

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

THIS INDENTURE made this 26th day of June, 2014, between Owner(s) Tecumseh Redevelopment Inc., having an office at 4020 Kinross Lakes Parkway, County of Summit, State of Ohio (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 2303 Hamburg Turnpike in the City of Lackawanna, County of Erie and State of New York, known and designated on the tax map of the County Clerk of Erie as tax map parcel numbers: Section 141.11 Block 1 Lot 50, being a portion of that certain plot, piece or parcel of land conveyed to Grantor by deed dated May 6, 2003 and recorded in the Erie County Clerk's Office in Liber 11040 and Page 8953. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 105.18 +/- acres, and is hereinafter more fully described in the Land Title Survey, which includes parcels recognized under Brownfield Cleanup Agreement Amendments dated August 22, 2012 ("Sites"), dated September 14, 2012, field survey completed June 12, 2012 and prepared by Wendel, 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: B9-0696-05-06(C), 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)

In addition, that part of the Controlled Property located on that certain portion of BCP Site No. C915199C, as such portion is set forth in and attached hereto as Schedule B, shall not be developed with any enclosed structure or building that could provide temporary or permanent human occupancy.

(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 Erie 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 Site within the Controlled Property on or about which the violation pertains.

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 Numbers: C915199, C915199B, C915199C,
C915199D, C915199E, C915199F, C915199I, and C915199J
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.

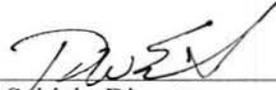
Grantor: Tecumseh Redevelopment Inc.

By: Keith A. Nagel

Print Name: Keith A. Nagel

Title: VP - ENVIRONMENTAL AFFAIRS Date: May 29, 2014
REAL ESTATE

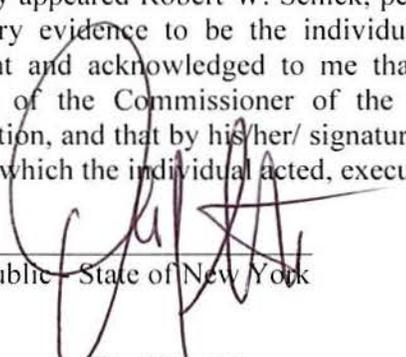
THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

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

Grantee's Acknowledgment

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

On the 26th day of June, 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(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ 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

Parcel "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Lackawanna, County of Erie and State of New York, being part of Lots 15, 16 and 17 of the Ogden Gore Tract and part of Lot 23, Township 10, Range 8 of the Buffalo Creek Reservation and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly highway boundary of the Hamburg Turnpike (also known as State Route No. 5) as appropriated by the People of the State of New York as shown on Map No. 1, Parcel 1 and recorded in the Erie County Clerk's Office in Liber 5650 of Deeds at page 404 and the municipal boundary line between the City of Lackawanna (to the north) and the Town of Hamburg (to the south). Said point also being in the northerly line of lands conveyed to the South Buffalo Railway Company by deed recorded in the Erie County Clerk's Office in Liber 10119 of Deeds at page 131; thence westerly along the municipal boundary line and the northerly line of said South Buffalo Railway Company's land a distance of 507.02 feet to a point; thence northwesterly continuing along said South Buffalo Rail Company's land, a distance of 386.48 feet to the principal point of beginning; running thence northwesterly and continuing along said South Buffalo Railway Company's land, a distance of 1834.83 feet to a point to an angle point therein; thence southwesterly and continuing along said South Buffalo Railway Company's land, a distance of 100.14 feet to the approximate center line of an improved access road; thence northwesterly along the approximate center line of said road N 24° 58' 39" W, a distance of 310.20 feet to the point of curvature of a non-tangent curve, concave to the east, having a radius of 512.16 feet, a central angle of 50° 17' 25" and a chord of 435.25 feet bearing N 00° 30' 26" W; thence northwesterly along said curve, curving to the right, a distance of 449.54 feet to a point of tangency; thence northeasterly continuing along said road N 25° 18' 46" E a distance of 288.35 feet to the point of curvature of a non-tangent curve, concave to the west, having a radius of 706.88 feet, a central angle of 41° 48' 30" and a chord of 504.43 feet bearing N 08° 08' 26" E; thence northeasterly along said curve, curving to the left, a distance of 515.80 feet to a point of tangency; thence northwesterly continuing along said road N 18° 37' 00" W, a distance of 107.01 feet to a point approximately 25 feet south from the existing southerly top of high bank of Smokes Creek; thence easterly and southerly continuing, approximately 25 feet south from the existing southerly top of high bank of Smokes Creek the following 6 courses and distances: N 82° 08' 06" E, a distance of 87.56 feet; S 46° 24' 39" E, a distance of 578.56 feet; S 44° 24' 55" E, a distance of 252.36 feet; S 41° 49' 05" E, a distance of 663.40 feet; S 64° 08' 06" E, a distance of 154.89 feet; N 80° 39' 39" E, a distance of 228.31 feet to the point of curvature of a tangent curve, concave to the west, having a radius of 518.00 feet; thence southwesterly along said curve, curving to the right, a distance of 168.84 feet to a point of tangency; thence S 03° 25' 27" E a distance of 1284.41 feet to the principal point of beginning, containing 51.40 acres of land, more or less.

Parcel "B"

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Lackawanna, County of Erie and State of New York being part of Lots Nos. 18, 19 and 20 of the Ogden Gore Tract and part of Lot No. 24, Township 10, Range 8 of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at the southwest corner of lands conveyed to Gateway Trade Center Inc. by deed recorded in the Erie County Clerk's Office in Liber 10886 of Deeds at page 1064; running thence northerly along the southerly line of said lands so conveyed to Gateway Trade Center, Inc. by deed aforesaid, a distance of 930.64 feet to a point therein; thence S 18° 20' 36" E, a distance of 966.47 feet to a point in the northeast corner of lands conveyed to Welded Tube USA, LLC by deed recorded in the Erie County Clerk's Office in Liber 11232 at pages 2531 and 2695; running thence S 71° 41' 32" W, a distance of 180.00 feet to a point, thence N 48° 01' 09" W, a distance of 180.00 feet to a point, thence N 18° 20' 36" W, a distance of 250.00 feet to a point, thence S 71° 41' 32" W, a distance of 1024.00 feet to a point in the approximate centerline of railroad tracks; Thence along the approximate centerline of said railroad tracks the following 7 courses and distances:

S 12° 54' 26" E, a distance of 95.00 feet;

S 18° 20' 36" E, a distance of 155.42 feet;

S 18° 20' 36" E, a distance of 550.00 feet;

S 20° 21' 28" E, a distance of 138.87 feet;

S 22° 56' 38" E, a distance of 120.00 feet;

S 26° 40' 17" E, a distance of 130.00 feet;

S 27° 51' 58" E, a distance of 325.00 feet to a point;

Thence N 82° 08' 06" E, a distance of 124.50 feet to a point;

Thence S 48° 09' 58" E, a distance of 113.54 feet to a point;

Thence N 71° 39' 24" E, a distance of 1036.13 feet to the southeast corner of said lands conveyed to Welded Tube USA, LLC.;

Thence S 18° 20' 36" E, a distance of 1327.70 feet to a point, approximately 25 feet north from the existing northerly top of the high bank of Smokes Creek; thence westerly and northerly approximately 25 feet north from the existing northerly top of the high bank of said Smokes Creek, the following 8 courses and distances:

S 48° 54' 49" W, a distance of 140.81 feet;

S 32° 40' 10" W, a distance of 122.80 feet;

S 78° 47' 59" W, a distance of 128.86 feet;

N 49° 35' 08" W, a distance of 112.15 feet;

N 39° 56' 33" W, a distance of 635.45 feet;

N 44° 32' 31" W, a distance of 243.09 feet;

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N 48° 25' 21" W, a distance of 710.19 feet;

S 82° 08' 06" W, a distance of 169.65 feet to the approximate center line of an improved access road; thence northerly along the approximate center line of said improved access road, the following 11 courses and distances:

N 18° 37' 00" W, a distance of 43.20 feet;

N 29° 52' 05" W, a distance of 465.91 feet;

N 18° 10' 50" W, a distance of 270.79 feet;

N 24° 11' 01" W, a distance of 362.77 feet;

N 26° 06' 35" W, a distance of 243.92 feet;

N 28° 29' 29" W, a distance of 228.39 feet;

N 23° 10' 20" W, a distance of 205.04 feet;

N 18° 20' 44" W, a distance of 542.77 feet;

N 10° 35' 36" W, a distance of 279.16 feet;

N 79° 52' 42" E, a distance of 202.46 feet;

N 68° 32' 54" E, a distance of 326.23 feet to a point in the westerly line of lands so conveyed to Gateway Trade Center, Inc. by deed aforesaid; thence southerly along the westerly line of said lands so conveyed to Gateway Trade Center, Inc. by deed aforesaid, a distance of 528.60 feet to the southwest corner thereof and the principal point of beginning, containing 53.78 acres of land, more or less.

**SCHEDULE "B" DESCRIPTION FOR THE EXCEPTION OF THE AREA OF
SUSPECTED SUBSURFACE ACM**

COMMENCING AT THE SOUTHWEST CORNER OF THE ENVIRONMENTAL
EASEMENT BUSINESS PARK PHASE III, PARCEL "A";

THENCE N 43°-41'-08" E, A DISTANCE OF 240.76 FEET TO THE POINT OF BEGINNING;

THENCE N 18°-42'-32" W, A DISTANCE OF 81.55 FEET TO A POINT;

THENCE N 71°-17'-28" E, A DISTANCE OF 673.28 FEET TO A POINT;

THENCE S 18°-42'-32" E, A DISTANCE OF 81.55 FEET TO A POINT;

THENCE S 71°-17'-28" W, A DISTANCE OF 673.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.26 ACRES OF LAND, MORE OR LESS.