

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

DEC 27 2016

Mr. William Paladino
1093 Group, LLC
295 Main Street, Suite 210
Buffalo, NY 14203

Re: Certificate of Completion
Site No.: C915287
Site: 399 Ohio Street
Buffalo, Erie County

Dear Mr. Paladino:

Congratulations on having satisfactorily completed the remedial program at the 399 Ohio Street Site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter;
- Provide the notice of the COC to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet describing the institutional and engineering controls (IC/EC) that are required at the site and distribute it to the County Listserv within 10 days; and

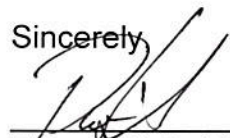


Department of
Environmental
Conservation

- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2018.

If you have any questions regarding any of these items, please contact Anthony Lopes at 716-851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

ec w/ enclosure:

K. Anders/M Doroski - NYSDOH

M. Lesakowski, Benchmark - mlesakowski@benchmarkturnkey.com

C. Slater, Slater Law Firm - cslater@cslaterlaw.com

ec w/o enc.:

M Cruden, NYSDEC

B Schick, NYSDEC

C Staniszewski/A Lopes, NYSDEC

P Foster/J Dougherty, NYSDEC

G. Heitzman, NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

1093 Group, LLC

Address

295 Main Street, Suite 210, Buffalo, NY 14203

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 9/19/14 **Agreement Execution:** 10/15/14 **Agreement Index No.:**C915287-09-14

Application Approval Amendment: none

Agreement Execution Amendment: none

SITE INFORMATION:

Site No.: C915287 **Site Name:** 399 Ohio Street Site

Site Owner: 1093 Group, LLC

Street Address: 295 Main Street, Suite 210

Municipality: Buffalo **County:** Erie **DEC Region:** 9

Site Size: 5.000 Acres

Tax Map Identification Number(s): 122.10-2-7.21

Percentage of site located in an EnZone: 100 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

Allowable Uses under the BCP: Restricted-Residential, Commercial, and Industrial

Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Tangible Property Credit Component Rate is 20 %.

Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Tangible Property Credit Component Rate is 18 %.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as File 2016129900 and BK/PG D 11297/8458.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

CERTIFICATE MODIFICATION/REVOCAION

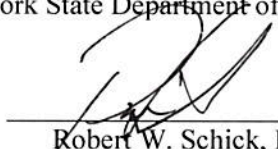
This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos
Commissioner
New York State Department of Environmental Conservation

By:


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

Date: December 27, 2016

NOTICE OF CERTIFICATE OF COMPLETION
Brownfield Cleanup Program
6 NYCRR Part 375-1.9(d)

399 Ohio Street, Site ID No. C915287
399 Ohio Street, Buffalo, NY, 14203
Buffalo, Erie County

Tax Map Identification Numbers 122.10-2-7.21

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to 1093 Group, LLC for a parcel approximately 5.0 acres located at 399 Ohio Street in the City of Buffalo, Erie County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

PLEASE TAKE NOTICE, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

PLEASE TAKE NOTICE, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as File 2016129900 and BK/PG D 11297/8458.

PLEASE TAKE NOTICE, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

PLEASE TAKE NOTICE, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability

399 Ohio Street, C915287, 399 Ohio Street, Buffalo, NY 14203

limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

PLEASE TAKE NOTICE, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

PLEASE TAKE NOTICE, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

PLEASE TAKE NOTICE, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 9 Office located at 270 Michigan Avenue, Buffalo, NY 14203, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

1093 Group, LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared _____, 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

Please record and return to:
1093 Group, LLC
295 Main Street, Suite 210
Buffalo, NY 14203

Exhibit A

Exhibit A
Environmental Easement Description
For 399 Ohio Street Site
BCP Site No. C915287

ALL THAT PLOT OF LAND SITUATE in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot Numbers Fifty-Six (56), Sixty-Two (62), and Sixty-Three (63) and former Front Street, bounded and described as follows:

BEGINNING at the point of intersection of the southeasterly line of the former Cincinnati Street with the southwesterly line of Ohio Street; running thence easterly along the southwesterly line of Ohio Street a distance of 383 feet to the westerly line of former Chicago Street; thence continuing southwesterly along the present southwesterly line of Ohio Street 116.24 feet Deed, 1174.24 feet Meas. to its intersection with the easterly line of former Chicago Street; thence continuing along the southwesterly line of Ohio Street 626.92 feet to a point; thence southwesterly at an exterior angle of $90^{\circ} 50' 06''$, a distance of 202.30 feet to a point; thence northwesterly at an interior angle of $91^{\circ} 29' 07''$, a distance of 1068.93 to a point in the south line of former Cincinnati Street; thence northwesterly along said south line of former Cincinnati Street at an interior angle of $107^{\circ} 30' 22''$, 165.00 feet to the point of beginning.

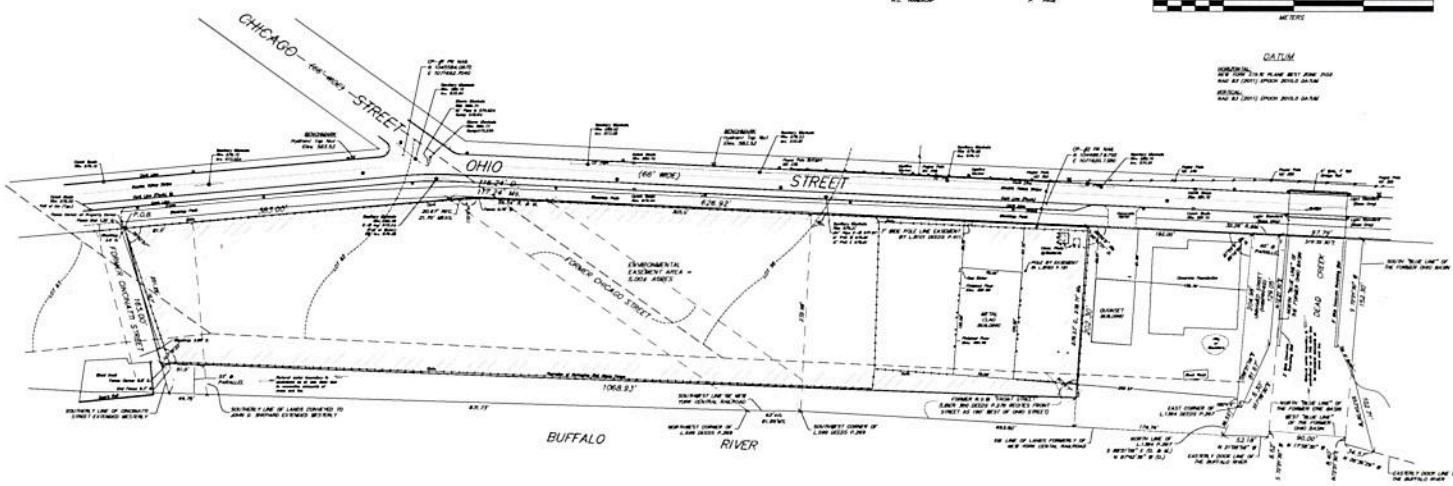
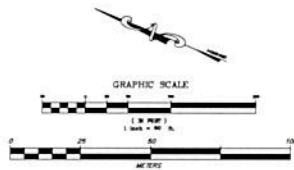
This parcel containing 5.00 Acres of land more or less.

EXHIBIT B

EXHIBIT B

LEGEND

1. SOUTH / NORTH PAIR	2. SOUTH / NORTH PAIR
3. SOUTH / NORTH PAIR	4. SOUTH / NORTH PAIR
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97. SOUTH / NORTH PAIR	98. SOUTH / NORTH PAIR
99. SOUTH / NORTH PAIR	100. SOUTH / NORTH PAIR



ENVIRONMENTAL EASEMENT AREA
LEGAL DESCRIPTION
ALL THAT TRACT OR PARCELS OF LAND, whole in the City of Buffalo, County of Erie and State of New York, being part of Outer Lot Numbers 197-5a (5a), 201-7a (7a) and 201-7b (7b) and former Front Street, bounded and described as follows:
BEGINNING at the point of intersection of the southerly line of the former Chicago Street with the southerly line of this Street; thence northwesterly along the southerly line of this Street a distance of 385 feet to the westerly line of former Ohio Street; thence northwesterly along the westerly line of former Ohio Street a distance of 176.24 feet to its intersection with the westerly line of former Chicago Street; thence northwesterly along the southerly line of this Street 526.82 feet to a point; thence northwesterly of an interior angle of 107°02'11" a distance of 252.26 feet to a point; thence northwesterly of an interior angle of 107°02'11" a distance of 1068.82 feet to a point in the south line of former Chicago Street; thence northwesterly along said south line of former Chicago Street at an interior angle of 107°02'11" 165.00 feet to the point of beginning.
This parcel containing 5.00 Acres or tend more or less.

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW.
THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM NY'S DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 612 BROADWAY, ALBANY, N.Y. 12233 OR AT denweb@ec.state.ny.us

ENVIRONMENTAL EASEMENT AREA

DATE OF SURVEY: 2003-07-27	PROJECT: 0303-01	AMEND: 01
DRAWN BY: M. J. DELLE	CHECKED BY: M. J. DELLE	DATE: 2003-07-27
SCALE: 1" = 80'	SCALE: 1" = 80'	SCALE: 1" = 80'
MILLARD, MACKAY & DELLE, INC. 1400 SHERBROOK LANE ALBANY, NY 12208 TEL: 518-486-1000 FAX: 518-486-1001		
PART OF OUTER LOT NO. 197-5a AND 201-7a AND 201-7b AND FORMER FRONT STREET BEING PART OF OUTER LOT NO. 197-5a AND 201-7a AND 201-7b AND FORMER FRONT STREET BEING PART OF LOT _____ SECTION _____ RANGE _____ OF THE _____ SURVEY _____ COUNTY, N.Y.		
SHEET NO. 222-01-2-177		



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 Site Management Form
 12/13/2016



SITE DESCRIPTION

SITE NO. C915287
SITE NAME 399 Ohio Street Site
SITE ADDRESS: 399 Ohio Street **ZIP CODE:** 14204
CITY/TOWN: Buffalo
COUNTY: Erie
ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:	YES	NO
IC/EC Certification Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Monitoring Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operation and Maintenance (O&M) Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Periodic Review Frequency: once a year
 Periodic Review Report Submitted Date: 04/30/2018

Description of Institutional Control

1093 Group, LLC
 295 Main Street, Suite 210
399 Ohio Street
 Environmental Easement
 Block: 2
 Lot: 7
 Sublot: 21
 Section: 122
 Subsection: 10
 S_B_L Image: 122.10-2-7.21
 Ground Water Use Restriction
 IC/EC Plan
 Landuse Restriction
 Monitoring Plan
 Site Management Plan
 Soil Management Plan

Description of Engineering Control

1093 Group, LLC

295 Main Street, Suite 210

399 Ohio Street

Environmental Easement

Block: 2

Lot: 7

Sublot: 21

Section: 122

Subsection: 10

S_B_L Image: 122.10-2-7.21

Cover System