private sidewalks connected to municipal sidewalks along River Road, Thompson Street and Main Street lead to a central courtyard area on the Site that is anchored by a courtyard fire pit, two 10-space bicycle parking structures and creatively landscaped grounds. The Project incorporates amenities for residents, highlighted by a rooftop patio, courtyard firepit, fitness center, business center and recreational gathering room. A 166-space private parking lot is connected to the courtyard to serve the needs of residents and guests of the commercial space.

## **COMPLIANCE WITH COMMUNITY MASTER PLANS**

The Site has been identified as a critical redevelopment opportunity in multiple publications sponsored by the City of North Tonawanda through the Downtown Revitalization Initiative. The Site is located on the northern end of the Downtown District and serves as a gateway to Downtown North Tonawanda for southbound travelers on River Road and Main Street. The Project will serve as a connection between the recent redevelopment in downtown North Tonawanda and current and future development ongoing on Tonawanda Island and properties further north of the Downtown District.

The NT Momentum Revitalization Strategy Master Plan (the “NT Momentum Master Plan”) identified the Site in its 2018 publication of the BOA Step 3 Implementation Strategy. The publication included a recommendation for the vision and future use of the Site as follows:

### **Site / Project 21: 235 River Road - Mixed Use Redevelopment**

*“Recommended to undergo redevelopment that provides a positive influence on the northern extent of downtown North Tonawanda. This location serves as a gateway to both downtown and Tonawanda Island and is envisioned to be transformed into a mixed-use node with office and/or retail space on the ground floor, with upper-story residential units.”<sup>1</sup>*

The Downtown Revitalization Initiative (DRI) published by the City of North Tonawanda in 2016 named the Site the “Northern Gateway Redevelopment” and went on to describe the attributes and characteristics of an ideal redevelopment of the Project Site as follows:

### **Northern Gateway Redevelopment Area**

*Given the site size, location in Downtown, and opportunity as a brownfield redevelopment, this site has been identified as a critical redevelopment opportunity to add commercial and residential density to the Downtown... This location is envisioned to be transformed into a mixed-use node with office and/or retail on the ground floor with upper story residential units. An appropriate size and massing will fit within the character of the existing Downtown. Redevelopment of this site is critical to the NT Momentum vision as the property sits at the gateway between Tonawanda Island and the historic downtown core.”<sup>2</sup>*

The Project embodies the spirit, intent, vision, and use described within the NT Momentum Master Plan. The proposed buildings, incorporating residential apartments with street-front retail, will create a vibrant activity center and will serve as a catalyst for additional development, population growth, and economic activity. As proposed, the Project is consistent with the initiatives of the NT Momentum Master Plan.

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<sup>1</sup> Bergman Associates, “BOA Step 3 Implementation Strategy” | GEIS, August 2018, page 8, [NT-BOA Implementation-Strategy 8.7.18-.pdf \(ntmomentum.com\)](#)

<sup>2</sup> City of North Tonawanda, “NT Momentum Downtown Revitalization Initiative”, 2016, page 25

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## **COMPLIANCE WITH ZONING LAWS**

The Site is located in the Downtown Mixed-Use District (the “Downtown District”) under the River Road (“RR”) sub-area. The zoning specifications for the Downtown Mixed-Use District Form-Based Code (the “Zoning Code”) was adopted by the City of North Tonawanda in February 2018. According to the Zoning Code, the purpose of the Downtown District is to create a vibrant downtown with a variety of building types that offer retail, service, employment, hospitality, entertainment, and civic functions, as well as a variety of housing choices. This zoning district aims to reinforce the historic character and walkability of Downtown North Tonawanda. The purpose of the River Road sub-area is to accommodate large-scale redevelopment of entire blocks in the northwest region of the Downtown District.

This Project has been designed to be consistent with the purpose and intent of the Downtown District and the River Road sub-area by redeveloping an entire under-utilized block (previously utilized for industrial purposes) into a vibrant streetscape and residential destination along River Road and Thompson Street. The Project features an attractive, human-scale environment that is friendly to drivers, pedestrians and bicycles. Further analysis of the Project’s compliance with the planning objectives and relevant criteria contained in the Zoning Code include:

### **A. Land Use:**

The Project includes a mixture of residential and retail land uses, which are both expressly permitted pursuant to Section 103-13.4C.(1) of the Zoning Code.

### **B. Building Orientation:**

1. **Building Height:** This Project will include the construction of two (2) 4-story buildings under 50-feet in height in accordance with Section 103-13.4F.(4)(e)[1] of the Zoning Code which defines building height parameters between 25-feet (minimum) and 50-feet (maximum).
2. **Primary Street / Side Street:** This Project designates River Road as the Primary Street in accordance with Section 103-13.4E.(2)(a)[3] of the Zoning Code, due to the orientation of the block, the traffic volume along River Road, and the extensive property frontage along River Road. The redevelopment design plans accentuate the northwest corner of the block at the intersection of River Road and Thompson Street. This intersection benefits from the most traffic volume of the intersection with a quantity of 17,141 annual average daily trips, according to data obtained from the New York State Department of Transportation.
3. **Building Setbacks**
  - a. All building facades are oriented towards their respective street frontage and contain street-front pedestrian access from municipal sidewalks along River Road, Thompson Street, and Main Street, in accordance with Section 103-13.4F(4)(d)[1].
  - b. The Site Plan design incorporates 0 ft. building setbacks along River Road, Thompson Street, and Main Street. The 0 ft. building setbacks bring proximity to the municipal sidewalks along the respective frontage streets and encourage

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pedestrian foot traffic for residents and patrons of the Project and pedestrians from nearby properties.

4. Build-to Zone

- a. The Project includes a substantial percentage of building façade within the build-to-zone (BTZ) on River Road, Thompson Street, and Main Street. River Road features 69% of the building façade within the BTZ, in excess of the 50% requirement for a primary street. Thompson Street features 100% of the building façade within the BTZ, in excess of the 30% requirement for a side street, in accordance with Section 103-13.4F.(4)(d)[c] of the Zoning Code. Main Street features 26% of the building façade within the BTZ, 4% below the requirement for a side street, per the Zoning Code.
- b. A significant portion of the BTZ on River Road is un-buildable, due to the oblong shape of the southeast corner of the Project Site. The Project Sponsor made a concerted effort to mitigate this deficiency by drastically exceeding the minimum BTZ requirements for River Road and Thompson Street by 19% and 70%, respectively.

5. Transparency

- a. While the building concept designs have not been fully completed, it is the spirit and intent of the Project Sponsor to meet or exceed the minimum transparency requirements specified in Section 103-13.4F.(f)[1] of the Code.
- b. The Project Sponsor intends to create a visually appealing streetscape with large storefront windows along the retail portion and large loft-style windows associated with the residential apartment units.

6. Building Materials: While the building concept designs have not been completed, it is the intent of the Project Sponsor to adhere to the allowable materials list specified in Section 103-13.4F.(f)[3] of the Code.

C. Pedestrian Access:

1. The Project proposes to construct a municipal sidewalk along River Road to encourage pedestrian access and activity on River Road and enhance connectivity to neighboring properties in the Downtown District and Tonawanda Island. The Project includes pedestrian access points along River Road and Main Street to encourage pedestrian, patron, and resident access to the Project Site and retail establishments within the Project.
2. The Project will feature pedestrian access points along the street frontage for all retail locations in accordance with Section 103-13.4F.(f)[2] of the Zoning Code.

D. Parking, Landscaping, Screening:

1. The Project is designed with consideration for neighboring property owners and overall curb appeal. The following parking lot, landscaping, and screening strategies represent measures above and beyond Code requirements.

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- a. The southern boundary (abutting neighboring properties) includes intensive landscaping screening to include upright evergreen trees and an assortment of deciduous maple trees.
- b. The eastern boundary (abutting Main Street) includes a 42-inch, black aluminum fencing, along with intensive shrub and ornamental grass arrangements, to create a visually pleasing streetscape.
- c. The Project includes landscaping complements along the courtyard, building entrances, and vehicular access points.
- d. The Project includes two (2) 10-space bicycle parking locations to accommodate bicycle traffic for residents and patrons of the retail locations.
- e. It is anticipated that the majority of mechanical equipment will be placed on the roof of the buildings and be further screened by a parapet walls.

**E. Historic Preservation District:** A portion of the Project Site is located within the Historic Preservation District; however, there are no buildings or structures within the Site with a historically significant designation or historic value. The Project Sponsor intends to present the Project to the Historic Preservation Commission (“HPC”) to appropriately consider any input received from the HPC into the final project design.

**F. Area Variances from the Zoning Board of Appeals:** It is anticipated that the Project will require two (2) area variances from the Zoning Board of Appeals, as follows:

1. Minimum Building Front Setbacks | Code Section 103-13.4F.(d)[1]: The Project is designed with no building setbacks (0-feet) on all street frontages. The Primary Street building setback as defined in Section 103-13.4F.(d)[1][a] of the Zoning Code ranges from 0-feet (minimum) to 5-feet (maximum); as such, the building setback along River Road (0-feet) is consistent with the minimum setback criteria as defined in the Zoning Code. The Side Street building setback as defined in Section 103-13.4F.(d)[1][b] of the Zoning Code ranges from 5-feet (minimum) to 20-feet (maximum). The building setbacks along Thompson Street and Main Street are 0-feet. to encourage pedestrian access and will require 5-feet of variance relief from the minimum building setback specification for a Side Street.
2. Façade within Build-to Zone: The Project Site Plan includes 26% of the building façade in the BTZ along Main Street. Section 103-13.4F.(d)[2][c] of the Zoning Code requires a 30% minimum of the building façade located in the BTZ along a side street. The oblong nature of the southeast portion of the Project Site and the need for adequate on-site parking preclude the Project from complying with this Zoning Code requirement.

This deficiency is mitigated by substantially exceeding Zoning Code requirements for BTZ specifications along River Road and Thompson Street. Current plans call for the River Road building frontage to include 69% of the building façade within the BTZ, exceeding the Zoning Code requirement by 19%. The Thompson Street building frontage includes 100% of the building façade within the BTZ, exceeding the Zoning Code requirement by 70%.

AT 2-23-24

**EXHIBIT 14**

**SITE PLAN CONCEPT DRAWING C-100 (DATED 11/07/2023),  
PREPARED BY CHRISTOPHER WOOD, P.E. OF CARMINA WOOD DESIGN**

17 2-23-24



**EXHIBIT 15**

**PHASE I ESA (FEBRUARY 2021), PREPARED BY C&S COMPANIES**

***NOTE: REPORT TO BE SUBMITTED AS A SEPARATE FILE***

17 2-23-24

**EXHIBIT 16**

**LIMITED SITE INVESTIGATION REPORT, PREPARED BY AECC**

***NOTE: REPORT TO BE SUBMITTED AS A SEPARATE FILE***

17 2-23-24



**EXHIBIT 17**

**NEW YORK STATE DEPARTMENT OF STATE ARTICLES OF ORGANIZATION**  
**(CERTIFIED COPY)**

17 2-23-24

**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy for 235 RIVER ROAD LLC, File Number 231010003816 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 October 10, 2023.

*Brendan C. Hughes*

Brendan C. Hughes  
Executive Deputy Secretary of State

**ARTICLES OF ORGANIZATION  
OF  
235 RIVER ROAD LLC  
Under Section 203 of the Limited Liability Company Law**

- FIRST: The Name of the limited liability company is: **235 RIVER ROAD LLC**
- SECOND: To engage in any lawful act or activity within the purposes for which limited liability companies may be organized pursuant to Limited Liability Company Law provided that the limited liability company is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.
- THIRD: The county, within this state, in which the office of the limited liability company is to be located is **ERIE**
- FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process against the limited liability company may be served. The post office address to which the Secretary of State shall mail a copy of any process against the limited liability company served upon the Secretary of State by personal delivery is:  
**235 RIVER ROAD LLC  
4727 CAMP ROAD  
HAMBURG, NY 14075**
- FIFTH: The limited liability company shall defend, indemnify and hold harmless all members, managers, and former members and managers of the limited liability company against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) incurred in connection with any claims, causes of action, demands, damages, liabilities of the limited liability company, and any pending or threatened action, suit, or proceeding. Such indemnification shall be made to the fullest extent permitted by the laws of the State of New York, provided that such acts or omissions which gives rise to the cause of action or proceedings occurred while the Member or Manager was in performance of his or her duties for the limited liability company and was not as a result of his or her fraud, gross negligence, willful misconduct or a wrongful taking. The indemnification provided herein shall inure to the benefit of successors, assigns, heirs, executors, and the administrators of any such person.

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

**CHRISTOPHER D. ALOISI** (Signature)  
-----

**CHRISTOPHER D. ALOISI, ORGANIZER**  
**P.O. BOX 128**  
**GLENMONT, NY 12077**

Filed by:

**WINDSOR CORPORATE SERVICES**  
**P.O. BOX 128**  
**GLENMONT, NY 12077**

**EXHIBIT 18**

**LIST OF MEMBERS OF REQUESTOR**

Andrew Romanowski, Managing Member

*\*Andrew Romanowski is the sole member of 235 River Road, LLC*

AR 2-23-24

**EXHIBIT 19**

**AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS**

AT 2-23-24

**235 RIVER ROAD, LLC**

**AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS**

The undersigned, being all of the members of 235 River Road, LLC, a New York limited liability company (the "Company") hereby certify as of January 11, 2024, as follows and adopt the following resolutions and authorize the Company to authorize and direct Mr. Andrew Romanowski (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop the property (3.10 acres) located at 235 River Road, Niagara County, North Tonawanda, New York 14120; Tax Map No.: 185.05-1-75, (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company has or will prepare and submit an application to participate in the New York State Brownfield Cleanup Program ("BCP") and, if accepted into the BCP, enter into a Brownfield Cleanup Agreement ("BCA"); file related documents with the New York State Department of Environmental Conservation ("DEC") to participate in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

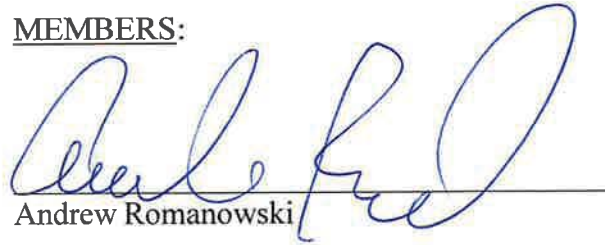
RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

Authorized Signatory	Signature
Andrew Romanowski	



**IN WITNESS WHEREOF**, the undersigned have signed and sealed this Member Consent on January 11, 2024.

MEMBERS:



Andrew Romanowski

## **EXHIBIT 20**

### **VOLUNTEER ELIGIBILITY STATEMENT**

The Requestor qualifies as a Volunteer because it did not own or operate the Site at the time of the release / introduction of environmental contamination and did not otherwise cause or contribute to contamination at the Site.

Historic operations, specifically the Site's industrial use, are the basis for qualifying it for eligibility in the BCP. These operations (1886-current) were described in the Phase I Environmental Site Assessment by C&S Engineers, Inc. Environmental sampling confirmed the presence of contamination at the Site likely associated with these historic operations.

The Requestor has performed all appropriate inquiries into the Site's history and condition prior to when it is anticipated to purchase the Site through retaining a qualified environmental consultant to conduct a Phase I Environmental Site Assessment and additional limited sampling activities.

The Requestor is voluntarily applying to be accepted into the New York State Brownfield Cleanup Program to undertake all required investigation and remediation of the Site prior to and/or concurrent with its redevelopment plans.

AT 2-23-24

**EXHIBIT 21**

**PROOF OF SITE ACCESS**

AT 2-23-24

December 6, 2023

Authorized Applicant / Requestor  
c/o Mr. Bill Burke  
235 River Road, LLC  
4727 Camp Road  
Hamburg, New York 14075

**RE: Property Access & Authorization for NYSDEC BCP Obligations  
3.10 Acres - 235 River Road, North Tonawanda, New York 14120**

Dear Mr. Burke:

I, Frank Metzger ("Owner"), own the property located at 235 River Road (Tax Map No.: 185.05-1-75), North Tonawanda, New York ("Property"). As the Owner, I hereby authorize 235 River Road, LLC (the "Authorized Applicant / Requestor") to access the Property and to apply to participate in / perform any obligations under the New York State Department of Environmental Conservation's ("NYSDEC") Brownfield Cleanup Program ("BCP").

Owner further understands that the Authorized Applicant / Requestor will also need to provide access to the NYSDEC and any environmental professionals that the Authorized Applicant / Requestor retains to perform any investigation and remedial activities under the BCP.

Sincerely,

  
Frank Metzger

**EXHIBIT 22**

**HISTORICAL OWNERS & OPERATORS**

17 2-23-24

**Former & Current Owners**

Timeline	Former / Current Owner(s)	Last Known Address	Last Known Phone
1998-Current	Metzger Removals	235 River Road N. Tonawanda, NY 14120	(716) 692-1810
1991-1998	Frank Metzger Gary Metzger Brian Metzger		
1988-1991	Joseph Kulikowski and John Hayes d/b/a J&J Associates	3300 Raymond Road Sanborn, NY 14132	(716) 731-4020
1983-1988	Daniel Primeau IV	5605 Krause Road Clarence, NY 14032	(716) 741-3931
	Carla Primeau	471 North Forest Road Williamsville, NY 14221	Unknown
1997-1998	City of North Tonawanda	216 Payne Avenue N. Tonawanda, NY 14120	(716) 695-8597
1983-1988	Tonawanda Island RR, Inc.	Unknown	Unknown
1950-1983	Estate of Benjamin J. Manasen	Unknown	Unknown
Pre-1983	Consolidated Rail Corporation (Including New York Central and Niagara River RR Co.)	Unknown	Unknown

***Note: The Requestor has no relationship with any of the former / current owners.***

AT 2-23-24

## Former Operators

Timeline	Former Operator(s)	Last Known Address	Last Known Phone
1886	Weston & Sons Lumber Yard Shepard and Morse Lumber Cos. Hollister Bros.	Unknown	Unknown
1889	A.M. Dodge Co. Hollister Bros.	Unknown	Unknown
1882-1997	NY Central and Niagara River RR Lockport and Buffalo Railway Co. Tonawanda Island RR, Inc.	Unknown	Unknown
1910	Hoadley & Bennett Lumber	190 Main Street N. Tonawanda, NY 14120	Unknown
1951	Meyer's Lumber Co., Inc.	190 Main Street N. Tonawanda, NY 14120	Unknown
1964	Benman Co. Cabinet Maker (appears to be a division of Meyers Lumber)	190 Main Street N. Tonawanda, NY 14120	(716) 692-4580
1967	Benman Co. Cabinet Maker	190 Main Street N. Tonawanda, NY 14120	(716) 692-4580
	Meyers Lumber Co., Inc.		Unknown
1971	Benman Co. Cabinet Maker	190 Main Street N. Tonawanda, NY 14120	(716) 692-4580
1976	Benman Co. Cabinet Maker	190 Main Street N. Tonawanda, NY 14120	(716) 692-4580
1981	Twin City Ceramic Supplies	190 Main Street N. Tonawanda, NY 14120	(716) 692-0064
	Benman Co. Cabinet Maker		(716) 692-4580
1985	Benman Co. Cabinet Maker	190 Main Street N. Tonawanda, NY 14120	(716) 692-4580
	Benman Collision		(716) 692-3500
	Precision Auto Detail Spray & Repair		(716) 692-3500
1991-Current	Metzger Removal, Inc.	Metzger Removals 235 River Road N. Tonawanda, NY 14120	(716) 692-1810

**Note:** *The Requestor has no relationship with any of the former / current operators.*

AT 2-23-24





Vanguard Research & Title Services, Inc.  
407 South Warren Street, Syracuse, NY 13202  
(p) 315-422-6031 (f) 315-849-1653

## INVOICE

Invoice No.: 109888  
Date: February 16, 2024

Customer Account No.: 3269

VOR294818

Invoice & Deliver To:  
**Fogel & Brown, P.C.**  
120 Madison Street, Suite 1620  
Syracuse, NY 13202  
p. 315-399-4343

Order No.	Description	Fees	Total
VOR294818	Chain of Title (40-Years) (Niagara)	Search Charge	Subtotal
	Customer Order No.: METZGER	\$100.00	\$100.00
	Metzger, Frank J., Gary J. & Brian Keith		Tax
	North Tonawanda City - 175 River Rd & 235 River Rd &		\$8.00
	190 Main St & 173 Main St		
	185.05-1-73 & 185.05-1-75 & 185.05-1-77.1 & 185.05-1-		
	-81.111		
			Subtotal
			\$100.00
			Tax
			\$8.00
			Payments
			\$0.00
			Total
			\$108.00
			<b>Balance Due</b>
			<b>\$108.00</b>

Agent for



AT 2-23-24

# Vanguard Research & Title Services, Inc. Privacy Policy Notice

## Our Privacy Policy

Federal law requires Vanguard Research & Title Services, Inc. ("Vanguard") to tell you how Vanguard collects, shares, and protects your personal information. Vanguard's privacy policy has not changed and you may review Vanguard's policy and practices with respect to your personal information at [www.vgtri.com](http://www.vgtri.com) or we will mail you a free copy upon request if you call us at (315)-422-6031.

Protecting the privacy and security of our clients and customers is of utmost importance to us here at Vanguard. Federal law, specifically Title V of the Gramm-Leach-Bliley Act (GLBA) of 1999 and certain provisions of the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information Rule require that Vanguard tell you how Vanguard collects, uses and shares any non-public personal information ("NPPI") about you. Federal law limits how Vanguard can use any personal information it may collect. This notice provides important information about Vanguard's data security practices. Please read this notice and ensure you understand it. Should you have any questions or concerns regarding this notice please contact the corporate office at the number recited above.

Vanguard may collect or receive NPPI about you voluntarily if you call or otherwise contact Vanguard electronically to request a product or service directly. Vanguard may also collect or receive NPPI about you from our affiliates or non-affiliated third parties in the normal course of business in order to provide our products and services to you. Vanguard collects only the information necessary to provide products and services to you, to communicate with you about products and services, and to help improve its services.

## What types of personal information does Vanguard collect?

The types of non-public personal information Vanguard collects and processes depends on the product or service you request from Vanguard or from affiliated or non-affiliated third parties who may request products and services on your behalf. This information can include but may not be limited to any of the following:

- Contact information (such as name, phone number, address, e-mail address)
- Social security number or taxpayer identification number
- Driver's license number or other government identification number (or a full copy)
- Bank and routing information from checks or electronic payment methods
- Loan information contained on a loan or other real estate disclosure form provided by a settlement agent (such as an attorney) in a real estate transaction
- IP address through online form submission

## Where does your information go?

Vanguard does not share non-public personal information about you to any affiliate or non-affiliated third party that is not expressly permitted by law. Even where sharing such information is permitted under the law, you may be able to opt out of such sharing by providing written notice to Vanguard. Reasons why and with whom Vanguard might share your personal information are as follows:

Internally:

- To enable Vanguard's personnel to perform everyday business purposes, including but not limited to processing orders, maintaining accounts, preparing for and responding to court orders and legal investigations

and routine audits

Externally:

- To third party contractors or service providers from whom Vanguard obtains a product or service on your behalf related to the settlement process
- To law enforcement or other governmental authority in connection with investigation, or civil or criminal matters or to respond to subpoenas or court orders
- For reasons of communicating with financial service providers engaged in banking, consumer finance, securities and insurance
- Communicating with parties involved in a specific loan transaction or real estate closing such as an attorney or the bank/lender
- Communicating with non-financial companies such as direct mail companies and other fulfillment service providers
- For marketing purposes in order to offer Vanguard's product(s) and service(s) to you
- For Vanguard's affiliates to market to you
- For non-affiliates to market to you
- For Vanguard's affiliates' or non-affiliate third party providers' everyday business purposes, information about your order(s)
- To enforce this privacy notice

## When does Vanguard collect personal information?

Vanguard may collect non-public personal information about you in person, over the phone, through facsimile (fax) transmission or other electronic communication, such as e-mail or through Vanguard's website or other portal, and on applications or other forms submitted to Vanguard.

Vanguard may also collect or receive personal information about you from others involved in your transaction such as the real estate agent, attorney or lender and through standard real estate settlement forms, such as state tax forms.

Vanguard may also collect or receive personal information about you from affiliates or non-affiliated service providers, consumer reporting agencies and regulators in connection with, or in relation to, products or services Vanguard provides to you, law enforcement action and regulatory reporting and investigation.

## Can you limit our sharing?

Yes, federal law gives you the right to limit Vanguard's sharing in certain cases. You can limit Vanguard's sharing of your personal information to affiliates and non-affiliated third party service providers for reason of marketing products and services to you. Vanguard does not make a practice of providing or selling non-public personal information such as name lists to any non-affiliated third party for their own direct marketing use but may in future make joint marketing arrangements with an affiliate or non-affiliate in order to promote future products and services.

You cannot limit Vanguard's sharing of personal information with Vanguard's affiliates or non-affiliated third parties in cases wherein the information is necessary to provide our products or services to you, or on behalf of a third party with whom you are engaged as a customer such as your lender. In such cases Vanguard may also be obligated to abide by the privacy practices of the financial institution with whom you are a customer which may also additionally limit our use of your personal information. In certain cases Vanguard may contact you in order to obtain your permission to share information with non-interested parties to your loan and settlement transaction, such as your real estate agent.

Reasons why Vanguard may share some personal information in the normal course of business, as allowed by law, may include but are not limited to, verifying your identity for reason of complying with state- or federally-mandated forms, for reason of insurance underwriting contractual requirements or ensuring proper delivery of specific products or services.

To limit Vanguard's sharing:

- Call Vanguard's Corporate Office at: (315) 422-6031
- Visit Vanguard Online at [www.vgtri.com/privacy](http://www.vgtri.com/privacy)

Please note: If you are a new customer, Vanguard can begin sharing your information 30 days from the date you received this notice. When you are no longer our customer, Vanguard can continue to share your information as described in this notice, however, you can contact us at any time to limit our sharing.

## How does Vanguard protect your information?

Any non-public personal information which Vanguard may have to collect and process for reasons of routine business are protected by physical, electronic and procedural safeguards intended to make best efforts to comply with federal law. Vanguard limits access to non-public personal information only to those personnel who have a reasonable need to access such information for purposes of providing products and services to you. Vanguard also limits the non-public personal information provided to third party service providers or contractors to only that information necessary to provide a product or service on your behalf.

Ways in which Vanguard may protect your non-public information include but are not limited to the following:

- Training our employees on privacy and data security best practices
- Directing the flow of documents between personnel and between Vanguard's offices
- Using document envelopes and bags to transport legal documents
- Keeping paper files for storage which may contain NPPI in locking cabinets or behind locked doors
- Protecting files and attachments sent via e-mail
- Only communicating with persons and entities Vanguard knows and trusts in the settlement process as legitimate service providers
- Protecting external hard drives which may be used to store digital NPPI
- Utilizing network security access controls
- Using strong passwords, user authentication steps and other security measures to limit access to NPPI stored on computers or in Vanguard's database
- Properly disposing paper copies with NPPI by shredding

## For Questions or Complaints Contact:

CEO: Patrick J. Corbett, 407 South Warren Street, Syracuse, NY 13126; (315)-422-6031

Additional information as well as the ability to opt out from certain aspects of disclosure is available online at <http://vgtri.com/privacy>

2022-07-12

**Vanguard Research & Title Services, Inc.**

407 South Warren Street, Syracuse, NY 13202

## CHAIN OF TITLE REPORT - CERTIFIED NAMES ONLY

**Order Number:** VOR294818**Location:** City of North Tonawanda, Niagara County**Name(s):** Frank J. Metzger, Gary J. Metzger, Brian Keith Metzger**Address(es):** 175 River Rd.

235 River Rd.

190 Main St.

173 Main St.

**Tax ID(s):** 185.05-1-73

185.05-1-75

185.05-1-77.1

185.05-1-81.111

**Search Period:** 01/01/1983 - 01/10/2024 (Effective)**Name(s):****Approximate Period of Ownership:****Frank J. Metzger**

07/31/1991 - date

**Gary J. Metzger**

07/31/1991 - date

**Brian Keith Metzger**

07/31/1991 - date

Metzger Removal, Inc.

11/03/1998 - 12/14/2023

J &amp; J Associates (DBA)

03/\_\_/1989 - 08/29/1991

Joseph L. Kulikowski, Jr.

12/20/1988 - 08/29/1991

John R. Hayes

12/20/1988 - 08/29/1991

Carla Primeau

12/06/1983 - 11/04/1998

Daniel Primeau, IV

12/06/1983 - 11/04/1998

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**Vanguard Research & Title Services, Inc.**

407 South Warren Street, Syracuse, NY 13202

Benjamin J. Manasen (Estate)	12/27/1950 - 02/18/1983
City of North Tonawanda*	12/29/1986 - 04/30/1998
Tonawanda Island Railroad, Inc.	01/24/1983 - 04/30/1998
Consolidated Rail Corporation**	Pre 1983 - 10/11/1983

NOTES:

\*City of North Tonawanda obtained an interest pursuant to tax foreclosure proceedings for various years during the period indicated. It appears that multiple tax sale certificates were filed, but prior record owner(s) may have redeemed for such periods. The City's interest is deemed cut off at the point a sale was made out of the City to a third party for the subject parcel.

\*\*No search conducted in "Conrail" or Consolidated Rail Corporation for portion of land(s) formerly in railroad right of ways.

Dates shown are approximate periods of ownership from the earliest date a party acquired an interest of record, to the latest date of record wherein a party deeded out his/her/their interest, in whole or in part of one or more tax parcels as now shown on the tax mapping of Niagara County, or as formerly designated, for those parcels which now comprise the total parcel as currently combined in deed recorded in the Niagara County Clerk's Office in Inst. No. 2023-19368 on 12/14/2023.

**EXHIBIT 23**

**BROWNFIELD SITE CONTACT LIST**

Applicant:	235 River Road, LLC 4727 Camp Road Hamburg, New York 14075 Attn: Bill Burke E-mail: <a href="mailto:bill@alliancehomes.com">bill@alliancehomes.com</a> Phone: (716) 225-6117
Consultant:	Asbestos & Environmental Consulting Corporation 6308 Fly Road East Syracuse, New York 13057 Attn: Bryan Bowers E-mail: <a href="mailto:bbowers@aeccgroup.com">bbowers@aeccgroup.com</a> Phone: (315) 432-9400
Economic Development Support:	Niagara County Department of Economic Development 6311 Inducon Corporate Drive Sanborn, New York 14132 Attn: Amy Schifferli E-mail: <a href="mailto:amy.schifferli@niagaracounty.com">amy.schifferli@niagaracounty.com</a> Phone: (716) 278-8754
Legal Counsel:	Fogel & Brown, P.C. 120 Madison Street, Suite 1620 Syracuse, New York 13202 Attn: Michael Fogel, Esq. E-mail: <a href="mailto:mfogel@fogelbrown.com">mfogel@fogelbrown.com</a> Phone: (315) 399-4343

*ATL 2-23-24*

## **NIAGARA COUNTY**

Niagara County Government  
Richard E. Updegrave, County Manager  
Philo J. Brooks Co. Office Bldg., 2nd Floor  
59 Park Avenue  
Lockport, New York 14094  
(716) 439-7213

Niagara County Planning Board  
Michael A. Casale, Commissioner  
Center for Economic Development  
Samuel M. Ferraro Center, Suite One  
6311 Inducon Corp Drive  
Sanborn, New York 14132  
(716) 278-8750

## **CITY OF NORTH TONAWANDA**

City of North Tonawanda  
Austin J. Tylec, Mayor  
City Hall  
216 Payne Avenue  
North Tonawanda, New York 14120  
(716) 695-8540

Building Inspector / Code Enforcement  
Robert DePaulo  
City Hall  
216 Payne Avenue  
North Tonawanda, New York 14120  
(716) 695-8595

## **PUBLIC WATER SUPPLIER**

Niagara County Water District  
Jennifer H. Bieber, Administrative Director  
5450 Ernest Road  
PO Box 315  
Lockport, New York 14095-0315  
(716) 434-8835  
[Jennifer.Bieber@niagaracounty.com](mailto:Jennifer.Bieber@niagaracounty.com)

## **LOCAL NEWS MEDIA**

WIBV4  
News Director  
2077 Elmwood Ave.  
Buffalo, New York 14207  
(716) 876-7333  
[newsroom@wivb.com](mailto:newsroom@wivb.com)

Niagara Gazette  
Managing Editor: Matt Winterhalter  
473 Third Street  
Niagara Falls, New York 14301  
(716) 282-2311 Ext. 2259

## **DOCUMENT REPOSITORY** *(see Exhibit 24)*

North Tonawanda Public Library  
505 Meadow Drive  
North Tonawanda, New York 14120  
(716) 693-4132

17 2-23-24

**ADJACENT PROPERTY OWNERS**

<b><u>Parcel Designation</u></b>	<b><u>Tax Parcel Number Property Address Current Use / Occupant</u></b>	<b><u>Owner Name &amp; Address</u></b>
200	Tax Parcel: 185.05-1-71 200 River Road N. Tonawanda, NY 14120 Marina/Spier Machinery/Riverfront Custom Design	J. Thomas Spier 200 River Road N. Tonawanda, NY 14120
17	Tax Parcel: 185.05-1-70.1 17 Island Street N. Tonawanda, NY 14120 Marina	Island Street Foundation 6500 Main Street Williamsville, NY 14221
65	Tax Parcel: 185.05-1-67.1 65 Island Street N. Tonawanda, NY 14120 Big D Tire	EZ Industries, LLC 107 River Road N. Tonawanda, NY 14120
50	Tax Parcel: 185.05-1-72 50 Island Street N. Tonawanda, NY 14120 Misc. manufacturing/warehousing	EZ Industries, LLC 50 Island Street N. Tonawanda, NY 14120
78	Tax Parcel: 185.05-1-78 78 Island Street N. Tonawanda, NY 14120 Warehouse	EZ Industries, LLC 107 River Road N. Tonawanda, NY 14120
174	Tax Parcel: 185.05-1-77.2 174 Main Street N. Tonawanda, NY 14120 Det row bldg	Downtown Auto, LLC 7159 Mallard Court Niagara Falls, NY 14304
3	Tax Parcel: 700.00-44-1 East Side of Main Street N. Tonawanda, NY 14120 Vacant	(NY Central Lines, LLC) CSX Transportation, Inc. 500 Water Street Jacksonville, FL 32202
191	Tax Parcel: 185.05-1-79 191 Main Street N. Tonawanda, NY 14120 Storage	Mark Sutter 1534 Sheridan Drive Kenmore, NY 14217
207	Tax Parcel: 185.05-1-80.22 207 Main Street N. Tonawanda, NY 14120 Parking Garage	Walter E. Imhof 456 Fletcher Street Tonawanda, NY 14150
211	Tax Parcel: 185.05-1-80.21 211 Main Street N. Tonawanda, NY 14120 Vacant Structure	Enterprise Lumber & Silo LLC 62 Webster Street N. Tonawanda, NY 14120

AT 2-23-24



<u>Parcel Designation</u>	<u>Tax Parcel Number</u> <u>Property Address</u> <u>Current Use / Occupant</u>	<u>Owner Name &amp; Address</u>	
235 Main	Tax Parcel: 185.05-1-80.1 235 Main Street N. Tonawanda, NY 14120 Storage	Eric Banas 1679 Sweeney Street N. Tonawanda, NY 14120	
249	Tax Parcel: 185.05-1-5 249 Main Street N. Tonawanda, NY 14120 Betty's Bar and Grill	Lesley Maziarz 217 Main Street N. Tonawanda, NY 14120	
260	Tax Parcel: 185.05-1-4 260 Main Street N. Tonawanda, NY 14120 Vacant Commercial	City of North Tonawanda N. Tonawanda, NY 14120	
250	Tax Parcel: 185.05-1-3 250 Main Street N. Tonawanda, NY 14120 Auto Body	Fast Lane Service Island Inc. 250 Main Street N. Tonawanda, NY 14120	
278	Tax Parcel: 185.05-1-2 278 River Road N. Tonawanda, NY 14120 Marina	Carol Smith 4524 Sheridan Drive Williamsville, NY 14221	Harold Smith 280 Michigan Street N. Tonawanda, NY 14120

AT 2-23-24

**EXHIBIT 24**

**REPOSITORY ACKNOWLEDGEMENT**

AT 2-23-24

## Bill Burke

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**From:** Kevin Wall <kwall@nioga.org>  
**Sent:** Wednesday, December 6, 2023 2:52 PM  
**To:** George Fischer  
**Subject:** Re: Document Repository Request  
**Attachments:** image002.png; image003.png; image002.png

George

No problem, we often retain those types of documents for public access. Please send them addressed to me and I'll get them cataloged in our system and out for the public.

Kevin

On Wed, Dec 6, 2023, 12:47 PM George Fischer <[gfischer@aeccgroup.com](mailto:gfischer@aeccgroup.com)> wrote:

Good afternoon Mr. Wall,

I'm following up on the request below to utilize the North Tonawanda Public Library as the document repository for an upcoming NYS Brownfield project.

Please feel free to contact me at your convenience with questions.

With kindest regards,

George Fischer

Senior Staff Professional

mobile 315.569.0474



AECC Environmental Consulting

6308 Fly Rd.

East Syracuse, NY 13057

office 315.432.9400

fax 315.432.9405

[gfischer@aeccgroup.com](mailto:gfischer@aeccgroup.com)

[www.aeccgroup.com](http://www.aeccgroup.com)

**From:** George Fischer  
**Sent:** Thursday, November 30, 2023 9:07 AM  
**To:** [kwall@nioga.org](mailto:kwall@nioga.org)  
**Cc:** Bryan Bowers <[bbowers@aeccgroup.com](mailto:bbowers@aeccgroup.com)>  
**Subject:** Document Repository Request

Good morning Mr. Wall,

The Asbestos & Environmental Consulting Corporation (AECC) is submitting an application for a NYDSEC Brownfield Cleanup Program (BCP) project. The subject site is known as the North Tonawanda Main Street Redevelopment Site and is located at 235 River Road, in the City of North Tonawanda, New York.

A Brownfield site is a real property where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by DEC that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations. The goal of the NYDSEC's BCP is to encourage private-sector cleanups of Brownfields and to promote their redevelopment as a means to revitalize economically blighted communities. The BCP is an alternative to Greenfield development and is intended to remove some of the barriers to, and provide tax incentives for, the redevelopment of urban Brownfields.

To facilitate the remedial process and enable citizens to participate more fully in decisions that affect their health, the DEC will require opportunities for citizen involvement and will encourage consultation with the public early in the process. One part of this citizen involvement requirement is the ability for the public to review milestone documents at a local document repository (library). Typical documents that will be submitted as part of a BCP project are:

- Remedial Investigation Work Plan (RIWP)
- Interim Remedial Measures (IRM) Work Plan
- Remedial Investigation Report (RIR)
- Remedial Action Work Plan (RAWP), Remedial Work Plan (RWP) or Alternative Analysis Report (AAR)
- Site Management Plan (SMP)

- Final Engineering Report (FER)
- NYSDEC Facts Sheets
- NYSDEC Decision Document

**The Application for the Brownfield Program requires a copy of an acknowledgement from the repository indicating that it agrees to act as the document repository for the property. Therefore, we are requesting that the North Tonawanda Public Library agree to be the repository for this project.**

The volume of documents will grow to approximately 2,000 pages. The documents need to be on record for a year after completion of the project, so until approximately June 2027.

If you are in agreement, please respond via email stating that you agree to hold the documents for the North Tonawanda Main Street Redevelopment Site BCP project; and that they will be made available to the inquiring public at a location designated by the library.

Thank you in advance for your time and consideration. We look forward to your response. Please feel free to contact me with any questions or concerns.

With kindest regards,

George Fischer

Senior Staff Professional

mobile 315.569.0474



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