



NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



**BROWNFIELD CLEANUP PROGRAM (BCP)**  
APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT (BCA)  
AND BCA 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

an 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), please also submit a Change of Use form.

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*]
- Other (explain in detail below)

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

At the time of the application, the applicant did not have title to the property. Title has now transferred to the applicant. The applicant is requesting that the Owner information be changed from AMS Ventures LLC to 132 Dingens St LLC. Deed is attached.

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

04/2014

<b>Section I. Existing Application Information</b>			
BCP SITE NAME: 132 Dingens St Site		BCP SITE NUMBER: C915263	
NAME OF CURRENT APPLICANT(S): 132 Dingens St, LLC			
INDEX NUMBER OF EXISTING AGREEMENT:		DATE OF EXISTING AGREEMENT:	
<b>Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)</b>			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
-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			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
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)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
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:			
<input type="checkbox"/> <b>PARTICIPANT</b> 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"/> <b>VOLUNTEER</b> 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.  NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the contamination found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.	

**Section II. New Requestor Information continued (if no change to Current Applicant, skip to Section V)**

Requestor's Relationship to Property (check one):

Prior Owner  
  Current Owner  
  Potential /Future Purchaser  
 Other \_\_\_\_\_  
  Yes  
  No

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. (Note: proof of site access must be submitted for non-owners)

Requester must submit proof that the party signing this Application and Amendment has the authority to bind the Requester. 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.

Describe Requestor's Relationship to Existing Applicant:

**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 subject to an existing order 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
4. Has the requestor been determined to have violated any provision of ECL Article 27?  Yes  No
5. Has the requestor previously been denied entry to the BCP?  Yes  No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants?  Yes  No
7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration?  Yes  No
8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before 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

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

ADDRESS 132 Dingens Street

CITY/TOWN Buffalo

ZIP CODE 14206

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
132 Dingens Street		112.19	1	14.11	13.22

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require a standard application depending on the size and nature of addition – 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.

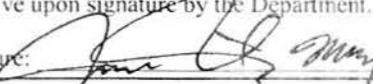
## PART II. BROWNFIELD CLEANUP AGREEMENT AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 132 Dingens St. Site	BCP SITE NUMBER: C915263
NAME OF CURRENT APPLICANT(S): 132 Dingens St LLC	
INDEX NUMBER OF EXISTING AGREEMENT:	
EFFECTIVE DATE OF EXISTING AGREEMENT:	

**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)
<p>(Individual)</p> <p>I acknowledge and agree to the general terms and conditions set forth in DER-32 <i>Brownfield Cleanup Program Applications and Agreements</i>. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. 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.</p> <p>Date: _____ Signature: _____ Print Name: _____</p>
<p>(Entity)</p> <p style="margin-left: 40px;">MEMBER 132 DINGENS ST LLC</p> <p>I hereby affirm that I am (title) of (entity); 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 acknowledge and agree to the general terms and conditions set forth in DER-32 <i>Brownfield Cleanup Program Applications and Agreements</i>. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. 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.</p> <p>Date: 4/21/15 Signature:  Print Name: James Panepinto</p>

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

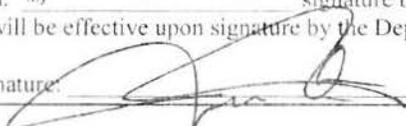
(Individual)

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 the Member (title) of 132 Dingers St LLC (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. My \_\_\_\_\_ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 4/21/15 Signature:  Print Name: James Panepinto

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> <b>PARTICIPANT</b> 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 checked="" type="checkbox"/> <b>VOLUNTEER</b> 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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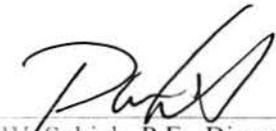
Effective Date of the Original Agreement: June 18, 2012

Effective Date of the Amendment:

Signature by the Department:

DATED: August 24, 2015

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

**SUBMITTAL INFORMATION:**

**Three (3)** complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, 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

- **One (1)** paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check [DEC's website](#) for information on our regional offices.

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**FOR DEPARTMENT USE ONLY**

BCP SITE T&A CODE: \_\_\_\_\_

LEAD OFFICE: \_\_\_\_\_

PROJECT MANAGER: \_\_\_\_\_

ERIE COUNTY CLERK'S OFFICE



County Clerk's Recording Page

Return to:

KNOER GROUP PLLC  
424 MAIN ST  
1800 LIBERTY BLDG  
BUFFALO, NY- 14202

**Book Type: D Book: 11225 Page: 899**

Page Count: 4  
Doc Type: DEED  
Rec Date: 06/21/2012  
Rec Tim: 04:08:14 PM  
Control #: 2012142171  
UserID: Linda  
Receipt#: 12097813  
Document Sequence Number  
TT2011018255

Party 1:  
AMS VENTURES LLC

Party 2:  
132 DINGENS ST LLC

**Consideration Amount: 480000.00**

Recording Fees:

Fee 1	\$40.00
Fee 2	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 COUNTY \$9 RET	\$9.00
RP5217 ST-NON RES \$241	\$241.00
TP584	\$10.00

BASIC	\$0.00
SONYMA	\$0.00
ADDL	\$0.00
NFTA MT	\$0.00
TRANSFER	\$1,920.00
NFTA TT	\$2,400.00

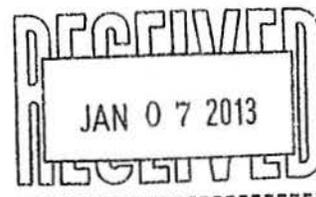
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**Total: \$4,640.00**

STATE OF NEW YORK  
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Christopher L. Jacobs  
COUNTY CLERK



Warranty Deed with Lien Covenant

## *This Indenture,*

*Made the 20th day of June Two Thousand and Twelve*

**Between** AMS VENTURES LLC, with an office at  
2299 Military Road, Tonawanda, New York 14150

*Grantor and*

132 DINGENS ST, LLC, with an office at  
1 Babcock Street, Buffalo, New York 14210

*Grantee*

**Witnesseth**, that the said Grantor, in consideration of One and More -----  
-----Dollars (\$1.00 and more) lawful money of the United States,  
paid by the Grantee does hereby grant and release unto the Grantee, its successors and assigns forever,

*All that Tract or Parcel of Land,*

SEE ATTACHED SCHEDULE A

H2171 Deed-3  
#6 OCT-  
VAC #480,000

**TOGETHER** with the appurtenances and all the estate and rights of the Grantor in and to the said premises.

**TO HAVE AND TO HOLD**, the above granted premises unto the said Grantee.

**AND** the said Grantor does Covenant with said Grantee as follows:

**FIRST.** -- That the Grantee shall quietly enjoy the said premises.

**SECOND.** -- That the Grantor will forever **WARRANT** the title to said premises.

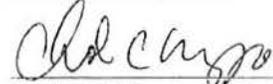
**THIRD.** -- Subject to the trust fund provisions of section thirteen of the lien law.

**IN WITNESS WHEREOF**, The said Grantor has hereunto set its hand the day and year first above written.

**IN PRESENCE OF**

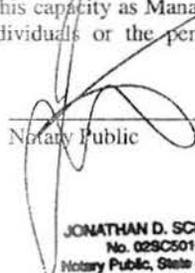
AMS VENTURES LLC

By:

  
Charles C. Marazzo, Manager

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

On the 20th day of June, in the year 2012, before me, the undersigned, personally appeared Charles C. Marazzo, Manager of AMS Ventures LLC, 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 as Manager of AMS Ventures LLC, and that by his signature on the instrument, the individuals or the person upon behalf of which the individuals acted, executed the instrument.

  
Notary Public

Doc # 361787.1

JONATHAN D. SCHECHTER  
No. 02SC5018012  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires: Aug. 2, 2013

*Return*  
*Knoer Group PLLC*  
*424 main St*  
*1800 Liberty Bldg*  
*Buffalo NY 14202*

## SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Lots Nos. 150, 151 and 152, Township 10, Range 7 of the Buffalo Creek Reservation and further bounded and described as follows:

BEGINNING at a point on the north line of Dingens Street distant 1,200.00 feet east from the point of intersection of the north line of Dingens Street with the east line of Bailey Avenue as now laid out, said point being the southeast corner of lands conveyed by Deed recorded in Liber 3889 of Deeds at page 293;

THENCE east along the north line of Dingens Street a distance of 237.82 feet to the most southerly southwest corner of lands conveyed to the City of Buffalo Urban Renewal Agency by Deed recorded in Liber 10094 of Deeds at page 192;

THENCE northeasterly at a clockwise angle of  $133^{\circ} 20' 16''$  and along the lands conveyed by said last mentioned Deed a distance of 1075.0 feet to a point;

THENCE northwest at right angles to the last described line and along the lands conveyed by last mentioned Deed a distance of 300.0 feet to a point;

THENCE southwesterly at a clockwise angle of  $107^{\circ} 10' 48''$  and along the lands conveyed by said mentioned Deed a distance of 369.66 feet record and 369.35 feet measured to a point;

THENCE continuing southwesterly at a clockwise angle of  $170^{\circ} 12' 08''$  and along the lands conveyed by said last mentioned Deed a distance of 316.44 feet to a point;

THENCE northwesterly at right angles to the last described line a distance of 72.94 feet to a point;

THENCE southwesterly at a clockwise angle of  $107^{\circ} 47' 08''$  and along the lands conveyed by said last mentioned Deed a distance of 264.57 feet to a point;

THENCE continuing southwesterly at a clockwise angle of  $184^{\circ} 34' 01''$  and along the lands conveyed by said last mentioned Deed a distance of 423.71 feet to a point on the westerly line of lands conveyed to Pfeil Cooperage Inc. by Deed recorded in Liber 2343 of Deeds at page 333, said point being 231.0 feet southerly of the northwest corner of lands conveyed by said last mentioned Deed;

THENCE southeasterly and along the westerly line of lands conveyed by said last mentioned Deed and at a clockwise angle of  $86^{\circ} 28' 04''$  a distance of 106.03 feet to lands described in Parcel 3 in a Deed to the Erie Railroad Company by Deed recorded in Liber 2053 of Deeds at page 223;

THENCE southwesterly at a clockwise angle of  $282^{\circ} 33' 35''$  and along the Erie Railroad Company's lands a distance of 232.49 feet to a point;

THENCE southerly at a clockwise angle of  $97^{\circ} 54' 00''$  a distance of 20.19 feet to its intersection with a line drawn parallel with and distant 20 feet southerly measured at right angles from a course marked "Line C" on a map accompanying aforesaid Deed to Erie Railroad Company and recorded in Liber 2053 of Deeds at page 223;

THENCE northeasterly along the last described parallel line a distance of 700.78 feet to the northeast corner of lands conveyed by Deed recorded in Liber 3889 of Deeds at page 293, said point also being in the north line of lands conveyed by Deed recorded in Liber 10883 of Deeds at page 8504;

THENCE southerly at a clockwise angle of  $277^{\circ} 01' 50''$  and along the easterly line of said Liber 3889 of Deeds at page 293 a distance of 386.65 feet to a point on the north line of Dingens Street at the point of beginning.

RESOLUTION

The undersigned, being all of the members of 132 Dingens St, LLC, a New York limited liability company take the following action:

132 Dingens St, LLC is hereby authorized to enter into a Brownfield Cleanup Agreement and any amendments thereto, with the State of New York, for the property located at 132 Dingens Street, Buffalo, New York.

FURTHER RESOLVED, that James Panepinto is hereby authorized and directed to take all actions and execute and deliver all documents reasonably necessary to consummate the above referenced transactions.

FURTHER RESOLVED, that these actions shall be effective as of 18 day of June, 2015.

  
James Panepinto  
Sole Member