FONF EXPANSION/SABRE PARK BCP

TOWN OF NIAGARA, NEW YORK

Periodic Review Report

Certification Period: 2019

NYSDEC BCP Number: C932162

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JANUARY 2020

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1.0 INTRODUCTION

1.1 General

This Periodic Review Report was prepared in accordance with the New York State Department of Environmental Conservation ("NYSDEC" or the "Department") approved 15 November 2014 Site Management Plan (SMP) and Section 6.3 of NYSDEC Division of Environmental Remediation (DER)-10. The certification period is January 1, 2019 through December 31, 2019 (herein referred to as the "Certification Period"). A periodic review of all institutional controls and engineering controls (IC/ECs) and a site evaluation are required for fulfillment of the remedial action at the Fashion Outlet of Niagara Falls (FONF) Expansion/Sabre Park (hereafter referred to as the "Site") under the Brownfield Cleanup Program (BCP), which is administered by the NYSDEC. The Site was accepted into the BCP in accordance with Brownfield Cleanup Agreement (BCA) Index #C932162-06-13, Site #C932162, executed on June 18, 2013.

In October 2014, the project completed construction and fulfilled its requirements under the BCP. As part of the environmental remediation for the project, ECs were implemented to prevent human exposure to subsurface impacts left in-place. Those controls included a site-wide cap consisting of asphalt paved parking, concrete structures and sidewalks, clay-lined stormwater ponds, and clean cover in landscaped areas. Locations and details of the engineering controls are provided in Figure 2. A certificate of completion was issued by the NYSDEC on 19 December 2014.

1.2 Site Description

The Site is located in the Town of Niagara, New York and includes the ±34-acres former Sabre Park Mobile Home Community located at 1705 Factory Outlet Boulevard (a/k/a Fashion Outlet Boulevard, a/k/a Third Avenue Extension, a/k/a Connection Boulevard - Assessor's Parcel Number 160.08-1-2, 160.08-1-6 and 160.08-1-7), an approximate 10.35-acre parcel located on the southern portion of the larger approximately ±41.3-acre FONF property located at 1900 Military Road, (specifically, a portion of Assessor's Parcel Numbers 145.20-1-15), and a smaller parcel encompassing approximately 3.45-acres on the western side of the Site located at 1755 Factory Outlet Boulevard (a/k/a Fashion Outlet Boulevard, a/k/a Third Avenue Extension, a/k/a Connection Boulevard - Assessor's Parcel Number 160.08-1-1). The total footprint of the Site subject to the BCP is approximately 47.8-acres. The Site is bounded by Factory Outlet Boulevard/Route 190 to the west/northwest, the existing Fashion Outlets of Niagara Falls to the north/northeast, the Benderson Development shopping plaza to the east, and National Grid power lines to the south. A Site Location Map is provided as Figure 1.

1.3 Summary of Remedial Investigation

Langan completed a Remedial Investigation (RI) of the site during July 2013 to characterize the nature and extent of contamination at the Site. The results of the RI are described in detail in the Remedial Investigation Report, dated 16 August 2013, prepared by Langan. The remedial investigation determined that the primary contaminants of concern include volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and chromium. These contaminants were detected in soil, groundwater, and soil vapor. The following is a summary of the RI findings:

Soil

PAHs were detected in 16 of 295 soil and fill samples at concentrations exceeding the commercial soil cleanup objectives (SCOs). PCBs were detected in 5 samples at concentrations (1.07 to 23.0 ppm) exceeding the commercial SCO of 1 ppm. Total chromium was detected in 20 samples at concentrations (1,500 to 6,560 ppm) exceeding the commercial SCO of 1,500 ppm, while hexavalent chromium exceeded the commercial SCO of 400 ppm in 2 samples (486 and 506 ppm). Slag was observed in the historic fill at many locations throughout the site, but did not exhibit radioactivity during the RI; however, approximately 258.5 tons of low level radioactive waste (LLRW) was encountered along the northeast corner of the Site during remedial excavation activities.

Groundwater

Total chromium was detected in four groundwater samples at concentrations (884 to 1,260 ppb) exceeding the groundwater standard of 50 ppb, while hexavalent chromium was detected in four samples at concentrations (818 to 1,230 ppb) exceeding the groundwater standard of 50 ppb. Chlorinated solvents were detected in one groundwater sample at concentrations exceeding groundwater standards. These compounds included (cis) 1,2-dichloroethylene (59 ppb; standard 5 ppb), trichloroethylene (19 ppb; standard 5 ppb) and vinyl chloride (13 ppb; standard 2 ppb). Groundwater pH ranged from 6.29 to 12.2. Contaminated overburden groundwater is not migrating from the site.

Soil Vapor

Chlorinated and petroleum related VOCs were detected in all three of the soil gas samples collected at the Site. VOCs detected in ambient air samples were generally lower than the soil gas samples.

1.4 Summary of Remedial Action

The Site was remediated in accordance with the remedy approved by the NYSDEC in the 9 October 2013 Interim Remedial Measures Work Plan (IRMWP) and 30 April 2014 Remedial Action Work Plan (RAWP). Based on the results of Langan's July 2013 RI, fill throughout the entire Site contained metals, VOCs, SVOCs, PCBs, pesticides, and herbicides at concentrations exceeding unrestricted residential SCOs, and the anticipated costs associated with additional excavation required to achieve a Track 1 cleanup were deemed to be uneconomical and unreasonable. Therefore, a Track 4 remedy was selected for the Site, and residual contaminated soil and water was left in place. Site-specific SCOs were developed for soil exceeding 6NYCRR Part 371 hazardous criteria and PCB-impacted soils that exceed 1 ppm at the surface and 10 ppm in the subsurface. A detailed account of the remedy is provided in the December 2014 Final Engineering Report (FER), and is summarized as follows:

- Excavation and off-site disposal of 164,627.17 tons of construction-related spoils exceeding the restricted commercial SCOs;
- Excavation and off-site disposal of two hot spot areas, including PCB-impacted soils with concentrations exceeding 10 mg/kg (716.6 tons), and chromium impacted soils with concentrations exceeding the RCRA Characteristically Hazardous Waste Criteria of 5 mg/L (682.1 tons);
- Excavation and disposal of approximately 258.5 tons of low-level radioactive waste (LLRW) encountered during installation of building utilities and interior piers in the northern portion of the FONF mall building pad.
- Transportation and off-site disposal of soil/fill material at permitted facilities in accordance with the RAWP, disposal facility requirements, and applicable laws and regulations for handling, transport, and disposal.
- Collection and permitted discharge of approximately 10,698,200 gallons of perched, contaminated groundwater and accumulated stormwater exceeding Part 703 GA criteria to the Niagara Falls Water Board (NFWB) wastewater treatment facility.
- Installation of vapor barriers with active sub-slab depressurization (SSD) systems beneath the mall expansion building and occupied office building of the relocated Secure Storage facility;
- Construction of a site-wide soil cap/cover system consisting of the following to prevent human exposure to remaining contaminated soil/fill remaining at the Site:
    - Placement of a minimum of 1 foot of certified clean soils meeting the Allowable Constituent Levels for Imported Fill or Soil for Commercial Uses (Appendix 5 of DER 10) over all landscaped areas;

  - Placement of a combination of a minimum of 6 inches of certified clean clay and a minimum of 1 foot of certified clean soils meeting the Allowable Constituent Levels for Imported Fill or Soil for Commercial Uses (Appendix 5 of DER 10) at the stormwater detention ponds.
  - Pavement with varying depths of subbase (4 inches to 12 inches) in the parking lots and drive aisles, and concrete building foundations under all buildings;
- Backfilling of remedial excavation areas to development grade with clean virgin quarried stone or clean fill meeting the requirements of NYSDEC Division of Environmental Remediation (DER) Draft DER-10 – Technical Guidance for Site Investigation and Remediation, Section 5.4, or virgin, native imported crushed stone.
- Execution and recording of Environmental Easements that cover the entire extent of the BCP property to restrict land use and manage the engineering controls to prevent exposure to contamination remaining at the Site
- Development and implementation of a SMP for long-term management of residual contamination as required by the Environmental Easements.

Remedial activities were completed at the Site on 12 November 2014, and a certificate of completion was issued by the NYSDEC on 19 December 2014.

1.5 Previously Completed Intrusive Activities Prior to 2019

From 2015 to 2018, intrusive activities were performed in accordance with the NYSDEC-approved SMP and Excavation Work Plan (EWP). Five notifications of future intrusive activities reports were provided to NYSDEC at least 15 days prior to the start of any activity that was anticipated to encounter remaining contamination. A detailed account of the intrusive activities is provided in the Periodic Review Reports for the Certification Periods 2015 through 2017, and 2018. A listing and brief summary of the previously completed intrusive activities is provided in the following sections.

1.5.1 Storm Sewer Force Main, Drive Aisle, and Directional Sign Installation

The storm sewer system installed as part of the site-wide construction activities completed in December 2014 was installed as a temporary measure. As such, additional storm sewer excavation and installation activities were required to install a storm sewer force main and pump house along the northeastern portion of the Site. The activities related to the Storm Sewer Force Main, Drive Aisle, and Directional Sign Installation were completed between 19 May and 3 July 2015.

1.5.2 Pond 1A Interim Corrective Measures

A failure of the composite cap/cover system occurred at storm water detention Pond 1A in April 2015. Preventative measures were implemented in accordance with the SMP that successfully protected human health and the environment prior to the approval and implementation of a Corrective Measures Plan (CMP), which is discussed in Section 1.5.5. The Interim Corrective Measures activities were completed between 9 April 2015 and 26 July 2016.

1.5.3 Site-Wide Storm Sewer Redesign

Due to the removal of stormwater detention Pond 1A from the Site's stormwater management system, modification of the stormwater management system was necessary in order to compensate for the storage volume lost with the elimination of Pond 1A. The Site-Wide Storm Sewer Redesign activities were completed between 1 June and 28 September 2017.

1.5.4 Secure Storage Expansion

Panamerican Environmental, Inc. (Panamerican) of Buffalo, New York submitted a Secure Storage – SMP Excavation Work Plan Notification Letter (dated 31 August 2017) and a SMP Excavation Work Plan (dated 6 September 2017) to the NYSDEC to outline intrusive activities associated with the construction of two storage units and associated utilities at the Secure Storage facility located on the southwestern portion of the Site. Construction and remedial activities were completed by Panamerican at the Site between 20 September and 10 November 2017.

1.5.5 Pond 1A Final Corrective Measures Plan Implementation

Upon discovery of the EC breach in April 2015, Pond 1A remained shut off from the Site's Stormwater system discharges until the remedy failure investigation and final corrective measures could be implemented. Implementation of the CMP was completed from 26 July through 19 August 2016. Additionally, implementation of storm-water pollution prevention measures were completed during the corrective measures in compliance with applicable laws and regulations. The corrective action status for the Site was closed by NYSDEC on 7 August 2017.

1.5.6 SSD System Modification

Continuing power surges at the Site had resulted in the need to repair or replace the vacuum blower equipment at the mall expansion active SSD system at an unreasonable frequency. Langan submitted a SSD System Modification Work Plan to NYSDEC on 22 May 2018 to outline

a proposed monitoring plan to be implemented with the aim of converting the active SSD system into a passive system. The SSD System Modification Work Plan was approved by the NYSDEC through email correspondence on 29 May 2018. All sampling and modification activities were completed in accordance with the NYSDEC-approved SMP, dated 15 November 2014. On 26 June 2018 Langan completed sub-slab soil vapor sampling from 12 of the 14 existing permanent sub-slab monitoring points installed during construction of the mall expansion building. Following receipt of the laboratory analytical results, Langan submitted a Summary of Sub-Slab Soil Vapor Sampling Report to the NYSDEC on 17 August 2018. The report summarized the findings of the 26 June 2018 sampling event and recommended the conversion of the FONF mall expansion active SSD system to a passive SSD system. The Summary of Sub-Slab Soil Vapor Sampling Report was approved by the NYSDEC through email correspondence on 29 October 2018. Following NYSDEC approval, Langan commenced conversion of the active SSD system at the FONF mall expansion building to a passive (wind-driven exhaust fan) system on 27 December 2018. Inspection of the passive SSD system components following installation showed they are operating pursuant to the manufactures specifications. As of the date of this report, the new passive SSD system components have not had any issues and continue to operate per their design.

1.6 Effectiveness of the Remedial Program

The remedial program was designed to both eliminate and mitigate environmental and potential human health exposure to adverse environmental conditions remaining in soil, groundwater, and soil vapor underlying the Site. The IC/ECs, detailed in Section 2.1, for the Certification Period continue to meet the remedial objectives for the site.

1.7 Compliance

All IC/ECs have remained in place at the Site for the Certification Period and remain effective. A further discussion of the remedy compliance is included in Section 5.2.

1.8 Recommendations

As agreed to by the Department during a phone call on 30 May 2019, Langan will submit a revised SMP to document revised testing and monitoring requirements for the Site as a result of the modifications to the SSD system at the FONF mall expansion building and the modifications to the stormwater system across the Site.

2.0 IC/EC PLAN COMPLIANCE REPORT

2.1 IC/EC Components

A summary of the IC/ECs implemented at the Site per the RAWP, FER, and SMP are as follows:

- Maintenance of an engineered cap/cover system to prevent human exposure to residual contaminated soils remaining under the Site. The cap/cover systems consist of the following:
  - Parking and private road areas (minimum 3-inch thick asphalt cap);
  - Building slabs (4-inch concrete cap);
  - Sidewalks (5-inch concrete cap);
  - Landscaped areas (minimum 1-foot thick clean imported topsoil cover); and,
  - Detention ponds (a combination of a minimum 6-inch thick clay cap and 1-foot thick clean imported topsoil cover).
- Installation of two active SSD systems beneath the two fulltime occupied buildings of the Site (the FONF mall expansion building and the Secure Storage office building). As detailed in Section 1.5.6, the former active SSD system beneath the FONF mall expansion building was converted to a passive system in 2018 with approval from NYSDEC.
- Execution of environmental easements with ICs for the implementation, maintenance, and monitoring the ECs at the Site; prevent future exposure to residual contamination by controlling disturbances of the subsurface contamination at the Site; and, limit the use and development of the Site to commercial uses only. The environmental easements for the Site were executed by the Department on 8 October 2014, and filed with the Niagara County Clerk on 30 October 2014. The County Recording Identifier number for this filing is 2014216492 (a copy of the environmental easement is provided in Appendix A).
- A SMP for long-term management of residual contamination as required by the Environmental Easements, which includes plans for IC/ECs, monitoring, operation and maintenance, and reporting.

Refer to Figure 2 for the locations of the ECs.

2.2 Summary of EC Intrusive Activities and Modifications Completed During the Certification Period

During the Certification Period, intrusive activities or modifications of the EC cap/cover system were not performed.

2.3 Goal Status and Corrective Measures

No deviations of the IC/ECs were observed during the Certification Period.

2.4 Conclusions and Recommendations

As agreed to by the Department during a phone call on 30 May 2019, Langan will submit a revised SMP to document revised testing and monitoring requirements for the Site as a result of the modifications to the SSD system at the FONF mall expansion building.

3.0 MONITORING PLAN COMPLIANCE REPORT

3.1 Monitoring Plan Components

The components of the Monitoring Plan are as follows:

- Annual inspection of the cap/cover system;
- Annual inspection of the fulltime occupied FONF mall expansion building passive SSD system;
- Annual inspection and pressure-field testing of the active SSD system; and,
- An annual site-wide inspection.

3.2 Summary of Monitoring Completed

3.2.1 Composite Cap/Cover System Inspections

Annual inspection of the composite cap/cover system was completed on 12 September 2019. Conditions of the on-site building foundations/floor slabs, sidewalks, asphalt parking areas, clean cover landscaped areas, and clay lined detention ponds were inspected for quality and integrity. Damages and/or breaches to the composite cap/cover system were not identified during the annual inspections. The site-wide inspection report is included as Appendix C.

3.2.2 SSD System Inspections and Pressure-Field Testing

Annual inspection of the SSD systems was conducted on 12 September 2019. The active SSD system in the occupied office building of the relocated Secure Storage facility was inspected to confirm it was operating per the manufacturers' specifications and the intended design criteria and pressure field testing was completed below the office building concrete slab. Pressure field testing showed a negative pressure below the slab between negative 0.001 and 0.003 in/Hg.

Inspection of the passive SSD system in the mall expansion building showed the passive exhaust fans were continuously operating per the manufacturers' specifications.

Based on the inspections and weekly observations of the system alarms by the site maintenance staff at the FONF mall expansion building and the Secure Storage office building, both the mall expansion building passive SSD system and Secure Storage office building active SSD system were operational for the 2019 Certification Period. The individual system inspection reports are included in Appendix B.

3.2.3 Annual Site-wide Inspection

The site-wide inspection was completed in accordance with the requirements outlined in the SMP and consisted of spot inspections of all ECs including the cap/cover system, and the active and passive SSD systems. All IC/EC components inspected were in compliance with the SMP. The completed site-wide inspection form is included as Appendix C.

3.3 Comparisons with Remedial Objectives

The monitoring and inspection activities conducted in 2019 indicate that ECs remain in-place and operational and that the remedial objectives continue to be met for the site.

3.4 Monitoring Deficiencies

Monitoring activities for the Certification Period complied with the SMP Monitoring Plan and NYSDEC's requests.

3.5 Conclusions and Recommendations

As agreed to by the Department during a phone call on 30 May 2019, Langan will submit a revised SMP to document revised testing and monitoring requirements for the Site as a result of the modifications to the SSD system at the FONF mall expansion building. No additional modifications to monitoring plan for the Site are proposed at this time.

4.0 O&M PLAN COMPLIANCE REPORT

4.1 O&M Plan Components

The components of the O&M Plan are as follows:

- SSD systems: Continuous operation and maintenance as necessary

4.2 Completed O&M Activities

4.2.1 SSD Systems

Based on inspection observations, the SSD systems in the FONF mall expansion building and the occupied office building of the relocated Secure Storage facility operated continuously, per the manufacturers' specifications and the intended design criteria for the 2019 Certification Period.

Periodic inspections and general maintenance (e.g., lubrication of active vacuum blower and passive exhausts, cleaning of active blower and passive exhausts) will continue on both the Secure Storage office building active SSD system and the FONF mall expansion building passive SSD system on an as-needed basis. All work will be conducted in accordance with the manufacturer's specifications and the SMP.

4.3 Evaluation of SSD Systems

Active SSD System at Secure Storage Office Building

The primary objective of the active SSD system is to create a negative pressure under the concrete slab-on-grade flooring and draw any adverse soil vapors to a vacuum blower system on the exterior of the building where such vapors are discharged to the atmosphere. Continuous operation of the active SSD system indicates effective performance of this system.

Passive SSD System at the FONF Mall Expansion Building

The primary objective of the passive SSD system is to create a preferential pathway, assisted by a passive wind-driven exhaust fan and atmospheric pressure, to draw any adverse soil vapor from below the concrete slab-on-grade flooring to an exhaust on the exterior of the building where such vapors are discharged to the atmosphere. A functioning wind-driven exhaust fan and unobstructed system piping indicate effective performance of these mitigation systems.

4.4 O&M Deficiencies

Based on inspection observations, the SSD systems in the FONF mall expansion building and the occupied office building of the relocated Secure Storage facility operated continuously, per the manufacturers' specifications and the intended design criteria, for the 2019 Certification Period.

4.5 Conclusions and Recommendations

As agreed to by the Department during a phone call on 30 May 2019, Langan will submit a revised SMP to document revised testing and monitoring requirements for the Site as a result of the modifications to the SSD system at the FONF mall expansion building.

Going forward Langan recommends the following:

- Continue weekly inspections of the Secure Storage office building active SSD system alarm by the site maintenance staff at Secure Storage to ensure continuous operation of the system.
- Continue weekly inspection of the FONF mall expansion building passive SSD system roof mounted wind-driven exhaust fans to ensure proper operation of the fans.
- Continue general maintenance activities (e.g., lubrication, cleaning inlet filters/exhaust fans) on both the Secure Storage SSD system and FONF mall expansion SSD system on an as-needed basis.

5.0 OVERALL CONCLUSIONS AND RECOMMENDATIONS

5.1 SMP Compliance

Each component of the SMP, including the IC/EC Plan, Monitoring Plan, and O&M Plan, was in compliance for the Certification Period.

5.2 Remedy Performance Evaluation

5.2.1 Composite Cap/Cover System

Conditions of the on-site building foundations, sidewalks, parking areas, private roads, landscaped areas, and clay lined ponds were inspected for quality and integrity. The site-wide composite cap/cover system was confirmed to be intact, and continues to be effective in protecting public health and the environment.

5.2.2 SSD Systems

Both the active and passive SSD systems are operating as specified and were effective in mitigating the exposure to potential adverse soil vapor concentrations under the site for the Certification Period.

5.2.3 IC Components

All ICs were maintained during the Certification Period, and the environmental easement on the site remains in place.

5.3 Future Submittals

Langan will submit a revised SMP to NYSDEC to document revised testing and monitoring requirements for the Site as a result of the modifications to the SSD system at the FONF mall expansion building. Inspections/monitoring of the composite cap/cover system and the active and passive SSD systems will continue on an annual basis. Forms and other information generated during regular monitoring events and inspections will be submitted at the time of the annual Periodic Review Report.

6.0 CERTIFICATION OF IC/ECS

6.1 IC/EC Certification Form

The completed IC/EC Certification Form is presented in Appendix D.

6.2 IC/EC Certification

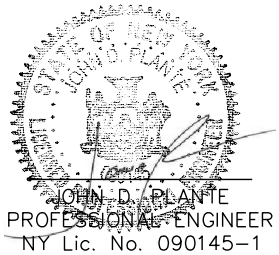
I, John Plante, am currently a registered professional engineer licensed by the State of New York. I had primary direct responsibility for implementation of the remedial program for the Fashion Outlets of Niagara Falls Expansion/Sabre Park Brownfield Cleanup Program site (NYSDEC BCA Site No. C932162).

I certify that the ICs/ECs are in place and effective and are performing as designed.

I certify that nothing has occurred that would impair the ability of the controls to protect the public health and environment and that nothing has occurred that would constitute a violation or failure to comply with any operation and maintenance plan for such controls.

I certify that all use restrictions, institutional controls, engineering controls, and all operation and maintenance requirements applicable to the site are contained in an environmental easement created and recorded pursuant ECL 71-3605 and that all affected local governments, as defined in ECL 71-3603, have been notified that such easement has been recorded. A site Management Plan has been submitted by the applicant for the continual and proper operation, maintenance, and monitoring of all engineering controls employed at the site, including the proper maintenance of all remaining systems, and that such plan has been approved by the Department.

I certify that all information and statements in this certification are true. I understand that a false statement made herein is punishable as Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.



7/21/2020
Date

Signature

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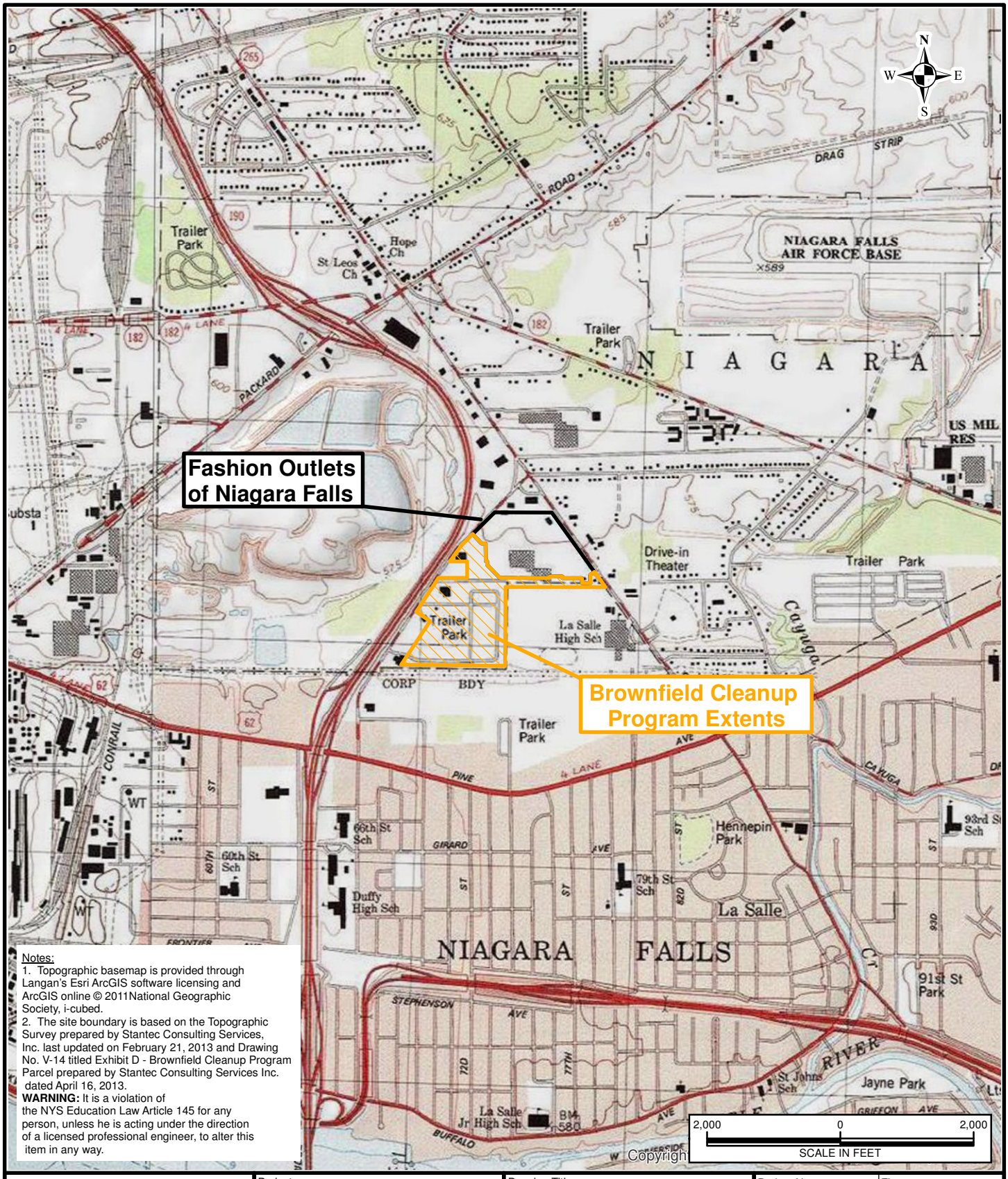
FIGURES



Notes:
1. Topographic basemap is provided through Langan's Esri ArcGIS software licensing and ArcGIS online © 2011National Geographic Society, i-cubed.
2. The site boundary is based on the Topographic Survey prepared by Stantec Consulting Services, Inc. last updated on February 21, 2013 and Drawing No. V-14 titled Exhibit D - Brownfield Cleanup Program Parcel prepared by Stantec Consulting Services Inc. dated April 16, 2013.

WARNING: It is a violation of the NYS Education Law Article 145 for any person, unless he is acting under the direction of a licensed professional engineer, to alter this item in any way.

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Langan Engineering & Environmental Services, Inc.
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Langan International LLC
Collectively known as Langan

NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400

Project
FONF Expansion/ Sabre Park BCP
TOWN OF NIAGARA
NIAGARA COUNTY NEW YORK

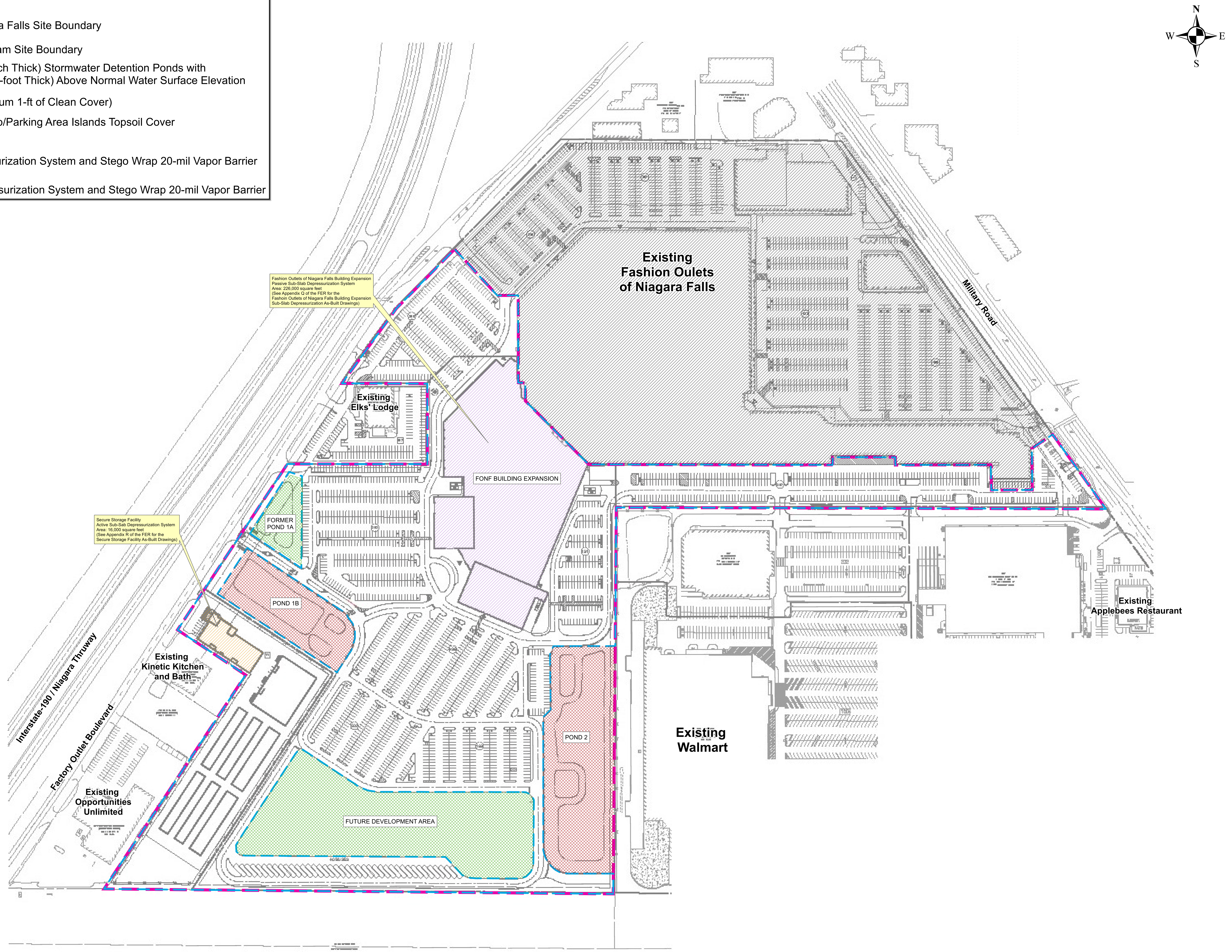
Drawing Title
SITE LOCATION MAP

Project No. 140091417	Figure 1
Date DECEMBER 2019	
Scale 1"= 2000'	
Drawn By JPH	
Submission Date DECEMBER 2019	SHEET 1 OF 3

Path: \\langan.com\data\NH\data4\140091401\ArcGIS\ArcMap_Documents\2014-06 - SMP\01 - Figure 1 - Site Location Map.mxd

Legend

- Fashion Outlets Of Niagara Falls Site Boundary
- Brownfield Cleanup Program Site Boundary
- Clay Lined (Minimum 6-inch Thick) Stormwater Detention Ponds with Topsoil Cover (Minimum 1-foot Thick) Above Normal Water Surface Elevation
- Landscaped Areas (Minimum 1-ft of Clean Cover)
- Asphalt Cap/Concrete Cap/Parking Area Islands Topsoil Cover (Minimum 1-foot Thick)
- Active Sub-Slab Depressurization System and Stego Wrap 20-mil Vapor Barrier
- Passive Sub-Slab Depressurization System and Stego Wrap 20-mil Vapor Barrier



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2. The basemap was provided by Stantec Consulting Services, Inc. on August 27, 2014 and is identified as Drawing CS 100 - Overall Site Plan.
3. This plan should be reviewed as a color copy as the locations are color coordinated.

WARNING: It is a violation of the NYS Education Law Article 145 for any person, unless he is acting under the direction of a licensed professional engineer, to alter this item in any way.

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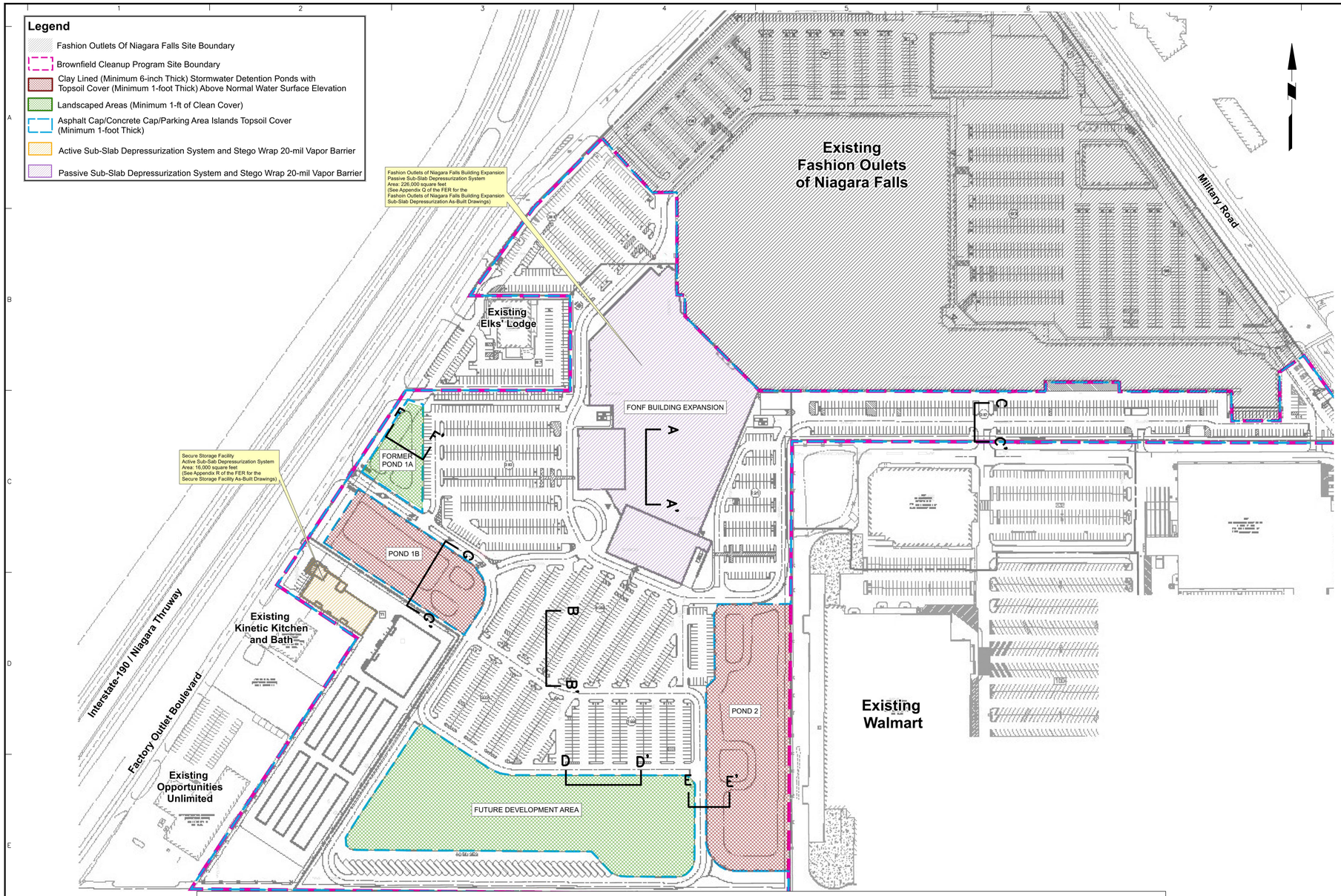
Project: FONF Expansion/ Sabre Park BCP
TOWN OF NIAGARA
NIAGARA COUNTY NEW YORK

Drawing Title: LOCATION OF ENGINEERING CONTROLS AND COVER SYSTEM TYPES

Project No.	140091401
Date	DECEMBER 2019
Scale	1"= 100'
Drawn By	JPH
Submission Date	DECEMBER 2019
Figure	2
	Sheet 2 of 3

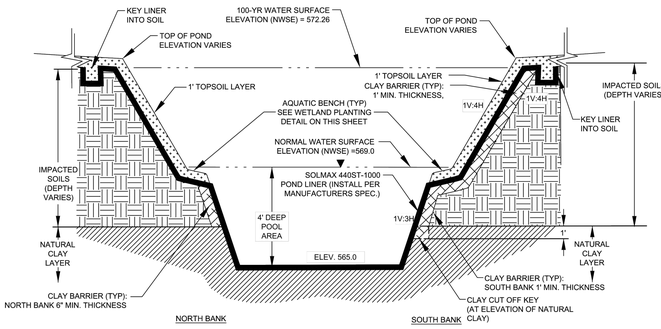
Path: \\langan.com\data\NHV\data4\140091414\ArcGIS\ArcMap_Documents\Figure 10 - Eng Controls Pond 1a Edit JPH.mxd



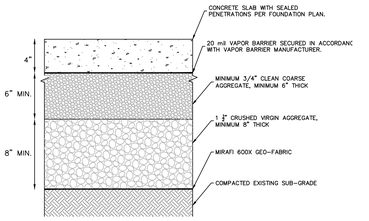
REMEDIAL CAP/COVER CROSS SECTION LOCATION PLAN

GENERAL NOTES

1. THE SITE BOUNDARY IS BASED ON THE TOPOGRAPHICAL SURVEY PREPARED BY STANTEC CONSULTING SERVICES, INC. LAST REVISED ON 21 MAY 2014 AND IDENTIFIED AS DRAWING NO. GI-905 TITLED FASHION OUTLETS OF NIAGARA FALLS BCP ENVIRONMENTAL EASEMENT PLAN PREPARED BY STANTEC CONSULTING SERVICES, INC. DATED 27 MAY 2014.
2. BUILDING FOUNDATION CONCRETE CAP SECTIONS WERE COMPILED FROM BOTH THE LANGAN SUB SLAB DEPRESSURIZATION SYSTEM DESIGN FOUND IN APPENDIX K OF THE REMEDIAL ACTION WORK PLAN AND FOUNDATION DRAWING PROVIDED BY RTKL ASSOCIATES INC. (RTKL) ON 25 JULY 2014.
3. LANDSCAPED AREA TOPSOIL COVER DETAIL PROVIDED BY STANTEC ON 17 OCTOBER 2013.
4. POND LINING CROSS SECTIONS PROVIDED BY STANTEC ON 18 SEPTEMBER 2014.
5. EXISTING SITE SOIL COMPACTION, CLAY SOIL COMPACTION, AND ALL SUB-BASE COMPACTION WILL MEET THE REQUIREMENTS OUTLINED IN BARRON AND ASSOCIATES, P.C. (BARRON) GEOTECHNICAL REPORT DATED 31 JANUARY 2012.
6. ASPHALT DENSITIES AND CONCRETE COMPRESSIVE STRENGTH WILL MEET THE REQUIREMENTS OUTLINED IN STANTEC'S CONSTRUCTION SPECIFICATIONS.
7. ALL IMPORTED STONE SUB-BASE AND TOPSOIL WILL BE TESTED AND CERTIFIED IN ACCORDANCE WITH SECTION 5.4 OF NYSDEC'S DER-10 TECHNICAL GUIDANCE FOR SITE INVESTIGATION AND REMEDIATION DOCUMENT.
8. THE FASHION OUTLETS OF NIAGARA FALLS EXPANSION BUILDING AND THE SECURE STORAGE FACILITY SUB-SLAB DEPRESSURIZATION SYSTEM AS-BUILT DRAWINGS CAN BE FOUND IN APPENDIX AND APPENDIX R RESPECTIVELY OF THE FINAL ENGINEERING REPORT.

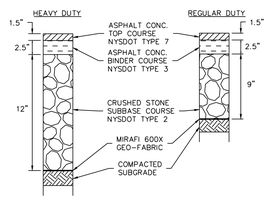


CROSS SECTION G - G'
POND 1B STORMWATER DETENTION BASIN CLAY LINER CAP
N.T.S.



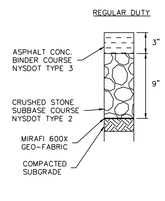
NOTES:
1. THE VAPOR BARRIER SHALL BE REPAIRED AND MAINTAINED IN ACCORDANCE

CROSS SECTION A - A'
BUILDING FOUNDATION CONCRETE CAP
N.T.S.



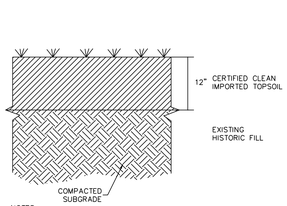
NOTES:
1. PAVEMENT SECTION DETAIL PROVIDED BY STANTEC ON 17 OCTOBER 2013.

CROSS SECTION B - B'
PARKING AREA ASPHALT CAP
N.T.S.



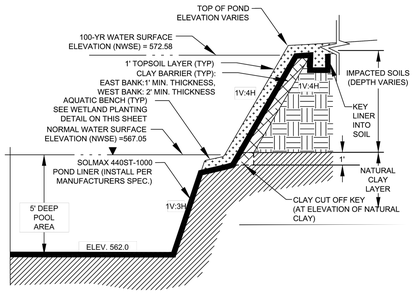
NOTES:
1. PAVEMENT SECTION DETAIL PROVIDED BY STANTEC ON 17 OCTOBER 2013.

CROSS SECTION C - C'
EASTERN PARKING AREA ASPHALT CAP
N.T.S.

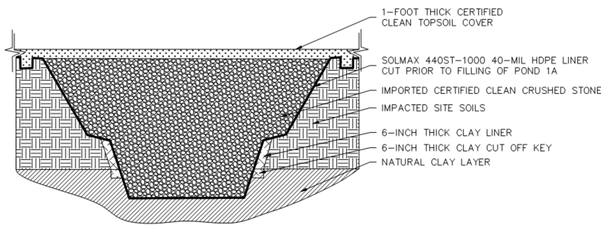


NOTES:
1. LANDSCAPED AREA TOPSOIL COVER DETAIL PROVIDED BY STANTEC ON 17 OCTOBER 2013.

CROSS SECTION D - D'
LANDSCAPED AREA CLEAN FILL COVER
N.T.S.



CROSS SECTION E - E'
POND 2 STORMWATER DETENTION BASIN CLAY LINER CAP
N.T.S.



CROSS SECTION F - F'
POND 1A STORMWATER DETENTION BASIN CLAY LINER CAP
N.T.S.

LANGAN
21 Penn Plaza, 360 West 31st Street, 8th Floor, New York, NY 10001
T: 212.479.5400 F: 212.479.5444 www.langan.com
Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C. S.A.
Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C.
Langan Engineering and Environmental Services, Inc.
Langan CT, Inc.
Langan International LLC
Collectively known as Langan

Project: FONF Expansion/ Sabre Park BCP
TOWN OF NIAGARA
CNIAGARA COUNTY NEW YORK

Drawing Title: REMEDIAL CAP/COVER CROSS SECTIONS

Project No.	140091414
Date	DECEMBER 2019
Scale	N.T.S.
Drawn By	JPH RJW
Submission Date	DECEMBER 2019
Drawing No.	3
Sheet	3 of 3

Filename: \\langan.com\data\NNY\data\140091401\Cadd Data - 140091401\2D-Design\Files\Plan B RAWP\Cap-cover Cross Section 2018 PRR.dwg Date: 4/4/2019 Time: 20:53 User: jhall Style Table: Langan.stb Layout: ARCH-BL

APPENDIX A

Environmental Easements

NIAGARA COUNTY CLERK
WAYNE F. JAGOW

RECEIPT

** Reprint **
Receipt Date: 10/30/2014 11:11:26 AM
RECEIPT # 2014216492

Recording Clerk: BH
Cash Drawer: CASH3
Rec'd Frm: BOB/STEWART
Rec'd In Person

Instr#: 2014-18632
DOC: EASEMENT
DEED STAMP: 1836
OR Party: FASHION OUTLETS II LLC
EE Party: PEOPLE OF THE STATE OF NEW YORK

Recording Fees	
Cover Page	$8.00
Recording Fee	$38.00
Cultural Ed	$14.25
Records Management - County	$1.00
Records Management - State	$4.75
TP584	$5.00
Transfer Tax	
Transfer Tax	$0.00
DOCUMENT TOTAL: ---->	$71.00

Instr#: 2014-18633
DOC: EASEMENT
DEED STAMP: 1837
OR Party: MACERICH NIAGARA LLC
EE Party: PEOPLE OF THE STATE OF NEW YORK

Recording Fees	
Cover Page	$8.00
Recording Fee	$38.00
Cultural Ed	$14.25
Records Management - County	$1.00
Records Management - State	$4.75
TP584	$5.00
Transfer Tax	
Transfer Tax	$0.00
DOCUMENT TOTAL: ---->	$71.00

Instr#: 2014-18634
DOC: EASEMENT
DEED STAMP: 1838
OR Party: QUAKER DEVELOPMENT INC
EE Party: PEOPLE OF THE STATE OF NEW YORK

Recording Fees	
Cover Page	$8.00
Recording Fee	$32.00
Cultural Ed	$14.25
Records Management - County	$1.00
Records Management - State	$4.75
TP584	$5.00
Transfer Tax	
Transfer Tax	$0.00
DOCUMENT TOTAL: ---->	$65.00

Misc Fees	
Overpayment	$6.00
Receipt Summary	
TOTAL RECEIPT: ---->	$213.00
TOTAL RECEIVED: ---->	$213.00
CASH BACK: ---->	$0.00

PAYMENTS
Check # 72655 -> $213.00
HARRIS BEACH LLP

P.O. Box 461, Lockport, New York 14095-0461 Phone (716) 439-7022 FAX (716) 439-7066

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this ~~21st~~ 8th day of ~~August~~ October, 2014, between Quaker Development, Inc., a New York corporation, dba Secure Storage having an office at 124 Meadow Road, Orchard Park, NY 14127, County of Erie, State of New York (the "Grantor") and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner" or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor is the owner of real property located at the address of 1755 Factory Outlet Boulevard in the Town of Niagara, County of Niagara and State of New York, known and designated on the tax map of the County Clerk of Niagara as tax map parcel number: Section 160.08, Block 1, Lot 1, being the same as that property conveyed to Grantor by deed dated January 31, 1997 and recorded in the Niagara County Clerk's Office in Liber 2717 of Deeds at Page 290.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 3.446+/- acres, which is a portion of the 47.815 +/acre parcel that represents the real property which is the subject of the Brownfield Cleanup Agreement Index Number C932162-06-13, and is hereinafter more fully set forth in the Land Title Survey dated May 21, 2014 , Drawing Number GI 905, prepared by Stantec Consulting Services Inc., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C932162-06-13, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv);

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Niagara County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Site Number: C932162
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation

NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

[SIGNATURE PAGE FOLLOWS]

QUAKER DEVELOPMENT, INC. DBA SECURE STORAGE

By: _____ 8/21/14
Print Name: Maritza B. Ruh
Title: President Date:

Quaker Development, Inc. Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

On the 21st day of August, in the year 2014, before me, the undersigned, personally appeared **Maritza B. Ruh**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

FAYDA HATHAWAY
No. 01HA6210137
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Aug. 10, 2017

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 8th day of October, in the year 2014, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018

SCHEDULE "A" PROPERTY DESCRIPTION

All that tract or parcel of land containing 3.446 acres, more or less, situate in Town Lot 13, Township 13, Range 9, in the Town of Niagara, County of Niagara, State of New York, consisting of Tax Account Parcel 160.08-1-1, and being more particularly bounded and described as follows:

Beginning at a point of intersection of the southeasterly right-of-way line of Factory Outlet Boulevard (80 feet wide) with the southerly line of lands now or formerly of Macerich Niagara LLC; thence

1. S 89°49'25" E ,along the southerly line of the said lands of Macerich Niagara LLC, a distance of 399.00 feet to a point at the northwesterly corner of a parcel of land now or formerly owned by Fashion Outlets II LLC (formerly Sabre Park Associates) and having T.A. Parcel No. 160.08-1-2; thence

2. S 00°02'36" W, along the westerly line of said lands of Fashion Outlets II LLC, a distance of 300.52 feet to a point; thence

3. N 89°57'24" W, along the northerly line of said lands of Fashion Outlets II LLC, a distance of 598.19 feet to the point of intersection with the aforementioned southeasterly right-of-way line of Factory Outlet Boulevard; thence

4. N 33°30'00" E, along said southeasterly right-of-way line, a distance of 361.31 feet to the Point or Place of Beginning.

Subject to any easements or encumbrances of record.

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 6th day of October, 2014, between Macerich Niagara LLC, a Delaware limited liability company, having an office at 401 Wilshire Blvd., Suite 700, Santa Monica, CA 90401, County of Los Angeles, State of California (the "Grantor") and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner" or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor is the owner of real property located at the address of 1900 Military Road in the Town of Niagara, County of Niagara and State of New York, known and designated on the tax map of the County Clerk of Niagara as part of tax map parcel numbers: Section 145.20, Block 1, Lot 14 and Section 145.20, Block 1, Lot 15 being the same as that property conveyed to Grantor by deed dated as of July 22, 2011 and recorded in the Niagara County Clerk's Office as Instrument Number 2011-12845, excepting therefrom that property conveyed by Grantor to Fashion Outlets II LLC by deed dated October 31, 2013 and recorded on February 6, 2014 in the Niagara County Clerk's Office as Instrument No. 2014-01741.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 7.163+/- acres, which is a portion of the 47.815 +/acre parcel that represents the real property which is the subject of the Brownfield Cleanup Agreement Index Number C932162-06-13, and is hereinafter more fully set forth in the Land Title Survey dated May 21, 2014 , Drawing Number GI 905, prepared by Stantec Consulting Services Inc., which will

be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C932162-06-13, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv);

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Niagara County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Site Number: C932162
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation
NYSDEC

625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

[SIGNATURE PAGE FOLLOWS]

MACERICH NIAGARA LLC
BY: MACERICH SCG LIMITED PARTNERSHIP, its sole member
BY: MACERICH SCG GP LLC, its general partner

By: _____

Print Name: **Chet A. Cramin**

Title: **Senior Vice President** Date: 8/21/14
Associate General Counsel

[Macerich Niagara LLC Acknowledgment continues on following page]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California
County of Los Angeles

On 6/21/14 (Date) before me, Lisa Rene Pena (Here Insert Name and Title of the Officer),
personally appeared Chet A. Cramin (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

LISA RENE PENA
Commission # 1957263
Notary Public - California
Los Angeles County
My Comm. Expires Nov 17, 2015

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Environmental Easement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 8th day of October, in the year 2014, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018

SCHEDULE "A" PROPERTY DESCRIPTION

All that tract or parcel of land containing 2.666 acres, more or less, situate in the Town of Niagara, County of Niagara, State of New York, and being more particularly bounded and described as follows:

Beginning at a point of intersection of the easterly line of Factory Outlet Blvd. a.k.a. Connecting Blvd and/or Third Avenue (80 feet wide) with the northerly line of lands now or formerly of Niagara Falls Elk Lodge No. 346 (S.B.L. No. 145.20-1-15.21) said line also being the southerly line of lands of Macerich Niagara LLC; thence the following three (3) courses along said easterly line of Factory Outlet Blvd.

1. N 34° 00' 05" E, along a distance of 64.05 feet to a point; thence
2. N 36° 40' 56" E, a distance of 220.37 feet to a point; thence
3. N 44° 40' 13" E, a distance of 237.86 feet to a point; thence the following three (3) courses through said lands of Macerich Niagara LLC
4. S 45° 03' 41" E, a distance of 201.86 feet to a point; thence
5. S 89° 48' 15" E, a distance of 64.15 feet to a point; thence
6. S 00° 11' 45" W, a distance of 174.76 feet to a point; thence
7. N 89° 48' 15" W, a distance of 193.50 feet to a point; thence
8. S 45° 59' 42" W, a distance of 119.32 feet to a point; thence
9. N 89° 49' 25" W, along the northerly line of the aforementioned lands of Niagara Falls Elk Lodge No. 346, a distance of 261.80 feet to a point of intersection with the aforementioned easterly line of Factory Outlet Blvd. said point being the Point or Place of Beginning.

Also, all that tract or parcel of land containing 4.484 acres, more or less, situate in the Town of Niagara, County of Niagara, State of New York, and being more particularly bounded and described as follows:

Beginning at a point of intersection of the southerly line of lands of Macerich Niagara LLC, with the southwesterly line of Military Road (100 feet wide); thence

1. N 89° 49' 25" W, along said southerly line, a distance of 1498.95 feet to a point of intersection with the easterly line of lands now or formerly of Fashion Outlets II LLC; thence
2. N 00° 10' 35" E, along said easterly line, a distance of 78.13 feet to a point; thence
3. N 00° 11' 20" E, continuing along said easterly line, a distance of 53.50 feet to a point; thence
4. S 89° 52' 58" E, a distance of 661.54 feet to a point; thence
5. N 00° 06' 15" E, a distance of 24.20 feet to a point; thence
6. S 89° 53' 45" E, a distance of 192.58 feet to a point; thence
7. S 00° 06' 15" W, a distance of 23.78 feet to a point; thence
8. N 89° 55' 36" E, a distance of 293.93 feet to a point; thence
9. S 00° 00' 15" E, a distance of 77.41 feet to a point; thence
10. N 89° 59' 45" E, a distance of 124.72 feet to a point; thence
11. N 00° 00' 15" W, a distance of 122.37 feet to a point; thence
12. N 54° 31' 44" E, a distance of 79.16 feet to a point of intersection with the southwesterly line of Military Road (100 feet wide); thence
13. S 35° 28' 16" E, along said southwesterly line, a distance of 277.93 feet to a point of intersection with the southerly line of the aforementioned lands of Macerich Niagara LLC, said point being the Point or Place of Beginning.

Also, all that tract or parcel of land containing 0.013 acres, more or less, situate in the Town of Niagara, County of Niagara, State of New York, and being more particularly bounded and described as follows:

Commencing at a point of intersection of the easterly line of Factory Outlet Blvd. a.k.a. Connecting Blvd and/or Third Avenue (80 feet wide) with the northerly line of lands now or formerly of Niagara Falls Elk Lodge No. 346 (S.B.L. No. 145.20-1-15.21) said line also being the southerly line of lands of Macerich Niagara LLC; thence the following three (3) courses along said easterly line of Factory Outlet Blvd.

A. N 34^0 00' 05" E, along a distance of 64.05 feet to a point; thence
B. N 36^0 40' 56" E, a distance of 220.37 feet to a point; thence
C. N 44^0 40' 13" E, a distance of 237.86 feet to a point; thence
D. S 45^0 03' 41" E, a distance of 201.86 feet to a point; thence
E. S 89^0 48' 15" E, a distance of 64.15 feet to a point; thence
F. S 00^0 11' 45" W, a distance of 253.93 feet to a point; thence
G. S 89^0 59' 04" E, a distance of 10.13 feet to a point of intersection with the westerly line of lands of Macerich Niagara LLC, said point being the Point of Beginning of the hereinafter described parcel; thence

1. S 89° 59' 04" E, a distance of 12.05 feet to a point; thence
2. S 00° 14' 25" W, a distance of 55.58 feet to a point; thence
3. N 44° 48' 50" W, a distance of 14.63 feet to a point; thence
4. N 01° 54' 02" W, a distance of 45.22 feet to the Point or Place of Beginning.

Subject to any easements or encumbrances of record.

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this ~~21st~~ 24th day of ~~August~~ October, 2014, between Fashion Outlets II LLC, a Delaware limited liability company, having an office c/o The Macerich Company, at 401 Wilshire Blvd., Suite 700, Santa Monica, CA 90401, County of Los Angeles, State of California (the "Grantor") and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner" or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor is the owner of real property located at the address of 1705 Factory Outlet Boulevard in the Town of Niagara, County of Niagara and State of New York, known and designated on the tax map of the County Clerk of Niagara as tax map parcel numbers: Section 160.08, Block 1, Lot 2 and Section 160.08, Block 1, Lot 6 being the same as that property conveyed to Grantor by deed dated October 23, 2012 and recorded in the Niagara County Clerk's Office as Instrument Number 2012-23484 and by deed dated October 31, 2103 and recorded on February 6, 2014 in the Niagara County Clerk's Office as Instrument No. 2014-01741.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 37.207+/- acres, which is a portion of the 47.815 +/acre parcel that represents the real property which is the subject of the Brownfield Cleanup Agreement Index Number C932162-06-13, and is hereinafter more fully set forth in the Land Title Survey dated May 21, 2014 , Drawing Number GI 905, prepared by Stantec Consulting Services Inc., which will

be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C932162-06-13, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv);

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Niagara County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Site Number: C932162
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation
NYSDEC

625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

[SIGNATURE PAGE FOLLOWS]

FASHION OUTLETS II LLC
BY: THE MACERICH PARTNERSHIP, L.P., its sole member
BY: THE MACERICH COMPANY, its general partner

By: _____
Print Name: Chet A. Cramin
Title: Senior Vice President Date: 8/21/14
Associate General Counsel

[Fashion Outlets II LLC Acknowledgment continues on following page]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California
County of Los Angeles

On 8/21/14 (Date) before me, Lisa Rene Pena (Here Insert Name and Title of the Officer),

personally appeared Chet A. Cramin (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

LISA RENE PENA
Commission # 1957263
Notary Public - California
Los Angeles County
My Comm. Expires Nov 17, 2015

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Environmental Easement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

Item #5907

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 8th day of October, in the year 2014, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018

SCHEDULE "A" PROPERTY DESCRIPTION

All that tract or parcel of land containing 37.207 acres, more or less, situate in the Town of Niagara, County of Niagara, State of New York, and being more particularly bounded and described as follows:

Beginning at a point of intersection of the southeasterly line of Factory Outlet Blvd. a.k.a. Connecting Blvd and/or Third Avenue (80 feet wide) with the northerly line of lands now or formerly of Quaker Development, Inc. said line also being the southerly line of lands of Macerich Niagara, LLC; thence

1. N 34°00'05" E ,along said southeasterly line of Factory Outlet Blvd., a distance of 36.00 feet to a point of intersection with the southerly line of lands now or formerly of the Niagara Falls Elks Lodge No. 346; thence

2. S 89°49'25" E, along the last mentioned southerly line, a distance of 427.53 feet to a point of intersection with the easterly line of said lands; thence

3. N 00°10'35" E, along the last mentioned easterly line a distance of 247.34 feet to the point at the northeasterly corner of said lands; thence the following eight courses through said lands of Macerich Niagara, LLC

4. N 45°59'42" E, a distance of 119.32 feet to a point; thence

5. S 89°48'15" E, a distance of 193.50 feet to a point; thence

6. S 00°11'45" W, a distance of 79.17 feet to a point; thence

7. S 89°59'04" E, a distance of 10.13 feet to a point; thence

8. S 01°54'02" E, a distance of 45.22 feet to a point; thence

9. S 44°48'50" E, a distance of 288.95 feet to a point; thence

10. S 89°48'40" E, a distance of 84.41 feet to a point; thence

11. S 00°11'20" W, a distance of 53.50 feet to a point; thence

12. S 00°10'35" W, a distance of 78.13 feet to a point, said point being the northwesterly corner of lands now or formerly of BG Robinson Stop II LLC, (T.A. Parcel 160.08-3-1.12) ; thence

13. S 00°27'17" W, along the westerly line of said lands of BG Robinson Stop II LLC, and lands of Walmart Real Estate (T.A. Parcel 160.08-3-1-1.112), a distance of 1183.23 feet to a point of intersection with the northerly line of lands of Niagara Mohawk Power Corporation (T.A. Parcel 160.08-1-3); thence

14. N 89°26'01" W, along said northerly line, a distance of 1558.85 feet to a point; thence

15. N 33°30'00" E, along the southeasterly line of lands now of formerly of Opportunities Unlimited (T.A. Parcel 160.07-1-3) and the southeasterly line of lands now of formerly of James E. McCue (T.A. Parcel 160.08-1-4) and lands now or formerly of Christopher Connelly (T.A. Parcel 160.08-1-5), a distance of 785.40 feet to a point; thence

16. N 56°30'00" W, along the northeasterly line of the said lands of Christopher Connelly, a distance of 250.00 feet to a point of intersection with the aforementioned southeasterly right-of-way line of Factory Outlet Boulevard; thence

17. N 33°30'00" E, along said southeasterly right-of-way line, a distance of 211.94 feet to a point of intersection with the southerly line of the aforementioned lands of Quaker Development, Inc.; thence

18. S 89°57'24" E, along said southerly line, a distance of 598.19 feet to a point at the southeasterly corner of said lands; thence

19. N 00°02'36" E, along the easterly line of said lands, a distance of 300.52 feet a point; thence

20. N 89°49'25" W, along the northerly line of said lands, a distance of 399.00 feet to the Point or Place of Beginning.

Subject to any easements or encumbrances of record.

APPENDIX B

SSD System Inspection Reports

SSD SYSTEM INSPECTION CHECKLIST

Site Name: FONF/SABRE PARK BCP Location: Niagara Falls, NY Project Number: 140091417

Inspector Name: JUSTIN HALL Date: 9/12/19 Weather Conditions: Overcast-WARM

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual Inspection - MALL SSD

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	Records					
1	Is the Operations & Maintenance Plan readily available on-site?	X				
2	Based on site records, when was the last inspection, maintenance, or repair event?					12/27/18 - SSD Modification
3	Based on site records, was the system inoperational for any amount of time since the last inspection, maintenance, or repair event? For how long? Provide details.		X			
	Alarm System					
4	Do the alarm lights indicate that the system is operational?			X		
5	Did manual tripping of alarm system indicate that the alarm is functional?			X		
	General System					
6	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the floor slab, on-site at the time of this inspection?		X			No intrusive activities observed during inspection
7	If YES to number 6, is there documentation that the Site Management Plan, HASP, and CAMP for the site was/is being followed?			X		
8	If YES to number 6, is there documentation that all breaches in the floor slab have been sealed, with vapor barrier repaired?			X		
9	Does all visible SSD piping appear intact and undamaged?	X				
10	Have any intake points been constructed at the roof near (less than 10 feet) the SSD blower discharge point?		X			

SSD SYSTEM INSPECTION CHECKLIST

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	SSD Blower Unit					
11	Is the SSD blower operational at the time of the inspection?			X		PASSIVE SYSTEM
12	What are the micro-manometer readings at each monitoring point?			X		
13	Is the SSD blower expelling air at the discharge point?	X				At Passive exhausts

If the answer to any of the above questions indicate the SSD system is non-operational or malfunctioning, or that this EC is in non-compliance,additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.

Additional remarks _____

Minimum Inspection Schedule: Inspection of blowers and other SSD equipment will be conducted on an annual basis to establish that the system is operational and performing within the design specifications. Unscheduled inspections and/or sampling may take place when a suspected failure of the SSD system has been reported or an emergency occurs that is deemed likely to affect the operation of the system. The minimum schedule may be revised, as necessary, following the first certification year. All inspection events will utilize this checklist.

SSD SYSTEM INSPECTION CHECKLIST

Site Name: FONF/SABRE PARK BCP Location: Niagara Falls, NY Project Number: 140091417

Inspector Name: JUSTIN HALL Date: 9/12/19 Weather Conditions: Overcast - WARM

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Annual Inspection - Secure Storage SSD

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	Records					
1	Is the Operations & Maintenance Plan readily available on-site?	X				
2	Based on site records, when was the last inspection, maintenance, or repair event?					12/27/18 - During MALL SSD Modification
3	Based on site records, was the system inoperational for any amount of time since the last inspection, maintenance, or repair event? For how long? Provide details.		X			
	Alarm System					
4	Do the alarm lights indicate that the system is operational?	X				
5	Did manual tripping of alarm system indicate that the alarm is functional?	X				
	General System					
6	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the floor slab, on-site at the time of this inspection?		X			
7	If YES to number 6, is there documentation that the Site Management Plan, HASP, and CAMP for the site was/is being followed?			X		
8	If YES to number 6, is there documentation that all breaches in the floor slab have been sealed, with vapor barrier repaired?			X		
9	Does all visible SSD piping appear intact and undamaged?	X				
10	Have any intake points been constructed at the roof near (less than 10 feet) the SSD blower discharge point?		X			

SSD SYSTEM INSPECTION CHECKLIST

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	SSD Blower Unit					
11	Is the SSD blower operational at the time of the inspection?	✓				
12	What are the micro-manometer readings at each monitoring point?					-0.001 in H_2O / -0.003 in H_2O -0.002 in H_2O / -0.002 in H_2O
13	Is the SSD blower expelling air at the discharge point?	✓				

If the answer to any of the above questions indicate the SSD system is non-operational or malfunctioning, or that this EC is in non-compliance,additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.

Additional remarks _____

Minimum Inspection Schedule: Inspection of blowers and other SSD equipment will be conducted on an annual basis to establish that the system is operational and performing within the design specifications. Unscheduled inspections and/or sampling may take place when a suspected failure of the SSD system has been reported or an emergency occurs that is deemed likely to affect the operation of the system. The minimum schedule may be revised, as necessary, following the first certification year. All inspection events will utilize this checklist.

APPENDIX C

Annual Site Wide Inspection Forms

SITE WIDE INSPECTION CHECKLIST

Site Name: FONF/SABIZE PARK BCP Location: Niagara Falls, NY Project Number: 140091417

Inspector Name: JUSTIN HALL Date: 9/12/19 Weather Conditions: Overcast - WARM

Reason for Inspection (i.e., routine, severe condition, etc.): _____ Annual Inspection 2019 Annual

Check one of the following: **Y:** Yes **N:** No **NA:** Not Applicable

		Y	N	NA	Normal Situation	Remarks
	General					
1	What are the current site conditions?				X	
2	Are all applicable site records (e.g., documentation of construction activity, most current easement, etc.) complete and up to date?	X				
	Easement					
3	Has site use (commerical) remained the same?	X				
4	Does it appear that all environmental easement restrictions have been followed?	X				
	Impermeable Cap					
5	Are there any indications of a breach in the capping system at the time of this inspection?		X			
6	Are there any cracks in the building slabs?		X			
7	Are there any cracks in the building walls?		X			
8	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the capping system, on-site at the time of this inspection?		X			
9	If YES to number 8, is there documentation that the Soil Management Plan, HASP, and CAMP for the site was/is being followed?			X		

***** If the answer to any of the above questions indicate non-compliance with any IC/ECs for the site, additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.**

Additional remarks _____

Minimum Inspection Schedule: Site-wide inspections will be conducted annually, per certification year, at a minimum. Additional inspections will also be conducted at times of severe condition events. All inspection events will utilize this checklist.

APPENDIX D

Institutional and Engineering Controls Certification Form

CERTIFICATION

For each institutional or engineering control identified for the site, I certify that all of the following statements are true:

- The inspection of the Site to confirm the effectiveness of the IC/ECs required by the remedial program was performed under my direction;
- The IC and/or EC employed at this Site is unchanged from the date the control was put in place, or last approved by the Department;
- Nothing has occurred that would impair the ability of the control to protect the public health and environment;
- Nothing has occurred that would constitute a violation or failure to comply with any Site management plan for this control;
- Access to the Site will continue to be provided to the Department to evaluate the remedy, including access to evaluate the continued maintenance of this control;
- Use of the Site is compliant with the environmental easements;
- The EC systems are performing as designed and are effective;
- To the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the Site remedial program and generally accepted engineering practices;
- No new information has come to my attention to indicate that the assumptions made in the qualitative exposure assessment of off-site contamination are no longer valid;
- Every five years the following certification will be added: The assumptions made in the qualitative exposure assessment remain valid;
- The information presented in this report is accurate and complete; and
- I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law. I, John Plante, P.E. of Langan Engineering, Environmental, Surveying, and Landscape Architecture, D.P.C., have been authorized and designated by the Site owner to sign this certification for the Site.

NYS Professional Engineer # 090145-1	Date	Signature