

**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

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December 6, 2017

**VIA FEDERAL EXPRESS**

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

RE: **Tecumseh Redevelopment, Inc.**  
**Tecumseh Business Park I**

RECEIVED

DEC 08 2017

Bur. Of Tech. Support

Dear Sir or Madam:

Enclosed please find the following:

1. Brownfield Cleanup Program Application to Amend Brownfield Cleanup Agreement and Amendment (the "BCA Amendment Application") for the following:

- i. BCP Site Number: C915197 (Phase I);
- ii. BCP Site Number: C915197C (Phase I);
- iii. BCP Site Number: C915197E (Phase I); and
- iv. BCP Site Number: C915197G (Phase I)

2. CD-ROM with electronic copies in Portable Document Format (PDF).

Please be advised that the Buffalo and Erie County Industrial Land Development Corporation (the "ILDC") acquired title to the above properties on November 28, 2017.

These BCA Amendment Applications are being submitted to add the ILDC as an applicant/volunteer to the Brownfield Cleanup Agreement's affecting the aforementioned BCP Site Number/parcels as identified above.


These BCA Amendment Applications are also being submitted to clarify that BCP Site Numbers C915197, C915197C, 915197E, and C915197G are all currently part of Tax parcel/SBL No. 141.11-1-48.1. The original Brownfield Cleanup Agreement listed the aforementioned BCP Site Numbers as being part of a historical tax parcel, SBL No. 141.11-1-1.111, which SBL was merged into other tax parcels in November, 2012. The aforementioned BCP Site Numbers were then identified as a portion of two (2) tax parcels, being SBL No. 141.11-1-48 (11.33 acres) and 141.11-1-50 (942.73 acres). In June of 2017, the two aforementioned tax parcels in their entirety were merged to form a new combined tax parcel identified as 141.11-1-48.1, as explained within Exhibit D as contained within each BCA Amendment Application.

Chief, Site Control Section  
December 6, 2017  
Page 2

HARRIS BEACH <sup>PLLC</sup>  
ATTORNEYS AT LAW

Please feel free to contact me if you require additional information. Thank you for your attention to this matter.

Very truly yours



Robert G. Murray

RGM/kd  
Enclosures



Department of Environmental Conservation

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

## PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

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

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

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

**Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

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

This Amendment adds the Buffalo and Erie County Industrial Land Development Corporation to the Brownfield Cleanup Agreement.

This amendment modification request is also provided to confirm that as of June 2017, the BCP Parcel is part of new Tax parcel/SBL No. 141.11-1-48.1. The original Brownfield Cleanup Agreement listed the BCP site as being part of the historical tax parcel/SBL No. 141.11-1-1.111. In November 2012 that historical parcel was merged into other tax parcels. The BCP Parcel was then identified as being part of two tax parcels, such parcels being SBL no. 141.11-1-48 (11.33 acres) and 141.11-1-50 (942.73 acres). In June, 2017, the two aforementioned tax parcels were merged, in their entirety, to form a new combined tax parcel identified as 141.11-1-48.1, as explained in the correspondence within Exhibit D.

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

**Section I. Existing Application Information**

BCP SITE NAME: Site I-1 Tecumseh Phase I Business Park BCP SITE NUMBER: C915197

NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment Inc.

INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(A) DATE OF EXISTING AGREEMENT: 12/12/05

**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME Buffalo and Erie County Industrial Land Development Corporation

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX 716-856-6754

E-MAIL jcappell@ecidany.com

Is the requestor authorized to conduct business in New York State (NYS)?



Yes



No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. See Exhibit A

NAME OF NEW REQUESTOR'S REPRESENTATIVE John Cappellino, Executive Vice President

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX 716-856-6754

E-MAIL jcappell@ecidany.com

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) LaBella Associates, D.P.C.

ADDRESS Olympic Towers, 300 Pearl Street, Suite 300

CITY/TOWN Buffalo, New York

ZIP CODE 14202

PHONE 716-851-6283

FAX

E-MAIL rnapieralski@labellapc.com

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Robert G. Murray/Harris Beach PLLC

ADDRESS 726 Exchange Suite, Suite 1000

CITY/TOWN Buffalo, New York

ZIP CODE 14210

PHONE 716-200-5180

FAX 716-200-5201

E-MAIL bmurray@harrisbeach.com

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? See Exhibit B



Yes



No

Describe Requestor's Relationship to Existing Applicant:

New Requestor, the Buffalo and Erie County Industrial Land Development Corporation, purchased the subject real property from Applicant, Tecumseh Redevelopment Inc., on November 28, 2017.

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

OWNER'S NAME (if different from requestor) Buffalo and Erie County Industrial Land Development Corporation

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX

E-MAIL jcappell@ecidany.com

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site?  Yes  No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?  Yes  No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?  Yes  No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.  Yes  No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.  Yes  No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?  Yes  No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?  Yes  No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?  Yes  No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?  Yes  No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?  Yes  No
11. Are there any unregistered bulk storage tanks on-site which require registration?  Yes  No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

See Exhibit C

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**

Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?  Yes  No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

ADDRESS 1951 Hamburg Turnpike

CITY/TOWN Lackawanna

ZIP CODE 14218

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

Part of 141.11-1-1.111 (now known as 141.11-1-48.1)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
A portion of 1951 Hamburg Turnpike, Lackawanna, NY	I-1	141.11	1	1.111	5.57

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction \*change in TBL
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: 0

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
A portion of 1951 Hamburg Turnpike, Lackawanna, NY	I-1	141.11	1	48.1	5.57

- Reduction of property
- Approximate acreage removed: \_\_\_\_\_

PARCELS REMOVED:

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

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.


**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**

<b>Existing Agreement Information</b>	
BCP SITE NAME: Site I-1 Tecumseh Phase I Business Park	BCP SITE NUMBER: C915197
NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment Inc.	
INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(A)	
EFFECTIVE DATE OF EXISTING AGREEMENT: December 12, 2005	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>	
(Individual)	
I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.	
Date: _____	Signature: _____
Print Name: _____	
(Entity)	
I hereby affirm that I am (title <u>Executive Vice President</u> ) of (entity <u>Buffalo and Erie County Industrial Land Development Corporation</u> ); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.	
My _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.	
Date: <u>12/6/17</u>	Signature: 
Print Name: <u>John Cappellino</u>	



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

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am <sup>VP Environmental Affairs & Real Estate</sup> (title) of Tecumseh Redevelopment Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My \_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/6/17 Signature: *Keith Nagel*

Print Name: Keith Nagel

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> <b>VOLUNTEER</b> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

\_\_\_\_\_  
Robert W. Schick, P.E., Director  
Division of Environmental Remediation

**SUBMITTAL INFORMATION:**

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

---

**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_

## **Exhibit A**

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through July 3, 2017.

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

#### Selected Entity Status Information

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

#### Selected Entity Address Information

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

#### Registered Agent

NONE

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

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

**\*Stock Information**

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

\*Stock information is applicable to domestic business corporations.

**Name History**

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

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

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

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## **Exhibit B**

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

**RESOLUTION**

A meeting of the Buffalo and Erie County Industrial Land Development Corporation (the "Corporation") was convened on February 22, 2017, at 8:45 a.m.

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

RESOLUTION OF THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION (THE "ILDC") AUTHORIZING THE ILDC TO: (i) ENTER INTO A FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") TO PROVIDE \$6,700,000 IN THE FORM OF A PARTIALLY REFUNDABLE GRANT FROM THE AGENCY'S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT ("UDAG") REFLOW FUND; (ii) MAKE A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iii) AUTHORIZE THE NEGOTIATION AND EXECUTION AND DELIVERY OF AN AGREEMENT OF PURCHASE AND SALE TO BE ENTERED INTO WITH TECUMSEH REDEVELOPMENT INC. ("TECUMSEH") WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (iv) AUTHORIZE THE EXECUTION AND DELIVERY OF BROWNFIELD SITE CLEANUP AGREEMENT(S) WITH RESPECT TO THE PROJECT (AS MORE FULLY DESCRIBED BELOW); (v) APPROVE OF AND AUTHORIZE THE EXECUTION AND DELIVERY OF A \$2,780,000 NEW YORK STATE EMPIRE STATE DEVELOPMENT CORPORATION GRANT FOR PURPOSES OF THE PROJECT (AS MORE FULLY DESCRIBED BELOW); AND (vi) ENTER INTO A CERTAIN LICENSE AGREEMENT WITH TECUMSEH WITH RESPECT TO CERTAIN EXISTING INFRASTRUCTURE IMPROVEMENTS RELATED TO THE PROJECT

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

WHEREAS, the ILDC desires to purchase approximately 150 acres of real property located on the former Bethlehem Steel site in Lackawanna, New York (the "Real Property") which is currently owned by Tecumseh Redevelopment Inc. ("Tecumseh") and position the Real Property for redevelopment (collectively, the "Project") as depicted within Exhibit A; and

WHEREAS, the ILDC and Tecumseh have negotiated the terms of an Agreement of Purchase and Sale setting forth the terms and conditions relating to: (i) the disposition of the Real Property to the ILDC in furtherance of the Project, (ii) Tecumseh's obligations with respect to undertaking certain remedial activities on certain portions of the Real Property prior to closing(s), (iii) the purchase price with respect to parcels of the Real Property that will be subject to remedial activities, the purchase price with respect to parcels of the Real Property that will not be subject to remedial activities, and the sequencing of the purchase of each parcel or parcels of real property constituting the Real Property, and (iv) requirements relating to the removal of certain industrial land use restrictions affecting the Real Property, all of the foregoing being contemplated by the ILDC and Tecumseh in furtherance of the Project; and

WHEREAS, upon acquisition of the Real Property, the ILDC intends to undertake a planned redevelopment of, and to prepare a Generic Environmental Impact Statement for, the Real Property for commercial and industrial purposes to promote and encourage job creation and new investment for the benefit of the residents of Erie County; and

WHEREAS, the Erie County Industrial Development Agency (the "Agency"), an affiliate of the ILDC, maintains a UDAG Reflow Fund (the "UDAG Fund"), said UDAG Fund having been established based on rental payments derived from a project funded by an Agency UDAG grant, where after UDAG Fund proceeds have been invested within the Agency's venture capital investment program which has resulted in certain cash distributions back to the UDAG Fund thereby expanding the size of the UDAG Fund; and

WHEREAS, the Agency desires to assist the ILDC in its efforts to acquire and redevelop the Real Property by granting UDAG Funds to the ILDC in the amount not to exceed \$5,700,000 to enable the ILDC to purchase the Real Property from Tecumseh; and

WHEREAS, in addition, the Agency desires to further assist the ILDC, upon taking title the Real Property, by granting UDAG Funds to the ILDC in an amount not to exceed \$1,000,000 to be used by the ILDC for purposes of carrying the Real Property for such expenses including, but not to be limited to, insurance costs, and special assessments and user fees costs; and

WHEREAS, the ILDC desires to accept the Agency's grant of UDAG Funds from the Agency in the amount of \$5,700,000 to purchase the Real Property and in the amount of \$1,000,000 to carry the Real Property and proposes in return to reimburse the Agency, over time, by: (i) submitting to the Agency the amount of \$2,780,000 upon the ILDC's receipt of the ESD Grant, and (ii) submitting a reimbursement payment back to the Agency in an amount equal to 50% of the net proceeds received by the ILDC upon the future sale of, and with respect to each such future sale of, portions of the Real Property ("Real Property Sale Proceeds"); to refund the Agency in an amount not to exceed \$6,700,000; and



WHEREAS, to assist in the redevelopment of the Real Property, the County of Erie has already approved funding in the County Budget in years 2014, 2015, 2016, and 2017 to be utilized specifically for infrastructure and redevelopment of the Real Property; and

WHEREAS, the ILDC has secured a Regional Council Award from the New York State Empire State Development Corporation ("ESD") providing that, upon the sum total expenditure of \$10,780,000 made with respect to the Project and activities related to the project – said expenditure consisting of: (i) the acquisition of the Real Property (an anticipated ILDC \$5,700,000 expenditure), (ii) the construction of the related Niagara River Shoreline Trail immediately adjacent to the Real Property (an anticipated Erie County \$480,000 expenditure), and (iii) the removal, relocation, and construction of rail track and related utilities adjacent to and within the Real Property (an Erie County \$4,550,000 expenditure), ESD would then grant the ILDC \$2,780,000 provided, however, that it is anticipated that ESD will provide one-half of the ESD Grant amount to the ILDC immediately following the ILDC's purchase of the Real Property and in any event, the entirety of the ESD Grant amount will be provided to the ILDC upon completion of the Niagara River Shoreline Trail design and right of way acquisition and the removal, relocation, and construction of rail track and related utilities adjacent to and within the Real Property; and

WHEREAS, the Agency desires to appropriate and grant UDAG Funds to the ILDC for the Project in the total amount of \$5,700,000 to acquire the Real Property, and in the total amount of \$1,000,000 to carry the Property; and

WHEREAS, the ILDC desires to negotiate and execute a Grant Disbursement Agreement (the "GDA") with the Agency in the amount of \$5,700,000 to purchase the Real Property and in the amount of \$1,000,000 to carry the Real Property, thereby promoting and facilitating the future redevelopment of the Real Property and the future creation of new jobs and new investment; and

WHEREAS, the ILDC, in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617 (collectively referred to as the "State Environmental Quality Review Act" and/or "SEQR") has determined that the Project is classified as "Type I Action" as defined by SEQR for which coordinated review is required, and undertook coordinated review with respect to the Project, and

WHEREAS, to properly undertake the Project, it will be necessary for the ILDC to enter into certain Brownfield Site Cleanup Agreements (the "BCP Agreements") affecting the entirety of the Real Property to ensure that the ILDC can obtain the benefits of the New York State Brownfield Cleanup Program; and

WHEREAS, upon taking title to the Real Property, the ILDC, as a condition of the Real Property transfer, will enter into a temporary license agreement with Tecumseh to continue to permit Tecumseh to access private infrastructure improvements existing on the Real Property that benefit adjacent property owners, said license agreement to

terminate upon the completion of construction work to be undertaken by Erie County to remove, relocate, and construct rail track and related utilities and infrastructure adjacent to and within the Real Property.

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

**Section 1.** Based upon a review of the Project and the Full Environmental Assessment Form (the "EAF") prepared for the Project, the ILDC hereby:

(i) Confirms the status of the Project as a Type I action and affirms the ILDC status as Lead Agency for the Project, within the meaning of, and for all purposes of complying with SEQR; and

(ii) Determines that no potentially significant impacts on the environment are indicated in the EAF or otherwise associated the Project; and

(iii) Determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to undertake the Project and the participation by the ILDC in undertaking the Project have been satisfied. This determination constitutes a Negative Declaration for purposes of SEQR pursuant to 6 N.Y.C.R.R. § 617.7 of the SEQR regulations.

**Section 2.** The ILDC hereby approves and authorizes the receipt of the UDAG Funds from the Agency to carry out the activities as described herein, in an amount not to exceed \$5,700,000 to purchase the Real Property and in the amount of \$1,000,000 to carry the Real Property and further approves and authorizes the ILDC to reimburse the Agency with proceeds from the ESD Grant and with Real Property Sale Proceeds upon the sale of the Real Property or parcels of the Real Property as described herein.

**Section 3.** The Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer are hereby authorized, on behalf of the ILDC, to negotiate, execute and deliver the GDA, and any related documents, to be entered into with the Agency, with respect to disbursement and repayment of the UDAG Funds consistent with the terms as provided for within this resolution.

**Section 4.** The ILDC hereby authorizes the undertaking of the acquisition of the Real Property from Tecumseh in the amount of \$5,700,000 in accordance with the terms and conditions as described herein and the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer are hereby authorized, on behalf of the ILDC, to execute and deliver an Agreement of Purchase and Sale and a related license agreement with Tecumseh, and any other related documents required to accomplish the purposes of this resolution, with such changes, variations, omissions and insertions as

authorized by the Chair, the Vice Chair, the President/Chief Executive Officer, and/or the Executive Vice President, in consultation with the ILDC general counsel, to constitute conclusive evidence of such approval.

Section 5. The ILDC hereby authorizes the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, on behalf of the ILDC, to enter into and amend, as appropriate, the BCP Agreements that affect the entirety of the Real Property to ensure that the ILDC can obtain the benefits of the New York State Brownfield Cleanup Program.

Section 6. The ILDC hereby accepts receipt of the ESD Grant in the amount of \$2,780,000 and authorizes the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, on behalf of the ILDC, to execute, on behalf of the ILDC, any documents, agreements, instruments or certificates in connection with the ESD Grant and further, directs and appoints the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, on behalf of the ILDC, to carry out any administration, reporting, disbursement, draw down or any other activity related to the ESD Grant as may be necessary to implement the intent of the ESD Grant.

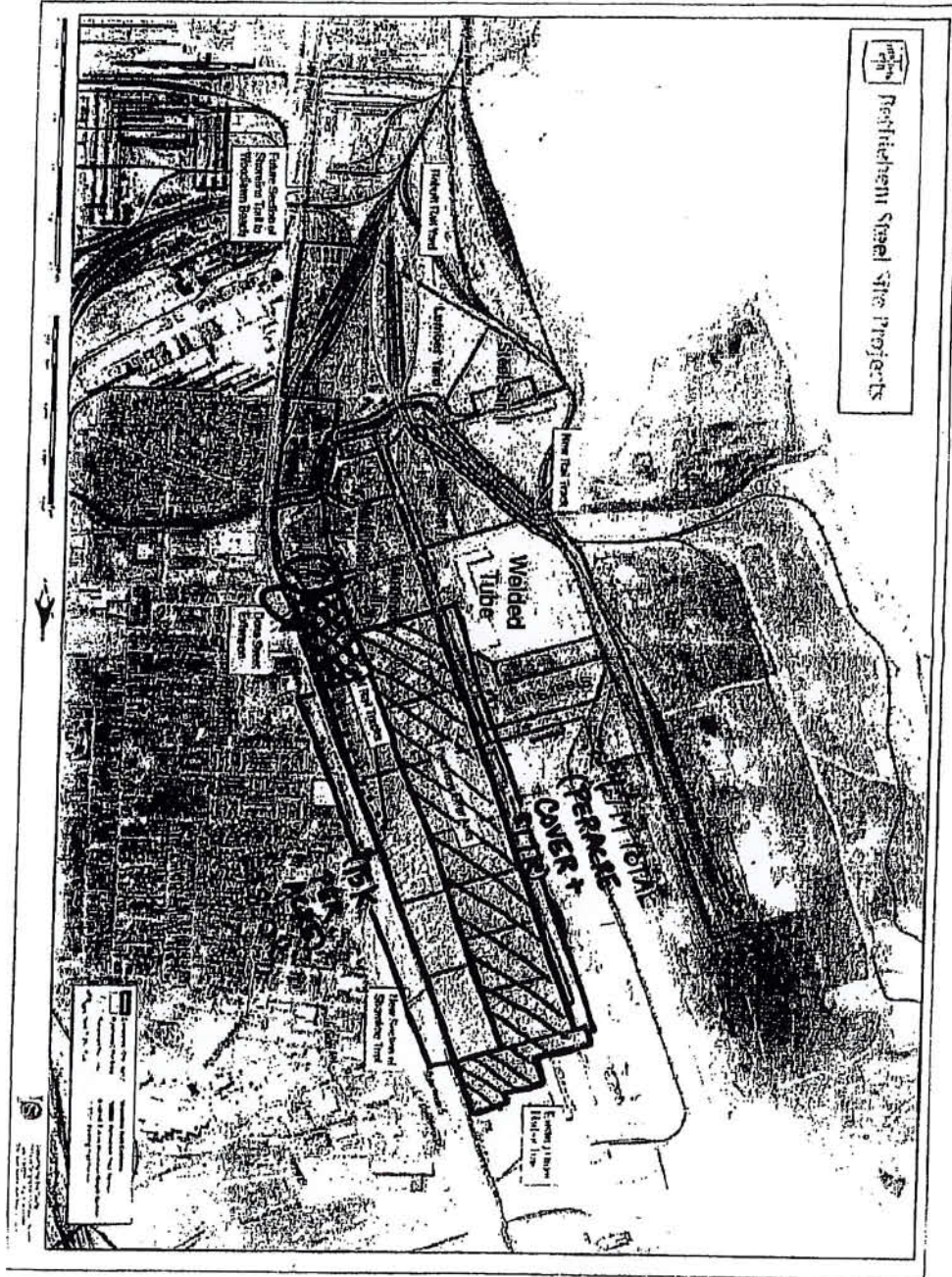
Section 7. The Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized and directed, and in the name and on behalf of the ILDC to obtain such approvals and consents of regulatory or governmental authorities, negotiate and execute any related documents, certifications, or agreements, and to do all such further acts and things as may be necessary, or in the opinion of such officer, employee or agent so acting, desirable and proper to effect the purposes of the foregoing Resolutions.

Section 8. This resolution shall take effect immediately.

Dated: February 22, 2017

EXHIBIT A

Real Property



STATE OF NEW YORK )  
COUNTY OF ERIE ) SS:

I, the undersigned Assistant Secretary of the Buffalo and Erie County Industrial Land Development Corporation, DO HEREBY CERTIFY:

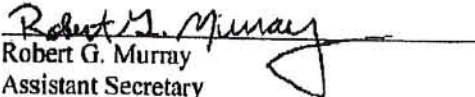
That I have compared the annexed extract of minutes of the meeting of the Buffalo and Erie County Industrial Land Development Corporation (the "ILDC"), including the resolution contained therein, held on February 22, 2017 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the ILDC and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of the ILDC had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the ILDC present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand on this 22<sup>nd</sup> day of February, 2017.

  
Robert G. Murray  
Assistant Secretary

## **Exhibit C**

## **Brownfield Cleanup Program**

### **Application to Amend Brownfield Cleanup Agreement and Amendment**

#### Section IV. Eligibility Information for New Requestor

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

New Requestor has and had no current or prior direct or indirect ownership interest or any other interest in any prior owner or operator of the property. New Requestor acquired its fee title interest in the property on November 28, 2017. The property was purchased from Tecumseh Redevelopment Inc. ("Tecumseh"), and Tecumseh is currently a volunteer with respect to the Brownfield Cleanup Agreement affecting the property that is the subject of this Application to Amend Brownfield Cleanup Agreement and Amendment.

Tecumseh has, prior to New Requestor obtaining title to the property, and at the insistence of New Requestor as a condition of taking title to the property, undertaken certain remedial activities on the property, and also, prior to taking title to the property, the New Requestor secured or will secure receipt of a notice from the New York State Department of Environmental Conservation confirming that the New York State Department of Environmental Conservation hereby confirms that Tecumseh Redevelopment Inc. has submitted a Final Engineering Report in approvable form for BCP Parcels C915197, C915197C, C915197E, and C915197G, located in the City of Lackawanna, Erie County, New York, and pending completion of the Certificate of Completion process, no other unfulfilled material BCP requirements need to be satisfied before NYSDEC will proceed with issuance of a COC for said aforementioned BCP parcels.

Since taking title, New Requestor has not undertaken any activity on the property resulting in soil disturbance or otherwise undertaken any activity affecting the soil or groundwater, has taken appropriate care to ensure that there are not continuing releases of contamination on the property, that there are no threatened future releases of contamination on the property, and has prevented human, environmental, or natural resource exposure to any previously released contamination.

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

# **EXHIBIT D**

**Revised SBL Number**



REVISED SBL NUMBER  
Hamburg Turnpike

EXHIBIT D-1

Tax map showing former tax parcels 141.11-1-50 and 141.11-1-48

EXHIBIT D-2

Email correspondence dated June 12, 2017 from City of Lackawanna Assessor Frank Krakowski confirming that a portion of SBL Nos. 141.11-1-50 and 141.11-1-48 have been combined

EXHIBIT D-3

Assessment Summary from City of Lackawanna showing creation of new tax parcel SBL No. 141.11-1-48.1

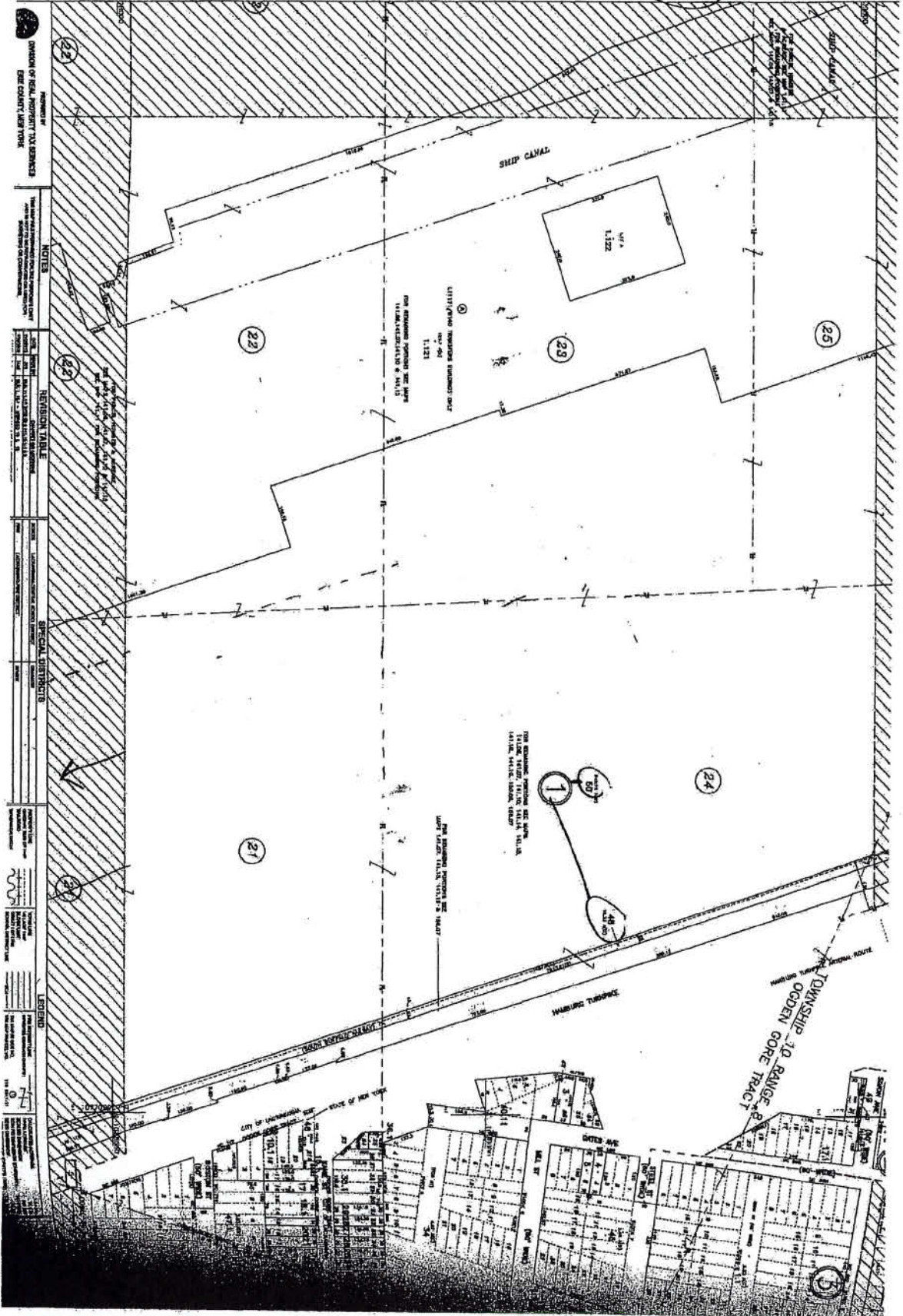
EXHIBIT D-4

Correspondence dated July 11, 2017 from City of Lackawanna Director of Development identifying the property being sold to Buffalo and Erie County Industrial Land Development Corporation as part of SBL 141.11-1-48.1

\*\* A tax map showing the tax parcel does not exist at this point in time.

MAR  
14.11.11

EXHIBIT D-1



DEPARTMENT OF REVENUE  
DIVISION OF REAL PROPERTY TAX SERVICES  
GENERAL VALUATION UNIT  
GENERAL VALUATION UNIT  
GENERAL VALUATION UNIT

NOTES  
1. THE MAP IS A PRELIMINARY MAP FOR THE PURPOSES OF THE GENERAL VALUATION UNIT.  
2. THE MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE.  
3. THE MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE.

NEIGHBOUR TABLE

TRACT NO.	TRACT AREA	TRACT VALUE
22	1.122	1.121
23	1.122	1.121
24	1.122	1.121
25	1.122	1.121
26	1.122	1.121
27	1.122	1.121
28	1.122	1.121
29	1.122	1.121
30	1.122	1.121
31	1.122	1.121
32	1.122	1.121

SPECIAL DISTRICTS

DISTRICT NO.	DISTRICT NAME	DISTRICT VALUE
1	1.122	1.121
2	1.122	1.121
3	1.122	1.121
4	1.122	1.121
5	1.122	1.121
6	1.122	1.121
7	1.122	1.121
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LEGEND

SYMBOL	DESCRIPTION
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LEGEND

SYMBOL	DESCRIPTION
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26	1.122
27	1.122
28	1.122
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30	1.122
31	1.122
32	1.122

**Melanie C. Marotto**

---

**From:** Nisengard, Michael <mnisengard@hselaw.com>  
**Sent:** Tuesday, July 11, 2017 3:32 PM  
**To:** Melanie C. Marotto  
**Subject:** FW: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]  
**Attachments:** Hamburg Tpk.pdf



**Michael L. Nisengard**, Senior Associate  
**Harter Secrest & Emery LLP**, Attorneys and Counselors  
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293  
Firm 716.853.1616 Direct 716.844.3715 Fax 716.853.1617  
[MNisengard@hselaw.com](mailto:MNisengard@hselaw.com) [vCard](#) [Bio](#)  
[www.hselaw.com](http://www.hselaw.com)

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---

**From:** cityassessor [<mailto:cityassessor@lackny.com>]  
**Sent:** Monday, June 12, 2017 11:04 AM  
**To:** Scholand, Gregory P.  
**Subject:** RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

See attached parcels have been combined.

*Frank E. Krackowski*

Assessor, City of Lackawanna  
714 Ridge Road Room 213  
Lackawanna, New York 14218  
Phone: 716-827-6451  
Fax: 716-827-6434

[cityassessor@lackny.com](mailto:cityassessor@lackny.com)

---

**From:** Scholand, Gregory P. [mailto:[gscholand@hselaw.com](mailto:gscholand@hselaw.com)]

**Sent:** Thursday, June 8, 2017 10:02 AM

**To:** cityassessor <[cityassessor@lackny.com](mailto:cityassessor@lackny.com)>

**Subject:** RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

Thanks very much Frank. Please let me know when the combination is complete so that I can inform Tecumseh.

Best,  
Greg



**Gregory P. Scholand**, Associate  
Harter Secrest & Emery LLP, Attorneys and Counselors  
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293  
Firm 716.853.1616 Direct 716.844.3714 Fax 716.853.1617  
[GScholand@hselaw.com](mailto:GScholand@hselaw.com) [vCard](#) [Bio](#)  
[www.hselaw.com](http://www.hselaw.com)

---

**From:** cityassessor [<mailto:cityassessor@lackny.com>]  
**Sent:** Thursday, June 08, 2017 9:58 AM  
**To:** Scholand, Gregory P.  
**Subject:** RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

New SBL# will be 141.11-1-48.1

*Frank E. Krakowski*

Assessor, City of Lackawanna  
714 Ridge Road Room 213  
Lackawanna, New York 14218  
Phone: 716-827-6451  
Fax: 716-827-6434

[cityassessor@lackny.com](mailto:cityassessor@lackny.com)

---

**From:** Scholand, Gregory P. [<mailto:gscholand@hselaw.com>]  
**Sent:** Wednesday, May 31, 2017 1:34 PM  
**To:** [cityassessor@lackny.com](mailto:cityassessor@lackny.com)  
**Subject:** Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

Dear Mr. Krakowski,

As you and I discussed on the phone last week, our firm represents Tecumseh Redevelopment Inc. ("Tecumseh"), landowner in the Bethlehem Redevelopment Area of Lackawanna. On behalf of Tecumseh, I am writing to request the Combination of two parcels:

- 141.11-1-50** - 2303 Hamburg Turnpike, City of Lackawanna (+/-942.7 acres)
- 141.11-1-48** - [0] Hamburg Turnpike, City of Lackawanna (+/-11.3 acres)

These two parcels are contiguous, and Tecumseh Redevelopment Inc. is the record owner of both.

Please don't hesitate to contact me if you need any further information with respect to this Combination request. Otherwise, please notify me when the Combination is complete.

Thank you for your assistance and courtesies in this matter.

Regards,  
Greg



**Gregory P. Scholand**, Associate  
**Harter Secrest & Emery LLP**, Attorneys and Counselors  
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293  
Firm 716.853.1616 Direct 716.844.3714 Fax 716.853.1617  
[GScholand@hselaw.com](mailto:GScholand@hselaw.com) [vCard](#) [Bio](#)  
[www.hselaw.com](http://www.hselaw.com)

NYS- Real Property System  
 County of Erie county  
 City of Lackawanna  
 SWIS Code - 140900

Assessment Summary  
 For Current Year File 2018  
 Parcel ID: 141.11-1-48.1  
 Reactivated

RPS030V04/L001  
 Date: 6/12/2017  
 Sheet 1 of 1

<b>Parcel Information</b>		<b>Parcel Land Size</b>		<b>File Maintenance/Sales Info</b>	
Owner: Tecumseh Redevelopment Inc.	Acct #: 61	Front: 0.00 Acres:	954.00	Created: 08/28/1990	Book:
Location: 2303 Hamburg Tpke Lackawanna, NY 14218	School Cd: 140900 Lackawanna City [	Depth: 0.00 Sq Ft:	0	Modified: 06/12/2017 11:00 AM	Page:
	Roll Sect: 1 Taxable RS/S:	<b>Grid Coordinates</b>		By: frank	
	Prop Class: 714 Lite Ind Manfr	East: 1074323	North: 1026859	Folder: u_assmt_ar	

<b>Property Description</b>	<b>Tax Code:</b> N Non-Homestead	<b>Desc 1:</b>
Owner Cd:	Alloc Factor: 0.0000	<b>Desc 2:</b>
Gons School:	Land Com Yr/Cd:	<b>Desc 3:</b>
Ag District: 0	Ag District Cd:	<b>Desc Print Cd:</b> D
Easmt Cd:	SSI: 0	

<b>Assessment Data</b>		<b>Taxable Values</b>		<b>AR Information</b>	
Curr Land AV:	8,703,940	County:	11,103,940	Equal Inc:	11,103,940
Curr Total AV:	11,103,940	Muni:	11,103,940	Equal Dec:	
Reval Land:	10,026,200	School:	11,103,940	Phys Inc:	
Reval Total:		Village:		Phys Dec:	
Disclos Total:		Star Sch:	11,103,940	Split Merge:	3

<b>Current Owners</b>		<b>Additional Address</b>	
Name	Attention To/In Care Of	St	Zip Code
Street No./Prefix/Dir/Street Name/Suffix/Post Dir	Unit Name	IN	46312-1716
Tecumseh Redevelopment Inc.	Tax Department-8-229	City	Country
3210 Watling St		East Chicago	Bar Cd
			Owner Type
			Primary

<b>Building Permits</b>		<b>Activity Code</b>	
Permit No.	Permit date	Pct Complete	Activity Code
10799	01/09/2009	0	A Active
9340	01/07/2002	100	H Historical

<b>Building Permits</b>		<b>Activity Code</b>	
Permit No.	Permit Use	Pct Complete	Activity Code
10799	Demo Building 48 X 84 Brick Building	0	A Active
9340	Food Transfer Station	100	H Historical

**CITY OF LACKAWANNA  
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309  
Lackawanna, NY 14218  
Tel: (716) 827-6474 Fax: (716) 827-1866

RECEIVED



July 11, 2017

RECEIVED

JUL 12 2017

John Cappellino, Director of Business Development  
Industrial Land Development Corporation  
C/O ECIDA  
95 Perry Street, Suite 403  
Buffalo, NY 14203

Dear Mr. Cappellino:

As Director of Development for the City of Lackawanna, I have reviewed the contents of the request for Preliminary Plat Approval to subdivide 2303 Hamburg Turnpike (SBL #141.11-1-48.1) into two parcels, so as to create a new approximately 150-acre parcel, which will be acquired by the Buffalo and Erie County Industrial Land Development Corporation (BILDC) from Tecumseh Redevelopment Inc (Grantor).

Based upon a review and in reliance on your letter of July 10<sup>th</sup>, 2016, and all attachments thereto, it is understood that:

1. The 150-acre parcel being created will be assembled in four or fewer separate phases to be completed in whole within 6 months, and that each deed conveying a portion of the 150-acres will ultimately be joined into the newly created 150-acre tract being acquired by the ILDC. Thus, there will never be more than two parcels created in the subdivision process we are reviewing at this time; and
2. There are no roads or right-of-ways being created a part of this approval. Access to the grantor parcel and the newly created parcel will initially be provided at the existent Ridge Road entrance to 2303 Hamburg Turnpike. Access across the newly created parcel to the Grantor's and grantors lands will be allowed through temporary licenses, until the already funded and approved Dona Street extension is completed consistent with local road standards. This approval creates no status to any existing pathway, or to any other roads or pathways, and in no way waives the requirements of all roads to meet the City Standards set forth in Lackawanna Code §§ 144-6 through 144-8; and
3. BILDC has represented that a GEIS will be conducted for the proposed redevelopment of the 150-acre parcel; and until such time as the GEIS process is complete, the potential internal roadways and utility corridors, easements, and parklands will be unknown; and

Drew Shapiro  
Department of Development



4. The applicants further represents due to the complex history of the past private use of land it cannot make accurate representation as to the existent location all utility lines and services and thus requests the details otherwise required by Lackawanna Code §144-4 (B)(1) not contained within the application, be waived, without prejudice or requirement that the requisite detail as to all improvements to be utilized going forward meet the requirements for Final Plat approval set forth in Lackawanna Code §144-6.

Based upon, and in reliance on your foregoing representations your Preliminary Plat Approval is deemed complete and approved, without waiver of any requirements to meet Final Plat Approval Requirements within six months after completion of the GEIS process, and without any waiver to comply with all applicable State Laws, and local codes and standards in the use and development of the properties.

Please do not hesitate to contact my office at 716-827-6421 with any other questions, concerns or assistance if needed.

Sincerely,



Drew Shapiro, Director of Development

Cc: Richard Stanton, Esq  
Robert Murray, Esq  
Antonio Savaglio, Esq