

MICHAEL P. KEARNS, ERIE COUNTY CLERK  
REF:

DATE: 4/9/2024  
TIME: 1:41:11 PM  
RECEIPT: 24053239

RUPP, BAASE, PFALZGRAF  
ACCOUNT #: 1776

ITEM - 01 MTP  
RECD: 4/9/2024 1:47:22 PM  
FILE: 2024056362 BK/PG D 11429/7879  
Deed Sequence: TT2023016030  
ELK STREET COMMERCE PARK LLC  
Recording Fees 80.50  
TP584 10.00  
Subtotal 90.50

TOTAL DUE	\$90.50
PAID TOTAL	\$90.50
PAID ESCROW	\$90.50

REC BY: David M  
COUNTY RECORDER

FILED

APR 09 2024

ERIE COUNTY  
CLERK'S OFFICE

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 1st day of April 2024, by and between The People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation ("NYSDEC" or the "Department"), with its headquarters located at 625 Broadway, Albany, New York 12233, and Elk Street Commerce Park, LLC (the "Grantor"), having an office at 4 Center Drive, Orchard Park, New York 14127.

**RECITALS**

1. Grantor is the owner of the following real property:
  - a. 503 Elk Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13, Block 1, Lot 2.111, being a portion of the property conveyed to Grantor by deed dated June 14, 2018 and recorded in the Erie County Clerk's Office in Liber 11330 Page 6069;
  - b. 1 Babcock Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13, Block 1, Lot 21, being the same as that property conveyed to Grantor by deed dated May 25, 2018, and recorded in the Erie County Clerk's Office in Liber 11330 Page 4611, and by deed dated June 8, 2018 and recorded in the Erie County Clerk's Office in Liber 11330 Page 4802; the
  - c. 3 Babcock Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13, Block 1, Lot 23, being the same as that property conveyed to Grantor by deed dated June 8, 2018 and recorded in the Erie County Clerk's Office in Liber 11330 Page 4802; and
  - d. 7 Babcock Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13, Block 1, Lot 29, being the same as that property conveyed to Grantor by deed dated November 24, 2020 and recorded in the Erie County Clerk's Office in Liber 11370 Page 1679.
2. An approximately 17.44-acre portion (comprising portions of 503 Elk Street and all of 1 Babcock Street and 3 Babcock Street) of the above-referenced real property was identified as the "Controlled Property" in an Environmental Easement granted by Grantor to the Department (the "Environmental Easement") dated as of December 6, 2019 and recorded in the Erie County Clerk's Office on December 10, 2019 in Liber 11353 Page 9483. The Controlled Property referenced in the Environmental Easement is identified by NYSDEC Site No. C915201D.
3. Pursuant to the Environmental Easement, Grantor granted to the Department rights and interests that run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of the Controlled Property at a level that has been determined to be safe for certain uses while ensuring the performance of

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certain maintenance, monitoring and/or operation requirements, and to ensure the restriction of future uses of the land that are inconsistent with the stated purpose.

4. The Environmental Easement contains use restrictions that apply to the Controlled Property. This Amendment to Environmental Easement is made and recorded in order to modify the boundaries of the Controlled Property by adding to the Controlled Property certain real property as described herein.
5. Pursuant to Section 8 of the Environmental Easement, the Department is using this Amendment to Environmental Easement to amend the Environmental Easement in the manner prescribed by Article 9 of the Real Property Law.

#### AMENDMENT TO ENVIRONMENTAL EASEMENT

- A. The above recitals are hereby incorporated into this Amendment to Environmental Easement.
- B. The Department and Grantor agree that the sixth WHEREAS clause in the Environmental Easement is hereby removed and replaced with the following three WHEREAS clauses:

**WHEREAS**, Grantor is the owner of real property located at the address of 3 Babcock Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13 Block 1 Lot 23, being the same as that property conveyed to Grantor by deed dated June 8, 2018 and recorded in the Erie County Clerk's Office in Liber 11330 Page 4802.

**WHEREAS**, Grantor is the owner of real property located at the address of 7 Babcock Street in the City of Buffalo, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie County as tax map parcel number: Section 123.13 Block 1 Lot 29, being the same as that property conveyed to Grantor by deed dated November 24, 2020 and recorded in the Erie County Clerk's Office in Liber 11370 Page 1679.

**WHEREAS**, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 17.443 +/- acres, and a description of the Controlled Property is set forth in and attached hereto as the Revised Schedule "A" Property Description;

- C. The Department and Grantor agree that the Revised Schedule "A" Property Description attached hereto is hereby incorporated into this Amendment to Environmental Easement and becomes part of the Environmental Easement, and that said Revised Schedule "A" Property Description replaces the Schedule "A" Property Description attached to the Environmental Easement.

D. The purpose of this amendment is to add the tax parcel identified as Section 123.13 Block 1 Lot 29 (7 Babcock Street) to the Controlled Property. The Controlled Property as identified in the original Environmental Easement comprises approximately 17.44 acres. Due to the addition of the tax parcel identified as Section 123.13 Block 1 Lot 29 (7 Babcock Street), the Controlled Property now comprises approximately 17.443 acres.

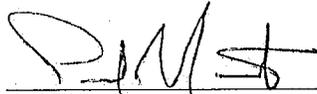
E. All other terms of the Environmental Easement shall remain in effect.

F. This Amendment to Environmental Easement inures to and binds the parties hereto and their respective successors and assigns.

G. This Amendment to Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

**IN WITNESS WHEREOF**, Grantor has caused this Amendment to Environmental Easement to be signed in its name.

Elk Street Commerce Park, LLC:

By: 

Print Name: PAUL R. NEUREUTER

Title: CO-MANAGER Date: 2/27/24





Revised Schedule "A" Property Description

Parcel A and Parcel B identified and described below, collectively, comprise the Controlled Property for the Environmental Easement.

Parcel A (area that comprised the Controlled Property in the original Environmental Easement recorded on December 10, 2019):

THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, and State of New York, Being part of Lots 196, 197, 198, 199 and 200, Township 10, Range 8 of the Buffalo Creek Reservation, bound and described as follows;

Commencing at a point in the south line of Elk Street at its intersection with the west line of former Babcock Street;

Thence S 14°04'02" W along the west line of former Babcock Street, to the north line of former Prenatt Street, a distance of 757.05 feet, being the point of BEGINNING;

THENCE S 75°58'26" E, along the north line of former Prenatt Street, a distance of 1254.01 feet;

THENCE S 13°52'57" W, a distance of 248.23 feet;

THENCE N 76°43'41" W, a distance of 75.91 feet;

THENCE N 75°46'54" W, a distance of 147.34 feet;

THENCE S 14°13'06" W, a distance of 4.51 feet;

THENCE N 75°52'22" W, a distance of 51.14 feet;

THENCE N 14°13'06" E, a distance of 4.59 feet;

THENCE N 75°46'54" W, a distance of 8.42 feet;

THENCE N 62°28'23" W, a distance of 45.18 feet;

THENCE N 70°59'33" W, a distance of 10.49 feet;

THENCE S 13°56'18" W, a distance of 123.33 feet;

THENCE N 76°03'42" W, a distance of 8.61 feet;

THENCE S 13°53'44" W, a distance of 398.93 feet;

THENCE N 60°26'26" W, a distance of 129.60 feet;

THENCE N 13°53'44" E, a distance of 44.10 feet;

THENCE N 56°16'16" W, a distance of 110.08 feet;

THENCE S 33°38'09" W, a distance of 38.12 feet;

THENCE N 56°30'40" W, a distance of 60.28 feet;

THENCE N 66°27'07" W, a distance of 17.01 feet;

THENCE N 75°32'46" W, a distance of 111.09 feet;

THENCE N 72°19'41" W, a distance of 46.30 feet;

THENCE N 68°43'57" W, a distance of 38.95 feet;

THENCE N 62°46'42" W, a distance of 73.96 feet;

THENCE S 14°01'34" W, a distance of 35.78 feet;

THENCE N 60°05'04" W, along a line being measured 4 feet perpendicular to the north line of the New Channel of the Buffalo River as adopted by Counsel Proceedings on October 17, 1917 P1958#54 a distance of 285.85 feet;

THENCE N 29°54'56" E, to the said north line of the New Channel of the Buffalo River, a distance of 4.00 feet;

THENCE N 60°04'54" W, along the said north line of the New Channel of the Buffalo River, to the east line of lands conveyed by deed recorded in the Erie County Clerk's Office in Liber 8145

of Deeds page 3 91, also being the west line of former Babcock Street, a distance of 55.70 feet;  
THENCE N 14°04'02" E, along the east line of said lands of Liber 8145, page 391 and the west line of former Babcock Street, a distance of 73.60 feet;  
THENCE S 81 °30'54" W, a distance of 25.00 feet;  
THENCE N 21 °20'16" W, a distance of 479.80 feet;  
THENCE N 13°42'27" E, to the south line of former Prenatt Street, a distance of 48.00 feet;  
THENCE S 75°58'26" E, along the south line of former Prenatt Street, a distance of 301.36 feet;  
THENCE N 14°04'02" E, a distance of 66.00 feet, to the point of BEGINNING, containing 17.44 acres, more or less.

Parcel B (area that is added to the Controlled Property by this Amendment to Environmental Easement):

THAT TRACT OR PARCEL OF LAND, SITUATE IN THE CITY OF BUFFALO, COUNTY OF ERIE, AND STATE OF NEW YORK, BEING PART OF LOT 197, TOWNSHIP 10, RANGE 8 OF THE BUFFALO CREEK RESERVATION, BOUND AND DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT IN THE SOUTHERLY LINE OF ELK STREET AT ITS INTERSECTION WITH THE WESTERLY LINE OF FORMER BABCOCK STREET AS SHOWN ON A MAP RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 428 OF DEEDS AT PAGE 155;

THENCE SOUTHERLY ALONG THE WESTERLY LINE OF FORMER BABCOCK STREET, S 14°04'02" W, A DISTANCE OF 1326.35 FEET, TO THE NORTH LINE OF THE NEW CHANNEL OF THE BUFFALO RIVER AS ADOPTED BY COUNCIL PROCEEDINGS OCTOBER 17, 1917 BEING THE POINT OF BEGINNING;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID NORTH LINE OF THE NEW CHANNEL OF THE BUFFALO RIVER, S 60°05'04" EA DISTANCE OF 55.70 FEET;

THENCE SOUTHERLY S 29°54'56" W, A DISTANCE OF 2.33 FEET;

THENCE WESTERLY N 60°05'04" W AND PARALLEL TO NORTH LINE OF SAID NEW CHANNEL OF THE BUFFALO RIVER A DISTANCE OF 55.04 FEET;

THENCE NORTHERLY N 14°04'02" E A DISTANCE OF 2.42 FEET, TO THE POINT OF BEGINNING, CONTAINING 129.01 SQUARE FEET, MORE OR LESS.



Recording Office Time Stamp

**Real Estate Transfer Tax Return  
For Public Utility Companies'  
and Governmental Agencies'  
Easements and Licenses**

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is \$500.00 or less.

Name of grantee (public utility company or governmental agency) New York State Department of Environmental Conservation	Federal employer identification number (if applicable) 14-6013200
Address of grantee 625 Broadway, Albany, New York, 12233	Name and telephone number of person to contact Gregory Scholand, 716-851-7236

Name(s) of Grantor Of Easement or License	Address of Property	Consideration Given For Easement or License
1. Elk Street Commerce Park, LLC	503 Elk St, 1 Babcock St, 3 Babcock St, 7 Babcock St, Buffalo, NY	\$0
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

**Signature of Grantee**

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

New York State Department of Environmental Conservation  
Name of grantee

*Andrew Hupfeld*  
Signature of partner, officer of corporation, governmental official, etc.

*Director of Remediation*  
Title