

Brownfields Property Application
North Carolina Brownfields Program
www.ncbrownfields.org

I. PROSPECTIVE DEVELOPER (PD) INFORMATION {USE TAB KEY TO GET TO NEXT DATA ENTRY LINE – DO NOT USE THE RETURN KEY}

A. PD information:

Entity name	Polo Enterprises, LLC
Principal Officer	
Representative	James Polo
Mailing Address	115 Walden Rd. New Bern, NC 28562
E-mail address	jpolo@suddenlink.net
Phone No.	252-349-6778
Fax No.	
Web site	

B. PD contact person information (i.e., individual who will serve as the NCBP's point of contact if different than above):

Name	Same as 1A
Company	
Mailing Address	
E-Mail Address	
Phone No.	
Fax No.	

C. Information regarding all parent companies, subsidiaries or other affiliates of PD (attach separate sheet(s) if necessary):

(Use for LLCs)

Member-managed or manager-managed? **Answer:** [Manager-managed](#)

If manager-managed, provide name of manager and percent of ownership:

Name James Polo, manager, and Cynthia Polo, manager
Ownership (%) 50% and 50%
Mailing Address same as 1A

E-Mail Address

Phone No.

Fax No.

For all LLCs, list all members of the LLC and provide their percent of ownership:

Name James Polo
Ownership (%) 50%
Mailing Address same as 1A

E-Mail Address

Phone No.

Fax No.

Name Cynthia Polo
Ownership (%) 50%
Mailing Address same as 1A

E-Mail Address

Phone No.

Fax No.

Name
Ownership (%)
Mailing Address

E-Mail Address

Phone No.

Fax No.

Managers of manager-managed LLCs are required to execute all brownfield documents for the LLC; as to member-managed LLCs, state name of member who will sign these documents.

List all parent companies, subsidiaries and other affiliates:

n/a

(Use for Partnerships)

Check one: General Partnership Limited Partnership

List all partners and percent of ownership:

Name

Ownership (%)

Mailing Address

E-Mail Address

Phone No.

Fax No.

Is this person a general or limited partner?

Name

Ownership (%)

Mailing Address

E-Mail Address

Phone No.

Fax No.

Is this person a general or limited partner?

List all parent companies, subsidiaries and other affiliates:

(Use for corporations other than LLCs)

(If information is the same as shown in 1.A., please indicate "same as 1.A." below.)

Name

Mailing Address

E-Mail Address

Phone No.

Fax No.

List all parent companies, subsidiaries and other affiliates:

(Use for individuals)

(If individual is the same as shown in 1.A., -please indicate "same as 1.A." above.)

Name

Mailing Address

E-Mail Address

Phone No.

Fax No.

- D. Does PD have or can it obtain the financial means to fully implement a brownfields agreement and assure the safe reuse of the property? *(Attach supporting documentation such as letters of credit, financial statements, etc.)*

Answer Yes

Explanation The property transaction is a cash purchase. Once the redevelopment plans are finalized, the property will be financed for redevelopment. Please see the attached financial affirmation statement.

- E. Does PD have or can it obtain the managerial means to fully implement a brownfields agreement and assure the safe use of the property?

Answer Yes

Explanation James Polo will be the property manager for the subject property and will have supervision of the the safe use of the property.

F. Does PD have or can it obtain the technical means to fully implement a brownfields agreement and assure the safe use of the property?

Answer Yes

Explanation PD plans to work with Terraquest Environmental Consultants, P.C., to assist in completing and procuring a Brownfields Agreement for the project. Brownfields Projects that Terraquest has participated in include three finalized projects:

Sun Chemical	1100 Fairchild Road	Winston-Salem, NC
Rays Paving / Hwy 98 Food Mart	Highway 98	Wake Forest, NC
Don Christian Property	Main Street	Carrboro, NC
Kent Corner	W. Chapel Hill St.	Durham, NC

The PD also will employ Amy P. Wang of Ward and Smith, P.A., as legal counsel to assist completion of the Brownfields Agreement.

G. Does PD commit that it will comply (and has complied, if PD has had a prior project in the NCBP) with all applicable procedural requirements of the NCBP, including prompt payment of all statutorily required fees?

Answer Yes

(List all NCBP project name(s) and NCBP project ID numbers where PD or any parent company, subsidiary and other affiliate of PD has been a party to.)

The PD has not previously developed a property with an active Brownfields Agreement.

H. Does PD currently own the property?

Answer No. The property is under contract to purchase and set to close October 8, 2015

If yes, when did PD purchase the property and from whom? *(Provide name, address, telephone number and email address of the contact person for the current property owner.)*

If no, provide the name, address, telephone number and e-mail address of the contact person for the current property owner

Riverbanks Properties, LLC

Charles Dees
P.O. Box 1506
New Bern, NC 28563
(252) 229-3830
rbxconstruction@suddenlink.net

- I. If PD does not currently own the property, does PD have the property under contract to purchase?

Answer **Yes**

If yes, provide date of contract. **January 2, 2015**

If no, when does the PD intend to purchase the property (e.g., after the project is determined to be eligible for participation in the NCBP, after PD receives a draft BFA, after the conclusion of the brownfields process)? Note: the Act requires the PD to demonstrate that it intends to either buy or sell the property.

- J. Describe all activities that have taken place on the property since PD or PD's parents, subsidiaries and/or other affiliates, and/or lessees or sublessees of PD, took ownership of or operated at the property (e.g., industrial, manufacturing or commercial activities, etc.). *(Include a list of all regulated substances as defined at NCGS § 130A-310.31(b)(11) that have been used, stored on, or otherwise present at the property while those activities were conducted, and explain how they were used.)*

Not applicable. PD does not own or operate the property.

II. SITE INFORMATION

- A. Information regarding the proposed brownfields property:

Proposed project name **Polo Enterprises Redevelopment**

acreage **0.165** street address(es) **223 Craven St.**

city **New Bern** County **Craven** zip **28560**

tax ID(s) or PIN(s) **8-001-C -097**

past use(s) **Dry Cleaners**

current use(s) **Vacant Building**

cause(s)/source(s) of contamination:

known [Former Dry Cleaning Operations](#)

suspected

- B. Regulatory Agency Involvement: List the site names and all identifying numbers (ID No.) previously or currently assigned by any federal, state or local environmental regulatory agencies for the property. The ID No's may include [CERCLIS numbers](#), RCRA generator numbers for past and present operations, [UST database](#), [Division of Water Quality's incident management database](#), and/or [Inactive Hazardous Sites Branch inventory numbers](#). *(In many instances, the PD will need to actively seek out this information by reading environmental site assessment reports, reviewing government files, contacting government officials, and through the use of government databases, many of which may be available over the internet.)*

Agency Name/ID No: [NCDWM-UST - Incident 93254 "Gussman Cleaners"](#)

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

- C. In what way(s) is the property abandoned, idled, or underused?

The building is in fair to poor condition and in need of new investment. Its location on a downtown New Bern lot should attract commercial investment, but its environmental conditions inhibit its marketability for higher value use. The site's location on a major road in downtown New Bern calls for higher value development.

The property has been vacant since 2007 when Gussman Cleaners closed and vacated the property.

- D. In what way(s) is the actual or possible contamination at the property a hindrance to development or redevelopment of the property (attach any supporting documentation such as letters from lending institutions)?

Groundwater contamination caused by the former dry cleaning operation has prevented other buyers from purchasing the site. No other buyers exist that are willing to take on the risk of environmental cleanup at the price the owners are currently asking in the area. PD is uniquely situated to achieve property acquisition and re-development and to take on these environmental risks.

- E. In what way(s) is the redevelopment of the property difficult or impossible without a brownfields agreement (attach any supporting documentation such as letters from lending institutions)?

The Brownfields Agreement will provide more certainty that financing, refinancing, and/or sale of the property will be feasible if the cleanup liability for existing environmental issues is defined and legal protections contained in the Brownfields Agreement are available.

F. What are the planned use(s) of the redeveloped brownfields property to which the PD will commit? Be as specific as possible.

Mixed-use with commercial on the first floor and residential on the second and third floors. The rear warehouse portion of the property may be converted to garden area.

G. Current tax value of brownfields property: \$375,110

H. Estimated capital investment in redevelopment project: \$1,000,000

I. List and describe the public benefits that will result from the property's redevelopment. Be as specific as possible. *(Examples of public benefits for brownfields projects include job creation, tax base increases, revitalization of blighted areas, preserved green space, preserved historic places, improving disadvantaged neighborhood quality-of-life related retail shopping opportunities, affordable housing, environmental cleanup activities or set asides that have community or environmental benefits. In gauging public benefit, NCBP places great value upon letters of support from community groups and local government that describe anticipated improvements in quality of life for neighboring communities that the project will bring about. The inclusion of such support letters with this application is recommended and encouraged.)*

The redevelopment of the site as a mixed-use property will bring direct physical improvement and environmental remediation to the site and economic benefits, such as increased customer bases and tax revenues, to this area of downtown New Bern.

First, the re-development will upgrade the physical and aesthetic condition of the site. Undertaking environmental remediation will support new uses on the property. Site plans and building design will be consistent with the existing historic commercial character of the historic downtown corridor.

Second, the project is likely to create new jobs, generate new tax revenues, increase property values, and spark additional infill commercial development of other vacant properties in downtown New Bern.

Special Note: Please describe all environment-friendly technologies and designs PD plans to utilize in its redevelopment strategy. For example, environment friendly redevelopment plans could include: Leadership in Energy and Environmental Design (LEED) Certification, green building materials; green landscaping techniques such as using drought resistant plants; energy efficient designs, materials, appliances, machinery, etc.; renewable sources of energy, and/or recycling/reuse of old building materials such as brick or wood.

The PD intends to incorporate environmentally-friendly technologies and practices in the redevelopment of the property, utilizing renewable sources of energy, energy efficient design and materials, and rainwater containment and reuse, utilizing LEED certification principles

and guidelines where economically feasible and permissible within the downtown historic district.

- J. Who will own the brownfields property when the Notice of Brownfields Property is filed with the register of deeds at the conclusion of the brownfields process? (If information is the same as 1.A. above, please indicate.)

Name Same as 1A

Mailing Address

E-Mail Address

Phone No.

Fax No.

III. OTHER REQUIRED INFORMATION

- A. Brownfields Affidavit: PD must provide its certification, in the form of a signed and notarized original of the unmodified model brownfields affidavit provided by NCBP, that it did not cause or contribute to contamination at the property and that it meets all other statutory eligibility requirements. (Note: The form to use for this affidavit is attached to this application. It must be filled out signed notarized, and submitted with this application.)
Is the required affidavit, as described above, included with this application?

Answer Yes

- B. Proposed Brownfields Agreement Form: PD must provide the completed form Proposed Brownfields Agreement. (Note: The form to use for this document is attached to this application. It must be filled out, initialed, and attached on your submittal.)
Is the required Proposed Brownfields Agreement, as described above, included with this application?

Answer Yes

- C. Location Map: PD must provide a copy of the relevant portion of the 1:24,000 scale U.S.G.S. topographic quadrangle map that shows the property clearly plotted, and that measures at least an 8 ½ by 11 inches. (Note: these maps can be purchased through the above link, or often through retail outdoor recreation stores that can print out the relevant map. Often environmental reports have location maps that use this type of map as the base for its location map.)
Is the required location map included with this application?

Answer Yes

D. Survey Plat: PD must provide a preliminary survey plat of the brownfields property with the property boundaries clearly identified, and a metes and bounds legal description that matches the property description on the plat. At this stage of the brownfields process; one or more existing survey plats from a previous property conveyance will suffice. *(Before the brownfields project enters the public comment phase of the brownfields process, the PD will be required to submit a final brownfields survey plat which includes the information listed in the brownfields [survey plat guidance](#).)*

Is the required preliminary survey plat included with this application?

Answer A map depicting the parcel boundaries of the subject property from information obtained from the Craven County Geographical Information Systems Department is attached. Once the Brownfields Application has been reviewed and accepted by the NCBP, a survey plat will be completed of the subject properties.

E. Site Photographs: PD must provide at least one pre-redevelopment photograph of the property, in either hard copy or electronic format that shows existing facilities and structures. **Please note that the NCBP prefers to have electronic photos instead of or in addition to hard copies. Electronic copies of photographs should be emailed to: Shirley.Liggins@ncdenr.gov with a clear indication as to which Brownfields Application they apply to.**

Are photographs of the property included with this application?

Answer The photographs will be emailed to Ms. Liggins.

Have electronic copies of the photographs been emailed to NCBP?

Answer No, they will be emailed prior to the approval of the Brownfields Application

F. Environmental Reports/Data: If it makes an affirmative eligibility determination, the NCBP will request that PD provide any and all existing environmental reports and data for the property on **CD only**. The brownfields process may be expedited if PD submits such reports/data with this application.

Are any environmental reports/data being submitted with this application?

Answer Yes

If environmental reports/data are being submitted with this application, please provide the **title**, **date** and **author** of each item being submitted:

Phase I Environmental Site Assessment - Former Gussman Cleaners - 223 Craven St. New Bern, NC - January 6, 2015

Phase II Environmental Site Assessment - Former Gussman Cleaners - 223 Craven St. New Bern, NC - February 10, 2015

Report of Environmental Services - Gussman Cleaners - 223 Craven St. New Bern, NC - July 10, 2015

Groundwater Sampling Letter - Gussman Cleaners - 223 Craven St. New Bern, NC - July 18, 2015

Limited Comprehensive Site Assessment - Gussman Cleaners - 223 Craven St. New Bern, NC - September 10, 2015

Phase I Environmental Site Assessment - Former Gussman Cleaners - 223 Craven St. New Bern, NC - September 28, 2015

IV. ADDITIONAL REQUIRED FORMS

The following forms are to be filled out and submitted with the application including the Responsibility and Compliance Affidavit and the Proposed Brownfields Agreement. Submittal of the Affidavit requires signature and notarization, and the Proposed Brownfields Application requires an initial.

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES
NORTH CAROLINA BROWNFIELDS PROGRAM**

IN THE MATTER OF: Polo Enterprises, LLC

**UNDER THE AUTHORITY OF) AFFIDAVIT
NORTH CAROLINA GENERAL) RE: RESPONSIBILITY
STATUTES $\text{\textcircled{a}}$ 130A-310.30, et. seq.) AND COMPLIANCE**

James Polo, being duly sworn, hereby deposes and says:

1. I am <<James Polo>> of Polo Enterprises, LLC.
2. [if signatory is not President, add this paragraph: "I am fully authorized to make the declarations contained herein and to legally bind Polo Enterprises, LLC."]
3. Polo Enterprises, LLC, is applying for a Brownfields Agreement with the North Carolina Department of Environment and Natural Resources, pursuant to N.C.G.S. $\text{\textcircled{a}}$ 130A, Article 9, Part 5 (Brownfields Act), in relation to the following 8-001-C -097parcel(s) in New Bern, Craven , County, North Carolina: 223 Craven St.
4. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that Polo Enterprises, LLC, and any parent, subsidiary or other affiliate meets the eligibility requirements of N.C.G.S. $\text{\textcircled{a}}$ 130A-310.31(b)(10), in that it has a *bona fide*, demonstrable desire to buy sell for the purpose of developing or redeveloping, and did not cause or contribute to the contamination at, the parcel(s) cited in the preceding paragraph.
5. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that Polo Enterprises, LLC, meets the eligibility requirement of N.C.G.S. $\text{\textcircled{a}}$ 130A-310.32(a)(1) in that it and any parent, subsidiary or other affiliate have substantially complied with:
 - a. the terms of any brownfields or similar agreement to which it or any parent, subsidiary or other affiliate has been a party;
 - b. the requirements applicable to any remediation in which it or any parent, subsidiary or other affiliate has previously engaged;
 - c. federal and state laws, regulations and rules for the protection of the environment.

Affiant further saith not.

Signature/Printed Name

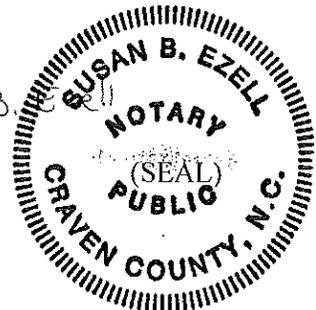
Date

Sworn to and subscribed before me

this 25th day of September, 2015.

Susan B. Ezell Notary Public *Susan B. Ezell*

My commission expires: June 21, 2019



**NORTH CAROLINA DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES
NORTH CAROLINA BROWNFIELDS PROGRAM**

IN THE MATTER OF: Polo Enterprises, LLC

**UNDER THE AUTHORITY OF) AFFIDAVIT
NORTH CAROLINA GENERAL) RE: RESPONSIBILITY
STATUTES 3 130A-310.30, et. seq.) AND COMPLIANCE**

Cynthia Polo, being duly sworn, hereby deposes and says:

1. I am <<Cynthia Polo>> of Polo Enterprises, LLC.
2. [if signatory is not President, add this paragraph: "I am fully authorized to make the declarations contained herein and to legally bind Polo Enterprises, LLC."]
3. Polo Enterprises, LLC, is applying for a Brownfields Agreement with the North Carolina Department of Environment and Natural Resources, pursuant to N.C.G.S. 3 130A, Article 9, Part 5 (Brownfields Act), in relation to the following 8-001-C -097parcel(s) in New Bern, Craven , County, North Carolina: 223 Craven St.
4. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that Polo Enterprises, LLC, and any parent, subsidiary or other affiliate meets the eligibility requirements of N.C.G.S. 3 130A-310.31(b)(10), in that it has a *bona fide*, demonstrable desire to buy sell for the purpose of developing or redeveloping, and did not cause or contribute to the contamination at, the parcel(s) cited in the preceding paragraph.
5. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that Polo Enterprises, LLC, meets the eligibility requirement of N.C.G.S.3130A-310.32(a)(1) in that it and any parent, subsidiary or other affiliate have substantially complied with:
 - a. the terms of any brownfields or similar agreement to which it or any parent, subsidiary or other affiliate has been a party;
 - b. the requirements applicable to any remediation in which it or any parent, subsidiary or other affiliate has previously engaged;
 - c. federal and state laws, regulations and rules for the protection of the environment.

Affiant further saith not.

Cynthia A. Polo Cynthia A. Polo.
Signature/Printed Name

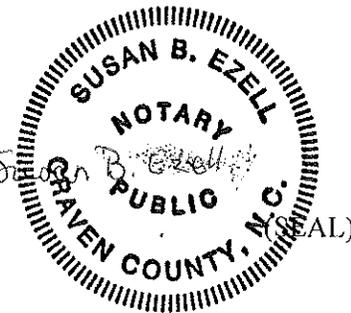
Date

Sworn to and subscribed before me

this 25th day of September, 2015.

Susan B. Ezell Notary Public

My commission expires: June 21, 2019



Preliminary Proposed Brownfields Agreement

I. Property Facts

- a. Property Address(es): 223 Craven St., New Bern, NC 28560
- b. Property Seller: Riverbanks Properties, LLC
- c. Property Buyer: Polo Enterprises, LLC
- d. Brief Property Usage History: The property was a residence and a store dating back to the 1885 Sanborn map. A dry cleaners operated on the subject property from the 1956 to 2007. The property has been vacant since 2007.

- e. The planned reuse will potentially involve the following use classification(s) (check all that apply):

- School/childcare/senior care
- Residential
- Commercial, retail (specify)
- Other commercial (specify)
- Office
- Light industrial
- Heavy industrial
- Recreational
- Open space
- Other (specify)

II. Contaminant Information

- a. The contaminant situation at the property is best described by the following (check all that apply):

- Contaminants are from an on-property source(s)
- Contaminants are from an off-property source(s)
- Contaminants are from an unknown source(s)
- Contaminants have not yet been documented on the property

b. Contaminated Media Table. (If known, check appropriate boxes below)

Contaminant Types		Soil		Groundwater and/or Surface Water		Private Wells		Vapor Intrusion	
		known	Suspected	known	Suspected	known	suspected	known	suspected
o r g a n i c s	Chlorinated Solvents (list):								
	Petroleum: ASTs <input checked="" type="checkbox"/> USTs <input type="checkbox"/> Other <input type="checkbox"/>			X					
	Other (list):								
i n o r g a n i c s	Metals (list):								
	Other (list):								

III. Protective Measures

I am prepared to take steps necessary to make the property suitable for its planned uses while fully protecting public health and the environment. I propose that NCBP consider a brownfields agreement that will make the property suitable for the planned use(s) through the following mechanism(s) (check all that apply):

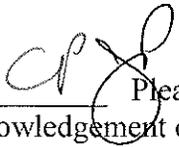
- Contaminant remediation to risk-based levels.
- Engineered Controls (e.g., low permeability caps, vapor mitigation systems, etc)
- Land use restrictions that run with the land that will restrict or prohibit uses that are unacceptable from a risk assessment/management perspective. (*Important Note: In any*

final brownfields agreement generated by the NCBP, land use restrictions will ultimately come with the continuing obligation to submit an annual certification that the Land Use Restrictions are being complied with and are recorded at the applicable register of deeds office.)

IV. Fees

In connection with a brownfields agreement, the Act requires that the developer pay fees to offset the cost to the Department of Environment and Natural Resources and the Department of Justice. In satisfaction of the Act, the following fees apply to any brownfields agreement that is developed for this project, subject to negotiation of the brownfields agreement:

- a. A \$2,000 initial fee will be due from the applicant PD when **both** of the following occur:
 - 1) NCBP receives this application and proposed brownfields agreement, AND
 - 2) NCBP notifies the applicant in writing that the applicant PD and the project are eligible for participation in the NCBP and continued negotiation of a brownfields agreement.
- b. A second fee of \$6,000 will be due from the PD prior to execution of the brownfields agreement. Should the prospective developer choose to negotiate changes to the agreement that necessitate evaluation by the Department of Justice, additional fees shall apply.
- c. Any addendum/modifications to the BFA or NBP after they are in effect will result in an additional fee of at least \$1,000.
- d. In the unexpected event that the environmental conditions at the property are unusually complex, such that NCBP's costs will clearly exceed the above amounts, NCBP and PD will negotiate additional fees.

 Please check this box and initial in space provided to indicate your acknowledgement of the above fee structure.

Date of Submittal: _____