

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. C360141-07-14**

Kimball Residences

DEC Site No: C360141

Located at: 1209-1221 Yonkers Ave and 445-453 Bronx River Rd, Yonkers,
Westchester County, NY 10704

Hereinafter referred to as "Site"

by:

1219 Yonkers Ave LLC

845 3rd Avenue, 20th Floor, New York, NY 10022

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 March 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:

May 26, 2020

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.

1219 Yonkers LLC

By: Kit McQuiston

Title: Kit McQuiston, Co-General Manager

Date: 3/19/2020

STATE OF NEW YORK)
COUNTY OF Suffolk) ss:

On the 19 day of March, in the year 2020, before me, the undersigned, personally appeared Kit McQuiston, 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]
Signature and Office of individual
taking acknowledgment

Laurie Rubick
NOTARY PUBLIC, STATE OF NEW YORK
SUFFOLK COUNTY
LIC. 01RU6335202
COMMISSION EXPIRES JANUARY 04, 2024

WRITTEN CONSENT

The undersigned, being a Co-General Manager of 1219 Yonkers Ave LLC, does hereby certify as follows:

1. 1219 Yonkers Ave LLC is the owner and Volunteer for the Kimball Gardens BCP Site # C360141 located at 1209-1221 Yonkers Ave and 445-453 Bronx River Road, Yonkers, New York (the "Site")
2. The following person, Kit McQuiston, as a Co-General Manager of 1219 Yonkers Ave LLC, has been authorized to execute any documents required by the New York State Department of Environmental Conservation on behalf of 1219 Yonkers Ave LLC
3. David Saferstein, who was formerly the designated authorized signatory is no longer a Co-General Manager of 1219 Yonkers Ave LLC.
4. The formal address for 1219 Yonkers Ave LLC is also changed and is now 1219 Yonkers Ave LLC c/o Terence Burd, Suite 200, 115 Main Street, Tuckahoe New York 10707.

IN WITNESS WHEREOF, the undersigned has executed the Certificate on this 19th day of March 2020.



Terence Burd, Co-General Manager
of 1219 Yonkers Ave LLC