

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Remedial Program for
Flushing Industrial Park (Western Waterfront),
Parcel 3, College Point Avenue and 40TH Road,
Queens, under Article 27, Title 14 of the
Environmental Conservation Law by Volunteer
C.E. Flushing, LLC.

AMENDED
BROWNFIELD SITE
CLEANUP AGREEMENT

Index No.: W2-1029-04-10
Site No.: C241079

WHEREAS, C.E. Flushing, LLC, with offices located at 118-35 Queens Boulevard, Forest Hills, New York, 11375, is currently participating in the Brownfield Cleanup Program relative to 13.48 acres of real property located at NW Corner of College Point Avenue and 40th Road, Flushing, Queens County, 11354, at latitude 40.7574° and longitude -73.8337°, and designated Tax Block 5066, Lots 1, 79, and 91 (the "Property"); and

WHEREAS, the Property will be developed as four parcels, as designated on the attached Exhibit "A-1" as Parcels "1", "2", "3", and "4"; and

WHEREAS, there is a separate Brownfield Cleanup Agreement ("BCA" or "Agreement") for each of the four parcels of the Property, with this BCA being applicable to Parcel 3 of the Property (Index No. W2-1029-04-10) (the "Site"); and

WHEREAS, a certified application was submitted to the Department in February 2005 to add C.E. Flushing Promenade, LLC (the "Additional Applicant") as an additional Volunteer to this BCA, and such application having been made available for public review and comment; and

WHEREAS, upon consideration of the factors enumerated in ECL 27-1407(8) and (9), the Department made a determination, based upon consideration of the application to add the Additional Applicant, that such Additional Applicant is eligible to participate in the BCP as a Volunteer as defined in ECL 27-1405(1)(b),

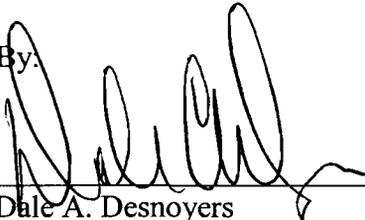
NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

1. C.E. Flushing Promenade, LLC is added as a Volunteer to the BCA.
2. The Agreement and the Amendment to the Agreement shall constitute the entire Agreement between the parties with all the terms and conditions of the Agreement, except as provided herein, remaining in full force and effect.

3. The effective date of the Amended Brownfield Site Cleanup Agreement shall be the date it is executed by the Commissioner or the Commissioner's designee.

DATED: JUN 14 2005

DENISE M. SHEEHAN, ACTING COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION AND
TRUSTEE OF THE STATE'S NATURAL
RESOURCES

By: 

Dale A. Desnoyers
Director
Division of Environmental Remediation

CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

C.E. Flushing, LLC

By: _____

Title: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF *Queens*)

On the 2nd day of June, in the year 2005, before me, the undersigned, personally appeared JOSHUAL. MUES, 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.

Diana Niemes
Signature and Office of individual
taking acknowledgment

DIANA NIEMES
Notary Public, State of New York
No. 01Ni6125276
Qualified in Queens County
Commission Expires April 11, 2009

CONSENT BY VOLUNTEER

Volunteer, **C.E. Flushing Promenade, LLC**, hereby consents to the issuing and entering of this Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

C.E. Flushing Promenade, LLC

By: _____

Title: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF *Queens*)

On the 2nd day of June, in the year 2005, before me, the undersigned, personally appeared JOSHUA L. MUSS 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.

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