

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Environmental Remediation

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Buffalo and Erie County Industrial Land Development Corporation  
John Cappellino, Executive Vice President  
95 Perry Street, Suite 403  
Buffalo, NY 14203

APR 18 2018

Tecumseh Redevelopment Inc.  
Keith A. Nagel, General Manager  
4020 Kinross Lakes Parkway  
Richfield, OH 44286

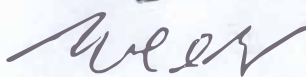
**RE: Site Name: Site(s) II-8 & II-11 Tecumseh Phase II Business Park**  
**Site Nos: C915198H & C915198K**  
**Location of Site: 2303 Hamburg Turnpike, Lackawanna, NY 14218**

Dear Messrs. Cappellino and Nagel,

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement Amendment for the Tecumseh Phase II Business Park Site(s) II-8 & II-11.

If you have any further questions relating to this matter, please contact the project attorney for this site, Karen Draves, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 270 Michigan Avenue Buffalo, NY 14203-2999, or by email at [karen.draves@dec.ny.gov](mailto:karen.draves@dec.ny.gov).

Sincerely,



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

Enclosure

ec: M. Moore, Project Manager

cc: K. Draves, Esq.  
A. Guglielmi, Esq. /M. Mastroianni



Department of  
Environmental  
Conservation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
BROWNFIELD CLEANUP PROGRAM  
ECL §27-1401 *et seq.*

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In the Matter of a Remedial Program for

**AMENDMENT TO BROWNFIELD SITE  
CLEANUP AGREEMENT  
Index No. B9-0696-05-06(B)**

**Site(s) II-8 & II-11 Tecumseh Phase II Business Park**

DEC Site Nos: C915198H & C915198K

Located at: 2303 Hamburg Turnpike, Lackawanna, NY 14218

Hereinafter referred to as "Sites"

by: Buffalo and Erie County Industrial Land Development Corporation and  
Tecumseh Redevelopment Inc.

Hereinafter referred to as "Applicant(s)"  
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**WHEREAS**, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

**WHEREAS**, the Department and the Applicant(s) seek to amend the existing BCP Agreement for the Sites, based on the 2015 changes to the BCP.

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

I. Tax Credit Status & Deadline for receipt of Certificate of Completion (COC)

Based on the fact that the Sites did not receive COCs by December 31, 2017, they are hereby subject to the terms of the BCP in effect as of July 1, 2015, including, but not limited to, the tax credit scheme and the deadline of March 31, 2026.

With respect to eligible costs incurred under the BCP, this Amendment shall not change the effective date of the Agreement, and otherwise eligible costs incurred from the original effective date of the agreement will still be eligible costs for tax credit purposes.

II. Miscellaneous

A. Except for the modifications set forth herein, the original Agreement shall remain in full force and effect and the terms thereof and the obligations therein are incorporated herein and shall apply with the same force and effect to the provisions of this Amendment. The terms of the original Agreement, including all exhibits, appendices

and subsequent modifications, are not otherwise modified or expanded in any way.

B. Within forty (40) Days after the effective date of this Amendment an updated schedule to address the remaining elements of the Brownfield Program shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate the scheduled work.

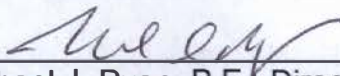
C. The terms herein shall constitute this complete and entire Amendment of the Agreement. No term, condition, understanding or agreement purporting to modify the terms of the Agreement shall be binding unless subscribed to by both parties in accordance with the terms of the Agreement.

D. The effective date of this Amendment is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: APR 18 2018

THIS BROWNFIELD CLEANUP AGREEMENT  
AMENDMENT IS HEREBY APPROVED, Acting by and  
Through the Department of Environmental Conservation as  
Designee of the Commissioner,

By:



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



## CONSENT BY APPLICANT

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

Buffalo and Erie County Industrial Land Development Corporation

By: John Cappella

Title: Exec. Vice President

Date: 3/8/18

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF )

On the 8 day of March in the year 2018, before me, the undersigned, personally appeared John Cappella, 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.

Dawn M. Boudreau  
Signature and Office of individual  
taking acknowledgment

DAWN M. BOUDREAU  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires May 27, 2019

### CONSENT BY APPLICANT

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

Tecumseh Redevelopment Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: / /

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, 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

## CONSENT BY APPLICANT

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

Tecumseh Redevelopment Inc.

By: Keith Nagel

Title: VP ENVIR. & REAL ESTATE

Date: March 5, 2018

STATE OF Ohio )  
~~NEW YORK~~ ) ss:  
COUNTY OF Summit )

On the 5<sup>th</sup> day of March in the year 2018, before me, the undersigned, personally appeared Keith Nagel, 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.

Susan E. Dick

Signature and Office of individual  
taking acknowledgment



Susan E. Dick, Notary Public

Commission expires: November 6, 2022



CONSENT BY APPLICANT

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

Buffalo and Erie County Industrial Land Development Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, 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