

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a
Modification to a
Voluntary Cleanup Agreement
for: Hanna Furnace Former Railroad Yard

Voluntary Cleanup
Agreement Modification

by:
Buffalo Urban Development Corporation
(formerly known as Development Downtown, Inc.,)
"Volunteer"

Index#: B9-0568-99-12(A)
Site #: V00319-9

WHEREAS, The New York State Department of Environmental Conservation (the "Department") and Development Downtown, Inc. (the "Volunteer") entered into Voluntary Cleanup Agreement, Index # B9-0568-99-12(A), (the "Agreement"), with the Department on January 6, 2003 relative to property at the location of the former Hanna Furnace Corporation facility, in the City of Buffalo, County of Erie;

WHEREAS, Subparagraph I.C of the Agreement reads as follows

C. "Site": that parcel of real property known as Hanna Furnace Former Railroad Yard which is an approximately 42.5 acre parcel located at 2 Fuhrman Boulevard in South Buffalo, New York, approximately 1/4 mile east of U.S. Route 5 and 1/2 mile south of Tifft Street and which is more particularly outlined on Exhibit "A" which includes a parcel location map and a legal description of the Site. For purposes of Subparagraph II.H the term "Site" shall be construed to mean (i) the entire Site or (ii) a subparcel of the Site.

WHEREAS, Volunteer conveyed part of its ownership interest in the Site to Krog USC Associates -1, LLC on July 14, 2004, recorded in Liber 11079 of Deeds at Page 4450, and Krog USC Associates -1, LLC entered into Brownfield Site Cleanup Agreement B9-0668-04-06 with the Department on July 5, 2004 for the conveyed property, and therefore, the Agreement needs to be modified to exclude the conveyed property from the Site description;

WHEREAS, Volunteer agrees to be bound by the terms of this Modification and consents and agrees not to contest the authority or jurisdiction of the Department to enter into or enforce this Modification, and agrees not to contest the validity of this Modification;

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Subparagraph I.C. of the Agreement is hereby modified to read as follows:

C. "Site": that parcel of real property known as Hanna Furnace Former Railroad

Yard which is located on the former Hanna Furnace Corporation facility property at 2 Fuhrman Boulevard in South Buffalo, New York, approximately 1/4 mile east of U.S. Route 5 and 1/2 mile south of Tiff Street, excepting the property conveyed to Krog USC Associates -1, LLC, on July 14, 2004, recorded in Liber 11079 of Deeds at Page 4450. Exhibit "A" of this Agreement includes parcel location maps and a legal description of the Site. For purposes of Subparagraph II.H the term "Site" shall be construed to mean (I) the entire Site or (ii) a subparcel of the Site.

II. Exhibit "A" to this Modification includes a legal description of the redefined Site which shall replace the legal description in Exhibit "A" to the Agreement. Exhibit "A" to this Modification also includes a map of the parcel which is excepted from the Site and which shall be read together with the map in Exhibit "A" to the Agreement.

III. This Modification shall control to the extent of a conflict between the provisions hereof and those of the Agreement. Except as provided in this Modification, the Agreement and the documents related thereto shall continue in full force and effect

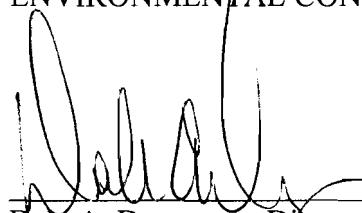
IV. No term, condition, understanding or agreement purporting to modify this Modification to a Voluntary Agreement shall be binding unless subscribed to by both parties in accordance with the terms of the Agreement.

V. The effective date of this Modification to a Voluntary Agreement shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED: AUG 23 2005

DENISE M. SHEEHAN,
ACTING COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



Dale A. Desnoyers, Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer hereby consents to the issuing and entering of this Amendment, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Buffalo Urban Development Corporation
(formerly known as Development Downtown, Inc.)

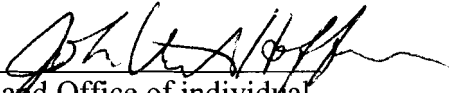
By: David A. Stebbins

Title: VICE PRESIDENT

Date: August 1, 2005

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

On the 12 day of AUG, in the year 2005, before me, the undersigned, personally appeared DAVID A. STEBBINS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Signature and Office of individual
taking acknowledgment

JOHN VINCENT HEFFRON
Notary Public, State of New York
Qualified in Erie County
My Commission Expires May 5, 2006

Exhibit "A"

**Amended Legal Description for Parcel No. 1 of the
Union Ship Canal Redevelopment Project**

All that piece or parcel of property designated as Parcel No. 1, situate in Lot No. 18, in the Ogden Gore Tract, Township No. 10, Range No. 8, City of Buffalo, County of Erie, State of New York bounded and described as follows:

PARCEL NO. 1

Commencing at a point on the easterly boundary of existing Commerce Street as delineated on Parcel No. 360 of Map No. 327 and acquired by The People of The State of New York for the former construction of Fuhrmann Boulevard – Hamburg Turnpike by Liber 10082 of Deeds at Page 121, at its intersection with the southerly boundary of the City Of Buffalo, also being the northerly right of way line of the South Buffalo Railway Company; thence easterly forming an angle in the northeast quadrant of $107^{\circ} 13' 58''$ and along the southerly boundary of the City of Buffalo and the northerly right of way line of the South Buffalo Railway Company a distance of 640.00 feet to the Point of Beginning; thence through the property of the City of Buffalo the following six (6) courses and distances: (1) northerly at an interior angle of $90^{\circ} 00' 00''$ a distance of 287.18 feet to a point; thence (2) northeasterly at an interior angle of $111^{\circ} 14' 43''$ a distance of 1,504.53 feet to a point; thence (3) northerly at an exterior angle of $125^{\circ} 42' 10''$ a distance of 610.16 feet to a point; thence (4) easterly at an interior angle of $90^{\circ} 00' 00''$ a distance of 550.00 feet to a point; thence (5) southeasterly at an interior angle of $157^{\circ} 08' 12''$ a distance of 340.00 feet to a point; thence (6) southerly at an interior angle of $154^{\circ} 01' 12''$ a distance of 436.60 feet to a point on the northwesterly right of way line of the South Buffalo Railway Company at a distance of 79.0 feet northwesterly of, measured at right angles to, the center line of said Railway Company's right of way; thence along the said Railway Company's right of way the following five (5) courses and distances: (1) southwestery at an interior angle of $105^{\circ} 33' 24''$ a distance of 250.02 feet to a point of curvature; thence continuing southwestery on a curve to the right, having a radius of 1,831.08 feet, an arc distance of 447.42 feet to the point of tangency; thence southerly along a line radial to the last mentioned curve a distance of 35.00 feet to a point of curvature; thence southwestery and westerly on a curve to the right, having a radius of 1,866.08 feet, an arc distance of 920.62 feet to the point of tangency; thence southerly along a line radial to the last mentioned curve a distance 11.00 feet to a point on the said southerly boundary of the City of Buffalo, also being the northerly right of way line of the South Buffalo Railway Company; thence westerly along the southerly boundary of the city Of Buffalo and the northerly right of way line of the South Buffalo Railway Company a distance of 1,139.11 feet to the point of beginning, being 42.542 acres of land more or less.

Subject to the rights of others as granted by The Hanna Furnace Corporation to Shenango Incorporated by virtue of Liber 8636 of Deeds at Page 586 for a 20.00-foot wide sanitary sewer easement.

Excepting from the above described parcel as much thereof
as is contained in the following described parcel

ALL THAT PIECE OR PARCEL OF PROPERTY, situate in Lot No. 18 in the Ogden Gore Tract and in Township No. 10, Range No. 8, City of Buffalo, County of Erie, State of New York bounded and described as follows:

BEGINNING at a point on the southwesterly line of land conveyed to Sherland Incorporated by Liber 10022 of Deeds at page 218 at its intersection with the westerly right of way line of Consolidated Rail Corporation and the easterly line of land conveyed to Jordan & Foster Scrap Corporation by Liber 9240 of Deeds at page 523, in Parcel IX (Parcel No. 1); thence along the said westerly right of way line of Consolidated Rail Corporation and the said easterly line of lands conveyed in Liber 9240 of Deeds at page 523 the following three courses and distances: (1) southerly forming an interior angle of $135^{\circ} 26' 18''$, a distance of 290.89 feet to an angle point; thence (2) continuing southerly forming an interior angle of $165^{\circ} 58' 34''$ as surveyed ($166^{\circ} 44' 00''$ by deed), a distance of 250.32 feet to an angle point, said point being 79.00 feet distant northwesterly from, measured at right angles to, the center line of the track of the South Buffalo Railroad; thence (3) southwesterly forming an interior angle of $115^{\circ} 15' 30''$ and parallel with the center line of the track of the South Buffalo Railway a distance of 187.74 feet to a point on the northwesterly right of way line of the South Buffalo Railway Company; thence along the said South Buffalo Railway Company's right of way the following four courses and distances: (1) continuing southwesterly, a distance of 198.00 feet to a point of curvature; (2) thence continuing southwesterly on a curve to the right, having a radius of 1,831.08 feet, an arc distance of 447.42 feet to the point of tangency; thence (3) southerly along a line radial to the last mentioned curve a distance of 35.00 feet to a point of curvature; thence (4) southwesterly and westerly on a curve to the right, having a radius of 1,866.08 feet, an arc distance of 562.41 feet to a point; thence through the property of Development Downtown Inc. by deed recorded in Liber 11026 of Deeds, at page 7626, the following six courses and distances: (1) northerly along a line radial to the last mentioned curve a distance of 691.11 feet to a point; thence (2) northwesterly forming an exterior angle of $108^{\circ} 48' 17''$ a distance of 47.60 feet to a point on the southeasterly boundary of a proposed road, said point being 2,086.51 feet distant northeasterly from existing Commerce Street, 60.0 feet wide, as measured at right angles thereto; thence (3) northeasterly and northerly along the southeasterly boundary of the said proposed road and on a curve to the left, having a radius of 230.00 feet, an arc distance of 252.47 feet to a point of tangency; thence (4) continuing northerly and along the easterly boundary of the said proposed road a distance of 12.53 feet to a point; thence (5) southeasterly forming an exterior angle of $120^{\circ} 07' 21''$ a distance of 113.54 feet to a point; thence (6) northeasterly forming an exterior angle of $134^{\circ} 13' 46''$ a distance of 693.41 feet to a point on the said southwesterly line of land conveyed in Liber 10022 of Deeds at page 218; thence southeasterly and along the said southwesterly line of lands conveyed in Liber 10022 of Deeds at page 218 a distance of 424.51 feet to the point of beginning.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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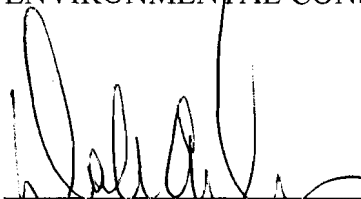
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DATED: AUG 23 2005

DENISE M. SHEEHAN,
ACTING COMMISSIONER
NEW YORK STATE DEPARTMENT OF
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By:



Dale A. Desnoyers, Director
Division of Environmental Remediation

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Buffalo Urban Development Corporation
(formerly known as Development Downtown, Inc.)

By: David A. Stebbins

Title: VICE PRESIDENT

Date: August 1, 2005

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

On the 12 day of AUG, in the year 2005, before me, the undersigned, personally appeared DAVID A. STEBBINS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Signature and Office of individual taking acknowledgment

JOHN VINCENT HEFFRON
Notary Public, State of New York
Qualified in Erie County
My Commission Expires May 5, 2006

Exhibit "A"

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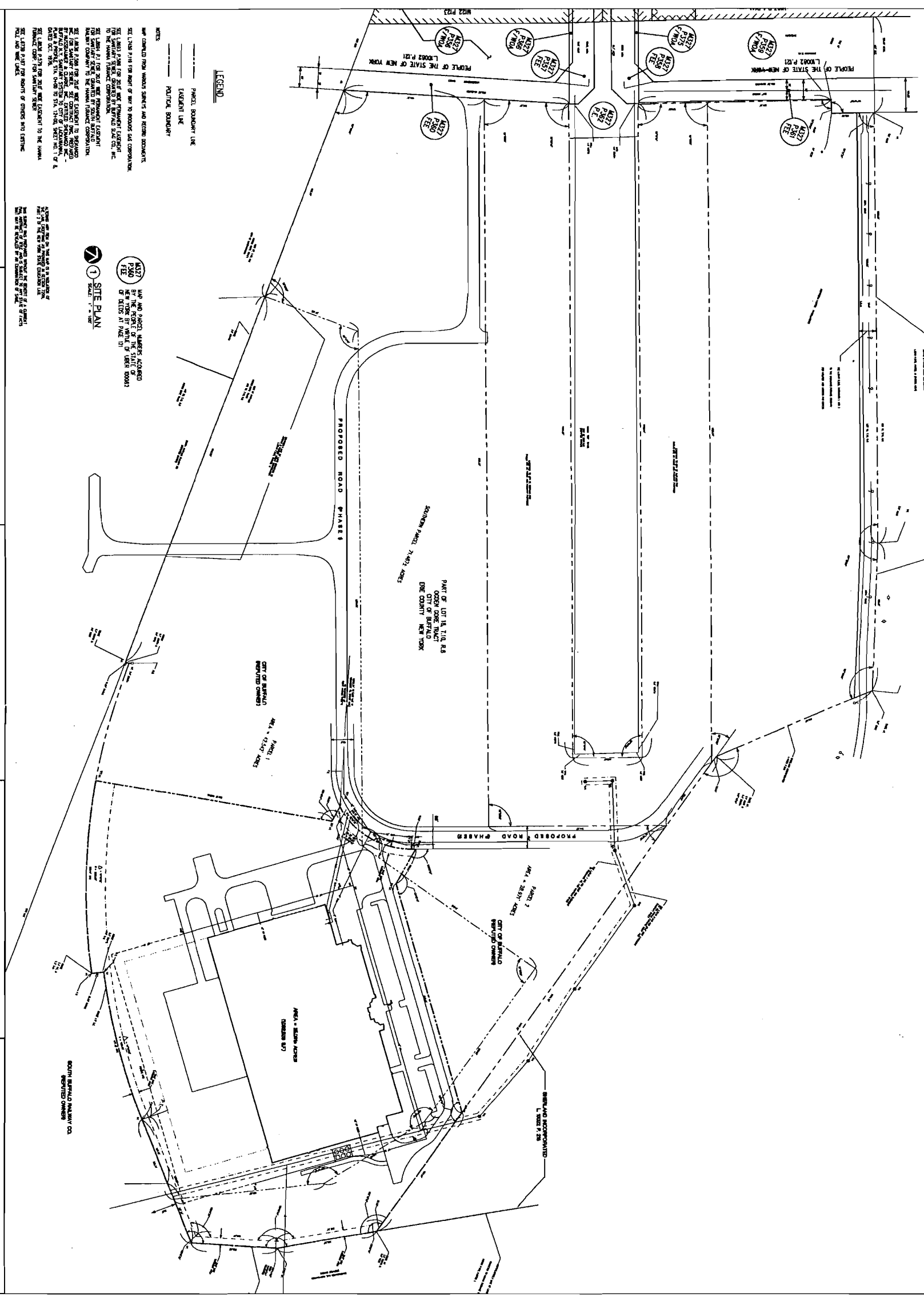
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NOTES:
 1. THIS PLAN IS PREPARED FOR THE CITY OF BUFFALO AND IS SUBJECT TO THE CITY ENGINEER'S REVIEW AND APPROVAL.
 2. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED.
 3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF BUFFALO AND THE STATE OF NEW YORK.
 4. THE PLAN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE.
 5. THE PLAN IS SUBJECT TO CHANGE WITHOUT NOTICE AND WITHOUT LIABILITY TO THE DESIGNER.
 6. THE PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.
 7. THE PLAN IS THE PROPERTY OF THE DESIGNER AND IS TO BE KEPT IN CONFIDENCE.

LEGEND:
 - - - - - PANEL BOUNDARY LINE
 - - - - - EASEMENT LINE
 - - - - - POLITICAL BOUNDARY

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1 SITE PLAN

APPROVED BY THE FOLLOWING CITY OF BUFFALO DEPARTMENT:
 CITY ENGINEER: _____ DATE: _____
 CITY PLANNING BOARD CHAIRMAN: _____ DATE: _____

FILED IN THE COUNTY CLERK'S OFFICE:
 COUNTY NO.: _____ DATE: _____
 RECORD NUMBER TO BE PLACED ON THIS MAP: _____
 COUNTY RECORDS: _____ DATE: _____

DESIGNED BY: CDR
APPROVED BY: CDR
DATE: 03-18-04
SCALE: AS NOTED
PROJECT NO: 03-518
DRAWING NO: 1S-1

Buffalo Lakeside Commerce Park
 Union Ship Canal - Buffalo, New York

KROG / CERTAINTED SUBDIVISION

NO.	DATE	REVISION DESCRIPTION	BY	APPROVED

The Krog Corp.
 1000 West 2nd Street, Buffalo, New York 14202
 Tel: 716-835-1300
 Fax: 716-835-1301

Contractors Engineers Developers

K O ASSOCIATES
 1000 West 2nd Street, Buffalo, New York 14202
 Tel: 716-835-1300
 Fax: 716-835-1301