

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Remedial Program for
915 Cleveland Avenue under Article 27,
Title 14 of the Environmental Conservation Law
by CLP3, LLC

BROWNFIELD SITE
CLEANUP AGREEMENT
AMENDMENT

Index # B9-0758-07-11
Site # C932133

WHEREAS, the New York State Department of Environmental Conservation (the "Department") and CLP3, LLC ("Applicant"), entered into a Brownfield Site Cleanup Agreement Index #B9-0758-07-11 (the "Agreement"), which Agreement was signed by the Commissioner of the Department on December 21, 2007 relative to property located at 915 Cleveland Avenue in the City of Niagara Falls, County of Niagara having a tax identification number 144.46-2-44, to be included in the Brownfield Cleanup Program; and

WHEREAS, the Applicant submitted an application dated October 19, 2009 which was deemed complete on November 18, 2009 to expand the previously approved site to encompass additional areas of contamination discovered during the investigation and remediation of the property. The additional parcels consist of the following:

913 Cleveland Avenue; Acreage of parcel: 0.03 acres; SBL#: 144.46-2-45.2
1921 Main Street; Acreage of parcel: 0.08 acres; SBL#144.46-2-45.1
1925 Main Street; Acreage of parcel: 0.1 acres; SBL#144.46-2-46
1929 Main Street; Acreage of parcel: 0.19 acres; SBL#144.46-2-42
1931 Main Street; Acreage of parcel: 0.08 acres; SBL#144.46-2-6
1935 Main Street; Acreage of parcel: 0.04 acres; SBL#144.46-2-7; and

WHEREAS, Applicant agrees to be bound by the terms of this Amendment and consents and agrees not to contest the authority or jurisdiction of the Department to enter into or enforce this Amendment, and agrees not to contest the validity of this Amendment;

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

I. The third paragraph of the Agreement is hereby amended by deleting the third paragraph and substituting the following:

"**WHEREAS**, by a certified application dated September 7, 2007, Applicant CLP3, LLC, a domestic limited liability company, with offices located at 2420 N. Forest Road, Getzville, New York 14068, submitted an amended request to participate in the Brownfield

Cleanup Program relative to property located at 915 Cleveland Avenue in the City of Niagara Falls, County of Niagara, having a Niagara County tax identification number 144.46-2-44; the Department has accepted the amended application to include the following additional properties having Niagara County tax identification numbers: 144.46-2-45.2 (913 Cleveland Avenue); 144.46-2-45.1 (1921 Main Street); 144.46-2-46 (1925 Main Street); 144.46-2-42 (1929 Main Street); 144.46-2-6 (1931 Main Street); and 144.46-2-7 (1935 Main Street) to be included in the Brownfield Cleanup Program (the "Site"). A map of the Site showing its general location is attached as Exhibit "A;"

II. This Amendment shall control to the extent of a conflict between the provisions hereof and those of the Agreement. Except as provided in the preceding sentence or elsewhere in this Amendment, the Agreement and the documents related thereto, shall continue in full force and effect. Any amendment or other modification of this Amendment must be in writing.

III. The effective date of this Amendment shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED:

MAR 03 2010

ALEXANDER B. GRANNIS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

Dale A. Desnoyers, Director
Division of Environmental Remediation

Exhibit "A"

Map

