

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
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Certified Mail, Return Receipt Requested

March 13, 2020

Canandaigua Crossroads, LLC
Thomas Masaschi
2604 Elmwood Avenue #352
Rochester, NY 14618

Re: Former Labelon Corp. Facility
BCA Amendment to Generation 3 of the BCP
Site No. C835016

Dear Thomas Masaschi:

As you know, the above-referenced site has been in the Brownfield Cleanup Program (BCP) for several years. A statutory change to the BCP has occurred since the site entered the BCP (the law was amended in 2015). Changes in the law in 2008 and 2015 created three "generations" of the BCP, and because the above-referenced site did not meet the statutory deadline of December 31, 2019 for receipt of a Certificate of Completion ("COC") set forth in the 2015 BCP changes, the site will now be subject to the tax credit structure of Generation 3 of the BCP.⁷³ The descriptions of the tax credit schemes and deadlines is contained in both Article 27, Title 14 of the Environmental Conservation Law and Section 21 of the Tax Law.

As described in the 2015 changes to the BCP, and as more fully detailed in DER-32, the above-referenced site will now be a Generation 3 site for both tax credit purposes and with respect to the deadline for receipt of a COC (December 31, 2026).

Since your site is not located in a City having a population of one million or more, it is therefore presumed that the Site is eligible for Tangible Property Tax Credits. However, the site will only be eligible for Tangible Property Tax Credits if there is contamination from an on-site source.

Attached to this cover letter is a BCP agreement amendment for the above-referenced site which memorializes the Generation 3 status of your project and clarifies that the date of cost eligibility for tax credit purposes remains the original date of the Brownfield Cleanup Agreement. Please have an authorized representative sign the original amendment where indicated and return to my attention at 625 Broadway, Albany

⁷³ For a full discussion of the different generations of the BCP, please refer to Department guidance entitled "DER-32 – Brownfield Cleanup Program Applications and Amendments" available at http://www.dec.ny.gov/docs/remediation_hudson_pdf/der32.pdf

New York. If documentation indicating that the individual executing the Amendment is authorized to bind the applicant has not been previously provided to the Department, such proof of the authority to bind (corporate organization papers, corporate resolution, operating agreement or resolution for an LLC) must also be provided. The BCA amendment shall not be effective until it is fully executed by the parties. For sites that have multiple parties to the BCA, the amendment may be signed in counterparts.

Failure to sign and return this amendment within thirty (30) days of receipt shall result in termination of this site from the BCP.

The Department looks forward to working with you on completing the remediation of this site. The Department's project manager will assist you in completing your project.

Sincerely,



Michael J. Ryan, P.E., Director
Division of Environmental Remediation

Enclosures:

Department's Copies:

ec: Miles, Danielle
Loew, Dudley

Tax and Finance's Copies:

ec: Gokey, Matthew
Takac, Paul

Applicant's Copies:

ec: Alan J. Knauf, Esq., Knauf Shaw, LLP, aknauf@nyenvlaw.com
Michael Rumrill, Leader, mrumrill@leaderlink.com

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

**AMENDMENT TO BROWNFIELD SITE
CLEANUP AGREEMENT
Index No. C835016-12-10**

Former Labelon Corp. Facility

DEC Site No: C835016

Located at: 10 Chapin Street, Canandaigua, Ontario County, NY 14424

Hereinafter referred to as "Site"

by:

Canandaigua Crossroads, LLC

2604 Elmwood Avenue #352, Rochester, NY 14618

Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Department and the Applicant seek to amend the existing BCP Agreement for the Site, based on the 2015 changes to the BCP.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Tax Credit Status & Deadline for receipt of Certificate of Completion (COC)

Based on the fact that the Site did not receive a COC by December 31, 2019, it is hereby subject to the terms of the BCP in effect as of July 1, 2015, including, but not limited to, the tax credit structure and the deadline of December 31, 2026.

With respect to eligible costs incurred under the BCP, this Amendment shall not change the effective date of the Agreement, and otherwise eligible costs incurred from the original effective date of the agreement will still be eligible costs for tax credit purposes.

II. Miscellaneous

A. Except for the modifications set forth herein, the original Agreement shall

remain in full force and effect and the terms thereof and the obligations therein are incorporated herein and shall apply with the same force and effect to the provisions of this Amendment. The terms of the original Agreement, including all exhibits, appendices and subsequent modifications, are not otherwise modified or expanded in any way.

B. The terms herein shall constitute this complete and entire Amendment of the Agreement. No term, condition, understanding or agreement purporting to modify the terms of the Agreement shall be binding unless subscribed to by both parties in accordance with the terms of the Agreement.

C. The effective date of this Amendment is the date it is signed by the Commissioner or the Commissioner's designee.

D. This Amendment may be signed in counterparts.

DATED:

THIS BROWNFIELD CLEANUP AGREEMENT
AMENDMENT IS HEREBY APPROVED, Acting by and
Through the Department of Environmental Conservation as
Designee of the Commissioner,

By:

Michael J. Ryan, P.E., Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Canandaigua Crossroads, LLC
By: _____
Title: Mary Meehan
Date: 3/10/2020

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

On the 10 day of March in the year 2020, before me, the undersigned, personally appeared Thomas Murschi, 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.

Signature and Office of individual taking acknowledgment
Sammy Feldman
Notary Public
State of N.Y. Monroe County
Commission Expires 7/31/22