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 pacel: 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 0 3 2010

ALEXANDER B. GRANNIS

COMMISSIONER

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: V

Dale A. Desnoyers, Director

Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Amendment and agrees to be bound by this Amendment.

CLP3 LLC

3y:____

Paul F. Ciminelli

Title: Representative

Date: February 16, 2010

STATE OF NEW YORK

) ss:

COUNTY OF ERIE

10

On the 16th day of February, in the year 2000, before me, the undersigned, personally appeared Paul F. Ciminellipersonally 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

KATHLEEN A. GUENTHER #01GU4575162
NOTARY PUBLIC, STATE OF NEW YORK
CUALIFIED IN ERIE COUNTY
My Controsion Expires August 31, 20

Exhibit "A"

Map

