

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. C851027-10-14**

Hornell Waste

DEC Site No: C851027

Located at: 188 Seneca St-Rear/Shawmut Yards, Hornell, Steuben County, NY
14843

Hereinafter referred to as "Site"

by:

Hornell Site Development LLC
8668 Cook Road, Arkport, NY 14807

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.

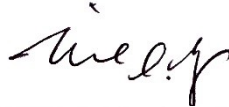
D. This Amendment may be signed in counterparts.

DATED:

June 10, 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.

Hornell Site Development LLC

By: [Signature]

Title: Owner

Date: 3/24/20

STATE OF NEW YORK)
COUNTY OF Stauben) ss:

On the 24 day of March in the year 2020, before me, the undersigned, personally appeared Frank Spitulnik, 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

ELIZABETH A. GILES
Notary Public, State of New York
Qualified in Stauben County
No. 01616055156
My Commission Expires February 20, 23

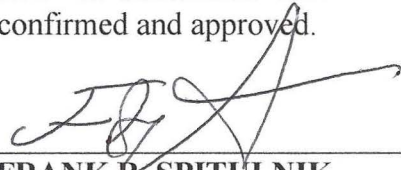
SOLE MEMBER RESOLUTION

The undersigned, being the Sole Member of Hornell Site Development LLC, a New York limited liability company (the "Company"), pursuant to and in accordance with the provisions of New York Limited Liability Company Law, hereby waives notice of a meeting and consents to and adopts the following resolutions:

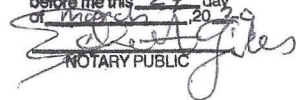
RESOLVED, that Frank R. Spitulnik, as the sole member of the Company, is authorized to sign on behalf of the Company, is authorized to execute any and all instruments and documents, including any Brownfield Cleanup Agreement Amendments and Easements, and is authorized to take any and all actions as he deems necessary or desirable to evidence, implement, secure and/or consummate the Certificate of Completion for the Hornell Waste Site, Site No. C851027, through the Brownfield Cleanup Program.

RESOLVED, that all actions heretofore taken and all documents heretofore executed and all present and future actions taken in connection with the above and/or these resolutions, be, and they hereby are, ratified, confirmed and approved.

Dated: March 24, 2020



FRANK R. SPITULNIK
Sole Member, Hornell Site Development LLC

Sworn and subscribed to
before me this 24 day
of March, 2020

NOTARY PUBLIC

ELIZABETH A. GILES
Notary Public, State of New York
Qualified in Steuben County
No. 01GI6055156
My Commission Expires February 20, 23