

AMENDMENT TO ENVIRONMENTAL EASEMENT

This Amendment to Environmental Easement is made as of this 7th day of MARCH 2017 by and between The People of the State of New York, acting through their Commissioner of the Department of Environmental Conservation ("NYSDEC" or the "Department") with its headquarters located at 625 Broadway, Albany, New York 12233, and Brightfields II Corporation ("Grantor") with its offices located at 333 Ganson Street, Buffalo, New York 14203.

RECITALS

1. Grantor is the owner of certain land known and designated on the tax map of the City of Niagara Falls, County of Niagara and State of New York as tax map parcel number: Section 144.06 Block 2 Lot 25.2, being a portion of the property conveyed to Grantor by deed dated April 4, 2014 and recorded in the Niagara County Clerk's Office in Instrument No. 2014-05458.
2. The Department and Grantor entered into that certain Environmental Easement ("Easement Agreement") dated as of December 1, 2014 and recorded in the Niagara County Clerk's Office on December 15, 2014 as Instrument No. 2014-21585. Capitalized terms used herein without definition have the meanings ascribed to them in the Environmental Easement Agreement.
3. Pursuant to Section 1, 2, 3, 4, and 5 of the Easement Agreement, Grantor granted the Department rights and interests that run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of the Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of certain maintenance, monitoring or operation requirements; and to ensure the potential restriction of future uses of the land that are inconsistent with the stated purpose.
4. Pursuant to Section 2 A of the Easement Agreement, the Controlled Property may only be used for Restricted-Residential, Commercial and Industrial uses described in 6 NYCRR §375-1.8(g) and may only be used consistent with controls set out in that Section 2 A of the Easement Agreement.
5. This Amendment to Environmental Easement is filed solely in order to revise the legal description for the Controlled Property that was attached as Schedule "A" to that Environmental Easement dated as of December 1, 2014 and recorded in the Niagara County Clerk's Office on December 15, 2014 as Instrument No. 2014-21585.
6. Pursuant to Section 8 of the Easement Agreement, the Department agrees to amend the Easement Agreement in the manner prescribed by Article 9 of the Real Property Law.

AMENDMENT OF ENVIRONMENTAL EASEMENT

- A. The above recitals are hereby incorporated into this Amendment of Environmental Easement.
- B. The Department and Grantor hereby agree that the 4th Whereas clause of the Environmental Easement is hereby amended to read as follows:

WHEREAS, Grantor, is the owner of real property located at the address of 3201 Highland Avenue in the City of Niagara Falls, 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 144.06 Block 2 Lot 25.2, being a portion of the property conveyed to Grantor by deed dated December 1, 2014 and recorded in the Niagara County Clerk's Office as Instrument No. 2014-21585. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 5.011 +/- acres, and is hereinafter more fully described in the Land Title Survey dated February 14, 2014 and last revised October 31, 2016 prepared by Kenneth L. Slaughenhoupt, L.L.S. of Niagara Boundary and Mapping Services, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule "A" – Amended Description of Controlled Property; and

- C. The Department and Grantor hereby agree that the metes and bounds description of the Controlled Property attached hereto as "Schedule "A" – Amended Description of Controlled Property" shall replace the original metes and bounds description attached as Schedule "A" to the December 1, 2014 Environmental Easement.
- D. All other terms of the December 1, 2014 Environmental Easement shall remain in effect.
- E. This Amendment of Environmental Easement inures to and binds the parties hereto and their respective successors and assigns.
- F. This Amendment of Environmental Easement shall be governed by and interpreted in accordance with the laws of the State of New York.

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

Brightfields II Corporation:

By: _____

Print Name: Jon M. Williams

Title: President Date: 2/6/17

Grantor's Acknowledgment

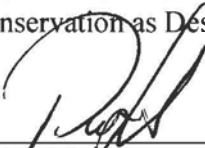
STATE OF NEW YORK)
) ss:
COUNTY OF Erie)

On the 6th day of February, in the year 20 17, before me, the undersigned, personally appeared Jon M. Williams, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Nancy L. Mayer
Notary Public - State of New York

NANCY L. MAYER
Notary Public - State of New York
No. 105830
11.20, 2017

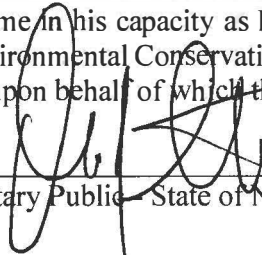
THIS AMENDMENT OF THE ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

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

Grantee's Acknowledgment

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

On the 7th day of March, in the year 2017, 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" AMENDED DESCRIPTION OF CONTROLLED PROPERTY

**ENVIRONMENTAL EASEMENT DESCRIPTION FOR SUPERFUND SITE No. 932136
Brightfields – Lot 1251**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Niagara Falls, County of Niagara and State of New York, being part of Lot 34 of the New York State Mile Reserve and being more particularly bounded and described as follows:

Commencing at a point on the easterly line of Highland Avenue at its intersection with the northerly line of Beech Avenue;

Thence S.88°43'18"E along the northerly line of Beech Avenue a distance of 274.00 feet to the POINT OR PLACE OF BEGINNING;

Thence S.88°43'18"E along the northerly line of Beech Avenue a distance of 839.99 feet to the intersection of the north line of Beech Avenue with the west line of the former Fifteenth Street;

Thence N.00°54'11"E a distance of 277.75 feet to a point;

Thence N88°58'03"W a distance of 741.30 feet to a point;

Thence S20°42'42"W a distance of 291.15 feet to the northerly line of Beech Avenue and the Point or Place of Beginning, containing 5.011 acres of land more or less.