



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

- Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]
- Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]
- Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

To add Blue Island Development LLC as a volunteer to the existing BCA between Posillico Development Co. at Harbor Island Inc. and the NYSDEC relative to the Former Cibro Petroleum Terminal Site #C130153.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Application Information		
BCP SITE NAME: Former Cibro Petroleum Terminal Site		BCP SITE NUMBER: C130153
NAME OF CURRENT APPLICANT(S): Posillico Development Co. at Harbor Island Inc.		
INDEX NUMBER OF EXISTING AGREEMENT: W1-1075-05		DATE OF EXISTING AGREEMENT: 4/14/06
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)		
NAME Blue Island Development LLC		
ADDRESS 1610 New Highway		
CITY/TOWN Farmingdale, NY		ZIP CODE 11735
PHONE 631-390-5740	FAX 631-752-0780	E-MAIL mposillico@posillicoinc.com
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 		
NAME OF NEW REQUESTOR'S REPRESENTATIVE Michael J. Posillico		
ADDRESS 1750 New Highway		
CITY/TOWN Farmingdale, NY		ZIP CODE 11735
PHONE 631-390-5740	FAX 631-752-0780	E-MAIL mposillico@posillicoinc.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Gregory J. Allen, Esq.		
ADDRESS 90 State Street, Suite 1009		
CITY/TOWN Albany, NY		ZIP CODE 12207
PHONE 518-426-2288	FAX 518-426-2299	E-MAIL greg@allendesnoyers.com
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Describe Requestor's Relationship to Existing Applicant: Requestor is the site owner and Applicant is the site developer.		

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

If requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS 7 Washington Avenue

CITY/TOWN Island Park, New York

ZIP CODE 11558

TAX BLOCK AND LOT (TBL) (in existing agreement)

Approximately 11.56 total acres

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
7 Washington Avenue, Island Park, NY 11558		43	0381	35	
"		43	0381	36	
"		43	0381	102	

11
11

43 0381 328
43 0381 314

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

- Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties. Yes No

Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Yes No

Please answer questions below and provide documentation necessary to support answers.

1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)?
Please see DEC's website for more information. Yes No

2. Is the property upside down as defined below? Yes No

From ECL 27-1405(31):

"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds ~~seventy-five percent~~ of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.

3. Is the project an affordable housing project as defined below? Yes No

From 6 NYCRR 375- 3/2(a) as of August 12, 2016:

(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.


PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Former Cibro Petroleum Terminal Site	BCP SITE NUMBER: C130153
NAME OF CURRENT APPLICANT(S): Posillico Development Co. at Harbor Island, Inc.	
INDEX NUMBER OF EXISTING AGREEMENT: W1-1075-05-09	
EFFECTIVE DATE OF EXISTING AGREEMENT: April 14, 2006	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)
(Individual)
I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date: _____ Signature: _____
Print Name: _____
(Entity)
I hereby affirm that I am (title <u>Member</u>) of (entity <u>Blue Island Development LLC</u>); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.
_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date: <u>8/15/17</u> Signature: 
Print Name: <u>Michael J. Posillico</u>

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am managing Partner/member
GEO (title) of Posillico Development Co. of Harbor Island, Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/15/17 Signature: 

Print Name: Michael J. Posillico

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement:

Signature by the Department:

DATED:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:

Robert W. Schick, P.E., Director
Division of Environmental Remediation

SUBMITTAL INFORMATION:

- **Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:**

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

**BROWNFIELD CLEANUP PROGRAM (BCP)
INSTRUCTIONS FOR COMPLETING A BCP AMENDMENT APPLICATION**

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement and/or Application. **NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.**

SECTION II NEW REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

Requestor Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address.

Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative unless another contact name and address is provided with the application.

Consultant Name, Address, etc.

Provide information for the requestor's consultant.

Attorney Name, Address, etc.

Provide information for the requestor's attorney.

SECTION III CURRENT PROPERTY OWNER/OPERATOR INFORMATION - only include if new owner/operator or new existing owner/operator information is provided, and highlight new information in form.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property.

Operator Name, Address, etc.

Provide information for the new operator (if different from the new requestor or owner).

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 22, 2011.

Selected Entity Name: BLUE ISLAND DEVELOPMENT LLC

Selected Entity Status Information

Current Entity Name: BLUE ISLAND DEVELOPMENT LLC

Initial DOS Filing Date: JULY 14, 2000

County: SUFFOLK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

BLUE ISLAND DEVELOPMENT LLC

1610 NEW HIGHWAY

FARMINGDALE, NEW YORK, 11735

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by viewing the certificate.

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
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No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
JUL 14, 2000	Actual	BLUE ISLAND DEVELOPMENT LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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**CONSENT
TO THE ADOPTION OF RESOLUTIONS
BY THE MEMBERS OF
BLUE ISLAND DEVELOPMENT LLC**

The undersigned, being a majority of the Members of Blue Island Development LLC, a New York limited liability company (the "Company") authorized to do business in New York State, hereby consent to and approve the adoption of the following resolutions and the actions contemplated hereby, such resolutions to have the same force and effect as if duly adopted at a meeting of the Company duly called and held on the date hereof:

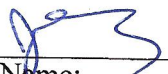
BE IT RESOLVED, that the Company be and hereby is authorized and empowered to submit an application to add the Company as a volunteer to the existing Brownfield Cleanup Agreement (the "Agreement") between Posillico Development Co. at Harbor Island Inc. and the New York State Department of Environmental Conservation ("NYSDEC") with respect to the property known as the Former Cibro Petroleum Terminal Site # C130153; and it is further

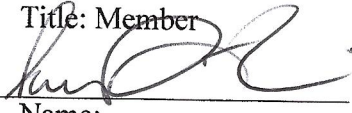
RESOLVED, that Michael J. Posillico as an "Authorized Person" be and hereby is authorized and empowered and directed to do all things that may be necessary and/or proper to add the Company as a volunteer to the Agreement, including executing any instrument, document and/or agreement as the NYSDEC and the Authorized Person shall determine to be necessary, useful and/or required in furtherance of or in order to give effect to the purpose and/or intent of the Agreement an resolutions set forth herein; and it is further

RESOLVED, that any act of the Authorized Person, acting alone, on behalf of the Company, taken prior to the date hereof which would have been authorized by the foregoing resolutions, be and the same hereby are individually and/or collectively ratified, confirmed, adopted and approved.

IN WITNESS WHEREOF, the undersigned Members have executed this Consent as of this 30 day of June 2017.


Blue Island Development LLC

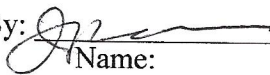
By: 
Name: _____
Title: Member

By: 
Name: _____
Title: Member

By: _____
Name: _____
Title: Member

By: 
Name: _____
Title: Member

By: 
Name: _____
Title: Member

By: 
Name: _____
Title: Member

**CONSENT
TO THE ADOPTION OF RESOLUTIONS
BY THE MEMBERS OF
POSILICO DEVELOPMENT CO. AT HARBOR ISLAND INC.**

The undersigned, being a majority of the Members of Posillico Development Co. at Harbor Island Inc., a New York limited liability company (the "Company") authorized to do business in New York State, hereby consent to and approve the adoption of the following resolutions and the actions contemplated hereby, such resolutions to have the same force and effect as if duly adopted at a meeting of the Company duly called and held on the date hereof:

BE IT RESOLVED, that the Company be and hereby is authorized and empowered to submit an application to add Blue Island Development LLC as a volunteer to the existing Brownfield Cleanup Agreement (the "Agreement") between Posillico Development Co. at Harbor Island Inc. and the New York State Department of Environmental Conservation ("NYSDEC") with respect to the property known as the Former Cibro Petroleum Terminal Site # C130153; and it is further

RESOLVED, that Michael J. Posillico as an "Authorized Person" be and hereby is authorized and empowered and directed to do all things that may be necessary and/or proper to add the Company as a volunteer to the Agreement, including executing any instrument, document and/or agreement as the NYSDEC and the Authorized Person shall determine to be necessary, useful and/or required in furtherance of or in order to give effect to the purpose and/or intent of the Agreement an resolutions set forth herein; and it is further

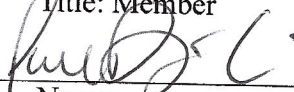
RESOLVED, that any act of the Authorized Person, acting alone, on behalf of the Company, taken prior to the date hereof which would have been authorized by the foregoing resolutions, be and the same hereby are individually and/or collectively ratified, confirmed, adopted and approved.

IN WITNESS WHEREOF, the undersigned Members have executed this Consent as of this 30 day of June 2017.

Posillico Development Co. at Harbor Island Inc.

By: 


Name:
Title: Member

By: 

Name:
Title: Member

By: _____

Name:
Title: Member

By: 

Name:
Title: Member

By: 

Name:
Title: Member

By: 

Name:
Title: Member