

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Remedial Program for
River Park Commons under Article 27,
Title 14 of the Environmental Conservation Law
by Genesee Hamilton, L.P.

BROWNFIELD SITE
CLEANUP AGREEMENT
AMENDMENT

Index # B8-0673-04-08N
Site #C828124

WHEREAS, the New York State Department of Environmental Conservation (the Department) and Conifer Hamilton, LLC (Existing Applicant) entered into a Brownfield Site Cleanup Agreement, Index #B8-0673-04-08N (the Agreement), which Agreement was signed by the Commissioner of the Department on December 2, 2004 relative to property located at 185 Mount Hope Ave. in the City of Rochester, County of Monroe (the Site); and

WHEREAS, Genesee Hamilton, L.P.(Applicant) by a certified application dated May 6, 2008 has applied for a change in party replacing the Existing Applicant, Conifer Hamilton, LLC, with Genesee Hamilton, L.P.; 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 Applicant that the Applicant 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 Applicant 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. The third paragraph of the Agreement is hereby amended by deleting the third paragraph and substituting the following:

WHEREAS, by a certified application dated May 6, 2008, Genesee Hamilton, L.P., a limited partnership, having offices at 183 Main Street 6th Floor, Rochester, New York 14604, submitted a request to participate in the Brownfield Cleanup Program relative to property located at 185 Mount Hope Ave. in the City of Rochester, County of Monroe (the "Site"); and

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:

AUG 01 2008

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.

Conifer Hamilton, LLC

By: Genesee Riverfront Commons, LLC, Member

By: Conifer Realty, LLC

By: 

Timothy D. Fournier

Title: President and CEO

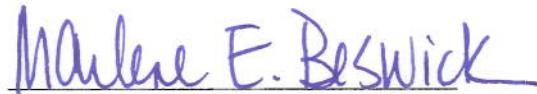
Date: 5/30/08

STATE OF NEW YORK)


) ss:

COUNTY OF MONROE)

On the 30th day of May, in the year 2008, before me, the undersigned, personally appeared Timothy D. Fournier, 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

MARLENE E. BESWICK
Notary Public, State of New York
No. 01BE6062083
Qualified in Ontario County
Commission Expires 07/30/2011 

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

Date: 5/30/08

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

On the 30th day of May, in the year 2008, before me, the undersigned, personally appeared Timothy D. Fournier, 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.

Maureen F. Beswick
Signature and Office of individual
taking acknowledgment

MARLENE E. BESWICK
Notary Public, State of New York
No. 01BE6062083
Qualified in Ontario County
Commission Expires 07/30/20