



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:

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

Section I. Existing Application Information			
BCP SITE NAME:		BCP SITE NUMBER:	
NAME OF CURRENT APPLICANT(S):			
INDEX NUMBER OF EXISTING AGREEMENT: C224236-05-16 DATE OF EXISTING AGREEMENT:			
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? Yes 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			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
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? Yes No			
Describe Requestor's Relationship to Existing Applicant:			

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 _____

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

CITY/TOWN

ZIP CODE

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

Parcel Address

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

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

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

Approximate acreage added: _____

The revised metes and bounds of the Property is included as Appendix A.

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.	Yes	No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	Yes	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.	Yes	No
2. Is the property upside down as defined below?	Yes	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?	Yes	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: Atlantic Chestnut - Lot 3	BCP SITE NUMBER: C224236
NAME OF CURRENT APPLICANT(S):Atlantic Chestnut Affordable Housing LLC	
INDEX NUMBER OF EXISTING AGREEMENT:C224236-05-16	
EFFECTIVE DATE OF EXISTING AGREEMENT:05/26/2016	

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: <u>7/17/2017</u>	Signature: <u>[Handwritten Signature]</u>
Print Name: <u>Michael Wadman</u>	
(Entity)	
I hereby affirm that I am (title <u>Vice President</u>) of (entity <u>Atlantic Chestnut Affordable Housing 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.	
<u>[Blank Line]</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.	
Date: <u>7/17/2017</u>	Signature: <u>[Handwritten Signature]</u>
Print Name: <u>Michael Wadman</u>	

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 _____ (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: _____ Signature: _____

Print Name: _____

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.

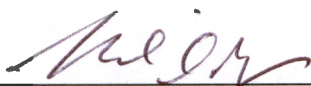
Effective Date of the Original Agreement: 5/26/16

Signature by the Department:

DATED: 10/23/17

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

 6-
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

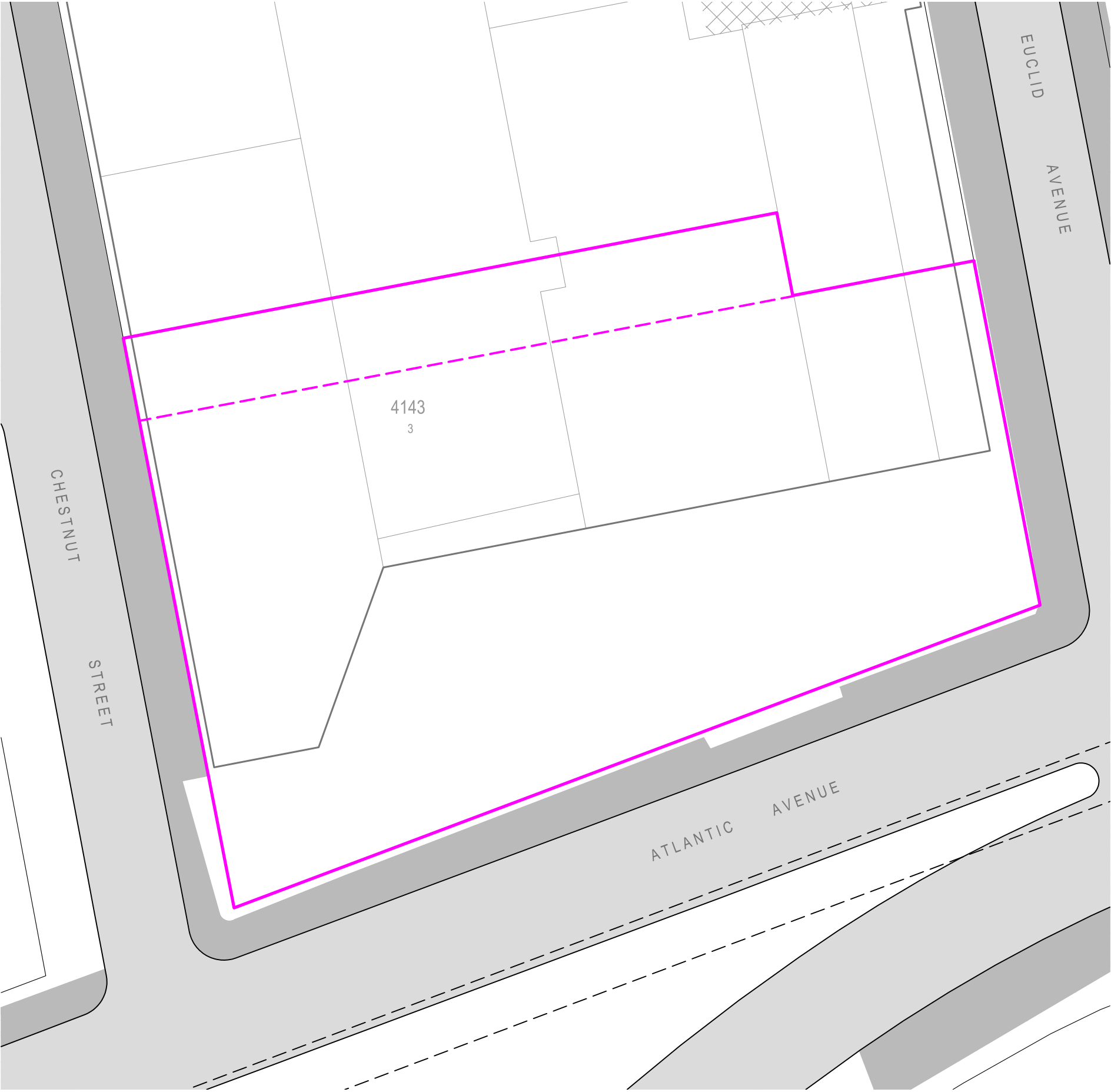
FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER:_____

FIGURE 1
SITE PLAN

©2017 AKRF, Inc. W:\Projects\12184 - PHIPPS 3301 ATLANTIC\Technical\12184 - Atlantic Chestnut - Lot 3\BCP\BCA Amendment Application - 2017-07\12184 Fig 1 Site Plan.dwg last save: mveilleux 7/24/2017 2:33 PM



Map Source:
- NYCDP (NYC Dept. of City Planning) GIS database.

- LEGEND**
- PROJECT SITE BOUNDARY
 - FORMER PROJECT SITE BOUNDARY
 - LOT BOUNDARY
 - BLOCK NUMBER
 - FORMER BUILDING LINE
 - LIRR SUBTERRANEAN TRACKS
 - APPROXIMATE EXTENT OF FORMER PARTIAL CELLAR



Atlantic Chestnut - Lot 3
275 Chestnut Street
Brooklyn, New York



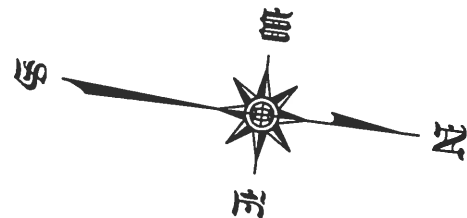
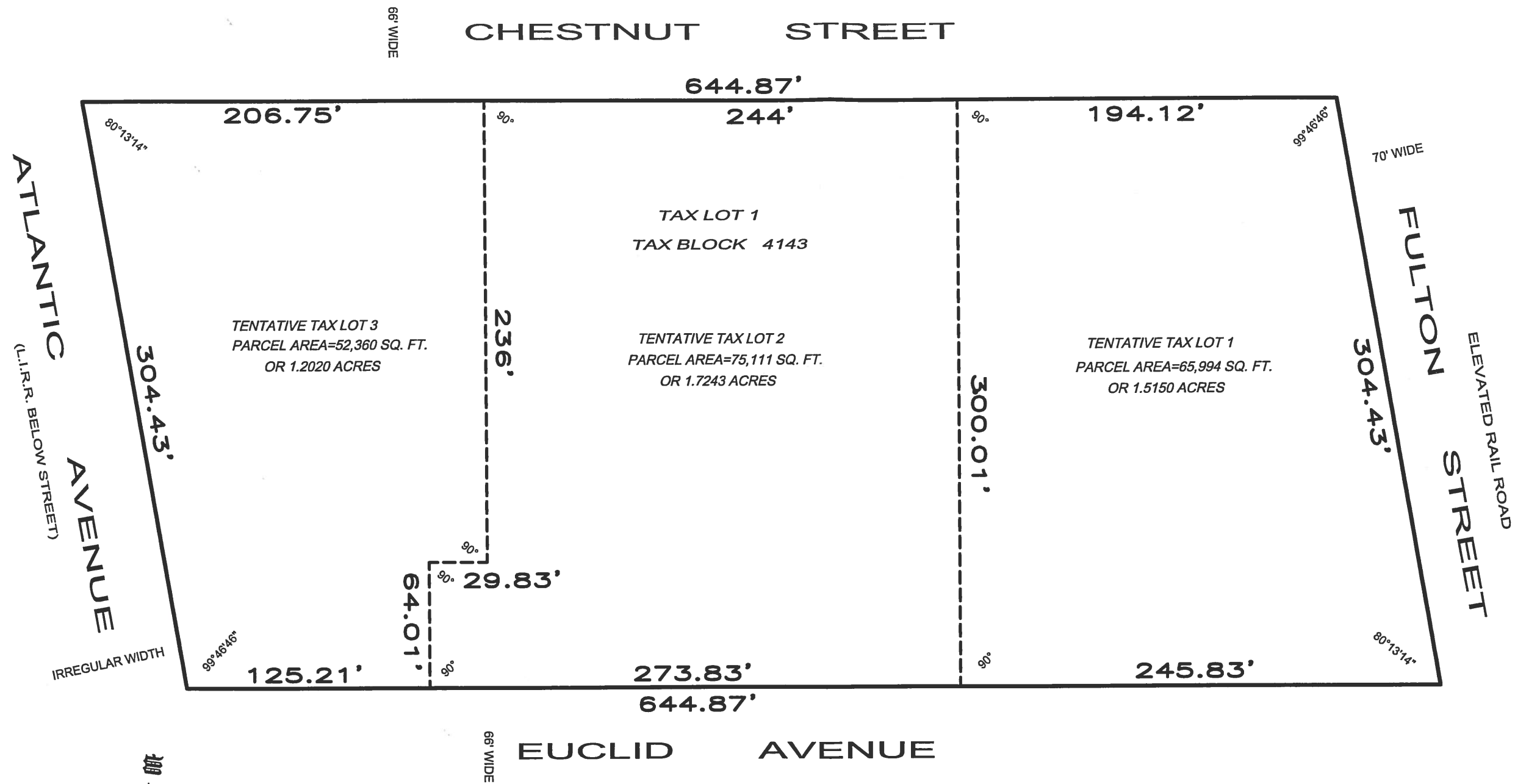
440 Park Avenue South, New York, NY 10016

SITE PLAN

DATE	7/24/2017
PROJECT NO.	12184
FIGURE	1

ATTACHMENT A
SURVEY AND METES AND BOUNDS

SURVEY NO. 42300-3			
42300-3 DWG			
REV	DATE	DESCRIPTION	ck
	01-27-17	SUBDIVISION DIAGRAM	



TOTAL PARCEL AREA=193,465 SQ. FT.
OR 4.441347 ACRES

ESTABLISHED 1876 * SUCCESSOR TO:

B.G. MEINIKHEIM C.S.*C.U. POWELL C.E.,C.S.*L.C.L. SMITH C.S.*NATHAN CAMPBELL C.E.,C.S.*A.U. WHITSON C.E.,C.S.*
WILLIAM L. SAVACOOLO C.E.,L.S.,C.S.*A.U. WHITSON INC. C.E.,C.S.*G. WEBER L.S.,C.S.*C. STIDOLPH R.A.,L.S.*WHITSON &
POWELL INC. P.E.,L.S.,C.S.*KELLER & POWELL P.E.,L.S.,C.S.*LOUIS MONTROSE C.E.,L.S.,C.S.*FRED J. POWELL P.E.,L.S.,C.S.*

COUNTY : KINGS

TAX BLOCK 4143

STANDARD U.S.

SCALE: 1" = 60'

TAX LOT 1

UNAUTHORIZED ALTERATION OR ADDITION
TO THIS SURVEY IS A VIOLATION OF
SECTION 7208 OF THE NEW YORK STATE
EDUCATION LAW

ONLY COPIES FROM THE ORIGINAL OF
THIS SURVEY MARKED WITH AN ORIGINAL
OF THE LAND SURVEYOR'S INKED SEAL
OR HIS EMBOSSED SEAL SHALL BE
CONSIDERED TO BE VALID TRUE COPIES

CERTIFICATIONS INDICATED HEREON SHALL
RUN ONLY TO THE PERSON FOR WHOM THE
SURVEY IS PREPARED AND ON HIS BEHALF
TO THE TITLE COMPANY, GOVERNMENTAL
AGENCY AND LENDING INSTITUTION LISTED
HEREON, AND TO THE ASSIGNEES OF THE
LENDING INSTITUTION. CERTIFICATIONS ARE
NOT TRANSFERABLE TO ADDITIONAL
INSTITUTIONS OR SUBSEQUENT OWNERS.

DRAWN: K.OP

MONTROSE

SURVEYING CO., LLP.

CITY & LAND SURVEYORS

116 20 METROPOLITAN AVE • RICHMOND HILL, NY 11418-1090 • (718) 649-0600

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MONTROSE SURVEYING CO., LLP.	CITY & LAND SURVEYORS
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116-20 METROPOLITAN AVE • RICHMOND HILL, NY 11418-1090
PHONE (718) 849-0600 • FAX (718) 849-0401 • EMAIL INFO @MONTROSESURVEYING.COM

Metes and Bound Description
MSC Survey No. 42300-3
Tax Block 4143 Part of Tax Lot 1
Tentative Tax Lot 3

ALL that certain plot piece or parcel of land situate lying and being in the Borough of Brooklyn, County of Kings, City and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the easterly side of Chestnut Street (66 feet wide), with the northerly side of Atlantic Avenue (irregular width);

RUNNING THENCE northerly along the easterly side of Chestnut Street, 206.75 feet to a point;

RUNNING THENCE easterly at right angles to easterly side of Chestnut Street, 236.00 feet to a point;

RUNNING THENCE southerly, at right angles to the last mentioned with course, 29.83 feet to a point;

RUNNING THENCE easterly, at right angles to the last mentioned with course, 64.01 feet to the westerly side of Euclid Avenue (66 feet wide);

RUNNING THENCE southerly, along the westerly side of Euclid Avenue, 125.21 feet to the northerly side of Atlantic Avenue;

RUNNING THENCE westerly, along the northerly side of Atlantic Avenue, 304.43 feet to the corner the point or place of BEGINNING.

MONTROSE SURVEYING CO., LLP. • ESTABLISHED 1876 • RECORDS OF:

B.G. MEINKHEIM C.S. • L.C.L. SMITH C.S. • C.U. POWELL C.E., C.S. • NATHAN CAMPBELL C.E., C.S. • A.U. WHITSON C.E., C.S. • C. STIDOLPH R.A., L.S. • WHITSON & POWELL INC., P.E., L.S., C.S. • G. WEBER L.S., C.S. • WILLIAM L. SAVACOO C.E., L.S., C.S. • KELLER & POWELL P.E., L.S., C.S. • FRED J. POWELL P.E., L.S., C.S. • LOUIS MONTROSE C.E., L.S., C.S. • LOUIS DORNHOEFFER P.E., L.S., C.S. • COUNTY SURVEYING SERVICE L.S. • CHARLES E. RANHOFFER L.S. • NOYES PALMER L.S.

Rider to BCA Amendment # 1 to Document a Tangible Property Tax Credit Determination

Site Name: Atlantic Chestnut - Lot 3

Site No.: C224236

1- The Department has determined that the Site is eligible for tangible property tax credits pursuant to ECL § 27-1407(1-a) because the Site is located in a City having a population of one million or more and:

- ☐ At least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law
- ☐ The property is upside down, as defined by ECL 27-1405 (31)
- ☐ The property is underutilized, as defined by 375-3.2(l).
- ☐ The project is an affordable housing project, as defined by 375-3.2(a).

2- The Site is located in a City having a population of one million or more and the Applicant:

☐ Has not requested a determination that the Site is eligible for tangible property tax credits. It is therefore presumed that the Site is not eligible for tangible property tax credits. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

☒ Requested a determination that the Site is eligible for tangible property tax credits and pursuant to ECL § 27-1407(1-a), the Department has determined that the Site is not eligible for tangible property tax credits because the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

3- For sites statewide, where applicable:

☐ In accordance with ECL § 27-1407(1-a), based on data submitted with the application the Department has determined the Site is not eligible for tangible property tax credits because the contamination in ground water and/or soil vapor is solely emanating from property other than the Site.

☐ The remedial investigation or other data generated during the remedial program the Department has identified an on-site source of contamination, which now makes this site eligible for tangible property tax credits.

☐ The Department has determined that the Site or a portion of the Site has previously been remediated pursuant to Article 27, Title 9, 13 or 14] of the ECL, Article 12 of the Navigation Law or Article 56, Title 5 of the ECL. Therefore, in accordance with ECL § 27-1407(1-a), the Site is not eligible for tangible property tax credits.

DATED: 10/23/17

THIS RIDER TO AN AMENDMENT TO THE BCA ESTABLISHING ELIGIBILITY
FOR TANGIBLE PROPERTY TAX CREDITS IS HEREBY
APPROVED, Acting by and Through the Department of
Environmental Conservation as Designee of the Commissioner,

By:



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