



Department of
Environmental
Conservation

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

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), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. 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*]

☐ **Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

☐ Other (explain in detail below)

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

Amendment to existing BCP to add prospective owner BOP 101 Lincoln Avenue LLC as a volunteer party, while retaining current owner 101 Lincoln Associates Property LLC as a volunteer party.

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

Section I. Existing Application Information		
BCP SITE NAME: Former Bronx Freight Terminal		BCP SITE NUMBER: C203082
NAME OF CURRENT APPLICANT(S): 101 Lincoln Associates Property LLC		
INDEX NUMBER OF EXISTING AGREEMENT: C203082-10		DATE OF EXISTING AGREEMENT: 06/09/17
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)		
NAME BOP 101 Lincoln Avenue LLC		
ADDRESS Brookfield Properties, 250 Vesey Street, 15th Floor		
CITY/TOWN New York, NY		ZIP CODE 10281
PHONE (212) 417-7000	FAX (212) 417-7214	E-MAIL ralph.toussie@brookfieldproperties.com
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<ul style="list-style-type: none"> 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 Ralph Toussie		
ADDRESS Brookfield Properties, 250 Vesey Street, 15th Floor		
CITY/TOWN New York, NY		ZIP CODE 10281
PHONE (212) 417-7000	FAX (212) 417-7214	E-MAIL ralph.toussie@brookfieldproperties.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Michael Burke of Langan Engineering		
ADDRESS 360 West 31st Street, Floor 8		
CITY/TOWN New York, NY		ZIP CODE 10001
PHONE 212-479-5400	FAX 212-479-5444	E-MAIL mburke@langan.com
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) David S. Yudelson, Esq.		
ADDRESS Sive, Paget & Riesel P.C., 560 Lexington Avenue, 15th Floor		
CITY/TOWN New York, NY		ZIP CODE 10022
PHONE (212) 421-2150	FAX (212) 421-1891	E-MAIL dyudelson@sprlaw.com
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. 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. Is this proof attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Describe Requestor's Relationship to Existing Applicant: Prospective purchaser of property		

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) 101 Lincoln Associates Property LLC

ADDRESS 512 Seventh Avenue, 16th Floor

CITY/TOWN New York, NY

ZIP CODE 10018

PHONE (646) 230-9360

FAX (646) 230-9371

E-MAIL jochetrit@aol.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 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 presently subject to an existing order for the investigation, removal or remediation 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
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to 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
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

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:

☐ 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.

☒ 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 disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☒ Potential /Future Purchaser ☐ Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☒ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

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

ADDRESS 101 Lincoln Avenue

CITY/TOWN Bronx, NY

ZIP CODE 10451

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
101 Lincoln Avenue, Bronx, NY			2316	1	2.930

Check appropriate boxes below:

☐

Changes to metes and bounds description or TBL correction

☐

Addition of property (may require additional citizen participation depending on the nature of the expansion – 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.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	


PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Former Bronx Freight Terminal	BCP SITE NUMBER: C203082
NAME OF CURRENT APPLICANT(S): 101 Lincoln Associates Property LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C203082-10-16	
EFFECTIVE DATE OF EXISTING AGREEMENT: 06/09/17	

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 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: _____</p> <p>Print Name: _____</p>
<p>(Entity)</p> <p>I hereby affirm that I am (title <u>SVP</u>) of (entity <u>BOP 101 Lincoln Avenue LLC</u>); 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 am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.</p> <p>_____ 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: <u>3/29/18</u> Signature: <u></u></p> <p>Print Name: <u>Ralph Toussie</u> <u>Senior Vice President, Counsel</u></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)

101 Lincoln Associates Property LLC

I hereby affirm that I am Authorized Signatory (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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 7/13/18 Signature: _____

Print Name: Joseph Chetrit

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

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.

☒

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.

Effective Date of the Original Agreement: 6/5/17

Signature by the Department:

DATED: 6/20/18

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:


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

SUBMITTAL INFORMATION:

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

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

BROWNFIELD CLEANUP PROGRAM (BCP)
INSTRUCTIONS FOR COMPLETING A BCP AMENDMENT APPLICATION

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement and/or Application. **NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.**

SECTION II NEW REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

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 Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

Requestor Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address.

Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative unless another contact name and address is provided with the application.

Consultant Name, Address, etc.

Provide information for the requestor's consultant.

Attorney Name, Address, etc.

Provide information for the requestor's attorney.

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 in form.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property.

Operator Name, Address, etc.

Provide information for the new operator (if different from the new requestor or owner).

SECTION IV**NEW REQUESTOR ELIGIBILITY INFORMATION**

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

SECTION V PROPERTY DESCRIPTION AND DESCRIPTION OF CHANGES / ADDITIONS / REDUCTIONS (IF APPLICABLE)

NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

Property Address

Provide a street address, city/town, and zip code. For properties with multiple addresses, provide information for all.

Tax Parcel Information

Provide the tax parcel/section/block/lot information. 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, and/or acceptable site map to this application. Tax map information may be obtained from the tax assessor's office for all tax parcels that are included in the property boundaries. Attach a county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the property. Include a USGS 7.5 minute quad map on which the property appears.

ATTACHMENT A
SECTION II – NEW REQUESTOR INFORMATION

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through March 28, 2018.

Selected Entity Name: BOP 101 LINCOLN AVENUE LLC

Selected Entity Status Information

Current Entity Name: BOP 101 LINCOLN AVENUE LLC

DOS ID #: 5312839

Initial DOS Filing Date: MARCH 28, 2018

County: NEW YORK

Jurisdiction: DELAWARE

Entity Type: FOREIGN 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)

C/O CORPORATION SERVICE COMPANY

80 STATE STREET

ALBANY, NEW YORK, 12207-2543

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
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No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
MAR 28, 2018	Actual	BOP 101 LINCOLN AVENUE 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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**LIMITED LIABILITY COMPANY AGREEMENT
OF
BOP 101 LINCOLN AVENUE LLC**

This limited liability company agreement (this “**Agreement**”) of BOP 101 LINCOLN AVENUE LLC, a Delaware limited liability company (the “**Company**”), is made effective as of March 16, 2018, by the sole member, BOP AMTRAK DEVELOPMENT LLC, a Delaware limited liability company (the “**Shareholder**”), pursuant to and in accordance with the Limited Liability Company Act of the State of Delaware (6 Del.C. § 18-101, et seq.), as amended from time to time (the “**Act**”). Capitalized terms used in this Agreement which are not otherwise defined shall have the respective meanings given those terms in the Act.

WHEREAS, the Company was formed as a limited liability company on March 16, 2018 by the filing of a Certificate of Formation with the Secretary of State of Delaware pursuant to and in accordance with the Act; and

WHEREAS, the Shareholder agrees that the membership in and management of the Company shall be governed by the terms set forth herein.

NOW, THEREFORE, the Shareholder hereby agrees as follows:

1. Name. The name of the Company is BOP 101 LINCOLN AVENUE LLC.
2. Purpose. The Company is formed for the purpose of engaging in any lawful acts or activities permitted by limited liability companies under the Act and to engage in any and all activities necessary or incidental thereto.
3. Powers. The Company shall have the power to do any and all acts reasonably necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purpose and business described herein and for the protection and benefit of the Company, and shall have, without limitation, any and all of the powers that may be exercised on behalf of the Company by the Shareholder pursuant to this Agreement.
4. Term. The term of the Company commences on the date of filing of the Certificate of Formation and shall continue in existence until dissolved in accordance with Section 22 of this Agreement or otherwise in accordance with the Act.
5. Registered Office and Agent. The address of the registered office and the agent for service of process for the Company in the State of Delaware is c/o Corporation Service Company, 251 Little Falls Drive, Wilmington Delaware, 19808, USA.
6. Principal Business Office. The principal place of business and office of the Company shall be located at c/o Brookfield Properties, Inc., 250 Vesey Street, 15th Floor, New York, NY, 10281, and the Company’s business shall be conducted from such place or places as may hereafter be determined by the Shareholder or the Board of Managers (as defined below).

7. Name and Mailing Address of the Shareholder. The name and mailing address of the Shareholder is as follows:

Name	Mailing Address
BOP AMTRAK DEVELOPMENT LLC	c/o Brookfield Properties, Inc. 250 Vesey Street, 15 th Floor New York, NY 10281

8. Additional Shareholders. The name and address of any subsequent shareholder(s) shall be recorded in a shareholder register maintained by the Company.
9. Assignment. Subject to Section 10, the Shareholder shall not transfer all or any portion of its membership interest without the prior written consent (i) of all of the other members of the Company (if any) (which consent may be withheld for any reason) and/or (ii) the Company.
10. Limitations on Assignment. Notwithstanding Section 9, prior to (a) any transfer, sale or assignment of existing Common Shares, (b) any issuance of new Common Shares, or (c) any act or transaction whatsoever (including, without limitation, transfers pursuant to bankruptcy and transfers by operation of law) that would cause the Company to be treated for federal income tax purposes as having “two or more Shareholders” within the meaning of Treasury Regulations Section 301.7701-3, the Company, the Shareholder and all other parties that will become “Shareholders” as a result of such transaction shall agree as to the appropriate classification of the Company for federal income tax purposes and shall implement or maintain such classification. The provision of this Section 10 shall control all other provisions herein or otherwise regarding the transferability of any and all Shareholder interests in the Company.
11. Share Capital Contributions. The Shareholder’s capital contributions, in cash or in other assets, shall be shown on the Company’s books and records from time to time. The Shareholder may, but is not required, to make any additional capital contributions to the Company. The Shareholder’s initial capital contribution at the time of formation is set out in Schedule A hereto.
12. Common Shares.
- (a) The Company is authorized to issue a single class of Shareholder interests, which shall be designated “**Common Shares.**” For the purpose of this Agreement, a Common Share shall mean a unit of limited liability company interest issued by the Company on subscription by the Shareholder, which represents the rights and obligations associated therewith, including, without limitation, the right to one vote per Common Share, and the right to receive distribution of the Company’s assets in accordance with this Agreement and the Act.
 - (b) The Common Shares shall not be certificated and each Shareholder’s ownership in the Company shall be recorded in the Company’s register.

- (c) An assignee of Common Shares shall become, and be entitled to exercise the rights and powers of and be subject to the liability of, the Shareholder of the Company. Such Shareholder ownership shall become effective when the assignee's admission is reflected in the Company's register.
 - (d) The Company shall maintain an account of share capital in respect of contribution on Common Shares.
- 13. Retained Earnings. The profits and losses of the Company for each taxable year shall be determined on an annual basis and shall be available for distribution to the Shareholder. The cumulative net amount at any time shall be "**Retained Earnings.**"
- 14. Distributions. The Company shall be entitled to make distributions in respect of a Common Share held by the Shareholder as follows:
 - (a) as a return of capital in respect of a Common Share; and
 - (b) as a distribution other than a return of capital.

Distributions shall be made to a Shareholder at such times and in such amounts as may be determined in the sole discretion of the Company or the Board of Managers. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to the Shareholder on account of its interest in the Company if such distribution would violate Section 18-607 of the Act or other applicable law.
- 15. Common Share Redemption. The Company shall be entitled at its discretion to purchase for cancellation any Common Share held by the Shareholder provided such purchase does not violate Section 18-607 of the Act or other applicable law.
- 16. Elections. The Company shall determine the accounting methods and conventions under the tax laws of any and all applicable jurisdictions as to the treatment of income, gain, loss, deduction and credit of the Company or any other method or procedure related to the preparation of such tax returns. The Company shall make or refrain from making any and all elections permitted by such tax laws.
- 17. Limited Liability. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and none of the Shareholder, Managers, officer, employee or agent of the Company (including a person having more than one such capacity) shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of acting in such capacity.
- 18. Indemnification. The Company hereby agrees to indemnify and hold harmless the Shareholder, Manager, officer, employee or agent of the Company to the fullest extent permitted under the Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any amendment, substitution or replacement, only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior

to such amendment), against all expenses, liabilities and losses (including reasonable attorneys' fees and expenses, judgments, fines, excise taxes or penalties) reasonably incurred or suffered by such person by reason of the fact that such person is or was the Shareholder, a Manager, officer, employee or agent of the Company or is or was serving as the Shareholder, a Manager, officer, employee or agent of a subsidiary of the Company; provided, that no such person will be indemnified for any expenses, liabilities and losses suffered that are attributable to such person's bad faith, intentional misconduct or knowing violation of law. Expenses, including reasonable attorney's fees and expenses, incurred by any such indemnified person in defending a proceeding will be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such person to repay promptly such amount if it will ultimately be determined that such person is not entitled to be indemnified by the Company.

19. Termination of Common Share Ownership. The rights of the Shareholder to receive distributions and to assign its interest in the Company pursuant to Section 9 shall, on the dissolution, termination, winding up, bankruptcy, or other inability to act in such capacity, devolve on its legal representative for the purpose of settling its estate or administering its property.
20. Board of Managers and Officers.
 - (a) The Shareholder hereby agrees that the business and affairs of the Company shall be managed by or under the direction of a board of Managers (the "**Board of Managers**") designated by the Shareholder. Subject to the Act and the express limitations contained in this Agreement, the Board of Managers shall have complete and absolute control over the affairs and business of the Company, and shall possess all powers necessary, convenient or appropriate to carrying out the purpose and business of the Company, including, without limitation, doing all things and taking all actions necessary to carrying out the terms and provisions of this Agreement. The Board of Managers has the authority to bind the Company. Notwithstanding the last sentence of Section 18-402 of the Act, except as provided in this Agreement or by action of the Board of Managers, a member (including the Shareholder) may not bind the Company.
 - (b) The initial Board of Managers designated by the Shareholder is comprised of the individuals named in Schedule A hereto (each, a "**Manager**"). Thereafter, the number of Managers constituting the whole board will be at least one, such number to be fixed from time to time by action of the Shareholder. Each Manager will serve as a Manager until the earlier to occur of his/her death, retirement, resignation or removal, with or without cause, by the Shareholder. Upon the death, retirement, resignation or removal of any Manager, the Shareholder may designate the replacement Manager, if any. The Shareholder shall update Schedule A from time to time as necessary to reflect accurately the information therein. Any amendment or revision to Schedule A made in accordance with this Agreement shall not be deemed an amendment to this Agreement pursuant to Section 26 hereof.

- (c) The Company is entitled to reimburse the Managers for their reasonable expenses incurred in attending Board of Managers or committee meetings or otherwise serving as Managers.
 - (d) The initial officers of the Company shall be designated by the Shareholder, and such initial officers are set forth on Schedule A hereto. The Board of Managers may appoint one or more additional or successor officers of the Company (which may include Shareholders or Managers) with such powers, titles and duties as may be approved by the Board of Managers. Each officer will hold office until the first to occur of his/her death, retirement, resignation or removal with or without cause by the Board of Managers.
- 21. Execution of Documents. Deeds, transfers, assignments, agreements, contracts, obligations and other instruments in writing requiring execution by the Company may be signed by any Manager or officer of the Company, or in such other manner as the Board of Managers may determine.
- 22. Environmental Clean-Up. Without limiting the foregoing in any way, the Company authorizes and directs any Manager or officer as an authorized signatory (the “**Authorized Signatory**”) to acknowledge, execute and deliver for and on behalf of Company, any and all agreements, resolutions, documents, certificates, easements, and authorizations with respect to the development parcel situated at 101 Lincoln Avenue, Bronx, New York (the “Property”), which may be necessary, convenient or advisable to effect the inclusion of the Property in the New York State Department of Environmental Conservation Brownfield Cleanup Program (“**BCP**”), including but not limited to, the BCP Agreement, any amendments thereto, and an environmental easement, and to take such additional actions as the Authorized Signatory deems desirable and appropriate to carry out the intent and to accomplish the purposes of participation in the BCP.
- 23. Dissolution. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following:
 - (a) the written consent of the Shareholder;
 - (b) the dissolution, termination, winding up, bankruptcy, or other inability to act in such capacity, of the Shareholder; and
 - (c) any entry of a decree of judicial dissolution under Section 18-802 of the Act.

In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner).
- 24. Severability. Should any provision of this Agreement be held to be unenforceable, such holding will not affect the validity of the remainder of this Agreement, the balance of which will continue to be binding upon the Shareholder with any such modification or amendment to become a part hereof and treated as though originally set forth in this Agreement.

25. Governing Law. This Agreement will be governed by, and construed under, the laws of the State of Delaware without regard to the conflicts of laws principles thereof.
26. Amendment. Amendments to this Agreement may be made by the Shareholder in writing from time to time.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Agreement as of the date first written above.

SHAREHOLDER:

BOP AMTRAK DEVELOPMENT LLC

A handwritten signature in black ink, appearing to read 'Michelle L. Campbell', written over a horizontal line.

By: _____

Name: Michelle L. Campbell

Title: Senior Vice President and Secretary

SCHEDULE A

Share Register

<i>Name of Shareholder</i>	<i>Number of Common Shares</i>	<i>Initial Capital Contribution</i>
BOP AMTRAK DEVELOPMENT LLC	1	\$100

Managers and Officers

Managers:

G. Mark Brown
Richard B. Clark
Ricky Tang

Officers:

Commercial Executive – U.S. and Leasing

Richard B. Clark	Chief Executive Officer
G. Mark Brown	Global Chief Investment Officer
Steven Ganeless	Chief Investment Officer, U.S. Office
David Cheikin	Executive Vice President, New York Region
Jeremiah B. Larkin	Executive Vice President, Director of Leasing
Michael Goldban	Senior Vice President, Retail Leasing
Caillie Haines	Senior Vice President, Asset Management
Duncan McCuaig	Senior Vice President, Leasing
Mikael Nahmias	Senior Vice President, Leasing
Alex Liscio	Vice President, Leasing

Strategic Initiatives and Finance

Edward F. Beisner	Senior Vice President and Controller
Jason Kirschner	Senior Vice President, Finance
Ted Cheng	Vice President, Regional Controller

Compliance and Corporate Secretarial

Michelle L. Campbell	Senior Vice President & Secretary
Danielle Brody	Vice President
Phyllis F. Moore	Assistant Secretary

Legal

Kathleen G. Kane	Executive Vice President and General Counsel
Jonathan Kramer	Senior Vice President, Counsel
Monica Lawless	Senior Vice President, Leasing Counsel
Carol Meyer	Senior Vice President, Regional Counsel
Ralph Toussie	Senior Vice President, Counsel

Operations

Richard Bachia
Daniel Kindbergh
Michael Bosso
Lisa Goldfarb

Executive Vice President, Operations
Executive Vice President, Operations
Senior Vice President, Operations
Senior Vice President, US Operations

Development and Construction

Sabrina Kanner
Daniel Berger
Henry Caso
Alan Chun
John Durschinger
Joseph Hsu
John Landry
Ernesto Bacalzo
Christian Heimple
Megan Brothers
Taek Park
Kevin Davenport
Richard Fericola

Executive Vice President, Design & Construction
Senior Vice President, Construction
Senior Vice President, Construction
Senior Vice President, Development
Senior Vice President, Global Design
Senior Vice President, Development
Senior Vice President, Construction
Vice President, Construction
Vice President, Construction
Vice President, Design
Vice President, Design
Vice President, Development
Vice President, Development

ATTACHMENT B
SECTION IV – ELIGIBILITY INFORMATION FOR NEW REQUESTORS

Volunteer Status of Requestor BOP 101 Lincoln Avenue LLC

Requestor BOP 101 Lincoln Avenue LLC meets the eligibility requirements of ECL 27-1407. In addition to the information provided in Section IV of the Brownfield Cleanup Agreement amendment application, the requestor is a recently-formed entity with (i) no prior ownership interest in the site; (ii) no prior legal or operational relationship with the owner or property; and (iii) no legal or operational relationship with the historical owner/operators responsible for the contamination at the site. Requestor BOP 101 Lincoln Avenue LLC has reviewed the available environmental data respecting the property and is conducting and will complete all appropriate inquiry into the environmental conditions related to the property.

EXHIBIT J-3

SITE ACCESS AGREEMENT

THIS SITE ACCESS AGREEMENT (this "Agreement") is entered into on the 29th day of MARCH, 2018 (the "Effective Date", " "), by and among **101 LINCOLN ASSOCIATES PROPERTY LLC**, a Delaware limited liability company ("101 Lincoln Seller") and **2401 3RD AVE ASSOCIATES PROPERTY LLC**, a Delaware limited liability company ("2401 Third Seller"; and together with 101 Lincoln Seller, collectively, "Seller") and **BOP 101 LINCOLN AVENUE LLC**, a Delaware limited liability company ("101 Lincoln Purchaser") and **BOP 2401 THIRD AVENUE LLC**, a Delaware limited liability company ("2401 Third Purchaser"; and together with 101 Lincoln Purchaser, collectively, "Purchaser").

WHEREAS Seller is the owner of certain real property commonly known as 101 Lincoln Avenue and 2401 Third Avenue in the Borough of Bronx, New York (collectively, the "Premises");

WHEREAS the Premises is currently admitted to the New York State Brownfield Cleanup Program as Site Nos. [C203052] and [C203082], and subject to a Brownfield Cleanup Agreement (Index Nos. [C203052-06-15] and [C203082-16-14]);

WHEREAS Seller has been admitted as a Volunteer, as defined in Section 27-1405 of the New York Environmental Conservation Law, with respect to the Premises;

WHEREAS Seller and Purchaser contemplate a transaction by which Purchaser will acquire the Premises from Seller and assume Seller's current obligations under the Brownfield Cleanup Program (the "Transaction");

WHEREAS following the date hereof, Purchaser will seek admission from the New York State Department of Environmental Conservation into the New York State Brownfield Cleanup Program as a Volunteer and that such application requires proof of site access sufficient to complete the remediation;

NOW THEREFORE, and in consideration of the terms and conditions stated herein, the parties do now **AGREE** as follows:

1. Seller grants permission to Purchaser and its agent and subcontractors to enter the Premises for the purposes of conducting the required investigation and remediation of the Premises (the "Work").
2. Purchaser shall provide Seller with reasonable notice prior to entering the Premises to perform any Work.

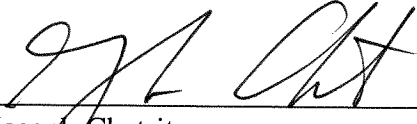
3. Purchaser shall hold harmless, defend and indemnify Seller from any claims, demands or actions for injuries to persons or damages to property caused by Purchaser or Purchaser's Agents while on the Premises performing remediation activities or with regard to the exacerbation of any contamination discovered in connection with the remediation of the Premises (hereinafter, collectively, "Claims"), except to the extent arising from the willful misconduct or gross negligence of Seller.
4. This Agreement shall terminate upon conveyance of title to the Premises from Seller to Buyer.

[Signature Page Follows]

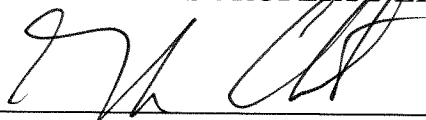
IN WITNESS WHEREOF, each party hereto has caused this Site Access Agreement for to be duly executed on its behalf as of the day and year first above written.

SELLER:

101 LINCOLN ASSOCIATES PROPERTY LLC


By: 
Name: Joseph Chetrit
Title: Authorized Signatory

2401 3RD AVE ASSOCIATES PROPERTY LLC


By: 
Name: Joseph Chetrit
Title: Authorized Signatory

PURCHASER:

BOP 101 LINCOLN AVENUE LLC

By: 
Name: Ralph Toussie
Title: Senior Vice President, Counsel

BOP 2401 THIRD AVENUE LLC

By: 
Name: Ralph Toussie
Title: Senior Vice President, Counsel