



Department of Environmental Conservation

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

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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

Amendment to modify the existing BCA: [check one or more boxes below]

- Add applicant(s)
- Substitute applicant(s)
- Remove applicant(s)
- Change in Name of applicant(s)

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

1a. A copy of the recorded deed must be provided. Is this attached?  Yes  No

1b.  Change in ownership  Additional owner (such as a beneficial owner)

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

**Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

**2. Required: Please provide a brief narrative on the nature of the amendment:**

Amendment to Site property description is required as a result of survey correction from initial survey (submitted to DEC with BCP application) and updated survey performed in 2021. Total area has decreased by 0.10 acres - from 1.96 acres to 1.86 acres. See Parcel/Lot# 2 on provided survey.

Updated survey and updated property description are included with this Amendment.

**\*Please refer to the attached instructions for guidance on filling out this application\***

**\*Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves a non-insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.\***

**Section I. Current Agreement Information**

BCP SITE NAME: Former Pilgrim Village Senior Apartments BCP SITE NUMBER: C915363

NAME OF CURRENT APPLICANT(S): SSA EVI MC SENIOR, LLC

INDEX NUMBER OF AGREEMENT: C915363-09-20 DATE OF ORIGINAL AGREEMENT: 11/2/20

**Section II. New Requestor Information** (complete only if adding new requestor or name has changed)

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

1. Is the requestor authorized to conduct business in New York State (NYS)?  Yes  No

- 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 above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?  Yes  No

3. Describe Requestor's Relationship to Existing Applicant:

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**Section III. Current Property Owner/Operator Information (only include if new owner/operator)**  
**Owner below is:**  Existing Applicant  New Applicant  Non-Applicant

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site?  Yes  No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?  Yes  No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?  Yes  No  
 Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.  Yes  No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.  Yes  No
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?  Yes  No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?  Yes  No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?  Yes  No
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?  Yes  No
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?  Yes  No
11. Are there any unregistered bulk storage tanks on-site which require registration?  Yes  No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

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

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that 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; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**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.**

12. Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other \_\_\_\_\_

13. If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted**. Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?  Yes  No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

1. Property information on current agreement:

ADDRESS 951 Ellicott Street

CITY/TOWN Buffalo, New York

ZIP CODE 14209

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: 1.96a

Parcel Address	Section No.	Block No.	Lot No.	Acreage
951 Ellicott Street	100.71	3	1.11	1.96a

2. Check appropriate boxes below:

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

2a. PARCELS ADDED:

Acreage  
Added by  
Parcel

Parcel Address	Section No.	Block No.	Lot No.	Acreage

Total acreage to be added: \_\_\_\_\_

Reduction of property

2b. PARCELS REMOVED:

Acreage  
Removed  
by Parcel

Parcel Address	Section No.	Block No.	Lot No.	Acreage
no new parcel - survey reading correction (PART OF)	100.71	3'	1.11	.10a

Total acreage to be removed: .10a

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

2c. NEW SBL INFORMATION:

Parcel Address	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

3. TOTAL REVISED SITE ACREAGE: 1.86a

**Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.**

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>From ECL 27-1405(31):</b></p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**

<b>Existing Agreement Information</b>	
BCP SITE NAME: Former Pilgrim Village Senior Apartments	BCP SITE NUMBER: C915363
NAME OF CURRENT APPLICANT(S): SSA EVI MC SENIOR, LLC	
INDEX NUMBER OF AGREEMENT: C915363-09-20	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 11/2/20	

Declaration of Amendment:

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

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

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>
<p>(Individual)</p> <p>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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p> <p>(Entity)</p> <p>I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.</p> <p>_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>

(Individual)


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

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

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

(Entity)

I hereby affirm that I am Vice President (title) of SAA EVI MC SENIOR, LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. David Alexander's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: May 19, 2021 Signature: 

Print Name: David Alexander

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Please see the following page for submittal instructions.

**NOTE: Applications submitted in fillable format will be rejected.**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> <b>VOLUNTEER</b> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 11/2/20

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

\_\_\_\_\_  
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation



**SUBMITTAL INFORMATION:**

- **Two (2) copies, one hard copy with original signatures and one electronic copy in final, non-fillable Portable Document Format (PDF) must be sent to:**

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

- **NOTE: Applications submitted in fillable format will be rejected.**

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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_

July 6, 2021

**VIA FEDERAL EXPRESS**

Kelly Lewandowski  
Chief, Site Control Section  
New York State Department of  
Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, New York 12233-1500

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Re: NYS Brownfield Program  
SAA EVI MC SENIOR, LLC  
Site Name: Former Pilgrim Village Senior Apartments  
Site No. C915363  
BCA Index: C915363-09-20

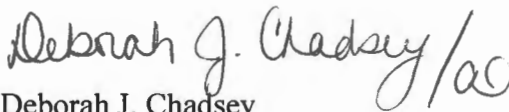
Dear Ms. Lewandowski:

Enclosed please find one hard copy and one electronic copy of a Brownfield Cleanup Program Application to Amend Brownfield Cleanup Agreement and Amendment.

If you have any questions, please call me at (716) 845-6000.

Very truly yours,

KAVINOKY COOK LLP

  
Deborah J. Chadsey

DJC/elf  
Enclosure

cc: Jaspal Walia, Project Manager, NYS DEC (via hand delivery)

PILGRIM VILLAGE SUB LOT II

Job No. 8141

May 24, 2021

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York being part of Lot 30, Township 11, Range 8 of the Holland Land Company's Survey, bounded and described as follows;

COMMENCING at the intersection of the south line of Best Street (66.0 feet wide) with the west line of Michigan Avenue (66.0 feet wide):

THENCE: N 88°52'04" W, along the south line of Best Street a distance of 321.50 feet to the POINT OF BEGINNING;

THENCE: S 01°05'43" W, parallel with the west line of Michigan Avenue, a distance of 349.83 feet to a point;

THENCE: N 88°52'04" W, parallel with the south line of Best Street, a distance of 223.82 feet to a point on the southeast line of sub lot 1 as shown on a entitled "Campus Square Subdivision" filed in the Erie County Clerk's Office under map cover 3665;

THENCE: N 12°37'24" E, along said southeast line of said sub lot 1 a distance of 78.41 feet to the northeast corner of said sub lot 1;

THENCE: N 77°08'14" W, along the north line of said sub lot 1, a distance of 29.17 feet to a point;

THENCE: N 01°05'43" E, parallel with the west line of Michigan Avenue, a distance of 267.05 feet to the southerly line of Best Street;

THENCE: S 88°52'04" E, along the southerly line of Best Street, a distance of 236.71 feet to the POINT OR PLACE OF BEGINNING, containing 1.86 acres more or less.

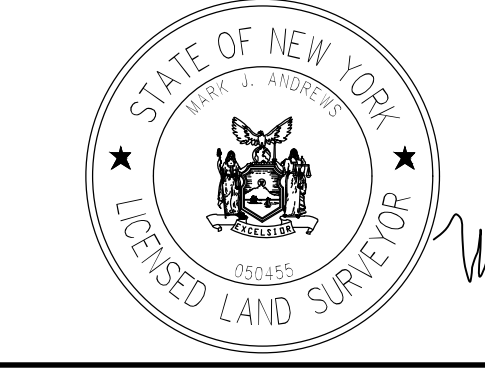
NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN INSPECTION OF TITLE  
 SET OR EX. 5/8" REBAR

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209, PARAGRAPH 2 OF THE NEW YORK STATE EDUCATION LAW.



DATE	REVISION/TYPE
8/31/20	REVISED LOT SIZES

UTILITIES  
 THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING RECORD DRAWINGS PROVIDED TO THE SURVEYOR. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE COURSE OF THIS SURVEY TO SUBSTANTIATE BURIED UTILITIES AND STRUCTURES. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. BEFORE EXCAVATIONS ARE BEGUN, THE APPROPRIATE AGENCIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.



TOTAL SUBDIVISION LOT AREA = 11.31± ACRES

NOTES  
 1. VERTICAL CONTROL BASED UPON CITY OF BUFFALO DATUM  
 2. HORIZONTAL CONTROL OPS DERIVED NAD '83 (2011), NY WEST ZONE  
 TRUE NORTH 78°35' MERIDIAN OF WEST LONGITUDE

- LEGEND
- ▲ ANTENNA/DISH
  - BENCHMARK
  - BOLLARD
  - CATCH BASIN
  - CLEANOUT
  - COMMUNICATIONS BOX
  - COMMUNICATIONS MANHOLE
  - COMMUNICATIONS MARKER
  - COMMUNICATIONS VAULT
  - CONFEROUS SHRUB
  - CONFEROUS TREE
  - DEODIOUS SHRUB
  - DEODIOUS TREE
  - DRILL/AUGER HOLE
  - ELECTRIC MANHOLE
  - ELECTRIC METER
  - END SECTION
  - FILLER CAPS
  - FLAG POLE
  - FLOOD LIGHT
  - GAS LINE MARKER
  - GAS MANHOLE
  - GAS METER
  - GAS SERVICE VALVE
  - GAS VALVE
  - GUY WIRE
  - HANDICAP PARKING
  - HYDRANT
  - PROPERTY MONUMENT (AS DESCRIBED)
  - LIGHT POLE
  - MAILBOX
  - MONUMENT AS DESCRIBED
  - OIL LINE MARKER
  - PHONE BOOTH
  - PARKING METER
  - POST
  - POWER VAULT
  - RAILROAD CONTROL BOX
  - SANITARY SEWER MANHOLE
  - SCUPPER
  - SIGN (SINGLE POLE)
  - SIGN (DOUBLE POLE)
  - SIGN (TRIPLE POLE)
  - SIGNAL POLE
  - SIGNAL POLE (WITH TRAFFIC UTILITY BOX)
  - STORM SEWER MANHOLE
  - TRAFFIC CONTROL BOX
  - TRAFFIC PULLBOX
  - UNKNOWN MANHOLE
  - UTILITY BOX
  - UTILITY POLE
  - UTILITY POLE WITH LIGHT

PRELIMINARY PLAT  
 PART OF LOT 30, TOWNSHIP 11, RANGE 8  
 HOLLAND LAND SURVEY  
 CITY OF BUFFALO, ERIE COUNTY, NEW YORK

GPI ENGINEERING, LANDSCAPE ARCHITECTURE & SURVEYING, LLP  
 4800 DENVER STREET, SUITE 100  
 BUFFALO, NEW YORK 14205  
 (716) 633-6844 FAX 633-6940

Job No. 8260 Date: JUNE 1, 2020  
 Scale: 1" = 30' TAX No. 100.71-3-1.11 & 1.12