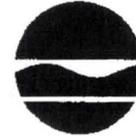




NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP)
APPLICATION TO AMEND
AND AMENDMENT

PART I. BROWNFIELD CLEANUP

AMENDMENT APPLICATION

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

- Amendment to [
 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 below art 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:

The equitable owners of Lancaster Avenue Development, LLC (formerly Chapin Place MAR, LLC) and Gates Circle Holdings, LLC are the same. Gates, however, is the present title owner and Lancaster is the present Volunteer. The substitution of Gates as the sole BCA party will provide global unity of title, the development name, and BCP project implementation.

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

0 /2014

Section I Existing Application Information		
BCP SITE NAME: 3 Gates Circle		BCP SITE NUMBER: C915272
NAME OF CURRENT APPLICANT(S): Lancaster Avenue Development, LLC (formerly Chapin Place MAR, LLC)		
INDEX NUMBER OF EXISTING AGREEMENT: C915272-02-13		DATE OF EXISTING AGREEMENT: March 19, 2013
Section II New Requestor Information (If no change to Current Applicant, skip to Section V)		
NAME Gates Circle Holdings, LLC		
ADDRESS 2760 Kenmore Avenue, Suite 100		
CITY/TOWN Buffalo		ZIP CODE 14150
PHONE (716) 876-8899	FAX (716)876-6850	E-MAIL TVaeth@TMMontante.com
Is the requestor authorized to conduct business in New York State (NYS)?		<input checked="" 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 Timothy Vaeth, Manager		
ADDRESS 2760 Kenmore Avenue, Suite 100		
CITY/TOWN Buffalo		ZIP CODE 14150
PHONE (716) 876-8899	FAX (716)876-6850	E-MAIL TVaeth@TMMontante.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Benchmark Environmental Engineering & Science, PLLC		
ADDRESS 2558 Hamburg Turnpike, Suite 300		
CITY/TOWN Lackawanna		ZIP CODE 14218
PHONE (716) 856-0599	FAX (716)856-0583	E-MAIL TForbes@BenchmarkTurnkey.com
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Craig A. Slater, Esq.		
ADDRESS 26 Mississippi Street, Suite 400		
CITY/TOWN Buffalo		ZIP CODE 14203
PHONE (716)845-6760	FAX (716)845-6764	E-MAIL CSlater@CSlaterLaw.com
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"/> 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 checked="" 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. 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 - Requestor Information (continued) (This change to Current Applicant's form is Section V)

Requestor's Relationship to Property (check one):
 Prior Owner Current Owner Potential/Future Purchaser Other _____
 If requestor is not the site owner, requestor will have access to the property throughout the BCP project. Yes No
 (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:
 The equitable owners of Lancaster Avenue Development, LLC (formerly Chapin Place MAR, LLC) and Gates Circle Holdings, LLC are the same. Gates, however, is the present title owner and Lancaster is the present Volunteer.

Section III - Current Property Owner (to be filled in only in BCPs of new owners, including new owners taking over an existing BCP, and in BCPs of new site owners)

OWNER'S NAME (if different from requestor) Gates Circle Holdings, LLC		
ADDRESS 2760 Kenmore Avenue, Suite 100		
CITY/TOWN Buffalo		ZIP CODE 14150
PHONE (716) 876-8899	FAX (716) 876-6850	E-MAIL TVaeth@TMMontante.com
OPERATOR'S NAME (if different from requestor or owner)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

Section IV - Eligibility Information for New Applicants (Please refer to ECL 27-1407 for more details)

- If answering "yes" to any of the following questions, please provide an explanation as an attachment.
- Are any enforcement actions pending against the requestor regarding this site? Yes No
 - Is the requestor subject to an existing order relating to contamination at the site? Yes No
 - Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
 - Has the requestor been determined to have violated any provision of ECL Article 27? Yes No
 - Has the requestor previously been denied entry to the BCP? Yes No
 - Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? Yes No
 - 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
 - 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
 - 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 4: Property description and description of change, additions, reductions (if applicable)

ADDRESS _____

CITY/TOWN _____ ZIP CODE _____

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

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

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

Addition of property (may require a _____ depending on the _____ nature of _____ -- 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

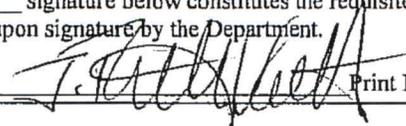
AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 3 Gates Circle	BCP SITE NUMBER: C915272
NAME OF CURRENT APPLICANT(S): Lancaster Avenue Development, LLC (formerly Chapin Place MAR, LLC)	
INDEX NUMBER OF EXISTING AGREEMENT: C915272-02-13	
EFFECTIVE DATE OF EXISTING AGREEMENT: March 19, 2013	

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 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.	
Date: _____	Signature: _____ Print Name: _____
(Entity)	
Member of Gates Circle Holdings, LLC	
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.	
Date: 1/26/15	Signature:  Print Name: J. Timothy Vaeth

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)

Lancaster Avenue Development, LLC (formerly Chapin Place MAR, LLC)

I hereby affirm that I am a Member (title) of / (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: 4/26/15 Signature: J. Timothy Vaeth Print Name: J. Timothy Vaeth

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 checked="" 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: MARCH 19, 2013

Effective Date of the Amendment:

Signature by the Department:

DATED:

FEBRUARY 20, 2015

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: [Signature]
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) 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 our regional offices

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____

LEAD OFFICE: _____

PROJECT MANAGER: _____

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through December 18, 2014.

Selected Entity Name: GATES CIRCLE HOLDINGS LLC

Selected Entity Status Information

Current Entity Name: GATES CIRCLE HOLDINGS LLC

DOS ID #: 4497984

Initial DOS Filing Date: DECEMBER 09, 2013

County: ERIE

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)

GATES CIRCLE HOLDINGS LLC
2760 KENMORE AVENUE, SUITE 100
TONAWANDA, NEW YORK, 14150

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
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
DEC 09, 2013	Actual	GATES CIRCLE HOLDINGS 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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