

March 9, 2018

Mr. Michael J. Ryan, P.E.
Assistant Director
New York State Department of Environmental Conservation
Division of Environmental Remediation, 12th Floor
625 Broadway
Albany, New York 12233-7011

Re: BCA Amendments to Generation 3 of the BCP
Site No. C915199I

Dear Mr. Ryan:

Benchmark Environmental Engineering & Science, PLLC is herein transmitting three original executed Amendments to the Brownfield Cleanup Agreement (BCA) for the above-referenced Site. Original signatures for Tecumseh Redevelopment Inc., Lackawanna Solar Land LLC, and Steel Sun 2 LLC are included.

Please contact us if you have any questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC

A handwritten signature in blue ink, appearing to read 'Tom Forbes'.

Thomas H. Forbes, P.E.
Principal Engineer

cc: K. Draves (NYSDEC)
C. Staniszewski (NYSDEC)
M. Moore (NYSDEC)
K. Nagel (Tecumseh Redevelopment)
M. Nisengard (Harter, Secrest & Emery LLP)
T. Ryan (Lackawanna Solar Land LLC)
P. Curran (Steel Sun 2 LLC)
J. Falsetti (BQ Energy, LLC)
P. Werthman (Benchmark-TurnKey)

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

In the Matter of a Remedial Program for

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

Site(s) III-9 Tecumseh Phase III Business Park

DEC Site No: C915199I

Located at: 2303 Hamburg Turnpike, Lackawanna, NY 14218

Hereinafter referred to as "Site"

by: Tecumseh Redevelopment Inc. and
Lackawanna Solar Land LLC and
Steel Sun 2 LLC

Hereinafter referred to as "Applicant(s)"

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 Site, 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 Site 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 December 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 with 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:

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., Assistant 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.

Tecumseh Redevelopment Inc.

By: Keith Nagel

Title: VP. ENVI. & REAL ESTATE

Date: March 5, 2018

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

On the 5th 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.

Lackawanna Solar Land LLC

By: 

Title: Member

Date: March 8, 2018

MARYLAND
STATE OF NEW YORK)
) ss:
COUNTY OF BALTIMORE)

On the 8th day of March in the year 2018, before me, the undersigned, personally appeared Timothy M. Ryan, 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

ISAIAH SMITH
Notary Public, State of Maryland
Baltimore City
My Commission Expires October 11, 2021

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.

Steel Sun 2 LLC

By: 

Title: Member

Date: March 8, 2018

MARYLAND
 STATE OF ~~NEW YORK~~)
) ss:
 COUNTY OF BALTIMORE)

On the 8th day of March in the year 2018, before me, the undersigned, personally appeared Timothy M. Ryan, 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

ISIAH SMITH
Notary Public, State of Maryland
Baltimore City
My Commission Expires October 11, 2021