



Department of
Environmental
Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☒ Amendment to [check one or more boxes below]

- ☒ Add
- ☐ Substitute
- ☐ Remove
- ☐ Change in Name

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applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☒ Yes ☐ No

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)

Please provide a brief narrative on the nature of the amendment:

This Amendment adds the Buffalo and Erie County Industrial Land Development Corporation (the "ILDC") to the Brownfield Site Cleanup Agreement for BCP Site C9151981 (the "Site"). Tecumseh Redevelopment Inc., ("Tecumseh"), currently the only existing party to the aforementioned Brownfield Cleanup Agreement for the Site, conveyed fee title to the Site to the ILDC on December 12, 2019.

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

| | | |
|---|------------------|---|
| Section I. Existing Agreement Information | | |
| BCP SITE NAME: Site II-9 Tecumseh Phase II Business Park | | BCP SITE NUMBER: C915198I |
| NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment, Inc. | | |
| INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(B) | | DATE OF EXISTING AGREEMENT: <small>March 14, 2007 Amended 11/1/2019</small> |
| Section II. New Requestor Information (if no change to Current Applicant, skip to Section V) | | |
| NAME Buffalo and Erie County Industrial Land Development Corporation | | |
| ADDRESS 95 Perry Street, Suite 403 | | |
| CITY/TOWN Buffalo, New York | | ZIP CODE 14203 |
| PHONE 716-856-6525 | FAX 716-856-6754 | E-MAIL |
| Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | |
| <ul style="list-style-type: none"> 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. See Exhibit A. | | |
| NAME OF NEW REQUESTOR'S REPRESENTATIVE John Cappellino, Executive Vice President | | |
| ADDRESS 95 Perry Street, Suite 403 | | |
| CITY/TOWN Buffalo, New York | | ZIP CODE 14203 |
| PHONE 716-362-8362 | FAX 716-856-6754 | E-MAIL jcappell@ecidany.com |
| 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) Robert G. Murray, Esq. | | |
| ADDRESS Harris Beach PLLC, 726 Exchange Street, Suite 1000 | | |
| CITY/TOWN Buffalo, New York | | ZIP CODE 14210 |
| PHONE 716-200-5180 | FAX 716-200-5201 | E-MAIL bmurray@harrisbeach.com |
| 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? See Exhibit B. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | |
| Describe Requestor's Relationship to Existing Applicant: | | |
| The ILDC purchased the Site from Tecumseh on December 12, 2019 and has no other relationship with Tecumseh. | | |

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Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

| | | |
|--|-----|----------|
| 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. See Exhibit C.

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.

Requestor's Relationship to Property (check one):

☒ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

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)

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (TBL) (in existing agreement)

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

Check appropriate boxes below:

☐

Changes to metes and bounds description or TBL correction

☐

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

Approximate acreage added: _____

ADDITIONAL PARCELS:

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

☐

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

| Parcel Address | Parcel No. | 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.

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 |
| Please answer questions below and provide documentation necessary to support answers. | |
| 1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website 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>From ECL 27-1405(31):</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

| Existing Agreement Information | |
|---|---------------------------|
| BCP SITE NAME: Site II-9 Tecumseh Phase II Business Park | BCP SITE NUMBER: C915198I |
| NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment, Inc. | |
| INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(B) | |
| EFFECTIVE DATE OF EXISTING AGREEMENT: March 14, 2007, Amended 11/1/2019 | |

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.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

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.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title Assistant Treasurer) of (entity Buffalo and Erie County Industrial Land Development Corporation); 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.

My _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/13/19 Signature: Karen M. Fiala

Print Name: Karen M. Fiala

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(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 Environmental Affairs & Real Estate (title) of Tecumseh Redevelopment, Inc. (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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/13/19 Signature: 

Print Name: Keith A. Nagel

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

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 contamination.

Effective Date of the Original Agreement:

March 19, 2007

Signature by the Department:

DATED: 1/24/20

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 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

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

EXHIBIT A

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through December 19, 2019.

Selected Entity Name: BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION

Selected Entity Status Information

| | |
|---------------------------------|---|
| Current Entity Name: | BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION |
| DOS ID #: | 745601 |
| Initial DOS Filing Date: | JANUARY 13, 1982 |
| County: | ERIE |
| Jurisdiction: | NEW YORK |
| Entity Type: | DOMESTIC NOT-FOR-PROFIT CORPORATION |
| Current Entity Status: | ACTIVE |

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)
BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION
95 PERRY STREET-SUITE 403
BUFFALO, NEW YORK, 14203

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except

the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by viewing the certificate.

***Stock Information**

| # of Shares | Type of Stock | \$ Value per Share |
|--------------------------|---------------|--------------------|
| No Information Available | | |

*Stock information is applicable to domestic business corporations.

Name History

| Filing Date | Name Type | Entity Name |
|--------------|-----------|---|
| JAN 13, 1982 | Actual | BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION |

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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EXHIBIT B

**BUFFALO AND ERIE COUNTY INDUSTRIAL LAND
DEVELOPMENT CORPORATION
RESOLUTION**

A meeting of the Buffalo and Erie County Industrial Land Development Corporation was convened on August 28, 2019, at 1:00 p.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (THE "ILDC") AUTHORIZING THE ILDC TO (i) NEGOTIATE, EXECUTE, AND DELIVER AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH TECUMSEH REDEVELOPMENT INC. ("TECUMSEH") TO ACQUIRE PARCEL II-9 (AS MORE FULLY DEFINED BELOW); (ii) EXECUTE AND DELIVER A BROWNFIELD SITE CLEANUP AGREEMENT AMENDMENT WITH RESPECT TO PARCEL II-9; (iii) NEGOTIATE, EXECUTE AND DELIVER AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH TIME RELEASE PROPERTIES, LLC ("TRP") TO SELL PARCEL II-9 AND II-10 (AS MORE FULLY DEFINED BELOW); AND (iv) MAKE A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (the "ILDC") is authorized and empowered by Section 1411 of the Not-for-Profit Corporation Law of the State of New York, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities in Erie County and to lessen the burdens of government and act in the public interest; and

WHEREAS, the ILDC desires to purchase approximately 9.91 acres of real property located on the former Bethlehem Steel Site in Lackawanna, New York ("Parcel II-9", as amended) which is currently owned by Tecumseh Redevelopment Inc. ("Tecumseh") as depicted within Exhibit A attached hereto and position Parcel II-9 for redevelopment; and

WHEREAS, the ILDC and Tecumseh have negotiated the terms of an Agreement of Purchase and Sale setting forth the terms and conditions relating to the sale of Parcel II-9 to the ILDC; and

WHEREAS, upon acquisition of fee title to Parcel II-9, the ILDC intends to immediately thereafter enter into a certain Brownfield Site Cleanup Agreement Amendment affecting the entirety of Parcel II-9 to ensure that the ILDC can obtain the benefits of the New York State Brownfield Cleanup Program; and

WHEREAS, the ILDC currently holds fee title to Parcel II-10, an approximate 15.78 acre parcel of real property located immediately adjacent to Parcel II-9 also as depicted within Exhibit A; and

WHEREAS, the ILDC is contemplating selling fee title to Parcel II-9 and II-10 to TRP for purposes of facilitating TRP's construction of a new 290,000+/- SF light industrial building comprised of 190,000+/- SF of manufacturing/processing space, 90,000+/- SF of warehouse space, and 8,000+/- SF of office space, and the installation of certain infrastructure improvements and machinery and equipment upon same (collectively, the "Project"); and

WHEREAS, the ILDC and TRP have negotiated the terms of an Agreement of Purchase and Sale setting forth the terms and conditions relating to the sale of Parcel II-9 and II-10 to TRP for purposes of permitting TRP to undertake the Project; and

WHEREAS, in accordance with the ILDC's Property Disposition Guidelines ("Guidelines") and the provisions of the New York Public Authorities Law ("PAL"), and subject to such exceptions and/or requirements set forth in the Guidelines and the PAL, the ILDC may dispose of property by sale, exchange, transfer, for cash, credit or other property, with or without warranty, and upon such terms and conditions as are determined by the ILDC to be appropriate and reasonable and consistent with the Guidelines; and

WHEREAS, the ILDC's proposed disposition of real property to TRP as described herein is within the purpose, mission, and governing statutes of the ILDC and is thereby exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v); and

WHEREAS, Tecumseh has indicated that it will sell Parcel II-9 to the ILDC for a total purchase price of \$300,000, and TRP has agreed that it will purchase Parcel II-9 from the ILDC for \$300,000; and

WHEREAS, TRP has agreed that it will purchase Parcel II-10 from the ILDC for \$750,000; and

WHEREAS, the ILDC has complied with all applicable provision of the PAL related to the contemplated sale of Parcel II-9 and II-10 to TRP as described herein; and

WHEREAS, the City of Lackawanna Planning and Development Board (the "Planning Board") in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617 (collectively referred to as the "State Environmental Quality Review Act" and/or "SEQR"), undertook coordinated review with respect to the Project, provided the ILDC with a Full Environmental Assessment Form ("EAF") as so related to the Project, established itself as Lead Agency as defined in SEQR, determined that the Project was a Type I Action under SEQR, and on August 20, 2019, issued a negative declaration (the "Negative Declaration") under SEQR with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. Based upon a review of the Project and representations made by TRP to the ILDC, the EAF, and the City of Lackawanna Planning Board SEQR proceedings and Negative Declaration as submitted to the ILDC, the ILDC hereby:

(i) consents to and affirms the status of the Planning Board as "Lead Agency" within the meaning of and for all purposes of complying with SEQR and determines that the proceedings undertaken by the Planning Board under SEQR with respect to the undertaking of the Project by TRP satisfy the requirements of SEQR; and

(ii) affirms that the Project involves a "Type I" action as that term is defined under SEQR; and

(iii) reviews, considers, ratifies, and adopts such proceedings by the Planning Board, including the "Negative Declaration"; and

(iv) determines that no potentially significant impacts on the environment are indicated in the EAF, and finds that the Project is a permitted use within the City of Lackawanna, that the operations to be undertaken by the Project occupant will not produce air emissions that pose a threat to human health or the environment, that no significant adverse impacts are identified by virtue of ground and surface water discharges due to the use of an appropriate Storm Water Pollution Prevention Plan, that the proposed establishment of 100-150 employees at the site is well below excess capacity of the local road capacity such that no traffic impacts are anticipated, that no anticipated external noise impacts will result as manufacturing activities will occur wholly within the Project facility, that there will be no significant solid waste production, that no erosion, flooding, or ground water impacts are anticipated, that no impacts to vegetation, fauna, migratory fish or wildlife species or significant habitat are anticipated, and that there will be no adverse impacts to any threatened or endangered species or the habit of such, that no designated Critical Environmental Area will be impacted, that the Project is consistent with the City of Lackawanna Local Revitalization Plan, Brownfield Opportunity Area Plan and draft Local Waterfront Revitalization Plan, that there are no historical, architectural, or aesthetic resources that will be impacted, that energy use is not significant compared to historic use of the site, that no impacts to human health are anticipated, that the Project site can handle the increased capacity in use and the demands are well below the capacity of the surrounding infrastructure, that the attraction of 100-150 employees to the Project will not pose a significant adverse impact, that no two or more elements of the

environment not found to be significant in and of themselves will be combined to create a significant adverse impact and no significant adverse cumulative impacts are anticipated.

(v) determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to the approval of the purchase of Parcel II-9- and the sale of Parcel II-9 and II-10 as described herein with respect to the Project, and the participation by the ILDC in undertaking the Project, have been satisfied. This determination constitutes a "negative declaration" (as such quoted terms are defined under SEQR) for purposes of SEQR.

Section 2. The ILDC hereby determines and confirms that the proposed conveyance of fee title to Parcel II-9 and II-10 to TRP as herein described is within the purposes, mission and statutory authority of the ILDC.

Section 3. The ILDC hereby approves of the purchase of Parcel II-9 as described herein in an amount not to exceed \$300,000 and further authorizes the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer (collectively, the "Authorized Officers"), on behalf of the ILDC, to negotiate, execute, and deliver an appropriate Agreement of Purchase and Sale setting forth the terms and conditions relating thereto and any other related documents required to accomplish the purposes of this resolution, with such changes, variations, omissions and insertions as authorized by the Authorized Officers, in consultation with the ILDC general counsel, to constitute conclusive evidence of such approval.

Section 4. The ILDC hereby authorizes the Authorized Officers, on behalf of the ILDC, to enter into and amend, as appropriate, the Brownfield Site Cleanup Agreement affecting Parcel II-9 to ensure that the ILDC can obtain the benefits of the New York State Brownfield Cleanup Program.

Section 5. The ILDC hereby approves of the sale of fee title to Parcel II-9 and II-10 to TRP for a sum total of \$1,050,000 and authorizes the Authorized Officers, on behalf of the ILDC, to negotiate, execute, and deliver an appropriate Agreement of Purchase and Sale setting forth the terms and conditions relating thereto and any other related documents required to accomplish the purposes of this resolution, with such changes, variations, omissions and insertions as authorized by the Authorized Officers, in consultation with the ILDC general counsel, to constitute conclusive evidence of such approval.

Section 6. The Authorized Officers are hereby authorized and directed for and in the name and on behalf of the ILDC to do all acts and things required and to negotiate, execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the Authorized Officer so acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the ILDC

with all of the terms, covenants and provisions of the documents executed for and on behalf of the ILDC.

Section 7. Any and all prior actions taken by the ILDC with respect to the contents of these resolutions are hereby ratified and confirmed.

Section 8. These resolutions shall take effect immediately.

Dated: August 28, 2019

EXHIBIT A

Parcel II-9 and II-10

See Attached.

EXHIBIT C

Brownfield Cleanup Program

Application to Amend Brownfield Cleanup Program Agreement and Amendment

Certification

Volunteer Certification: The Buffalo and Erie County Industrial Land Development Corporation (the "New Requestor") has appropriately answered "no" to all the eligibility questions within Section IV of this application and hereby certifies that it is a volunteer and that its liability arises solely as a result of ownership of the site subsequent to the disposal of hazardous waste or discharge of petroleum.

New Requestor has and had no current or prior direct or indirect ownership interest or any other interest in any prior owner or operator of the site. New Requestor acquired its fee title interest in the site on December 12, 2019. The site was purchased from Tecumseh Redevelopment, Inc. ("Tecumseh") and Tecumseh is currently a volunteer with respect to the Brownfield Cleanup Agreement affecting the site that is the subject of this Application to Amend Brownfield Cleanup Agreement and Amendment.

Immediately after taking title to the site, New Requestor conveyed its fee title interest in the site to Time Release Properties, LLC, also on December 12, 2019. During the time period in which New Requestor owned the site, New Requestor did not undertake any activity on the site resulting in soil disturbance or otherwise undertake any activity affecting the soil or groundwater, has taken appropriate care to ensure that there are no continuing releases of contamination on the site and that there are no threatened future releases of contamination on the site and has prevented human, environmental, or nature resource exposure to any previously released contamination.

As such, New Requestor confirms that its liability arises solely as a result of its ownership and involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum, and affirms and confirms that New Requestor should be a "Volunteer" as that term is defined in Section 27-1405(1)(b) of the New York Environmental Conservation Law.