

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. B8-0806-09-04**

**300 Commerce Drive**

DEC Site No: C828158

Located at: 300 Commerce Drive, Rochester, Monroe County, NY 14623  
Hereinafter referred to as "Site"

by:

Yaro Enterprises, Inc.

249 Cherry Creek Lane, Rochester, NY 14626

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.

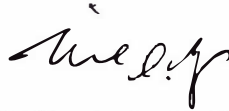
D. This Amendment may be signed in counterparts.

DATED:

July 17, 2020

THIS BROWNFIELD CLEANUP AGREEMENT  
AMENDMENT IS HEREBY APPROVED, Acting by and  
Through the Department of Environmental Conservation as  
Designee of the Commissioner,

By:



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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.

Yaro Enterprises, Inc.

By: Tony Kirk

Title: Vice President

Date: 3/18/2020

STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF                    )

On the 18<sup>th</sup> day of MARCH in the year 2020 before me, the undersigned, personally appeared TONY KIRK, 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.

NATALIIA PAVLYSHYN  
Signature and Office of individual  
taking acknowledgment

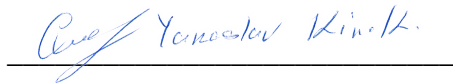
NATALIIA PAVLYSHYN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01PA6401154  
Qualified in Monroe County  
My Commission Expires 12-02-2023

**RESOLVED**, that Tony Kirik, Vice President of Yaro Enterprises, Inc. (Corporation) be hereby authorized and empowered to sign the Amendment to Brownfield Site Cleanup Agreement, Index # B8-806-09-04 (that concerns, at least in part, tax credit status and Certificate of Completion deadline) with the New York State Department of Conservation, in the name of and on behalf of the Corporation.

The undersigned hereby certifies that he is the duly qualified Secretary and the custodian of the books and records of the Corporation duly formed pursuant to the laws of the State of New York and that the foregoing is a true record of a resolution duly adopted at a meeting of the Corporation and that said meeting was held in accordance with state law and the Bylaws of the Corporation on March 12, 2020 and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Secretary of the above named Corporation this 16<sup>th</sup> day of July, 2020.

**YARO ENTERPRISES, INC.**



Yaroslav Kirik

Secretary