

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Violations of Articles 27, Title 13
Article 71, Title 27 of the New York State Environmental
Conservation Law and Part 375 of Title 6 of the Official
Compilation of Codes, Rules and Regulations
of the State of New York,

ORDER ON CONSENT

- by -

**NYSDEC File No.
CO 2-20210901-172**

25C LLC
249 Smith Street, #140
Brooklyn, NY 11231

Respondent.

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WHEREAS:

1. The New York State Department of Environmental Conservation (“NYSDEC” or the “Department”) is responsible for carrying out the policy of the State of New York to conserve, improve and protect natural resources and the environment and control water, land and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the New York State Environmental Conservation Law (“ECL”); and

2. The Department is responsible for the administration and enforcement of law and regulation pursuant to Article 3 of the ECL.

3. The Department is authorized to administer the Brownfield Cleanup Program (“BCP”) as set forth in Article 27, Title 14 of the ECL and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations (“6 NYCRR”) and may issue orders consistent with authority granted to the Commissioner by such statute.

4. Respondent 25C LLC, a New York limited liability company with offices at 249 Smith Street, #140, Brooklyn, NY, is the prospective purchaser of a parcel of real property located at 1181 Flushing Avenue (also sometimes referred to as 25 Stewart Avenue), Brooklyn, NY and identified as Kings County Tax Block 2994 Lot 75 (the “Site”);

5. By letter dated May 7, 2015 the Department approved the BCP application

of Flushing Stewart LLC for the Site, and on July 2, 2015, Flushing Stewart LLC, entered into a Brownfield Site Cleanup Agreement (“BCA”), Index No. C224210-05-15, with the Department regarding a remedial program for the Site. Flushing Stewart LLC was participating in the Brownfield Cleanup Program (“BCP”) as a Volunteer, as defined in ECL § 27-1405(1)(a). Because the Site had an approved application before June 30, 2015, and a BCA signed by the Department after July 1, 2015, the Site was deemed to be a Generation 2 site for tax credit purposes, however the Site is subject to a Certificate of Completion date of March 31, 2026, The Site is listed in the BCP Program Update issued by the Department in July 2017 which is an official listing of all “Generation 2 BCP Sites NOT Subject to December 31, 2019 Completion Date”.

6. 6 NYCRR 375-1.11(b)2) states that it is a violation to engage in any activity that prevents or significantly interferes with an ongoing remedial program or activity that is reasonably foreseeable expose the public health or the environment to a significantly increased threat of harm or damage at any site.

7. The Department approved a Remedial Action Work Plan (RAWP) on December 11, 2017. The approved RAWP and December 6, 2017 Decision Document require the installation of monitoring wells at the property line to determine if additional groundwater treatment is needed after the source material is excavated, as required in 6 NYCRR Part 375-1.8(d)(1)(iii).

8. Thereafter, Flushing Stewart LLC indicated to the Department that the approved remedy reflected in the RAWP could not be implemented and submitted multiple versions of a revised RAWP that were not approved by the Department. To date, a revised RAWP has not been approved and a remedy has not been implemented on the Site.

9. On December 1, 2020, the Department sent Flushing Stewart LLC a letter indicating the Department’s objection to the pace and progress of the Remedial Program at the Site and allowing Respondent to remain in the BCP provided that Respondent submit a revised RAWP that was acceptable to the Department and removed all solid waste from the Site (Notice of Termination).

10. Flushing Stewart LLC requested a six (6) month extension of time (to June 2, 2021) to address the issues set forth in the December 1, 2020 letter from the Department citing financial hardship and its intent to transfer the property to a new developer. The Department did not receive an approvable revised RAWP on or before June 2, 2021. On June 3, 2021, the Department notified Respondent that the BCA was terminated pursuant to 6 NYCRR § 375-3.5(c) (Termination Letter).

11. On July 28, 2021 Respondent submitted a change of use notification form with the Department indicating that Respondent intended to purchase the Site from J Stewart Realty, LLC, the current owner, who acquired the Site from Flushing Stewart

LLC. The change of use notification form was executed by Flushing Stewart LLC and is attached hereto as Appendix A.

12. The Department acknowledges the submission of a BCA amendment application, attached hereto as Appendix B, to add Respondent as a Volunteer/Applicant on the BCA. The amendment application was executed by Flushing Stewart LLC. It is the parties' intent to execute the BCA amendment simultaneously with the execution of this Order.

13. Pursuant to ECL Section 71-2705(1), a person who violates ECL Article 27, Title 13 or 6 NYCRR Part 375, is subject to a penalty of up to \$37,500 per day for each violation.

14. Pursuant to 6 NYCRR Part 375-1.8(d)(1)(iii), a Volunteer in the BCP must evaluate the feasibility of preventing off-site migration of on-site groundwater contamination and containing the plume on site

15. Respondent and the Department agree that the primary goals of this Order are to resolve the above-described violations at the Site and provide a mechanism for the Respondent to be added to the BCA, so that it may implement any required remedial measures and associated site management activities.

16. Respondent denies liability for any and all current and historical Site conditions, and in entering into this Order for purposes of the settlement described herein, does not admit any allegations or claims of the Department made herein with regard to liability or fault with respect to Flushing Stewart LLC or any matter arising out of or relating to the Site.

17. In settlement of the aforesaid violations, the Respondent waives the right to a hearing herein as provided by law and consents to the issuing and entering of this Order on Consent pursuant to the provisions of Articles 27 and 71 of the ECL and agrees to be bound by the provisions, terms and conditions herein. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms.

NOW, WHEREFOR, it is hereby ORDERED that:

I. **PENALTY:** Respondent is hereby assessed a civil penalty of \$50,000.00 for the violations stated in this Consent Order to be paid as follows:

A. **Payable Penalty:** Respondent will pay \$25,000.00 of the penalty upon the execution of this Order. Payments shall be made by certified or cashier's check or money order payable to the New York State Department of Environmental Conservation. Respondent will submit the settlement payment as required by this Order along with two signed originals of this Order, to:

Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway 14th Floor
Albany, NY 12233-1500
Attn: Jennifer Andaloro

B. Suspended Penalty: Notwithstanding the Payable Penalty above, \$25,000.00 of the assessed civil penalty against Respondent has been suspended, provided Respondent complies with all the terms of this Order. In the event that Respondent fails to make the submissions or complete the activities on the schedule described below in Section III, the entire suspended portion of the penalty shall become due and payable upon written notice to Respondent without prejudicing the Department from seeking further appropriate penalties for the violations by Respondent.

C. The penalty assessed in this Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty becomes due.

D. Failure to timely pay the civil penalty due under this Order or otherwise comply with this Order will result in termination of the Brownfield Cleanup Agreement, referral of the Site to the State Superfund, if appropriate, and no Certificate of Completion will be issued for this Site

II. RESPONDENT'S CONTINUED PARTICIPATION IN THE BCP

The Department acknowledges that the Respondent has submitted a BCA amendment application and notification of change of use so that it may be added as a Volunteer/Applicant on the BCA and participate in the BCP under the terms of the July 2, 2015 BCA and any subsequent amendments thereto. The Department hereby withdraws the Notice of Termination issued on December 1, 2020 and the Termination Letter dated June 3, 2021. The Department agrees to execute the BCA amendment application upon the execution of this Order. Respondent shall not be entitled to, and will not use the costs incurred to defend or comply with this Order for the purpose of tax credits under the Brownfield Cleanup Program.

III. COMPLIANCE SCHEDULE

Respondent shall:

- A. Implement the pre-design sampling work plan within 30 days of the effective date of this Order or 15 days of the Department's approval of the pre-design sampling work plan, whichever is later.
- B. Commence the remedial action as set forth in the December 6, 2017 Decision Document and RAWP approved by the Department on December 11, 2017 within 30 days of the issuance of a fact sheet by the Department.
- C. Provide documentation to the Department demonstrating that all solid waste has been properly removed from the Site within 30 days of the effective date of this Order.

IV. FAILURE, DEFAULT AND VIOLATION OF ORDER AND VIOLATIONS OF THE ECL

- A. The failure of Respondent to comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and shall be deemed to be a violation of both this Order and the ECL.
- B. Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL.
- C. If Respondent cannot comply with a deadline or requirement of this Order because of an act of God, war, strike, riot, catastrophe or other condition which is not caused by the negligence or willful misconduct of Respondent, and which could not have been avoided by Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact, and request an extension or modification of the deadline or requirement.

V. INDEMNIFICATION

Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent or its successors (including successors in title) and assigns.

VI. BINDING EFFECT

This Order shall be deemed binding on Respondent, any successors and assigns and all persons, firms and corporations acting under or for Respondent, including, but not limited to, those who may carry on any or all of the operations to be conducted by Respondent at the Site.

VII. MODIFICATION

No change in this Order shall be made or become effective except as agreed to by the Parties and set forth by a written order of the Commissioner or the Commissioner's designee.

VIII. ENTIRE ORDER

This Order shall constitute the entire agreement of the Department and the Respondent with respect to settlement of the violations specifically referenced herein. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing pursuant to Paragraph VIII of this Order, and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules, or any other writing submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

IX. EFFECTIVE DATE

The effective date of this Order is the date that it is signed by the Commissioner or his/her designee. The Department will provide Respondent with a fully executed copy of this Order as soon as practicable after it has been signed by the Commissioner or the Commissioner's designee.

DATED: Albany, New York
10/14/, 2021

Basil Seggos
Commissioner, NYSDEC

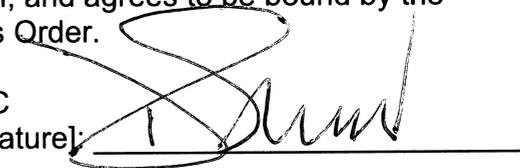
By: 
Michael J. Ryan, P.E., Director
Division of Environmental Remediation
Department of Environmental
Conservation

CONSENT BY RESPONDENT

Respondent 25C LLC hereby consents to the issuing and entering of this Order without further notice, waives his right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

25C LLC

By [signature]:



Print name: DAWSON STEUBERGER

Title: AUTHORIZED SIGNATORY

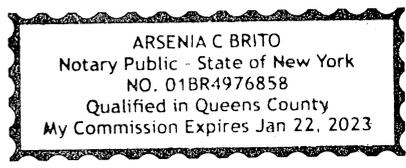
Date: 10/6/21

ACKNOWLEDGMENT

STATE OF New York
COUNTY OF Queens) ss:

On this 6th day of October, 2021, before me personally came DAWSON STEUBERGER, to me known, who being by me duly sworn did depose and say that s/he is the AUTHORIZED SIGNATORY of 25C LLC, the corporation described in and which executed the above instrument, and that s/he signed this instrument as authorized by said 25C LLC.


Notary Public



APPENDIX A
CHANGE OF USE NOTIFICATION FORM

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



**60-Day Advance Notification of Site Change of Use, Transfer of
Certificate of Completion, and/or Ownership**
Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

To be submitted at least 60 days prior to change of use to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation, 625 Broadway
Albany NY 12233-7020

I. **Site Name:** Former Universal Scrap metal Processors Corp. **DEC Site ID No.** C224210

II. **Contact Information of Person Submitting Notification:**

Name: Seth D. Friedland / Friedland Law, LLC
Address1: 62 William Street, 3rd Floor
Address2: New York, NY 10005
Phone: 917-902-6386 E-mail: sfriedland@friedland.law

III. **Type of Change and Date:** Indicate the Type of Change(s) (check all that apply):

- Change in Ownership or Change in Remedial Party(ies)
 Transfer of Certificate of Completion (CoC)
 Other (e.g., any physical alteration or other change of use)

Proposed Date of Change (mm/dd/yyyy):

IV. **Description:** Describe proposed change(s) indicated above and attach maps, drawings, and/or parcel information.

~~The property is being purchased by Requestor 25c, LLC, from J Stewart Realty, LLC, the current owner, who acquired property from Flushing Stewart, LLC on December 23, 2020. Flushing Stewart, LLC is current holder of BCA.*~~

If "Other," the description must explain and advise the Department how such change may or may not affect the site's proposed, ongoing, or completed remedial program (attach additional sheets if needed).

*J Stewart Realty, LLC was lender to Flushing Stewart, LLC and is not in BCP.

V. **Certification Statement:** Where the change of use results in a change in ownership or in responsibility for the proposed, ongoing, or completed remedial program for the site, the following certification must be completed (by owner or designated representative; see §375-1.11(d)(3)(i)):

I hereby certify that the prospective purchaser and/or remedial party has been provided a copy of any order, agreement, Site Management Plan, or State Assistance Contract regarding the Site's remedial program as well as a copy of all approved remedial work plans and reports.

Name:

Yoel Schwimmer
(Signature)

07/27/2021

(Date)

Yoel Schwimmer

(Print Name)

Address1: Flushing Stewart, LLC

Address2: 12 Spencer Street, Brooklyn, NY 11205

Phone: 718-887-9840 x3

E-mail: 6136ys@gmail.com

VI. **Contact Information for New Owner, Remedial Party, or CoC Holder:** If the site will be sold or there will be a new remedial party, identify the prospective owner(s) or party(ies) along with contact information. If the site is subject to an Environmental Easement, Deed Restriction, or Site Management Plan requiring periodic certification of institutional controls/engineering controls (IC/ECs), indicate who will be the certifying party (attach additional sheets if needed).

Prospective Owner Prospective Remedial Party Prospective Owner Representative

Name: 25c, LLC

Address1: 249 Smith Street, #140

Address2: Brooklyn, NY 11231

Phone: 347-925-0909

E-mail: dstellberger@gmail.com

Certifying Party Name: Dawson Stellberger

Address1: 249 Smith Street, #140

Address2: Brooklyn, NY 11231

Phone: 347-925-0909

E-mail: dstellberger@gmail.com

VII. Agreement to Notify DEC after Transfer: If Section VI applies, and all or part of the site will be sold, a letter to notify the DEC of the completion of the transfer must be provided. If the current owner is also the holder of the CoC for the site, the CoC should be transferred to the new owner using DEC's form found at <http://www.dec.ny.gov/chemical/54736.html>. This form has its own filing requirements (see 6NYCRR Part 375-1.9(f)).

Signing below indicates that these notices will be provided to the DEC within the specified time frames. If the sale of the site also includes the transfer of a CoC, the DEC agrees to accept the notice given in VII.3 below in satisfaction of the notice required by VII.1 below (which normally must be submitted within 15 days of the sale of the site).

Within 30 days of the sale of the site, I agree to submit to the DEC:

1. the name and contact information for the new owner(s) (see §375-1.11(d)(3)(ii));
2. the name and contact information for any owner representative; and
3. a notice of transfer using the DEC's form found at <http://www.dec.ny.gov/chemical/54736.html> (see §375-1.9(f)).

Name: _____


(Signature)

7/7/21
(Date)

Dawson Stellberger

(Print Name)

Address1: 249 Smith Street, #140

Address2: Brooklyn, NY 11231

Phone: 347-925-0909

E-mail: dstellberger@gmail.com

APPENDIX B
BCA AMENDMENT APPLICATION



Department of
Environmental
Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification requested:

Amendment to modify the existing BCA: [check one or more boxes below]

- Add applicant(s)
- Substitute applicant(s)
- Remove applicant(s)
- Change in Name of applicant(s)

Amendment to reflect a transfer of title to all or part of the brownfield site

1a. A copy of the recorded deed must be provided. Is this attached? Yes No

1b. Change in ownership Additional owner (such as a beneficial owner)

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)

2. Required: Please provide a brief narrative on the nature of the amendment:

We request an amendment to add applicant 25C LLC to the BCA as prospective purchaser of the property. 25C LLC is the requestor.

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

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves a non-insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.

Section I. Current Agreement Information		
BCP SITE NAME: Former Univ Scrap Metal Processors Corp. BCP SITE NUMBER: C224210		
NAME OF CURRENT APPLICANT(S): Flushing Stewart, LLC		
INDEX NUMBER OF AGREEMENT: C224210-05-15 DATE OF ORIGINAL AGREEMENT: 07/02/2015		
Section II. New Requestor Information (complete only if adding new requestor or name has changed)		
NAME: 25C LLC		
ADDRESS: 249 Smith Street, #140		
CITY/TOWN: Brooklyn, NY		ZIP CODE: 11231
PHONE: 347-925-0909	FAX:	E-MAIL: dstellberger@gmail.com
1. 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: Dawson Stellberger		
ADDRESS: 249 Smith Street, #140		
CITY/TOWN: Brooklyn, NY		ZIP CODE: 11231
PHONE: 347-925-0909	FAX:	E-MAIL: dstellberger@gmail.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable): Matt Carroll/ Tenen Environmental		
ADDRESS: 121 W. 27th St., Suite 202		
CITY/TOWN: NY, NY		ZIP CODE: 10001
PHONE: 347-3912585	FAX:	E-MAIL: mcarroll@tenen-env.com
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable): Seth D. Friedland		
ADDRESS: Friedland Law, LLC, 62 William Street, 3rd Floor		
CITY/TOWN: NY, NY		ZIP CODE: 10005
PHONE: 917-902-6368	FAX:	E-MAIL: sfriedland@friedland.law
2. 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		
3. Describe Requestor's Relationship to Existing Applicant: Requestor is not related to Existing Applicant. Existing Applicant transferred title of the property to the Seller, J Stewart Realty, LLC who is not in the BCP. The Existing Applicant signed the Change of Use Form for Requestor.		

Section III. Current Property Owner/Operator Information (only include if new owner/operator)		
Owner below is: <input checked="" type="checkbox"/> Existing Applicant <input type="checkbox"/> New Applicant <input type="checkbox"/> Non-Applicant		
OWNER'S NAME (if different from requestor) Flushing Stewart LLC (former owner)		
ADDRESS 12 Spencer Street		
CITY/TOWN Brooklyn, NY		ZIP CODE 11204
PHONE 718-887-9840x3	FAX	E-MAIL 6163ys@gmail.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?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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.	<input type="checkbox"/> Yes	<input type="checkbox"/> 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.	<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="checkbox"/> Yes	<input type="checkbox"/> 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.

12. Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

13. 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)

1. Property information on current agreement:

ADDRESS 1181 Flushing Avenue

CITY/TOWN Brooklyn

ZIP CODE 11237

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

Parcel Address	Section No.	Block No.	Lot No.	Acreage
1181 Flushing Avenue		2994	75	0.526

2. Check appropriate boxes below:

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

2a. PARCELS ADDED:

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

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

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

Total acreage to be removed: _____

Change to SBL (e.g. merge, subdivision, address change)

2c. NEW SBL INFORMATION:

Parcel Address	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.

3. TOTAL REVISED SITE ACREAGE: _____

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 checked="" 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 checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input checked="" 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 checked="" 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>	

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

(Individual)

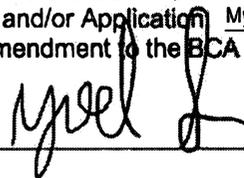
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Representative (title) of Flushing Stewart 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: 7/27/2021 Signature: 

Print Name: Yoel Schwimmer

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

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.
---	--

Effective Date of the Original Agreement: 7/02/2015

Signature by the Department:

DATED: 10/14/21

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: 

Michael J. Ryan, P.E., Director
Division of Environmental Remediation

Site Code: C224210

SUBMITTAL INFORMATION:

- **Two (2) copies, one hard copy with original signatures and one electronic copy in final, non-fillable 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

- **NOTE: Applications submitted in fillable format will be rejected.**

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. 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.

COVER PAGE

Please select all options that apply. Provide a brief narrative of the nature of the amendment requested. At the bottom of the page, please enter the site code. This field will auto-populate in the bottom left corner of the subsequent pages.

SECTION I CURRENT AGREEMENT INFORMATION

Provide the site name, site code and current requestor exactly as it appears on the existing agreement. Provide the agreement index number and the date of the initial BCA, regardless of any executed amendments.

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.

Please provide 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.

SECTION III CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Only include if a transfer of title has taken place resulting in a change in ownership and/or operation of the site. Provide the relationship of the owner to the site by selecting one of the check-box options.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property. Attach separate pages as needed.

Operator Name, Address, etc.

Provide information for the new operator, if applicable.

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.

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.

If the 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. A purchase contract does not suffice as proof of access.

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.

1. Property Information on Existing Agreement

Provide the site address and tax parcel information exactly as it appears on the current agreement (or as it has been modified in previous amendments).

2a. Addition of Property

Provide the tax parcel information and acreage for each parcel to be added. Provide the total acreage to be added below the far-right column.

2b. Reduction of Property

Provide the tax parcel information and acreage for each parcel to be removed. Provide the total acreage to be removed below the far-right column.

2c. Change to SBL or metes and bounds description

Provide the new tax parcel information and attach a metes and bounds description.

All requested changes to this section should be accompanied by a revised survey or other acceptable map depicting the proposed new site boundary. Additionally, provide a county tax map with the site boundary outlined, as well as a USGS 7.5-minute quadrangle map with the site location clearly identified.

SUPPLEMENT TO THE APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT – QUESTIONS FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY

This page should only be completed if:

- a. The site is located in the five boroughs comprising New York City

AND

- b. The site does not currently have an eligibility determination for tangible property credits.

PART II

The information in the top section of page 7 should auto-populate with the information provided on page 2. If a new requestor is applying to enter the program, provide the required information and signature at the bottom of page 7 and the required information and signature on page 8.

If no new requestor is applying to the program but any other change has been made, provide the required information and signature on page 8.

APPENDIX "A"

September 18, 2021 | 2:11 pm

COVID-19 Vaccines

On August 23, the FDA announced the full approval of the Pfizer-BioNTech vaccine for the prevention of COVID-19 disease in individuals age 16 and older. Read more.

[DETAILS >](#)

Department of State Division of Corporations

Entity Information

[Return to Results](#)
[Return to Search](#)

Entity Details

ENTITY NAME:

25C LLC

FOREIGN LEGAL NAME:**ENTITY TYPE:**

DOMESTIC LIMITED LIABILITY COMPANY

SECTION OF LAW:

203 LLC - LIMITED LIABILITY COMPANY LAW

DATE OF INITIAL DOS FILING:

06/18/2021

EFFECTIVE DATE INITIAL FILING:

06/18/2021

FOREIGN FORMATION DATE:**COUNTY:**

Kings

JURISDICTION:

New York, United States

DOS ID:

8040078

FICTITIOUS NAME:**DURATION DATE/LATEST DATE OF DISSOLUTION:****ENTITY STATUS:**

Active

REASON FOR STATUS:**INACTIVE DATE:****STATEMENT STATUS:**

CURRENT

NEXT STATEMENT DUE DATE:

06/30/2023

NFP CATEGORY:

ENTITY DISPLAY

Service or Process Name and Address

Name: THE LLC**Address:** 249 SMITH STREET #140, BROOKLYN, NY, United States, 11231

Chief Executive Officer's Name and Address

Name:**Address:**

Principal Executive Officer Name and Address

Name:**Address:**

Registered Agent Name and Address

Name:**Address:**

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: No

Stock Information

Share Value

Number Of Shares

Value Per Share

APPENDIX "B"

**UNANIMOUS CONSENT OF THE MANAGING MEMBER
IN LIEU OF A SPECIAL MEETING
OF THE SOLE MEMBERS OF
25C LLC**

The undersigned, being the Sole Member of 25C LLC, ("25C"), a limited liability company organized under the laws of the State of New York, does hereby waive notice of the meeting of the Members and consents to the following resolutions as the duly adopted resolutions of the Sole Member of 25C, said resolutions to be read as follows:

RESOLVED, that in anticipation of 25C's purchase of 1181 Flushing Avenue, Brooklyn, NY (the "Property"), 25C is hereby authorized and directed to submit a Proposed Amendment to the Brownfield Cleanup Application for the Property for the purpose of receiving agency guidance from the New York State Department of Environmental Conservation ("DEC") for the remedial action required at the Property, to ensure full compliance with agency standards; and

BE IT FURTHER RESOLVED, that DAWSON STELLBERGER is hereby authorized to sign any and all documents necessary to complete, submit, and effect the Proposed Amendment to the Brownfield Cleanup Application on behalf of 25C LLC in accordance with the foregoing, including but not limited to any Order on Consent with DEC.

Dated: September 23, 2021

MANAGING MEMBER:

ACUTE 7 LLC

By: Thomas Ta
Thomas Ta
Managing Member

APPENDIX "C"

**Section IV – Requestors Eligibility Statement
(pursuant to pg. 4 of Application to Amend BCA)**

25C LLC (the “Requestor”) qualifies as a Volunteer in accordance with ECL Section 27-1405(1) as its environmental liability at this site will arise solely as a result of its ownership. Requestor has not been involved nor contributed in any way to the disposal or release of hazardous waste or the discharge of petroleum at the property. Requestor has exercised prudent due diligence in investigating the prior environmental conditions and reports and remedial action plans 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 hazardous waste and intends to follow agency guidance to remediate the property in full compliance with DEC requirements moving forward. Furthermore, upon executing its purchase agreement, Requestor reached out to DEC promptly to obtain a full understanding of the existing environmental conditions, and what remedial actions Requestor should take to satisfy DEC requirements. Upon taking title Requestor will exercise appropriate care and take reasonable steps with regard to existing contamination.

APPENDIX "D"

J STEWART REALTY LLC

September 21, 2021

Ms. Kelly Lewandowski
Chief, Site Control Section
NYSDEC – Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

Re: *Property Access Authorization*
NYS DEC Brownfield Cleanup Program
1181 Flushing Avenue, Brooklyn, NY; No. C224210

Dear Ms. Lewandowski:

Please be advised that we are the owner of the above-referenced property (the "Site"). As owner of the Site, I am aware of and acknowledge that 25C, LLC will be filing an application to enter the NYS Brownfield Cleanup Program (the "BCP") and, subsequent to acceptance into the BCP, will be acting pursuant to a Brownfield Cleanup Program Agreement ("BCA") with the NYS Department of Environmental Conservation for environmental investigation and/or remediation of the Site.

As owner of the Site, I authorize 25C, LLC (and any of its designated contractors and consultants) unlimited access to the Site to perform any required work related to and necessary to secure a Certificate of Completion under the BCP, including placing an Environmental Easement on the Site, provided all activities are completed in accordance with DEC requirements and the provisions of the BCP and the BCA.

Please contact me if you have any questions or require additional information. Thank you.

Very truly yours,



J Stewart Realty LLC

cc: Mr. Dawson Stellberger, 25C, LLC
Ms. Jennifer Andaloro, NYS DEC