

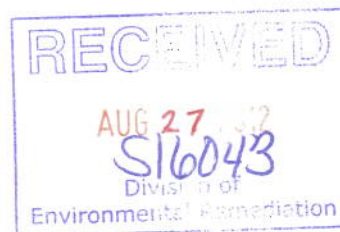


Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

WWW.HSELAW.COM

August 23, 2012



Robert W. Schick, P.E., Acting Director
Division of Environmental Remediation
New York State Department of Environmental Conservation
12th Floor
Albany, New York 12233-7011

Re: Former Mobil Service Station 99-MST
Tax Map No.: 100.79-1-4, 100.79-1-5, 100.79-1-1, 100.79-1-2 (portion)
Property County: Erie
Site No.: C915260

Dear Mr. Schick:

On behalf of Kaleida Health, Kaleida Properties and F.L.C. 50 High Street Corporation and in follow-up to your August 7, 2012 letter, enclosed please find an original, fully executed Brownfield Cleanup Agreement Amendment ("BCA Amendment") regarding the above-referenced site.

Should the Department have any questions or concerns regarding the BCA Amendment, please do not hesitate to contact my office directly.

Yours very truly,

Harter Secrest & Emery LLP

Marc A. Romanowski

Partner

DIRECT DIAL: 716.844.3709
E-MAIL: MROMANOWSKI@HSELAW.COM

MAR:iks
Enclosure

cc: Michael Caruso, Esq. (w/enclosure)
Jim Charles, Esq. (w/enclosure)
Martin Doster (w/enclosure)
Jaspal Walia (w/enclosure)
Joseph Kessler (w/enclosure)
Frank Ciminelli (w/enclosure)

New York State Department of Environmental Conservation
Division of Environmental Remediation
Office of the Director, 12th Floor
625 Broadway, Albany, New York 12233-7011
Phone: (518) 402-9706 • Fax: (518) 402-9020
Website: www.dec.ny.gov



Joe Martens
Commissioner

Sent Via Email Only

August 7, 2012

Kaleida Properties, Inc.
Joseph Kessler
726 Exchange Street, Suite 200
Buffalo, NY 14210

Kaleida Health
Joseph Kessler
726 Exchange Street, Suite 522
Buffalo, NY 14210

F.L.C. 50 High Street Corporation
Frank Ciminelli
350 Essjay Road, Suite 100
Williamsville, NY 14221

Re: Brownfield Cleanup Agreement Amendment
BCP Site No.: C9915260
BCP Site Name: Former Mobil Service Station 99-MST
BCA Index No.: C915260-03-12
Amendment No. 1

Dear Applicants:

This letter is forwarded to your attention in response to the request submitted to amend the Brownfield Cleanup Agreement ("BCA" or "Agreement") signed on June 15, 2012. The request, submitted by Marc A. Romanowski, Esq., requested that the above-noted BCA be amended by adding a parcel strip of land to the eastern boundary to the original BCA site. The new site is depicted on a site plan map attached to your letter as Exhibit "D", as containing approximately 1.72 acres.

The above request is hereby granted and incorporated into and is enforceable pursuant to the subject Agreement effective immediately upon receipt of this letter. In reliance upon, and in furtherance of these letters and previous discussions, if any, of this matter between the Department staff and the Brownfield Cleanup Program (BCP) applicant's representatives to date. Specifically, the property set forth on Exhibit "D" is hereby added to the definition of the "site."

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.

Please have the authorized representative(s) counter sign this letter to acknowledge acceptance of this Amendment, and send an original signature back to the Department at:

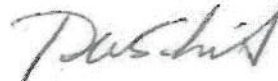
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway, 12th Floor
Albany, New York 12233-7011

Please keep a copy of the countersigned letter as proof of the BCA Amendment.

Nothing contained herein constitutes a waiver by the Department, 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.


Please contact me if you have any questions in this regard. Thank you for your assistance in this matter.

Sincerely,




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

The following Applicant(s), in signing this letter, do hereby acknowledge and accept the amendment to the BCA as set forth above.


Kaleida Properties, Inc.

Joseph M. Kessler 8/13/12
Name - Please print Date


Kaleida Health

Joseph M. Kessler 8/13/12
Name - Please print Date


Frank L. Ciminelli, Operating Agent
F.L.C. 50 High Street Corporation

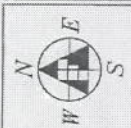
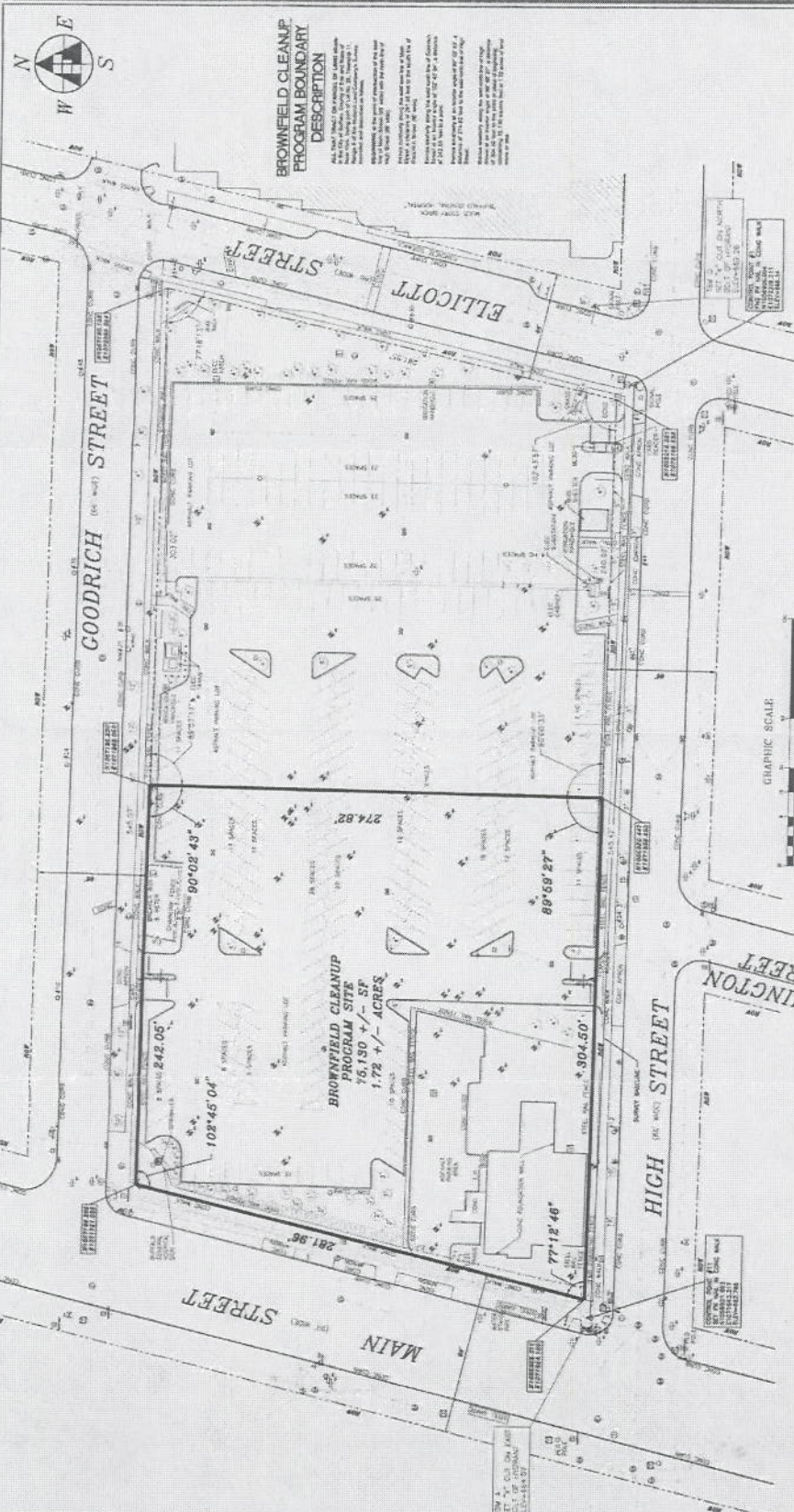
FRANK L. CIMINELLI 8/9/12
Name - Please print Date

- ec:
- Ben Conlon
 - Michael Caruso
 - Robert Schick
 - Michael Cruden
 - Marty Doster
 - Jaspal Walia
 - Jim Charles
 - Elissa Armater
 - Kelly Lewandowski
 - Marc A. Romanowski (mromanowski@hselaw.com)

FOIT-ALBERT ASSOCIATES
 Architects, Engineers and Surveyors, P.C.
 765 Main Street
 Buffalo, New York 14203
 Phone: (716) 856-2802
 Fax: (716) 856-2981

BROWNFIELD CLEANUP PROGRAM BOUNDARY
 OF HOLLAND AND COMPANY'S SURVEY
 COUNTY OF ERIE, STATE OF NEW YORK
KALIDA HEALTH

Professional Engineer Seal for KALIDA HEALTH, License No. 10003-B, State of New York.



BROWNFIELD CLEANUP PROGRAM BOUNDARY DESCRIPTION

The City of Buffalo, New York, is the owner of the subject property. The subject property is located in the City of Buffalo, New York, and is bounded by the streets of Main Street, Goodrich Street, Ellicott Street, High Street, and Washington Street. The subject property is bounded by the streets of Main Street, Goodrich Street, Ellicott Street, High Street, and Washington Street. The subject property is bounded by the streets of Main Street, Goodrich Street, Ellicott Street, High Street, and Washington Street.

EXISTING EASEMENTS

The subject property is subject to the following existing easements: [List of easements]

NOTES

1. THIS PLAN IS BASED ON THE 1922 SURVEY CONDUCTED BY ALBERT H. 2011.

2. THE BOUNDARY AND DIMENSIONS SHOWN ON THIS PLAN ARE BASED ON THE 1922 SURVEY.

3. THE BOUNDARY AND DIMENSIONS SHOWN ON THIS PLAN ARE BASED ON THE 1922 SURVEY.

4. THE BOUNDARY AND DIMENSIONS SHOWN ON THIS PLAN ARE BASED ON THE 1922 SURVEY.



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ABBREVIATIONS

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