



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

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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:

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

Section I. Existing Agreement Information		
BCP SITE NAME: 805-825 Atlantic Avenue		BCP SITE NUMBER: C224228
NAME OF CURRENT APPLICANT(S): 550 Clinton Partners LLC and 539 Vanderbilt Partners LLC		
INDEX NUMBER OF EXISTING AGREEMENT: C224228-03- DATE OF EXISTING AGREEMENT: April 6, 2		
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)		
NAME VC Atlantic Partners LLC		
ADDRESS c/o Hope Street Capital, 475 Park Avenue South, Suite 1206		
CITY/TOWN New York		ZIP CODE 10016
PHONE (212) 620-0021	FAX (212) 551-6549	E-MAIL jgershon@hopestreet.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 Jeffrey Gershon		
ADDRESS Hope Street Capital, 475 Park Avenue South, Suite 1206		
CITY/TOWN New York		ZIP CODE 10016
PHONE (212) 620-0021	FAX (212) 551-6549	E-MAIL jgershon@hopestreet.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Michael Burke of Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C.		
ADDRESS 21 Penn Plaza, 360 West 31st Street, 8th Floor		
CITY/TOWN New York		ZIP CODE 10001
PHONE (212) 479-5413	FAX (212) 479-5444	E-MAIL burke@langan.com
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Steven Russo, Greenberg Traurig, LLP		
ADDRESS 200 Park Avenue		
CITY/TOWN New York		ZIP CODE 10166
PHONE (212) 801-2155	FAX (212) 801-6400	E-MAIL russos@gtlaw.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:		
Affiliate of Existing Applicant.		

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Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☒ No
2. Is the requestor 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 affiliate of ground lessees

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 805-825 Atlantic Avenue

CITY/TOWN Brooklyn

ZIP CODE 11238

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
550 Clinton Avenue	3-2010-59	3	2010	59	0.29
539 Vanderbilt Avenue	3-2010-1	3	2010	1	0.24

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 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 type="checkbox"/> Yes <input checked="" 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 checked="" 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: 805-825 Atlantic Avenue	BCP SITE NUMBER: C224228
NAME OF CURRENT APPLICANT(S): 550 Clinton Partners LLC and 539 Vanderbilt Partners LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224228-03-17	
EFFECTIVE DATE OF EXISTING AGREEMENT: April 6, 2017	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title Authorized Signatory) of (entity VC Atlantic Partners LLC); 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.

_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 6/17/19 Signature: 

Print Name: Jeffrey Gershon

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 Signatory (title) of 550 Clinton Partners LLC and 538 Vanderbilt Partners (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: 6/17/19 Signature: 

Print Name: Jeffrey Gershon

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 4/6/17

Signature by the Department:

DATED: 9/5/19

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

Michael J. Ryan, 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.

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 16, 2019.

Selected Entity Name: VC ATLANTIC PARTNERS LLC

Selected Entity Status Information

Current Entity Name: VC ATLANTIC PARTNERS LLC

DOS ID #: 5468971

Initial DOS Filing Date: JANUARY 04, 2019

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

HOPE STREET
475 PARK AVENUE SOUTH
12 FLOOR
NEW YORK, NEW YORK, 10016

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
JAN 04, 2019	Actual	VC ATLANTIC PARTNERS 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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CONSENT OF THE MANAGER

JEFFREY GERSHON, an individual ("**Manager**"), being the sole member of VC ATLANTIC MANAGER LLC, a New York limited liability company ("**VC Manager**"), which is, in turn, a manager of HSC VC ATLANTIC LLC, a New York limited liability company ("**VC General Partner**"), which is, in turn, a manager of VC ATLANTIC OPERATOR LLC, a New York limited liability company ("**VC Operator**"), which is, in turn, the sole member of VC ATLANTIC PARTNERS LLC, a New York limited liability company ("**VC Partners**"), does hereby adopt the following resolutions pursuant to the New York Limited Liability Company Law and the Articles of Organization of VC Partners:

RECITALS:

WHEREAS, 550 Clinton Partners LLC ("**550 Clinton**"), an affiliate of VC Partners, is the ground lessee of certain real property located at 550 Clinton Avenue, Brooklyn, New York and 539 Vanderbilt Partners LLC ("**539 Vanderbilt**"), an affiliate of VC Partners, is the ground lessee of certain real property located at 539 Vanderbilt Avenue, Brooklyn, New York (collectively, the "**Property**");

WHEREAS, 550 Clinton and 539 Vanderbilt entered into a Brownfield Cleanup Agreement on April 6, 2017 to remediate potential environmental contamination at the Property as voluntary applicants pursuant to Environmental Conservation Law § 27-1401 *et seq.* under Index Number C224228-03-17 (the "**BCA**");

WHEREAS, Manager deems it in the best interest of VC Manager, VC General Partner, VC Operator and VC Partners to amend the BCA to include VC Partners as an additional voluntary applicant;

WHEREAS, in connection with the foregoing, Manager deems it in the best interest of VC Manager, VC General Partner, VC Operator and VC Partners to cause VC Manager to cause VC General Partner to cause VC Operator to cause VC Partners to execute and deliver all documents necessary or convenient for the purposes described herein (the "**BCA Amendment Application**").

RESOLUTIONS:

RESOLVED, that Manager hereby authorizes and directs VC Manager to, and VC Manager (as manager of VC General Partner) hereby authorizes and directs VC General Partner to, and VC General Partner (as manager of VC Operator) hereby authorizes and directs VC Operator to, and VC Operator (as the sole member of VC Partners) hereby authorizes and directs VC Partners to, take all actions required or desirable to execute and deliver the BCA Amendment Application and any other agreements, certificates, documents or instruments, and take any other actions it deems necessary and appropriate, in connection therewith;

RESOLVED, that JEFFREY GERSHON, an individual ("**Authorized Signatory**") is appointed as an Authorized Signatory of each of VC Manager, VC General Partner, VC Operator and VC Partners;

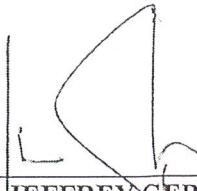
RESOLVED, that any Authorized Signatory of VC Partners is hereby authorized and directed to execute and deliver the BCA Amendment Application, and any other agreements, certificates, documents or instruments required in connection therewith on behalf of VC Partners;

RESOLVED, that any Authorized Signatory of VC Manager, VC General Partner, VC Operator and VC Partners, as applicable, is hereby authorized to execute and deliver any document and take any other action on such terms that such Authorized Signatory shall deem necessary or appropriate to consummate the foregoing application; and

RESOLVED, that any and all actions previously taken by any Authorized Signatory, acting at the direction of VC Manager, VC General Partner, VC Operator and VC Partners, as applicable, in connection with the foregoing resolutions is hereby ratified, authorized, approved, and confirmed, in all respects.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Dated: 7/17/14



JEFFREY GERSHON, an individual

Signature Page to
Consent of the Manager

ACTIVE 44492124v2

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (this "Agreement") made as of this 17 day of June 2019, by and between SUPERIOR ASSOCIATES, LLC ("Grantor 1"), LICHTER FAMILY LLC and RHONDA GREIFINGER AND AUDREY SHARP PERLMAN AS TRUSTEES OF THE CLARENCE A. GREIFINGER DECLARATION OF TRUST AGREEMENT as tenants-in-common ("Grantor 2", Grantor 1 and Grantor 2, collectively, "Grantors"), and VC ATLANTIC PARTNERS LLC ("Grantee").

WHEREAS, Grantors own the real property located at 550 Clinton Avenue, Brooklyn, NY 11238 and 539 Vanderbilt Avenue, Brooklyn, NY 11238, together with the buildings and improvements thereon ("Grantors' Property"); and

WHEREAS, Grantee's affiliates applied to have Grantors' Property accepted into the New York State Brownfield Cleanup Program ("BCP") and the Grantors' Property was so accepted; and

WHEREAS, following admission of Grantors' Property to the BCP, Grantee requires access to Grantors' Property to carry out investigatory, remedial and other related tasks required by the BCP (collectively, the "Work"); and

WHEREAS, Grantors desire to grant Grantee such access.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt of which is hereby acknowledged, Grantors and Grantee agree as follows:

1. Grantors hereby grant reasonable access and a license upon, into, under or through Grantors' Property for the purpose of the entry thereon by Grantee, its agents, employees, architects, engineers, contractors and consultants (collectively, the "**Grantee Related Parties**" and each a "**Grantee Related Party**"), vehicles, equipment and materials required by Grantee to satisfy tasks and obligations required by any Brownfield Cleanup Agreement entered into between Grantee and the New York State Department of Environmental Conservation.

2. Grantee Related Parties shall perform the Work in a workmanlike manner and in accordance with industry standards and in accordance with applicable laws, rules and regulations. The rights granted pursuant to paragraph 1 of this Agreement are nonexclusive, it being understood and agreed that Grantor, its agents, employees, workers, contractors and tenants will have full authority to come upon and have unfettered access to Grantors' Property during the performance of the Work. The performance of the Work will not interfere unreasonably with the quiet enjoyment of Grantors' Property by the tenants thereof. Grantor agrees that it will use commercially reasonable efforts to avoid unreasonable interference with Grantee's exercise of its rights hereunder.

3. All of the foregoing activities shall be performed at Grantee's sole cost and expense.

4. Grantee shall provide reasonable notice to Grantor, but in no event less than 24 hours, prior to Grantee's need for access to Grantors' Property to perform the Work, provided, however, that shorter notice may be required in the event of an emergency.

5. Grantee shall be responsible for obtaining all federal, state or local governmental approvals and providing all notices in relation to the Work.

6. This Agreement may be executed in any number of counterparts, all of which together shall for all purposes constitute one agreement.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any proceedings initiated by either party to enforce the terms of or otherwise related to this Agreement shall be brought in the Supreme Court, State of New York.

IN WITNESS WHEREOF, this Agreement has been executed by Grantors and Grantee and is effective as of the date set forth above.

GRANTOR 1:

By: _____
Name:
Title:

GRANTEE:

By: 
Name: Jeffrey Gershon
Title: Managing Member

GRANTOR 2:

By: _____
Name:
Title:

THE CLARENCE A. GREIFINGER DECLARATION
OF TRUST AGREEMENT, as tenants-in-common

By: _____
Name: Rhonda Greifinger
Title: Trustee

By: _____
Name: Audrey Perlman
Title: Trustee

4. Grantee shall provide reasonable notice to Grantor, but in no event less than 24 hours, prior to Grantee's need for access to Grantors' Property to perform the Work, provided, however, that shorter notice may be required in the event of an emergency.

5. Grantee shall be responsible for obtaining all federal, state or local governmental approvals and providing all notices in relation to the Work.

6. This Agreement may be executed in any number of counterparts, all of which together shall for all purposes constitute one agreement.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any proceedings initiated by either party to enforce the terms of or otherwise related to this Agreement shall be brought in the Supreme Court, State of New York.

IN WITNESS WHEREOF, this Agreement has been executed by Grantors and Grantee and is effective as of the date set forth above.

GRANTOR 1:

By: *Anthony Musto*
Name: *Anthony Musto*
Title: *Authorized Signatory*

GRANTEE:

By: _____
Name: Jeffrey Gershon
Title: Managing Member

GRANTOR 2:

By: _____
Name: _____
Title: _____

By: _____
Name: Audrey Sharp Perlman
Title: Trustee

By: _____
Name: Rhonda Greifinger
Title: Trustee

5. Grantee shall be responsible for obtaining all federal, state or local governmental approvals and providing all notices in relation to the Work.

6. This Agreement may be executed in any number of counterparts, all of which together shall for all purposes constitute one agreement.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any proceedings initiated by either party to enforce the terms of or otherwise related to this Agreement shall be brought in the Supreme Court, State of New York.

IN WITNESS WHEREOF, this Agreement has been executed by Grantors and Grantee and is effective as of the date set forth above.

GRANTOR 1:


GRANTEE:

By: _____
Name:
Title:

By: _____
Name: Jeffrey Gershon
Title: Managing Member

GRANTOR 2:

LICHTER FAMILY LLC

By: 
Name: Linda Schein
Title: Authorized Signatory

THE CLARENCE A. GREIFINGER DECLARATION
OF TRUST AGREEMENT, as tenants-in-common

By: _____
Name: Rhonda Greifinger
Title: Trustee

By: _____
Name: Audrey Perlman
Title: Trustee

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Title: Managing Member

GRANTOR 2:

LICHTER FAMILY LLC

By: _____
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GRANTOR 2:

LICHTER FAMILY LLC

By: _____
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THE CLARENCE A. GREIFINGER DECLARATION
OF TRUST AGREEMENT, as tenants-in-common

By: _____
Name: Rhonda Greifinger
Title: Trustee

By:  _____
Name: Audrey Perlman
Title: Trustee

Response to Letter of Incompleteness

Part I, Section IV. Eligibility Information for New Requestor

- **Provide a statement describing why the new applicant should be considered a volunteer – be specific as to the appropriate care taken.**

Pursuant to ECL § 27-1405(1), VC Atlantic Partners LLC is properly designated as the Volunteer because their liability arises solely from involvement with the site after the release/discharge and because they have taken appropriate care to stop any continuing release, to prevent any threatened future release, and to prevent or limit human, environmental or natural resource exposures to any previously released hazardous waste.

Documented impacts at the site require remediation under Title 6 of the New York Codes, Rules and Regulations (6 NYCRR) Part 375, including soil impacted with metals and petroleum compounds. Soil exhibiting petroleum-like odors, staining and semivolatile organic compound (SVOC) and metal concentrations above NYSDEC Part 375 Restricted Use – Restricted Residential SCOs was identified near the garage and near the gasoline USTs in the central and northeastern portion of the site. The petroleum impacts are present ranging from 2.5 to 18 feet below grade and may extend deeper. Petroleum-related and chlorinated solvent impacts were detected in soil vapor samples collected throughout the Site. Additional soil, groundwater, and soil vapor impacts associated with the protracted history of vehicle repair, filling station use, and petroleum bulk storage are likely. Cost burdens will be associated with the removal and or/treatment, handling, and disposal of contaminated soil, soil vapor mitigation measures, and administrative and engineering fees associated with regulatory agency coordination.

Supplement to the Application to Amend Brownfield Cleanup Agreement and Amendment – Questions for Sites Seeking Tangible Property Credits in New York City Only

- **Question No. 3 - Provide documentation to support the answer indicating the site is an affordable housing project as defined in the application.**

The upzoned residential floor area for the project will comply with Mandatory Inclusionary Housing Option 2, which provides that “an amount of affordable floor area for qualifying households shall be provided that is equal to at least 30 percent of the residential floor area within such MIH development. The weighted average of all income bands for affordable housing units shall not exceed 80 percent of the income index, and there shall be no more than three income bands. No income band shall exceed 130 percent of the income index.” ZR § 23-154(d)(3)(ii). The project also complies with the Affordable New York Housing Program.