

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of a Remedial Program for  
Niagara Street and Pennsylvania Ave.,  
Buffalo under Article 27, Title 14 of the  
Environmental Conservation Law  
by 1093 Group, LLC

BROWNFIELD SITE  
CLEANUP AGREEMENT  
AMENDMENT

Index #B9-0759-07-11  
Site #C915223

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**WHEREAS**, the New York State Department of Environmental Conservation (the “Department”) and 9154 Group, LLC (“Existing Applicant ”), entered into a Brownfield Site Cleanup Agreement Index #B9-0759-07-11 (the “Agreement”), which Agreement was signed by the Commissioner of the Department on October 15, 2008 relative to property located at Niagara Street and Pennsylvania Avenue in the City of Buffalo, County of Erie, having County of Erie Tax Identification Number 110.27-5-1.1 and commonly known as 517 Niagara Street (the “Site”); and

**WHEREAS**, 1093 Group, LLC (“Requestor”) by a certified application dated November 18, 2008 has applied for a change in party replacing the Existing Applicant, 9154 Group, LLC, with the Requestor, 1093 Group, LLC; and

**WHEREAS**, upon consideration of the factors enumerated in ECL 27-1407(8) and (9), the Department made a determination, based upon the information contained in the application and the certifications made by the Requestor and the Existing Applicant that the Requestor is eligible to participate in the Brownfield Cleanup Program as a Volunteer as defined in ECL 27-1405(1)(b); and

**WHEREAS**, the Existing Applicant and the Requestor agree to be bound by the terms of this Amendment and consent and agree not to contest the authority or jurisdiction of the Department to enter into or enforce this Amendment, and agree not to contest the validity of this Amendment;

**NOW, THEREFORE**, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Brownfield Site Cleanup Agreement Index #B9-0759-07-11 is hereby amended by replacing the Existing Applicant, 9154 Group, LLC, with the Requestor, 1093 Group, LLC, a domestic limited liability company, having offices at 295 Main Street, Suite 210, Buffalo, New York 14203-2219, as a Volunteer. The Requestor shall assume after the effective date of this Amendment all duties and obligations under the Agreement as a Volunteer.

II. This Amendment shall control to the extent of a conflict between the provisions hereof and those of the Agreement. Except as provided in the preceding sentence or elsewhere in this Amendment, the Agreement and the documents related thereto, shall continue in full force and effect. Any amendment or other modification of this Amendment must be in writing.

III. The effective date of this Amendment shall be the date on which it is signed by the Commissioner or the Commissioner's designee.

DATED:

**FEB 24 2009**

ALEXANDER B. GRANNIS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By: \_\_\_\_\_

  
Dale A. Desnoyers, Director  
Division of Environmental Remediation

CONSENT BY EXISTING APPLICANT

Existing Applicant hereby consents to the issuing and entering of this Amendment and agrees to be bound by this Amendment.

9154 Group, LLC

By: [Handwritten Signature]

Title: Manager

Date: 12/16/08

STATE OF NEW YORK )  
COUNTY OF Erie ) ss:

On the 16 day of December in the year 2008, before me, the undersigned, personally appeared Carl P. Palodino, 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.

[Handwritten Signature: Paulette Gullo]

Signature and Office of individual taking acknowledgment

PAULETTE GULLO  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
MY Commission Expires 8-15-2010

CONSENT BY APPLICANT/REQUESTOR

Applicant/Requestor hereby consents to the issuing and entering of this Amendment and agrees to be bound by this Amendment.

1093 Group, LLC

By: 

Title: Manager

Date: 12/15/08

STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF Erie         )

On the 15 day of December, in the year 2008, before me, the undersigned, personally appeared William G. Paladino, 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 and Office of individual taking acknowledgment

PAULETTE GULLO  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
My Commission Expires 8-15-2010