

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION****AMENDMENT TO  
VOLUNTARY CLEANUP AGREEMENT**

In the Matter of the Implementation of an Investigation and Remediation  
for: **Commercial Decal Site**  
by: **City of Mount Vernon Industrial Development Agency, "Volunteer"**  
Site #: V-00158-3      Index #: W3-0742-97-04

WHEREAS, the New York State Department of Environmental Conservation ("Department") and City of Mount Vernon Industrial Development Agency ("Volunteer") entered into a Voluntary Cleanup Agreement, Index Number W3-0742-97-04, dated August 22, 1997 ("Agreement") for the investigation and remediation of the Commercial Decal Site ("Site") located at 650 South Columbus Avenue, Mount Vernon, New York, a copy of which is annexed hereto as Exhibit "A"; and

WHEREAS, the Agreement provides at Paragraph 3.C. that "Volunteer intends to return the Site to commercial and/or industrial use, excluding restaurant, fast-food, food processing, child care, or residential care (the "Contemplated Use"); and

WHEREAS, the redevelopment plan for the site has changed to one that will encompass food processing requiring that the "Contemplated Use" for the Site be redefined; and,

WHEREAS, the Volunteer has proposed an amendment to the remedial work plan for the Site which is anticipated to achieve a cleanup level which will allow for the unrestricted use of the Site, a copy of which is annexed hereto as Exhibit "B"; and;

**NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED BETWEEN THE VOLUNTEER AND THE DEPARTMENT, as follows:**

1. The Agreement at Paragraph 3.C is amended by changing "Volunteer intends to return the Site to commercial and/or industrial use, excluding restaurant, fast-food, food processing, child care, or residential care (the "Contemplated Use")." to "Volunteer intends to return the Site to unrestricted use (the "Contemplated Use")."
2. Paragraph X. Deed Restrictions is deleted in its entirety.
3. The Work Plan at Exhibit "B" to the Agreement is amended as set forth in the Amendment to Work Plan at Exhibit "B" hereto. The remaining terms and conditions of the Work Plan remain in full force and effect.
4. The Agreement and the Amendment to Agreement shall constitute the entire

Agreement between the parties with all of the terms and conditions of the Agreement, except as herein amended, remaining in full force and effect.

5. The effective date of the Amendment to Agreement shall be the date it is signed by the Commissioner or the Commissioner's designee.

Dated: MAR 11 2003.

ERIN M. CROTTY, COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:

  
Dale A. Desnoyers

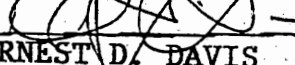
Division Director

Division of Environmental Remediation

### CONSENT BY VOLUNTEER

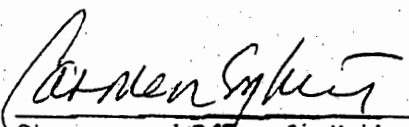
Volunteer hereby consents to the issuing and entering of this Amendment to Voluntary Cleanup Agreement, waives Volunteer's right to a hearing herein as provided by law, and agrees to be bound by the Voluntary Cleanup Agreement and the Amendment to Voluntary Cleanup Agreement.

**City of Mount Vernon Industrial  
Development Agency**

By:   
ERNEST D. DAVIS  
Title: CHAIRMAN

STATE OF NEW YORK )  
                                  ) s.s.:  
COUNTY OF WESTCHESTER )

On the 14<sup>th</sup> day of February, in the year 2003, before me, the undersigned, personally appeared Ernest D. Davis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Signature and Office of individual  
taking acknowledgment

CARMEN SYLVESTER  
Commissioner of Deeds  
In & for the City of Mount Vernon  
Term Expires December 31 2003

RESOLUTION NO. 2003-06

**RESOLUTION BY THE CITY OF MOUNT VERNON INDUSTRIAL  
DEVELOPMENT AGENCY AUTHORIZING EXECUTION OF THE  
AMENDMENT TO THE VOLUNTARY CLEANUP AGREEMENT**

**WHEREAS**, in 1997 the City of Mount Vernon acquired by credit bid against amounts owed to the City as back taxes, certain property located at 650 South Columbus Avenue, Mount Vernon, New York, Block 4094, Lot 1, commonly referred to as the "Commercial Decal Building" (hereinafter referred to as the Existing Property"), which property was vacant since on or about 1993; and

**WHEREAS**, in June 1997, the United States Environmental Protection Agency (the "EPA") and the City of Mount Vernon entered into an Amendment and Covenant Not to Sue City of Mount Vernon, New York, whereby the EPA agreed not to assert certain claims against the Existing Property or the City in consideration of certain payments to be made by the City; and

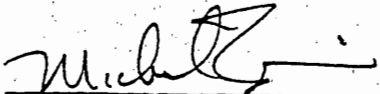
**WHEREAS**, on August 22, 1997, the New York State Department of Environmental Conservation (the "DEC") and the Agency entered into an agreement whereby the Agency agreed to assume responsibility for mediation of certain environmental conditions at the Existing Property and DEC agreed that upon completion of the remediation in accordance with said agreement, the DEC will execute a release and covenant not to sue based upon the existing contamination the ("Voluntary Cleanup Agreement"); and

**WHEREAS**, on or about December 24, 2002, the DEC submitted an Amendment to the Voluntary Cleanup Agreement to the City of Mount Vernon for execution; and

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The IDA hereby resolves and finds that the Amendment to the Voluntary Cleanup Agreement is in the best interest of the citizens of Mount Vernon.
2. The IDA consents to the issuing and entering into of the Amendment to the Voluntary Cleanup Agreement, waives its right to a hearing as provided by law, and agrees to be bound by the Voluntary Cleanup Agreement and the Amendment to the Voluntary Cleanup Agreement.

3. The IDA hereby authorizes the Chairman to enter into and execute the Amendment as well as any other legal instruments necessary to effectuate the Amendment.

  
APPROVED AS TO FORM

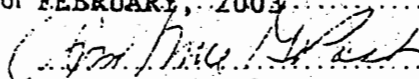
JANUARY 30, 2003  
MEETING DATE

TOTAL MEMBERS:  
MEMBERS PRESENT:  
AYES:  
NAYS:  
ABSTENTIONS:

STATE OF NEW YORK }  
County of Westchester } ss:  
City of Mount Vernon }

I, CONSTANCE G. POST Secretary of the Mount Vernon Industrial Development Agency, Mount Vernon, N.Y. do hereby certify that I have compared the foregoing copy of RESOLUTION NO. 2003-06 JANUARY 30, 2003 19 with the original now remaining on file at this office and that the same is a correct transcript therefrom and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the Mount Vernon Industrial Development Agency, this 14TH day of FEBRUARY, 2003 ~~12X~~

  
Secretary