

**SnL XXII, LLC**

**Brownfield Cleanup Program Application**

**1440-1460 39<sup>th</sup> Street Site**

**1440 39<sup>th</sup> Street, 1446 39<sup>th</sup> Street, 1456 39<sup>th</sup> Street and 40 Street  
Brooklyn, New York 11218**



**Legal & Consulting Team:  
Knauf Shaw LLP & SESI Consulting Engineers.  
May 2020**



## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "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). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

☐ Yes

☒ No

If yes, provide existing site number: \_\_\_\_\_

### PART A (note: application is separated into Parts A and B for DEC review purposes) **BCP App Rev 10**

#### Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY  
BCP SITE #:

NAME SnL XXII, LLC

ADDRESS 3333 New Hyde Park Road, Suite 200

CITY/TOWN Lake Success, NY

ZIP CODE 11042

PHONE 516-472-7880

FAX N/A

E-MAIL gh@snlstorage.com; pl@snlstorage.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

- 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 the New York State Department of Environmental Conservation (DEC) with the application to document that the requestor is authorized to do business in NYS. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment.

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

#### Section II. Project Description

1. What stage is the project starting at?

☒ Investigation

☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, a Remedial Investigation Report (RIR) at a minimum is required to be attached, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Work Plan are also attached (see DER-10 / Technical Guidance for Site Investigation and Remediation for further guidance) then a 45-day public comment period is required.

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law

(ECL) Article 27-1415(2): ☐ Yes ☒ No

3. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

### Section III. Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit the information requested in this section in electronic format only***):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

**2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.**

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum	X		
Chlorinated Solvents			
Other VOCs			
SVOCs	X		
Metals	X		
Pesticides			
PCBs			
Other*			

\*Please describe: \_\_\_\_\_

**3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:**

- SAMPLE LOCATION
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?\*

(\*answering No will result in an incomplete application)

☒ Yes ☐ No

**4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):**

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Coal Gas Manufacturing | <input checked="" type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner                |
| <input type="checkbox"/> Salvage Yard           | <input type="checkbox"/> Bulk Plant               | <input type="checkbox"/> Pipeline           | <input checked="" type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill               | <input type="checkbox"/> Tannery                  | <input type="checkbox"/> Electroplating     | <input type="checkbox"/> Unknown                    |

Other: Auto Repair; Vehicle Spray Painting

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 1440-1460 39th Street Site				
ADDRESS/LOCATION 1440 39th Street, 1446 39th Street, 1456-1460 39th Street and 40th Street				
CITY/TOWN Brooklyn		ZIP CODE 11218		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY Kings		SITE SIZE (ACRES) 0.5744		
LATITUDE (degrees/minutes/seconds) 40 ° 38 ' 18.8 "		LONGITUDE (degrees/minutes/seconds) 73 ° 59 ' 00.3 "		
<b>Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.</b>				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
1440 39th Street; 1446 39th Street	Brooklyn	5346	17; 26	.3923; .0867
1456-1460 39th Street & 40th Street Lot	Brooklyn	5346	28; 149	.0660; .0294
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <div style="text-align: right; margin-top: 5px;">If yes, identify census tract : _____</div> <div style="margin-top: 5px;">             Percentage of property in En-zone (check one): <input checked="" type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100%           </div>				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				



#### Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?  
If yes, identify here and attach appropriate information. ☒ Yes ☐ No

Easement/Right-of-way Holder

Description

There is a telephone conduit easement held by Verizon since the site was a call center, which the applicant will seek to terminate and remove the conduit during the course of this BCP project. Impact on remediation is not yet known if it cannot be removed.

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

Type

Issuing Agency

Description

No permits at this time. Site is vacant. Site was allegedly a registered PBS facility according to Phase I.

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.**

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**? ☒ Yes ☐ No

**Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City**

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? ☒ Yes ☐ No

If yes, requestor must answer questions on the supplement at the end of this form.

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ Yes ☒ No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? ☐ Yes ☒ No

**NOTE:** If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: \_\_\_\_\_

**BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)**

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Grady Humphrey & Philip Lepine			
ADDRESS 3333 New Hyde Park Road, Suite 200			
CITY/TOWN Lake Success		ZIP CODE 11042	
PHONE 516-472-7880	FAX NA	E-MAIL gh@snlstorage.com; pl@snlstorage.com	
NAME OF REQUESTOR'S CONSULTANT SESI Consulting Engineers, Justin Protasiewicz			
ADDRESS 12A Maple Avenue			
CITY/TOWN Pine Brook, New Jersey		ZIP CODE 07058	
PHONE 973-808-9050	FAX 973-808-9099	E-MAIL jp@sesi.org	
NAME OF REQUESTOR'S ATTORNEY Linda R. Shaw, Esq., Knauf Shaw LLP			
ADDRESS 1400 Crossroads Bldg., 2 State Street			
CITY/TOWN Rochester		ZIP CODE 14614	
PHONE 585-546-8430	FAX 585-546-4324	E-MAIL lshaw@nyenvlaw.com	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b>			
CURRENT OWNER'S NAME SnL XXII, LLC		OWNERSHIP START DATE: 12/17/2019	
ADDRESS SAME AS REQUESTOR			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
CURRENT OPERATOR'S NAME SnL XXII, LLC - but all occupants have been vacated as of 12/17/19			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
<b>PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".</b>			
<b>IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.</b>			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b>			
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 checked="" type="checkbox"/> No			
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? <input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> No			

## Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing 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, DEC 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 DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ 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 REQUESTOR MUST CERTIFY THAT HE/SHE 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 hazardous waste or discharge of petroleum 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 hazardous waste or discharge of petroleum.

☒ 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.**

## Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous 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 VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?  
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☐ Yes ☒ No  
If yes, please provide: Site # \_\_\_\_\_ Class # \_\_\_\_\_
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No  
If yes, please provide: Permit type: \_\_\_\_\_ EPA ID Number: \_\_\_\_\_  
Date permit issued: \_\_\_\_\_ Permit expiration date: \_\_\_\_\_
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No  
If yes, please provide: Order # \_\_\_\_\_
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No  
If yes, please provide explanation as an attachment.

## Section IX. Contact List Information

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

## Section X. Land Use Factors

1. What is the current municipal zoning designation for the site? M1-2 & R-6

What uses are allowed by the current zoning? (Check boxes, below)

☒ Residential ☒ Commercial ☒ Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☐ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply)

**Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.**

3. Reasonably anticipated use Post Remediation: ☐ Residential ☒ Commercial ☐ Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing?

☐ Yes ☒ No

4. Do current historical and/or recent development patterns support the proposed use?

☒ Yes ☐ No

See Support Document

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See Support Document

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

See Support Document

## **XI. Statement of Certification and Signatures**

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am a Member (title) of SnL XXII, LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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.

Date: 3-30-20 Signature: 

Print Name: Anyeh Goldman

### **SUBMITTAL INFORMATION:**

- **Two (2) copies, one paper 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 DEC USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_



**Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY.** Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

**BCP App Rev 10**

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
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see <a href="#">DEC's website</a> for more information. <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
2. Is the property upside down or underutilized as defined below? <span style="float: right;">Upside Down? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
<span style="float: right;">Underutilized? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
<b>From ECL 27-1405(31):</b>	
<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>	
<b>From 6 NYCRR 375-3.2(I) as of August 12, 2016:</b> (Please note: Eligibility determination for the underutilized category can only be made at the time of application)	
375-3.2:	
<p>(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(c) there are no structures.</p>	
<p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.</p>	

### Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

- ☐ Project is an Affordable Housing Project - Regulatory Agreement Attached;
- ☐ Project is Planned as Affordable Housing, But Agreement is Not Yet Available\*  
(\*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- ☒ This is Not an Affordable Housing Project.

#### From 6 NYCRR 375- 3.2(a) as of August 12, 2016:

(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.

(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.

(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.

(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.

## BCP Application Summary (for DEC use only)

**Site Name:** 1440-1460 39th Street Site  
**City:** Brooklyn

**Site Address:** 1440 39th Street, 1446 39th Street, 1456-1460 39th Street and 40th Street  
**County:** Kings **Zip:** 11218

### Tax Block & Lot

**Section (if applicable):** Brooklyn **Block:** 5346 **Lot:** 17; 26

**Requestor Name:** SnL XXII, LLC  
**City:** Lake Success, NY

**Requestor Address:** 3333 New Hyde Park Road, Suite 200  
**Zip:** 11042 **Email:** gh@snlstorage.com; pl@snlstorage.com

### Requestor's Representative (for billing purposes)

**Name:** Grady Humphrey & Philip Lepine  
**City:** Lake Success

**Address:** 3333 New Hyde Park Road, Suite 200  
**Zip:** 11042

**Email:** gh@snlstorage.com; pl@snlstorage.com

### Requestor's Attorney

**Name:** Linda R. Shaw, Esq., Knauf Shaw LLP  
**City:** Rochester

**Address:** 1400 Crossroads Bldg., 2 State Street  
**Zip:** 14614

**Email:** lshaw@nyenvlaw.com

### Requestor's Consultant

**Name:** SESI Consulting Engineers, Justin Protasiewicz  
**City:** Pine Brook, New Jersey

**Address:** 12A Maple Avenue  
**Zip:** 07058

**Email:** jp@sesi.org

**Percentage claimed within an En-Zone:** ☒ 0% ☒ <50% ☐ 50-99% ☐ 100%

**DER Determination:** ☐ Agree ☐ Disagree

**Requestor's Requested Status:** ☒ Volunteer ☐ Participant

**DER/OGC Determination:** ☐ Agree ☐ Disagree  
Notes:

**For NYC Sites, is the Requestor Seeking Tangible Property Credits:** ☒ Yes ☐ No

**Does Requestor Claim Property is Upside Down:** ☐ Yes ☒ No

**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

**Does Requestor Claim Property is Underutilized:** ☒ Yes ☐ No

**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

**Does Requestor Claim Affordable Housing Status:** ☐ Yes ☒ No ☐ Planned, No Contract

**DER/OGC Determination:** ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

# **BCP APPLICATION SUPPORT DOCUMENT**

## **BCP APPLICATION SUPPORT DOCUMENT**

### **Exhibit List**

<b>Exhibit A -</b>	DOS Entity Information
<b>Exhibit B-</b>	Corporate Consent
<b>Exhibit C-</b>	Deeds
<b>Exhibit D-</b>	Previous Owners and Operators
<b>Exhibit E-</b>	Site Drawing Spider Maps
<b>Exhibit F-</b>	Survey and Tax Map
<b>Exhibit G-</b>	Site Location Map, Base Map, Street Map and En-Zone Map
<b>Exhibit H-</b>	Zoning Map
<b>Exhibit I-</b>	Flood Map
<b>Exhibit J-</b>	Site Contact List
<b>Exhibit K-</b>	Repository Letters
<b>Exhibit L-</b>	Old Tax Map, Showing not a Mapped Street
<b>Exhibit M-</b>	Underutilized Documents - Owner Affidavit/Structural Engineer Analysis/ Financial Analysis

### **ENVIRONMENTAL REPORTS SEPARATELY ATTACHED ON CD:**

1. February 2019 Merritt Environmental Consulting Corp. (MECC) Phase I Report
2. April 2019 Soil Mechanics Phase I Report for Requestor Affiliated Company
3. April 2019 Structural Engineering Technologies, P.C. Preliminary Geotechnical Report
4. December 2019 SESI Engineering Phase I Investigation Report
5. December 2019 SESI Engineering Phase II Investigation Report
6. December 2019 SESI Remedial Investigation Work Plan (RIWP)

## **PART A**

### **SECTION I - REQUESTOR INFORMATION**

The Requestor is SnL XXII, LLC, a New York limited liability company, located at 3333 New Hyde Park Road, Suite 200, Lake Success, New York 11042. SnL XXII, LLC is authorized to do business in the State of New York. *See* Exhibit A, NYSDOS Entity Information. The members are as follows:

1. Aryeh Goldman
2. Grady Humphrey
3. Philip Lepine

The Written Consent provides Aryeh Goldman with authority to sign all Brownfield Cleanup Program (“BCP”) documents on behalf of the Requestor SnL XXII, LLC. *See* Exhibit B, Corporate Consent.

As further described below in Section IV, the 0.5744-acre Site is located at the following addresses and on the following lots:

<b>Lot #</b>	<b>Address</b>	<b>Acreage</b>	<b>Owner</b>
17	1440 39 <sup>th</sup> Street, Brooklyn, NY 11218	0.3923	SNL XXII, LLC
26	1446 39 <sup>th</sup> Street, Brooklyn, NY 11218	0.0867	SNL XXII, LLC
28	1456-1460 39 <sup>th</sup> Street, Brooklyn, NY 11218	0.0660	SNL XXII, LLC
149	40 <sup>th</sup> Street, Brooklyn New York 11218	0.0294	SNL XXII, LLC

It is important to note that the addresses have changed over the years but the addresses have always fallen between the numbers 1440-1460 39<sup>th</sup> Street.

The Requestor is the recent owner of the Site. *See* Exhibits C, Deeds, and Exhibit F, Survey. SnL XXII, LLC acquired all 4 lots that make up the BCP Site from the various Acierno Companies, including; Acierno Garage Corp., Acierno Realty II, LLC and Acierno Realty LLC, on December 17, 2019.

The Requestor has no prior relationship with any current or past owners or operators of the Site. *See* Sections V and VI below, and Exhibit D, Previous Owners and Operators List. The Requestor did not cause any of the contamination of the Site, which predates the Requestor’s involvement at the Site.

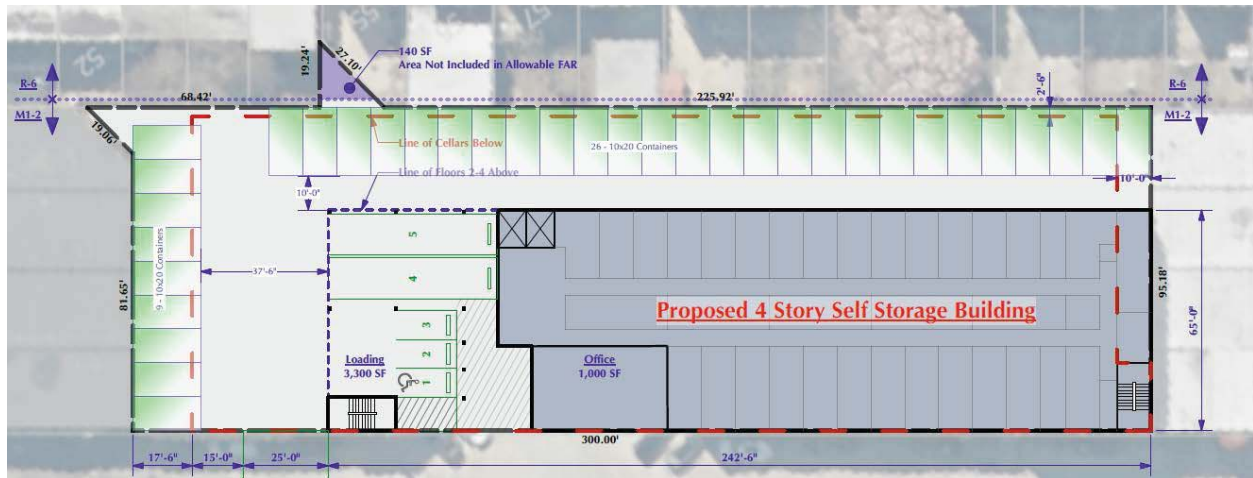
### **SECTION II - PROJECT DESCRIPTION**

**Please refer to responses to Questions 1-3 on the BCP Application Form.**

#### **4. Short Project Description**



The planned redevelopment of the Site entails the remediation and development of a proposed 110,770 square feet 4-story self-storage building, loading dock and parking lot. In addition, there will be 26 – 10 x 20 feet containers on-Site as depicted below. There are no planned landscaped areas as depicted below.



### **Schedule- Commencement through COC**

A Remedial Investigation is expected to be completed on the Site within one month of acceptance into the BCP, or on or before August 2020. Site preparation activities, including on-Site building demolition and installation of support of excavation in order to prepare the Site for remediation under former slabs is expected to commence at this same time by August 2020. The Remedial Action Work Plan (“RAWP”) will be completed by September 2020 and any required remediation may commence in November 2020. The Certificate of Completion is anticipated to be issued by the end of 2020 or in early 2021.

## **SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY**

### **1. List of Environmental Reports**

The following is the list of environmental reports for the Site are separately attached:

- A. February 2019 Merritt Environmental Consulting Corp. (MECC) Phase I Report
- B. April 2019 Soil Mechanics Phase I Report for Requestor Affiliated Company
- C. April 2019 Structural Engineering Technologies, P.C. Geotechnical Report
- D. December 2019 SESI Engineering Phase I Investigation Report
- E. December 2019 SESI Engineering Phase II Investigation Report
- F. December 2019 SESI Remedial Investigation Work Plan (RIWP)

**It is important to note that the Merritt and Soil Mechanics Phase I reports also**

**include 2 lots not being purchased by the Requestor at 1426 (Lot 15) and 1430 39<sup>th</sup> Street (Lot 16), which will not be part of this BCP Site and were not acquired by the Requestor.**

**2. Sampling Data**

*See Exhibit E, Spider Maps, which include sampling data summaries, and Section IV.10.F.*

**3. Site Drawing**

*See Exhibit E, Spider Maps.*

**4. Past Land Uses**

*See Section IV.10.D for full description of past land uses. The subject property was historically used for many years as an automobile repair shop for black car taxis and limousines, which included body and fender repairs, and an office space with a call center. Previously, Lot 17 was used as a public motor vehicle parking in the open space to the southeast of the buildings located on the Site.*

## **SECTION IV – PROPERTY INFORMATION**

**1. Site Boundary and Tax Parcel Information**

The 0.5744-acre Site is located at 1440-1460 39th Street, Brooklyn, New York 11218. The Site boundary does correspond to the tax boundaries. The Tax Boundary Map and a Survey map are provided in Exhibit F. The Site Location Map, Base Property Map, Street Map and En-zone Map are in Exhibit G. The Site is not in an En-Zone, but is near one. *See En-Zone Map in Exhibit G.*

**2. Property Map**

The Site Location and Base Property Map are in Exhibit G. A Survey map is in Exhibit F.

**Please refer to responses to Questions 3-9 on the BCP Application Form.**

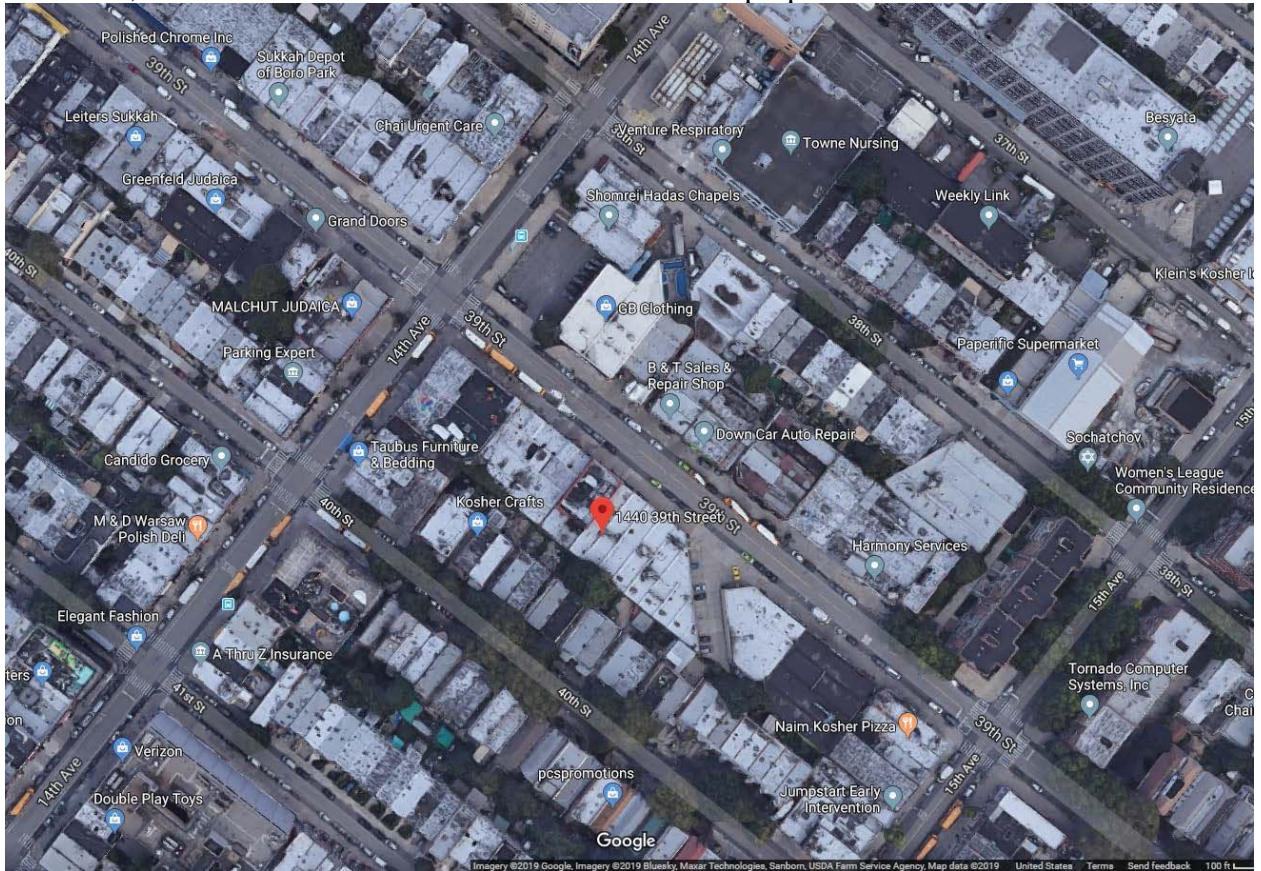
**10. Property Description Narrative**

**A. Site Location**

*See Response to Section IV.1 and IV.2 above. The Site is located at in the Borough Park section of Brooklyn. The Site is located in a dense industrial/commercial neighborhood with some adjacent residential uses interspersed between commercial and industrial buildings.*

*See the adjacent owner list attached to the Base Map in Exhibit G and the Google Map below depicting adjacent uses, which are commercial or industrial properties to the*

Northeast, Southeast and Northwest and some residential properties to the Southwest:



## B. Site Features

**Buildings:** The larger on-Site building on Lot 17 is vacant. The other building on Lots 28/26, which is structurally one building with one roof, but which has an interior wall that separates the space into two separate functioning building spaces, and, therefore, has two separate tax lots, was also recently vacated by the Acierno entities as of December 2019 when the Requestor acquired the Site. Lot 28 was temporarily occupied by Amazon as a shipping and transfer area for Amazon's online purchasing but is also now vacant as of December 2019. Lot 26 is vacant and was last being used by Pearland Brokerage Inc., which coordinated taxi and limousine services around the City. Therefore, the entire Site is now vacant as of Site acquisition by the Requestor in December 2019.

The nearest body of water to the subject site is the Prospect Park Lake, which is approximately 1.15 miles northeast of the site. The Site is not in a flood zone. *See Flood Zone Map in Exhibit H.*

The Site survey map shows a former road – Old Utrecht Road – even though it was never a mapped City Street. In the chain of title for lot 26 (Lot 26 was half of Old Utrecht Road) the first deed in the chain from 1950 on that lot shows a Deed out of the City of New York with a preamble stating that “The Bd. Of Estimate held a meeting and adopted a Resolution that that this property was determined to not be needed for public use”. This deed is proof



the street was sold. In addition, attached is a copy of the 1968 Tax Map as further evidence that Old Utrecht Road was no longer a mapped street after the 1950 sale. Therefore, the former road is now officially private property that can be remediated and redeveloped. *See* 1950 deed and 1968 Tax map attached in Exhibit L.

C. Current Zoning and Land Use

The vast majority of the Site is currently located within the M1-2 Districts in the Borough of Brooklyn. There is a small triangular area within the adjacent R 6 zoning. *See* Exhibit I including Zoning Map. The Site is currently vacant. The surrounding properties are commercial and industrial with residential properties interspersed in between these properties. These adjacent properties consist of auto repair shops, office spaces, retail shops, restaurants and multifamily residential buildings. The southwest side of the Site is located both on and next to a residential area (zoning district R6). The residential area starts approximately 200 feet southeast down 39<sup>th</sup> Street from the Site and adjacent to the Site on 40<sup>th</sup> Street. The Site is less than a mile (approximately 3,000 feet) from a rail line.

The Site is currently located in the Borough Park neighborhood of Brooklyn in Community Board 12.

D. Past Use of the Site

From the 1920's, the majority of the Site was used as a garage and auto repair facility for what are known as "black cars" used as private taxis. The subject property was most recently used for the various Acierno black car businesses (see Owners/Operators List), but at a significantly reduced level than in the past due to the advent of Uber, Lyft and other online car services. Since vehicles were fueled on-Site, there were a number of underground storage tanks present during its years of operation. In addition, there was an automobile repair shop for the black car taxis and limousines, which included body and fender repairs, and an office space with a call center. Previously, Lot 17 was used as a public motor vehicle parking in the open space to the southeast of the buildings located on the Site. The building space on Lot 28 was temporarily being rented to Amazon but is now vacant as of December 2019. *See also* Previous Owner/Operator List in Exhibit D.

The investigation completed to date included the following historical use information:

**I. February 2019 Merritt Environmental Consulting Corp. (MECC) Phase I Report**

This initial Phase I Report prepared for Dime Community Bank revealed that the Site, which had three prior commercial/industrial buildings, was historically utilized for automotive repair and garages, transportation, matzoh/noodles manufacturing and live poultry storage. However, this Phase I really focused on the USTs in the garage on Lot 17 and not Lots 26/28, which were also historically used as an auto repair facility. MECC's Phase I found Recognized Environmental Conditions (RECs) in connection with the historic USTs that were allegedly on Lot 17 as follows:

- Gas Tank Present from 1929-2007 present in the garage and repair portion of the 1440 39th Street building [It was unclear from the text of the report if the tank still is or is not present but SESI's most recent Phase I suggests this tank is still present based on observations.]
- Six (6) 550-Gallon Gasoline Underground Storage Tanks (USTs) present until June 25, 1985 were closed by filling with water, which is no longer an acceptable practice [Again, it was unclear from text if tanks are still present. However, the Affidavit from TONE Gasoline Tank & Pump Inc. states that the "tanks were purged of all flammable vapors and filled with water, and that all lines were capped with the exception of the vent lines which were left open as required by law, and that the fill boxes were filled with concrete." See Merritt Phase I Report pdf page 660 of 678. Therefore, the Affidavit suggests the tanks are still in place at the Site].
- One 1,080-gallon #2 heating oil UST abandoned in place with sand [Text related to this tank suggests it is still present].
- No sampling was conducted as part of any tank closure work.

As a result of these RECs, with respect to potential vapor intrusion, Merritt concluded that further investigation would be required.

[Note: Unlike the Soil Mechanics Phase I summarized below, this MECC Phase I failed to acknowledge that the prior auto repair shop uses on both lots 17 and 28, and spray painting that occurred on the Lot 17, may also have contributed to on-site soil, soil vapor or groundwater contamination.]

Merritt also noted that there is one pad mounted electrical transformer located on the exterior of the 1440 39<sup>th</sup> Street building. Finally, since the building was constructed before 1978, both lead paint and asbestos were deemed to be of concern.

## **II. April 2019 Phase I Report prepared by Soil Mechanics Environmental Services (SMES) for a Requestor Affiliated Company**

SMES's Phase I found the same historic uses on the Site and also focused on the potential impacts from current and historical uses of adjoining properties, which have included: auto garages, manufacturing (i.e., knitting mill, woodworking, and refrigerator manufacturing), warehouse, motor vehicle maintenance, and commercial uses to the north; residential to the south; manufacturing to the east; and, auto garage and repair and warehouse uses to the west. SMES's Phase I further noted that the Site is hydrodynamically down gradient from the historic industrial, motor vehicle maintenance, and manufacturing uses on adjoining properties, and thus, each of these adjacent uses also poses a REC and are potential sources of vapor encroachment.

SMES's Phase I, unlike Merritt's Phase I, identified that the historic auto garage and motor vehicle maintenance uses on the Site were representative of a REC and a potential source of vapor encroachment or a vapor intrusion condition. Further, SMES's Phase I found another REC in connection with a former occupant of the adjacent 1426 39th Street building, Super Body Collision, which was identified as a RCRA Generator Site. Finally,

SMES noted that the floor drains in the buildings constituted a REC.

This Phase I did a much better job of summarizing the historic owners of each lot. The building located at 1440 39th Street was constructed as early as 1924. According to a certificate of occupancy issued in 1924, the building was initially used as a public garage. In 1929, another certificate of occupancy was issued for use as a “repair shop for automobiles.” In the 1930s and 1940s several other businesses also operated on the Site, including Green Young Garage Corp., Jacobson Garage Inc., and Moody Motor Sales. In 1951, Acierno Garage Corp. was formed, with an address at 1440 39th Street. In 1964, a certificate of occupancy was issued for “automobile repair shop—including body and fender repairs on the Site. Acierno Garage Corp. is affiliated with Executive Charge, Inc., which manages Executive Transportation Group.

The building on the Site located at 1446 39th Street was constructed as early as 1962 when it was occupied by Majestic Kosher Inc. Sanborn Maps show the building was used for live poultry storage until at least 1977. This use was likely in connection with the adjacent building at 1456 39th Street, historically operated by Majestic Live Poultry Co. Inc. Following the live poultry storage use, the building at 1446 39th Street was used as offices and warehouse space by Rands Casing Corp., Ten Dollar Carpet Store, Inc., Continental Flooring, Inc., A&M Income Tax Consultants, Inc., Chance Enterprise Corp., Pearland Brokerage, Inc., and the current operator, Executive Charge, Inc., which manages Executive Transportation Group.

The building on the Site located at 1456 39th Street was constructed as early as 1924 when, according to the Certificate of Occupancy issued that year, it was operated as a public garage. As early as 1934, the building at 1456 39th Street was occupied by Majestic Live Poultry Co. Inc. for use as live poultry storage and a poultry market. As early as 1970, that building was converted into an auto repair shop, for which a certificate of occupancy was issued to Andor Auto, Inc., DBA: Andor Auto Repair, for the use of “Automobile repairs, body and fender repairs, welding and spraying, automobile sales of used cars.” This use, namely, automobile repair and spraying paint, is consistent with the high levels of petroleum related SVOCs and lead found on the site. Eddie’s Collision was also present in the 1970’s. As of approximately 1985 until 1997, VA Sanitation Inc., a waste management company, operated the auto repair garage presumably to maintain and repair vehicles in its fleet of garbage trucks. From 1998 to 2002, Global Hamish Express Corp, a cargo and freight company, operated the auto repair shop presumably to maintain and repair vehicles in its fleet of delivery trucks. From 2003 to 2016, Chance Enterprise Corp. operated in the building as a used car dealer and repair shop. SMES’s Phase I found two floor drains within the warehouse of this building which discharge into the ground, and concluded that those floor drains are representative of a REC because of these historic uses in that building.

### **III. April 2019 Structural Engineering Technologies, P.C. Preliminary Geotechnical Report**

Structural Engineering Technologies, P.C. (SET)’s Preliminary Geotechnical Report summarizes the investigation of subsurface conditions to develop recommendations for feasible foundation systems based on the investigation results from 5 initial borings



advanced to 52 feet below grade surface (bgs). One boring advanced to 102 feet bgs and 4 test pits. For brownfield purposes, the investigation revealed that uncontrolled historic fill, including wood and concrete former building materials, generally extends as deep as 12 feet bgs, groundwater is present at approximately 45 feet bgs, and support of excavation is needed to remediate the contaminated fill and support adjacent structures.

#### **IV. December 2019 SESI Engineering Phase I Investigation Report for Requestor**

An updated Phase I report was prepared by SESI for the Requestor in December 2019 before Site acquisition for due diligence purposes. This Phase I revealed the same RECs as the SMES report. SESI personnel also observed a suspected vent pipe extending above the single-story roof at 1432-1440 building. A fill pipe was not located. A GPR survey of this building's interior suggests the presence of metallic anomalies indicative of a UST(s) along the northern interior wall. A tank at this location was also depicted in historic Sanborn maps from 1929 to 2007.

##### **E. Site Geology and Hydrogeology**

According to the Merritt Phase I Report, which relied on the United States Geological Survey (USGS) 7.5-minute Topographic Maps to characterize surface topography, water table elevation and drainage, the USGS Surficial and Bedrock Geology Maps for subsurface characteristics, and topographic Maps to characterize surface topography, water table elevation and drainage, the Property elevation is approximately 53 feet above mean sea level, surface topography is flat with a slight downward slope to the east and geologic conditions in this area of Brooklyn generally consist of urban soils. The Soil Mechanics Phase I Report reached similar topographical conclusions reviewing the same maps (i.e. site is 52 feet above mean sea level and is filled with urban soils) but added that the estimated depth to groundwater is 42 feet below grade surface and is expected to flow in the southwesterly direction with the regional trend.

According to the SESI Phase I Report, as per the USDA National Cooperative Soil Survey (NCSS) map for this area, the soils at the Site are characterized as UoA (Urban Land outwash substratum) urban land which is surface covered by pavement, concrete, buildings, and other structures underlain by disturbed and natural soil material, till substratum, 0 to 3 percent slopes. SESI estimated the depth of the groundwater at the Site at approximately 45 feet below ground surface (bgs), and groundwater flow direction is expected to be in the southwest direction.

##### **F. Environmental Assessment**

SESI conducted two soil sampling events in 2019 summarized in its December 2019 SESI Engineering Phase II Investigation Report, which included 31 soil borings and 32 soil samples collected. In addition, SESI installed 4 soil probes and collected soil vapor samples from each and installed one groundwater well down to 40 feet, but did not reach the groundwater table. PG Environmental Services collected a total of 10 composite soil samples for waste characterization purposes, 6 of which were composited at 4 foot intervals per boring down to 24 feet bgs and 4 of which were composited down over 12 foot intervals

per boring down to 24 feet bgs. The results of the Phase II soil investigation are summarized in Sections 3.1 and 3.2 of the report in Tables 3.1- 3.4 in this report. Based on the investigations conducted to date, the primary contaminants of concern are SVOCs, Petroleum-related and historic fill SVOCs and heavy metals in soil exceeding commercial cleanup levels. See Ex. E Site Drawing Spider Map.

**Soil:** The spider map reveals exceedances of both restricted residential and commercial on each lot that makes up the Site as follows:

- SVOCs – benzo(a)anthracene 79.6 mg/kg maximum (Max), benzo(a)pyrene 48.5 mg/kg Max, benzo(b)fluoranthene 84.9 mg/kg Max, benzo(k)fluoranthene 24.3 mg/kg Max, chrysene 69.7 mg/kg Max, dibenzo(a,h)anthracene 9.51 mg/kg Max, ideno(1,2,3-cd)pyrene 31.8 mg/kg Max, fluoranthene 190 mg/kg Max, 3+4 methylphenol 0.665 mg/kg Max, naphthalene 16.6 mg/kg Max, phenanthrene 220 mg/kg Max, and pyrene 176 mg/kg Max.
- Metals – arsenic 14.1 mg/kg Max, Barium 1,660 mg/kg Max, cadmium 4.13 mg/kg Max, copper 188 mg/kg Max, lead 1,080 mg/kg Max, mercury 14.2 mg/kg Max, nickel 57 mg/kg Max, silver 5.12 mg/kg Max and zinc 774 mg/kg Max.
- Pesticides – 4,4'-DDT 0.0163 mg/kg Max.

The waste characterization data also revealed lead, benzo (a) anthracene, benzo(a)pyrene, benzo (b) fluoranthene and dibenzo(a,h)anthracene in soil sample WC-1 (0-4') at concentrations exceeding the commercial use soil cleanup objectives (CMSCOs). See Ex. E Soil Exceedance Spider Map.

**Groundwater:** Groundwater is very deep at this site and was not encountered during the Phase II investigation despite the installation of a 40 foot well.

**Soil Vapor:** There were no exceedances of the NYSDOH or the USEPA guidance values detected in the 4 soil probes to date.

### **December 2019 SESI Remedial Investigation Work Plan (RIWP)**

In order to expedite the implementation of the work, a Remedial Investigation Work Plan has been prepared. In addition to certain site preparation activities, including demolition and support of excavation installation, the first step in the RIWP is to perform a UST removal Interim Remedial Measure (IRM) for the main purpose of being able to complete the investigation under the approximately 8 USTs that may be present under the Site. Thereafter, in order to further evaluate the soils, fourteen (14) soil borings will be performed on the Site in an approximate 40-foot grid pattern to evaluate and delineate soil contamination from historical operations, USTs, and other potential sources. In addition, waste characterization samples will be collected from the borings for disposal approval. The proposed soil boring locations are shown on RIWP Figure 4.1.

In addition, to investigate the Site groundwater, a total of six (6) permanent groundwater monitoring wells will be installed as shown on RIWP Figure 4.2 to be installed to a depth

of 10 feet below the groundwater table, or refusal on bedrock, whichever occurs first. Each monitoring well will be constructed with 2-inch diameter well screens.

Finally, SESI proposes to collect five (5) soil vapor samples from soil vapor points in the footprint of the proposed building. The proposed soil vapor point locations are shown on RIWP Figure 4.3. The purpose of the soil vapor points is to assess the potential for vapor intrusion into future buildings. All soil vapor points will be installed within two (2) feet below the proposed foundation elevation.

**Please refer to responses to Questions 11-13 on the BCP Application Form. The Requestor is seeking eligibility for the tangible property tax credits as an underutilized site. See Exhibit N.**

## **PART B**

### **SECTION V- ADDITIONAL REQUESTOR INFORMATION**

*See* Section I, Requestor Information and responses in the Application form. As stated in Section I, the Requestor has no prior relationship with any current or past owners or operators of the Site other than the Requestor purchased the Site from the past owners. *See* Deeds in Exhibit C and also Exhibit D, Previous Owners and Operators List. The Requestor did not cause any of the contamination of the Site, which predates the Requestor's involvement at the Site. The Requestor performed all environmental due diligence prior to acquiring the Site.

### **SECTION VI- CURRENT PROPERTY OWNER/OPERATOR INFORMATION**

The current owner of the site is Requestor SNL XXII, LLC, which only recently purchased the 4 parcels that make up the BCP Site on December 17, 2019. *See* Exhibit C, Deeds.

A past owner and operator list is attached as Exhibit D. This Exhibit includes both current and previous property owners and operators by name, last known address, telephone number, and the Requestor's relationship to each owner and operator (all of which are "None"). Exhibit D also includes the prior operators' use of the Site, which generally included commercial and industrial uses.

### **SECTION VII- REQUESTOR ELIGIBILITY INFORMATION**

**Please refer to responses to Questions 1-10 on the BCP Application Form.**

#### **11. Unregistered bulk storage tanks**

The environmental reports to date suggest that tanks are still present because they were closed in place. Even though the Phase I Report indicates that the Site was a registered Petroleum Bulk Storage (PBS) facility, no-on-line PBS records showed that the tanks were registered. As a result, the Requestor has placed a “yes” answer to the question about whether there are unregistered USTs present. Nevertheless, the Requestor has submitted this application with an RIWP including an IRM to investigate, close and remediate any contamination in relation to the tanks that may or may not still be present on the Site.

#### **REQUESTOR CERTIFICATION**

The Requestor certifies it is a Volunteer, since it only just recently purchased the Site after performing extensive due diligence and submitting this application shortly after Site acquisition. In addition, the Requestor does not have, nor has ever had a relationship with any of the past owners or operators of the Site, nor did it have involvement with the Site at the time of disposal. The Requestor has performed all required environmental due diligence prior to acquiring the Site to qualify as a bona fide prospective purchaser and has vacated the Site from all active tenants.

### **SECTION VIII- PROPERTY ELIGIBILITY INFORMATION**

Please refer to the responses to the Questions 1-6 on the BCP Application Form, which confirms the Site is not ineligible for the BCP.

In addition to the responses on the application form, which clarify the Site is an eligible brownfield site pursuant to ECL § 27-1405, the following information further demonstrates this Site’s eligibility for the BCP.

The Site meets the definition of an eligible “brownfield site” in Environmental Conservation Law § 27-1405(2) as “any real property where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the department that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations.” Environmental investigation results show evidence of impact from the Site’s previous commercial and industrial uses, which can be linked to and caused Site contamination above the applicable cleanup standards. *See* Environmental Reports and the Spider Maps in Exhibit E, providing the data demonstrating exceedances of the cleanup standards for this Site. As a result, the Site meets the definition of a brownfield site pursuant to Environmental Conservation Law §27-1405(2).

### **SECTION IX - CONTACT LIST INFORMATION**

*See* Exhibit J for the Site Contact List. *See* Exhibit K, for the Repository Letters.

### **SECTION X- LAND USE FACTORS**

**1. Current Zoning**

The Site is mostly within a M1-2 District. A small triangular portion of lot 149 extends into a R 6 District. *See* Exhibit I, Zoning Map.

**2. Current Use**

This Site is currently vacant as of Site acquisition by the Requestor on December 17, 2019.

**3. Intended Use Post Remediation**

Post remediation use of the Site will be a 110,770 square feet 4-story self-storage building, loading dock and parking lot. In addition, there will be 26 – 10 x 20 feet containers on-Site. *See* Section II, Project Scope for a more detailed description.

**4. Do current historical and/or recent development patterns support the proposed use?**

Yes, the Site is in a predominantly industrial area and is predominantly zoned for a manufacturing use. Therefore, the self-storage use is as-of-right.

**5. Is the proposed use consistent with applicable zoning laws/maps?**

Yes, the Site is mostly within a M1-2 District. M1-2 districts typically include light industrial uses, such as woodworking shops, repair shops, and wholesale service and storage facilities.<sup>1</sup>

**6. Consistent with the Master Plan?**

There is no applicable Master Plan for the Borough Park neighborhood. However, this project is consistent with existing zoning.

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<sup>1</sup> <https://www1.nyc.gov/site/planning/zoning/districts-tools/m1.page>

# **EXHIBIT A**





Services News Government Local

## NYS Department of State

### Division of Corporations

### Entity Information

The information contained in this database is current through November 18, 2019.

**Selected Entity Name:** SNL XXII, LLC

#### Selected Entity Status Information

**Current Entity Name:** SNL XXII, LLC

**DOS ID #:** 5632086

**Initial DOS Filing Date:** OCTOBER 03, 2019

**County:** NASSAU

**Jurisdiction:** DELAWARE

**Entity Type:** FOREIGN LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

#### Selected Entity Address Information

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

SNL XXII, LLC

3333 NEW HYDE PARK RD.

SUITE 200

LAKE SUCCESS, NEW YORK, 11042

**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
No Information Available		

#### Name History

Filing Date	Name Type	Entity Name
OCT 03, 2019	Actual	SNL XXII, LLC

\*Stock information is applicable to domestic business corporations.

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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# **EXHIBIT B**


## WRITTEN CONSENT

The undersigned, being a member of SnL XXII, LLC, does hereby certify as follows:

1. SnL XXII, LLC is the prospective volunteer for the 1440-1460 39th Street Site located at 1440 39th Street, 1446 39th Street, 1456 39th Street, 1460 39th Street and 40 Street, Brooklyn, New York, Tax parcel identification no. Block: 5356 Lots: 17, 26, 28 and 149 (the "Brownfield Site").

2. The following person, Aryeh Goldman, a member of SnL XXII, LLC, has been authorized to execute any documents required by the New York State Department of Environmental Conservation on behalf of Brownfield Site Volunteer SnL XXII, LLC in relation to the Brownfield Site.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on this 1<sup>st</sup> day of October, 2019.

  
10/1/19  
SnL XXII, LLC

Philip Lepine  
Director of Purchasing

# **EXHIBIT C**

**BARGAIN AND SALE DEED WITH COVENANTS AGAINST GRANTOR'S ACTS  
INDIVIDUAL OR CORPORATION**

**THIS INDENTURE**, made on December 17 2019,

**BETWEEN**, Acierno Realty LLC, a New York corporation having an address at of 41-24 38<sup>th</sup> Street, Long Island City, New York 11101, party of the first part, and SNL XXII, LLC a Delaware limited liability company, having an address at 3333 New Hyde Park Road, Suite 200, Lake Success, New York 11042, party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of the sum of ten (\$10.00) dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Brooklyn, County of the Kings and State of New York, known as 1446 39<sup>th</sup> Street, Brooklyn, and more particularly described in Schedule A, annexed hereto.

**BEING AND INTENDED** to be the same premises conveyed to the party of the first part by deed dated October 7, 2003 recorded in the Office of the Clerk of the County of Kings on February 17, 2004 under CFRN#2004000091768.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof;

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

This deed has been authorized by a unanimous written consent of the members of Acierno Realty LLC.



IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Acierno Realty LLC

By:

  
John L. Acierno, Managing Member

Acknowledgment by a Person Within New York State (RPL § 309 a)

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF NEW YORK            )

On the 17th day of December, 2019, before me, the undersigned, personally appeared John L. Acierno, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
(Notary Public)

GRETA JERNSTEDT  
Notary Public, State of New York  
No. 31-4979612  
Qualified in New York County  
Commission Expires April 1, 2023

# Bargain and Sale Deed

WITH COVENANTS AGAINST GRANTOR'S ACTS

Title No.

**Grantor:**

**Acierno Realty LLC**, a New York  
limited liability company

**To**

**Grantee:**

**SNL XXII, LLC**,  
a Delaware limited liability company

<b>Block</b>	5346
<b>Lot</b>	26
<b>County</b>	Kings
<b>Street Address</b>	1446 39 <sup>th</sup> Street Brooklyn, New York

**RETURN BY MAIL TO:**

Moritt Hock & Hamroff LLP 400 Garden City Plaza Garden City, NY 11530 Attn: David H. Cohen, Esq.
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**Reserve This Space For Use Of Recording Office**

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## SCHEDULE A

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 designated as follows:

BEGINNING at a point on the southwesterly side of 39th Street where it is intersected by the easterly side of Old New Utrecht Road, distant 275 feet 6 inches northwesterly from the corner formed by the intersection of the southwesterly side of 39th Street with the northwesterly side of 15th Avenue;

RUNNING THENCE northwesterly along the southwesterly side of 39th Street, 46 feet 5  $\frac{5}{8}$  inches to the center line of Old New Utrecht Road;

RUNNING THENCE southerly along the center line of Old New Utrecht Road, 114 feet 11  $\frac{5}{8}$  inches;

RUNNING THENCE southeasterly at an interior angle of 134 degrees 45 minutes with the preceding course, 41 feet  $\frac{3}{8}$  inches;

RUNNING THENCE easterly at right angles to the previous course, 5 feet 5  $\frac{3}{4}$  inches;

RUNNING THENCE northerly at an interior angle of 135 degrees 15 minutes 00 seconds with the preceding course and along the easterly side Old New Utrecht Road and along the westerly line of Lot #28, 107 feet 3 inches to the southwesterly side of 39th Street, the point or place of BEGINNING.

**BARGAIN AND SALE DEED WITH COVENANTS AGAINST GRANTOR'S ACTS  
INDIVIDUAL OR CORPORATION**

**THIS INDENTURE**, made on December 17 2019,

**BETWEEN**, Acierno Realty II, LLC, a New York corporation having an address at of 41-24 38<sup>th</sup> Street, Long Island City, New York 11101, party of the first part, and SNL XXII, LLC a Delaware limited liability company, having an address at 3333 New Hyde Park Road, Suite 200, Lake Success, New York 11042, party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of the sum of ten (\$10.00) dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Brooklyn, County of the Kings and State of New York, known as 1456 39<sup>th</sup> Street, Brooklyn, and more particularly described in Schedule A, annexed hereto.

**BEING AND INTENDED** to be the same premises conveyed to the party of the first part by deed dated June 30, 2013 and recorded in the Office of the Clerk of the County of Kings on August 8, 2013 under CFRN# 2013000312859.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof;

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

This deed has been authorized by a unanimous written consent of the members of Acierno Realty II, LLC.

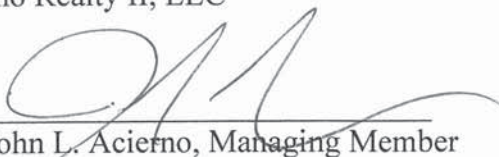


**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

Acierno Realty II, LLC

By:

  
John L. Acierno, Managing Member

Acknowledgment by a Person Within New York State (RPL § 309 a)

STATE OF NEW YORK                     )  
   ) ss.:  
COUNTY OF NEW YORK                 )

On the 17th day of December, 2019, before me, the undersigned, personally appeared John L. Acierno, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
(Notary Public)

GRETA JERNSTEDT  
Notary Public, State of New York  
No. 31-4979612  
Qualified in New York County  
Commission Expires April 1, 2023

# Bargain and Sale Deed

WITH COVENANTS AGAINST GRANTOR'S ACTS

**Title No.**

**Grantor:**

**Acierno Realty II, LLC.,** a New York  
limited liability company

**To**

**Grantee:**

**SNL XXII, LLC,**  
a Delaware limited liability company

<b>Block</b>	5346
<b>Lots</b>	28
<b>County</b>	Kings
<b>Street Address</b>	1456 39 <sup>th</sup> Street Brooklyn, New York

**RETURN BY MAIL TO:**

Moritt Hock & Hamroff LLP 400 Garden City Plaza Garden City, NY 11530 Attn: David H. Cohen, Esq.
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**Reserve This Space For Use Of Recording Office**

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## **SCHEDULE A**

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 a point on the southwesterly side of 39th Street, distant 200 feet northwesterly from the corner formed by the intersection of the southwesterly side of 39th Street with the northwesterly side of 15th Avenue;

RUNNING THENCE southwesterly parallel with 15th Avenue, 76 feet 2 inches to the easterly side of Old New Utrecht Road;

RUNNING THENCE northerly along the easterly side of Old New Utrecht Road, 107 feet 3 inches to the southwesterly side of 39th Street;

RUNNING THENCE southeasterly along the southwesterly side of 39th Street, 75 feet 6 inches to the point or place of BEGINNING.

**BARGAIN AND SALE DEED WITH COVENANTS AGAINST GRANTOR'S ACTS  
INDIVIDUAL OR CORPORATION**

**THIS INDENTURE**, made on December 17 2019,

**BETWEEN**, Acierno Garage Corp., a New York corporation having an address at of 41-24 38<sup>th</sup> Street, Long Island City, New York 11101, party of the first part, and SNL XXII, LLC a Delaware limited liability company, having an address at 3333 New Hyde Park Road, Suite 200, Lake Success, New York 11042, party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of the sum of ten (\$10.00) dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Brooklyn, County of the Kings and State of New York, known as 1440 39<sup>th</sup> Street, Brooklyn, and more particularly described in Schedule A, annexed hereto.

**BEING AND INTENDED** to be conveyed by this one deed and consisting of the following two parcels: (i) the same premises conveyed to the party of the first part by deed dated February 14, 1986 and recorded in the Office of the Clerk of the County of Kings on March 18, 1986 under Reel 1782 Page 504 identified as Block 5346, Lot 149 and (ii) the same premises conveyed to the party of the first part by deed dated February 28, 1951 and recorded in the Office of the Clerk of the County of Kings on February 28, 1951 under Reel 7740 Page 497 identified as Block 5346, Lot 17.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof;

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

This deed has been authorized by a unanimous written consent of the directors and shareholders of Acierno Garage Corp.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

Acierno Garage Corp.

By: 

John L. Acierno, President

Acknowledgment by a Person Within New York State (RPL § 309 a)

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF NEW YORK                )

On the 17th day of December, 2019, before me, the undersigned, personally appeared John L. Acierno, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
(Notary Public)

GRETA JERNSTEDT  
Notary Public, State of New York  
No. 31-4079612  
Qualified in New York County  
Commission Expires April 1, 2023

# Bargain and Sale Deed

WITH COVENANTS AGAINST GRANTOR'S ACTS

**Title No.**

**Grantor:**  
**Acierno Garage Corp.**, a New York  
Corporation

**To**

**Grantee:**  
**SNL XXII, LLC,**  
a Delaware limited liability company

<b>Block</b>	5346
<b>Lots</b>	149 & 17
<b>County</b>	Kings
<b>Street Address</b>	1440 39 <sup>th</sup> Street Brooklyn, New York

**RETURN BY MAIL TO:**

Moritt Hock & Hamroff LLP 400 Garden City Plaza Garden City, NY 11530 Attn: David H. Cohen, Esq.
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**Reserve This Space For Use Of Recording Office**

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## SCHEDULE A

### AS TO LOT 149:

ALL that certain plot piece or parcel of land, situate, lying and being in the Borough of Brooklyn, City and State of New York, designated on the Tax Map of the City of New York, for the Borough of Brooklyn, as said Tax Map was on January 17, 1978.

### AS TO LOT 17:

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:

#### PARCEL A – (Old Lot 17)

BEGINNING at the corner formed by the intersection of the southwesterly side of 39th Street with the westerly side of road from Flatbush Avenue to New Utrecht Avenue;

THENCE northwesterly along the southwesterly side of 39th Street 91 feet 6  $\frac{3}{4}$  inches;

THENCE southwesterly parallel with 14th Avenue 95 feet 2  $\frac{1}{8}$  inches to the center of the block;

THENCE southeasterly along the center of the block 185 feet 11 inches to the westerly side of the road from Flatbush Avenue to New Utrecht Avenue;

THENCE northerly along the westerly side of road from Flatbush Avenue to New Utrecht Avenue 134 feet  $\frac{1}{4}$  inch to the corner point or place of BEGINNING.

#### PARCEL B – (Old Lot 24)

BEGINNING at a point on the southwesterly side of 39th Street where it is intersected by the westerly side of old New Utrecht Road distant 331 feet 6  $\frac{3}{4}$  inches southeasterly from 14th Avenue;

RUNNING THENCE southeasterly along the southwesterly side of 39th Street 45 feet 3  $\frac{5}{8}$  inches to the center of said road;

THENCE southerly along the center of said road 101 feet 3  $\frac{5}{8}$  inches;

THENCE westerly at right angles to the westerly side of said road 35 feet to the westerly side of said road which point is southerly corner of Lot 17 Block 5346;

THENCE northerly along the westerly side of said old New Utrecht Road along the easterly side of Lot 17 134 feet  $\frac{1}{4}$  inch to the southwesterly side of 39th Street at the point or place of BEGINNING.

# **EXHIBIT D**



## PREVIOUS OWNERS & OPERATORS LIST

1440-1460 39<sup>th</sup> Street Site

1440-1460 39<sup>th</sup> St, Brooklyn, NY 11218

1440 39<sup>th</sup> Street (Block 5346 Lot 17)

Year	Current & Previous Owners	Relation to Requestor
1901-1927	New York City, City Hall, New York New York - Public Garage Unclear if Department of Transportation ran NYC Garages at this time	None
1927-2019	Aciermo Realty Corp. (may have had different name before 1960's—has been owned by the Aciermo Family since 1927 for storage and repair of cars and limousines in their transportation fleet) <b>Address:</b> 1440 39th St Brooklyn, NY 11218; <b>Phone:</b> (718) 438-1100	Seller
December 17, 2019- Present	SNL XXII, LLC <b>Address:</b> 3333 New Hyde Park Road, Suite 200 <b>Phone:</b> (516) 472-7880 Lake Success, New York 11042	Requestor

Year	Operators	Use	Relation to Requestor
1901-1924	New York City, City Hall, New York New York - Public Garage Unclear if Department of Transportation ran NYC Garages at this time. An unnamed automotive garage was constructed in 1924. Certificate of Occupancy granted for “public garage” on June 17, 1924	Building first constructed as a public New York City Garage	None
1927- September 2019	An automotive repair shop was opened on the site by the Aciermo family. Affiliated companies were created during this time discussed below.	Certificate of Occupancy granted for use as “repair shop for automobiles” on May 21, 1929. Sanborn Map from 1929 shows a buried gasoline tank within the norther portion of the building located at 1440 39th Street.	None other than Former operator of this parcel
1934	Green Young Garage Corp. <b>Address:</b> Unknown; <b>Phone:</b> Unknown	There is a reference in a City Directory Abstract to this company being a tenant on the Site. It may have been affiliated with the earlier public garage and	None

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> St, Brooklyn, NY 11218**

		subsequent automotive repair shop constructed on the Site by the Acierno family.	
1940s	Jacobson Garage Inc. & Moody Motor Sales <b><u>Address:</u></b> Unknown; <b><u>Phone:</u></b> Unknown	There is a reference in a City Directory Abstract to these companies being tenants on the Site from 1940 until 1949. May have been affiliated with the Acierno family	NoneCab
1951-September 2019	Acierno Garage Corp. <b><u>Address:</u></b> 1440 39th St Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 438-1100	Acierno Garage Corp. was created in 1951 and is still active. Certificate of Occupancy granted on August 17, 1964 for “automobile repair shop—including body and fender repairs” with “public motor vehicle parking in open space” and a boiler room in the cellar. The site is still used for this purpose.	None
1974-September 2019	Executive Transportation Group <sup>1</sup> (Executive Charge, Inc.) <b><u>Address:</u></b> 1440 39th St Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 438-1100	Garage and repair shop for fleet of roughly 2,000 cars and limousines in the 1970’s; this number dwindled down to 900 until Uber and Lyft launched in New York and numbers dipped way down.	None

<sup>1</sup> “Executive Transportation Group” (“ETG”) is a consortium of black car and limousine companies providing consolidated services for the transportation industry; its president and CEO is John L. Acierno. ETG is currently affiliated with at least 15 other companies that operate, in part, on the same property. These include: Ace Car & Limousine service, Inc. - B00888, All City Corporate Car, Inc. - B00277, Avalon Corporate Car, Inc.- B02003, Bell Radio, Inc. - B00381, Charge and Ride, Inc. - B00053, Love Corp Car, Inc.- B00013, Love Limousine NYC Ltd.- B00306, Minutemen - B00280, N.Y. One Corporate Car Inc. - B00014, Summit Corporate Car Inc. - B00608, Tel-A-Car of New York, LLC - B01197, Fone-a-Car - B00411, Online Limousine, LLC - B01875, Prime Time Trans. Inc. - B00296, Westchester Acquisition Corp. – B02345, Vital Transportation Inc. B00789, See [www.etgweb.com](http://www.etgweb.com).

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> St, Brooklyn, NY 11218**

1985	<p>Cab Transportation Corp Garage;  <b>Address:</b> Unknown      <b>Phone:</b> Unknown</p> <p>Love Taxi Inc., (Love Corporate Car Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (718) 438-1100</p> <p>Taxi Care Center  <b>Address:</b> Unknown      <b>Phone:</b> Unknown</p>	Additional tenants noted in the City Directory Abstract	None
1992	<p>Love Limousine NYC Ltd, - CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (718) 871-6500 or (800) 872-5460</p> <p>Love Taxi, Inc. (Love Corporate Car Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (718) 438-1100</p> <p>Summit Prompt (Summit Prompt Capital Corp.) - Inactive  <b>Address:</b> 2 Park Ave, New York, NY 10016      <b>Phone:</b> Unknown</p> <p>Transportation Systems Inc. (Digital Transportation System, Inc.) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (855) 328-2487</p>	Additional tenants noted in the City Directory Abstract	None
1997	<p>Ace Car &amp; Limousine (ACE Car &amp; Limousine Service Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (718) 853-9704</p> <p>Globe Two Way Radio – Inactive  <b>Address:</b> c/o BG Fiscal Services Pearlard BKGE <b>Phone:</b> (718) 851-4018  1841 Broadway Room 609, New York, NY 10023</p> <p>Love Taxi Exec Charge  <b>Address:</b> Unknown      <b>Phone:</b> Unknown</p> <p>Love Taxi Inc. (Love Corporate Car Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218 <b>Phone:</b> (718) 438-1100</p>	Additional tenants noted in the City Directory Abstract	None

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> St, Brooklyn, NY 11218**

	Summit Car Svce, (Summit Car Service, Inc) <b>Address:</b> 60 Summit St., Brooklyn, NY 11231 <b>Phone:</b> (718) 972-8058		
2000	<p>USA Limo (U.S.A. Limo, Inc.) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> St, Brooklyn, NY 11218   <b>Phone:</b> Unknown</p> <p>Ace Car &amp; Limousine, et al. (ACE Car &amp; Limousine Service Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218   <b>Phone:</b> (718) 853-9704</p> <p>Allen Management Co. (Allen Management Company, LLC)  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY, 11218   <b>Phone:</b> Unknown</p> <p>Executive Charge (Executive Charge, Inc.) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218   <b>Phone:</b> (718) 438-1100</p> <p>Love Taxi Inc. (now Love Corporate Car Inc) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> Street, Brooklyn, NY 11218   <b>Phone:</b> (718) 438-1100</p> <p>Summit Prompt (Summit Prompt Capital Corp.) - Inactive  <b>Address:</b> 2 Park Ave, New York, NY 10016   <b>Phone:</b> Unknown</p> <p>USA Limo (U.S.A. Limo, Inc.) – CEO John Acierno  <b>Address:</b> 1440 39<sup>th</sup> St, Brooklyn, NY 11218   <b>Phone:</b> Unknown</p>	Additional tenants noted in the City Directory Abstract	None
2005		Additional tenants noted in the City Directory Abstract	None

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1446 39<sup>th</sup> St, Brooklyn, NY 11218**

**1446 39<sup>th</sup> Street (Block 5346 Lot 26)**

<b>CURRENT AND PREVIOUS OWNERS LIST</b>		
<b>Year</b>	<b>Owner</b>	<b>Relation to Requestor</b>
Unknown–1979	Harry Seewald & Tessie Seewald <b><u>Address:</u></b> 581 Ocean Parkway, Brooklyn, New York, 11218; <b><u>Phone:</u></b> Unknown	None
1979–2003	Frank Allocca <b><u>Address:</u></b> 292 Starling Court, Manhasset, NY 11218; <b><u>Phone:</u></b> Unknown	None
2003–2019	Acerno Realty LLC <b><u>Address:</u></b> 1440 39th St Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 438-1100	Seller
December 17, 2019 -Present	SNL XXII, LLC Address: 3333 New Hyde Park Road, Suite 200 <b><u>Phone:</u></b> (516) 472-7880 Lake Success, New York 11042	Requestor

<b>CURRENT AND PREVIOUS OPERATOR LIST</b>		
<b>Year</b>	<b>Operator</b>	<b>Use</b>
Unknown–1962	Vacant	Certified Sanborn Maps show that the lot was vacant up until at least 1950. The earliest reference to a structure being built on the site is a Certificate of Occupancy issued in 1962.
1962–1977	Majestic Kosher Inc. <b><u>Address:</u></b> Unknown; <b><u>Phone:</u></b> Unknown	There is a reference in a City directory Abstract to this company being a tenant from at
		None

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1446 39<sup>th</sup> St, Brooklyn, NY 11218**

		least 1973-1976. Certified Sanborn Map shows use as “Live Poultry Storage” from 1969–1977. Certificate of Occupancy issued in 1962 for “manufacture, loading berth, storage and sales.” Likely associated with “Majestic Live Poultry Co. Inc.” which operated on the adjacent property, Lot 28, from 1930’s–1960’s.	
1981–1992	Rands Casing Corp. <b>DOS Process:</b> Kirschenbaum Shapiro & Marro <b>Address:</b> 350 Madison Avenue, New York, NY, 10017; <b>Phone:</b> Unknown	DOS records show corporation was formed in 1981 and dissolved in 1992. There is a reference in a City Directory Abstract to this company being a tenant in 1985. Certified Sanborn Map shows use as a warehouse.	None
1990–2010	Ten Dollar Carpet Store, Inc. <b>CEO:</b> Richard Boim <b>Address:</b> 1446 39th St, Brooklyn, NY 11218; <b>Phone:</b> unknown	Office/Warehouse storage for carpet and flooring company.	None
1991–2001	Continental Flooring, Inc./Ten Dollar Carpet Store <b>CEO:</b> David Leifer <b>Address:</b> 1446 39th St, Brooklyn, NY 11218; <b>Phone:</b> Unknown	Office/Warehouse storage for carpet and flooring company.	None
2000–2010	A&M Income Tax Consultants, Inc. <b>CEO:</b> Pearl Harwood <b>Address:</b> 123-10 Rockaway Beach Blvd, Belle Harbor, NY 11694; <b>Phone:</b> Unknown	Office	None
2003–2016	Chance Enterprise Corp. (Affiliate of Pearland Brokerage, Inc.) <b>Address:</b> 1446 39th St. Brooklyn, NY 11218; <b>Phone:</b> (718) 853-0002	Office	None



**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1446 39<sup>th</sup> St, Brooklyn, NY 11218**

2011-Unknown	Executive Transportation Group <sup>1</sup> (Executive Charge, Inc.) <b>CEO:</b> John L. Acierno <b>Address:</b> 1440 39th St Brooklyn, NY 11218; <b>Phone:</b> (718) 438-1100	“Driver Services” on west portion of building. Google Street view image from 2011 shows Executive Transportation Group office, may have been present earlier.	None
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<sup>1</sup> “Executive Transportation Group” (“ETG”) is a consortium of black car and limousine bases providing consolidated services for the transportation industry; its president and CEO is John L. Acierno. ETG is currently affiliated with at least 15 other companies that operate, in part, on the same property. These include: Ace Car & Limousine service, Inc. - B00888, All City Corporate Car, Inc. - B00277, Avalon Corporate Car, Inc.- B02003, Bell Radio, Inc. - B00381, Charge and Ride, Inc. - B00053, Love Corp Car, Inc.- B00013, Love Limousine NYC Ltd.- B00306, Minutemen - B00280, N.Y. One Corporate Car Inc. - B00014, Summit Corporate Car Inc. - B00608, Tel-A-Car of New York, LLC - B01197, Fone-a-Car - B00411, Online Limousine, LLC - B01875, Prime Time Trans. Inc. - B00296, Westchester Acquisition Corp. – B02345, Vital Transportation Inc. B00789. See [www.etgweb.com](http://www.etgweb.com).

**PREVIOUS OWNERS & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1456 39<sup>th</sup> St, Brooklyn, NY 11218**

**1456 39<sup>th</sup> Street (Block 5346 Lot 28)**

<b>CURRENT AND PREVIOUS OWNERS LIST</b>		
<b>Year</b>	<b>Owner</b>	<b>Relation to Requestor</b>
Unknown – 1979	Harry Seewald and Tessie Seewald <b><u>Address:</u></b> 581 Ocean Pkwy, Brooklyn, NY, 11218; <b><u>Phone:</u></b> unknown	None other than Site owner from which Requestor will acquire site
1979–1998	Frank Allocca <b><u>Address:</u></b> 292 Starling Ct, Manhasset, NY, 11030; <b><u>Phone:</u></b> unknown	None
1998–2013	Samuel Hafner <b><u>Address:</u></b> 1752 50th St, Brooklyn, NY 11204; <b><u>Phone:</u></b> unknown	None
2013-2019	Acerno Realty II LLC <b><u>Address:</u></b> 1440 39th St, Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 438-1100	Seller
December 17, 2019 -Present	SNL XXII, LLC <b><u>Address:</u></b> 3333 New Hyde Park Road, Suite 200 <b><u>Phone:</u></b> (516) 472-7880 Lake Success, New York 11042	Requestor

<b>CURRENT AND PREVIOUS OPERATOR LIST</b>		
<b>Year</b>	<b>Operator</b>	<b>Use</b>
1924-Unknown	An unnamed automotive garage was constructed in 1924.	Certificate of Occupancy granted for “public garage” on June 17, 1924
		None

## PREVIOUS OWNERS & OPERATORS LIST

1440-1460 39<sup>th</sup> Street Site  
1456 39<sup>th</sup> St, Brooklyn, NY 11218

1929-1934	Unknown	According to Certified Sanborn Map, a garage operated on the site.	None
1934-1960's	Majestic Live Poultry Co. Inc. <b><u>Address:</u></b> Unknown; <b><u>Phone:</u></b> Unknown	There is a reference in a City Directory Abstract to this company being a tenant on the Site. Certified Sanborn Map lists use as "Poultry."	None
1970-1973	Andor Auto, Inc., DBA: Andor Auto Repair <b><u>Address:</u></b> Unknown; <b><u>Phone:</u></b> Unknown	Automotive repair and service station. In 1970 a Certificate of Occupancy was issued for "Automobile repairs, body and fender repairs, welding and spraying, automobile sales of used cars"	None
1973-1976	Eddie's Collision <b><u>Address:</u></b> Unknown; <b><u>Phone:</u></b> Unknown	Automotive repair and service station.	None
1985-1997	V A Sanitation Inc. (Owned by previous owner, Frank Allocca) <b><u>Address:</u></b> 292 Starling Ct, Manhasset, NY, 11030; <b><u>Phone:</u></b> Unknown	Auto Body Shop/Garage for V A Sanitation Inc., a waste management company	None
1998-2002	Global Haimish Express Corp. <b><u>Address:</u></b> 1403 44th St. Suite 160, Brooklyn, NY 11219; <b><u>Phone:</u></b> (718) 686-7919	Automotive garage for cargo and freight company. DOS records show corporation was active from 1998-2002; City Directory Abstract shows company was listed until at least 2010.	None
2003-2016	Chance Enterprise Corp. (likely affiliated with Pearl and Brokerage Inc. as both share the same phone number) <b><u>CEO:</u></b> Alex Gorelix <b><u>Address:</u></b> 1456 39th St Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 853-0002	Used car dealer and repair shop. Corporation formed in 2003 and dissolved in 2016.	None

**PREVIOUS OWNER & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> Street, Brooklyn, NY 11218**

**40 Street (Block 5346 Lot 149)**

<b>Year</b>	<b>Current &amp; Previous Owners</b>	<b>Relation to Requestor</b>
Unknown-1967	Roy M. Goodman, Director of Finance of the City of New York (Deceased 2014) Replaced by Jacques Jiha, Ph.D., Finance Commissioner <b>Office of Address:</b> Brooklyn Business Center Brooklyn Municipal Building 210 Joralemon Street Brooklyn, NY 11201 <b>Phone:</b> (212) 639-9675	None
1967-1968	The City of New York <b>Address:</b> City Hall New York, NY 10007 <b>Phone:</b> (212) 639-9675	None
1968-Unknown	First Royal Corp. (Inactive-Dissolution 2/10/1988) <b>Address:</b> 120 West 31 <sup>st</sup> St. New York, NY 10001 <b>Phone:</b> Unknown	None
1979-1986	The City of New York <b>Address:</b> City Hall New York, NY 10001 <b>Phone:</b> (212) 639-9675	None
1986-2019	Acierno Garage Corp. <b>Address:</b> 41-24 38 <sup>th</sup> Street Long Island City, NY 11101 <b>Phone:</b> (718) 438-1100	Seller
December 17, 2019 - Present	SNL XXII, LLC <b>Address:</b> 3333 New Hyde Park Road, Suite 200 Lake Success, NY 11042 <b>Phone:</b> (516) 472-7880	Requestor

**PREVIOUS OWNER & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> Street, Brooklyn, NY 11218**

Year	Operators	Use	Relation to Requestor
1901-1924	New York City, City Hall, New York New York - Public Garage Unclear if Department of Transportation ran NYC Garages at this time. An unnamed automotive garage was constructed in 1924. Certificate of Occupancy granted for “public garage” on June 17, 1924	Building first constructed as a public New York City Garage	None
1927- September 2019	An automotive repair shop was opened on the site by the Acierno family. Affiliated companies were created during this time discussed below.	Certificate of Occupancy granted for use as “repair shop for automobiles” on May 21, 1929. Sanborn Map from 1929 shows a buried gasoline tank within the norther portion of the building located at 1440 39th Street.	None other than Former operator of this parcel
1934	Green Young Garage Corp. <b>Address:</b> Unknown; <b>Phone:</b> Unknown	There is a reference in a City Directory Abstract to this company being a tenant on the Site. It may have been affiliated with the earlier public garage and subsequent automotive repair shop constructed on the Site by the Acierno family.	None
1940s	Jacobson Garage Inc. & Moody Motor Sales <b>Address:</b> Unknown; <b>Phone:</b> Unknown	There is a reference in a City Directory Abstract to these companies being tenants on the Site from 1940 until 1949. May have been affiliated with the Acierno family	NoneCab
1951- September 2019	Acierno Garage Corp. <b>Address:</b> 1440 39th St Brooklyn, NY 11218; <b>Phone:</b> (718) 438-1100	Acierno Garage Corp. was created in 1951 and is still active. Certificate of Occupancy granted on August 17, 1964 for “automobile repair shop—including body and fender repairs” with “public motor	None

**PREVIOUS OWNER & OPERATORS LIST**  
**1440-1460 39<sup>th</sup> Street Site**  
**1440-1460 39<sup>th</sup> Street, Brooklyn, NY 11218**

		vehicle parking in open space” and a boiler room in the cellar. The site is still used for this purpose.	
1974-September 2019	Executive Transportation Group <sup>1</sup> (Executive Charge, Inc.) <b><u>Address:</u></b> 1440 39th St Brooklyn, NY 11218; <b><u>Phone:</u></b> (718) 438-1100	Garage and repair shop for fleet of roughly 2,000 cars and limousines in the 1970’s; this number dwindled down to 900 until Uber and Lyft launched in New York and numbers dipped way down.	None

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<sup>1</sup> “Executive Transportation Group” (“ETG”) is a consortium of black car and limousine companies providing consolidated services for the transportation industry; its president and CEO is John L. Acierno. ETG is currently affiliated with at least 15 other companies that operate, in part, on the same property. These include: Ace Car & Limousine service, Inc. - B00888, All City Corporate Car, Inc. - B00277, Avalon Corporate Car, Inc.- B02003, Bell Radio, Inc. - B00381, Charge and Ride, Inc. - B00053, Love Corp Car, Inc.- B00013, Love Limousine NYC Ltd.- B00306, Minutemen - B00280, N.Y. One Corporate Car Inc. - B00014, Summit Corporate Car Inc. - B00608, Tel-A-Car of New York, LLC - B01197, Fone-a-Car - B00411, Online Limousine, LLC - B01875, Prime Time Trans. Inc. - B00296 , Westchester Acquisition Corp. – B02345, Vital Transportation Inc. B00789, See [www.etgweb.com](http://www.etgweb.com).



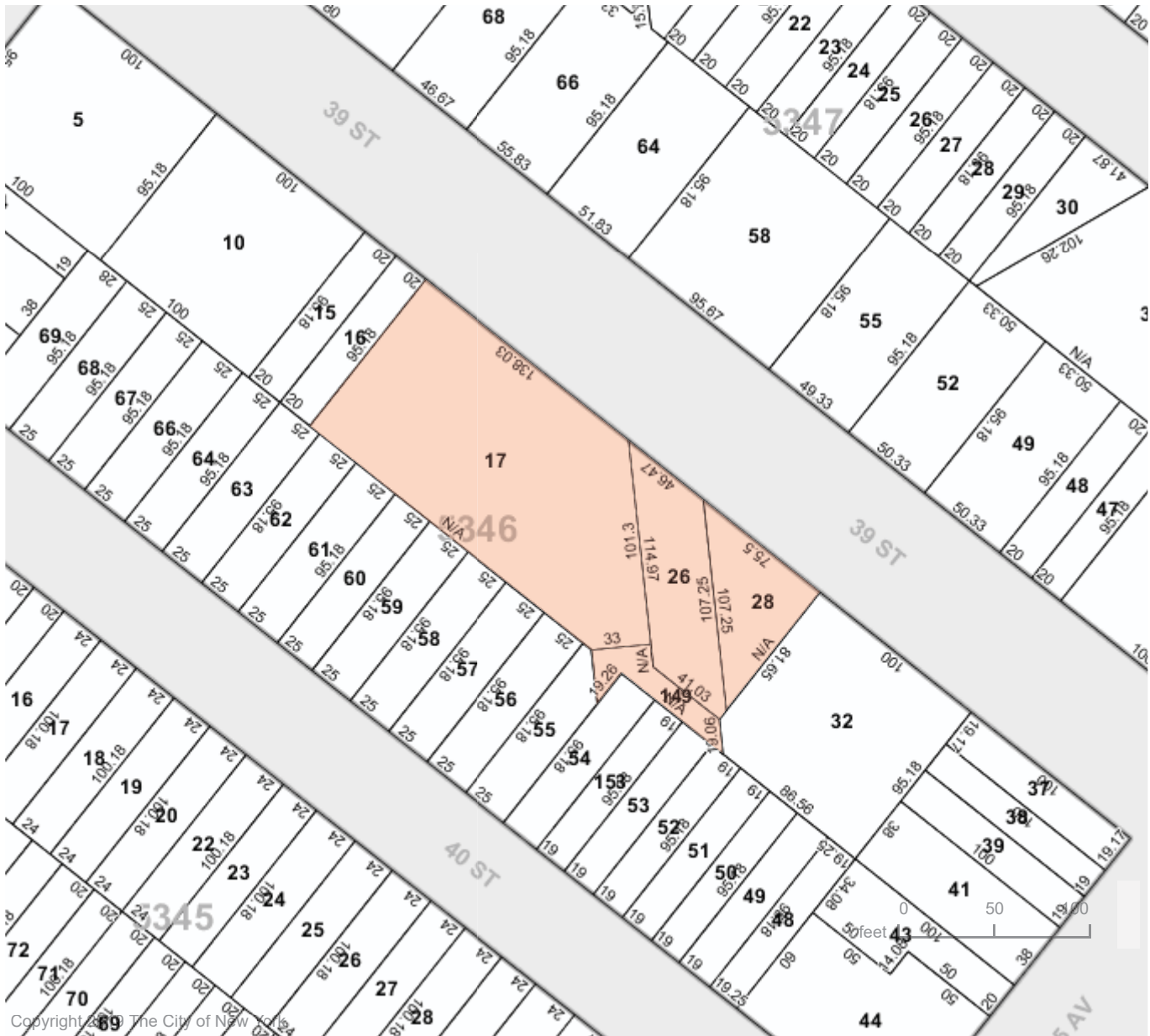
# **EXHIBIT E**



# **EXHIBIT F**





tax map - Digital Tax Map - New York City Dept. of Finance (9/5/2019)

	Borough Boundary	<b>C50</b>	Condo Flag/Condo Number
	Tax Block Boundary	<b>A50</b>	Air Right Flag/Lot Number
<b>50</b>	Tax Block Number	<b>S50</b>	Subterranean Right Flag/Lot Number
	Tax Lot Boundary	<b>R</b>	REUC Flag
<b>50</b>	Tax Lot Number		Under Water Tax Lot Boundary
	Condo FKA Tax Lot Number		Other Boundary
<b>50.5</b>	Tax Lot Dimension		Possession Hook
<b>+/-5.5</b>	Approximate Tax Lot Dimension	<b>Misc</b>	Miscellaneous Text
	Condo Units Range Label		Small Tax Lot Dimension
	Building Footprint		Surface Water

BROOKLYN Block: 5346 Lot: 17

- Additional Tax Lot Information

Tax Lot

ACRIS	Effective Tax Year
<a href="#">View</a>	N/A



# **EXHIBIT G**

# BASE MAP

## 1440-1460 39th Street Site

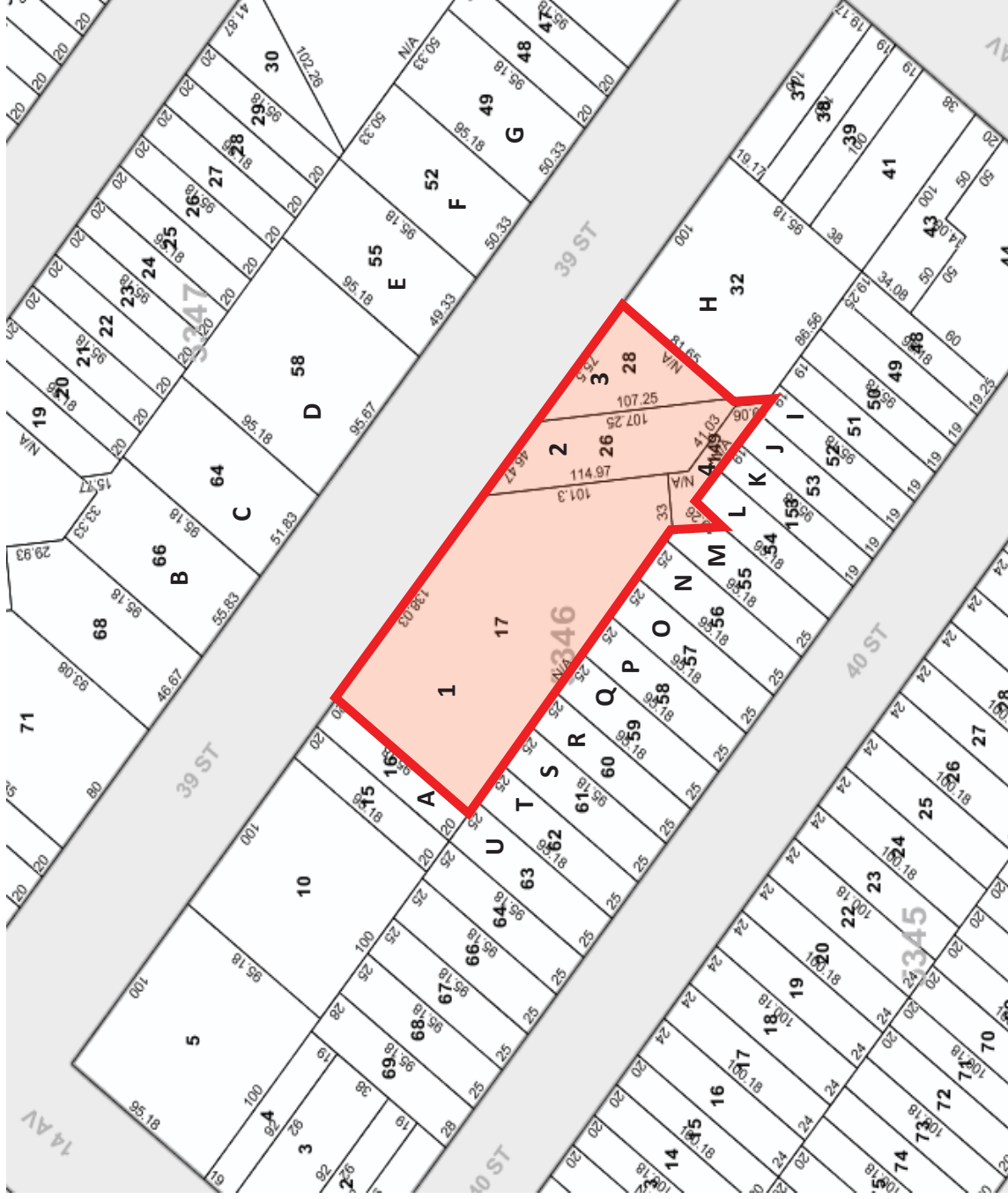
1440 39<sup>th</sup> Street, 1446 39<sup>th</sup> Street,  
1456 39<sup>th</sup> Street, and 40 Street  
Brooklyn, NY 11218

### Legend:

- Site Property
- Boundary

Corresponding page  
lists adjacent property  
owners by letter A – Q

September 2019  
Source: New York  
City GIS  
Scale: 1" = 100'  
approximately



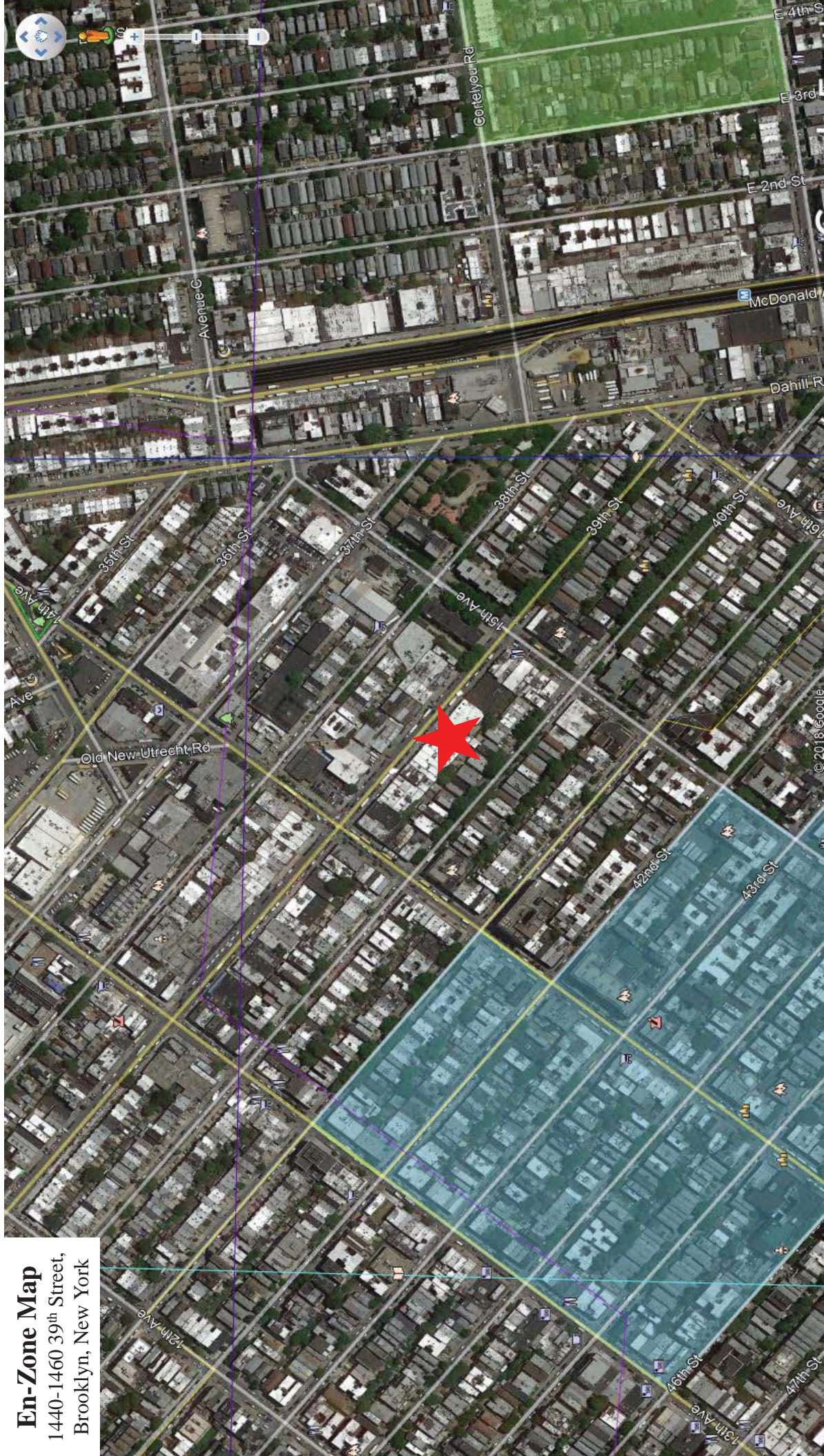
All feature locations are approximate. This map is intended as a schematic to be used in conjunction with associated Application and Support Information, and should not be relied upon as a survey for planning and other activities.

BCP Site Parcels				
Map Identification Number	Property Owner(s) Name(s)	Property Address	Borough-Block-Lot	
1	SNL XXII, LLC	1440 39 <sup>th</sup> Street	Brooklyn-5346-17	
2	SNL XXII, LLC	1446 39 <sup>th</sup> Street	Brooklyn-5346-26	
3	SNL XXII, LLC	1456 39 <sup>th</sup> Street	Brooklyn-5346-28	
4	SNL XXII, LLC	40 Street	Brooklyn-5346-149	

Letter	Adjacent Property Owner(s) Name(s)	Property Address	Section-Block-Lot
A	Aciermo Realty Corp	1428 39 <sup>th</sup> Street	Brooklyn-5346-16
B	Leva Realty LLC	1431 39 <sup>th</sup> Street	Brooklyn-5347-66
C	Leva Realty LLC	1433 39 <sup>th</sup> Street	Brooklyn-5347-64
D	Bais Tziporah Inc	1449 39 <sup>th</sup> Street	Brooklyn-5347-58
E	Claph LLC	1451 39 <sup>th</sup> Street	Brooklyn-5347-55
F	ZLT Realty Corp	1461 39 <sup>th</sup> Street	Brooklyn-5347-52
G	28 <sup>th</sup> Street Propertie	1469 39 <sup>th</sup> Street	Brooklyn-5347-49
H	1470 39 <sup>th</sup> Street LLC	1462 39 <sup>th</sup> Street	Brooklyn-5346-32
I	Hanna Leah Greenzweig	1465 40 <sup>th</sup> Street	Brooklyn-5346-52
J	Margaret Hershowitz	1463 40 <sup>th</sup> Street	Brooklyn-5346-53
K	Revina Singer	1461 40 <sup>th</sup> Street	Brooklyn-5346-153
L	Agnes Kilinger, as Trust	1459 40 <sup>th</sup> Street	Brooklyn-5346-54
M	Rita Safier, as Trust	1453 40 <sup>th</sup> Street	Brooklyn-5346-55
N	Florence Gruen Family	1449 40 <sup>th</sup> Street	Brooklyn-5346-56
O	1447 40 <sup>th</sup> ST LLC	1447 40 <sup>th</sup> Street	Brooklyn-5346-57
P	Israel Meir Melamud	1443 40 <sup>th</sup> Street	Brooklyn-5346-58

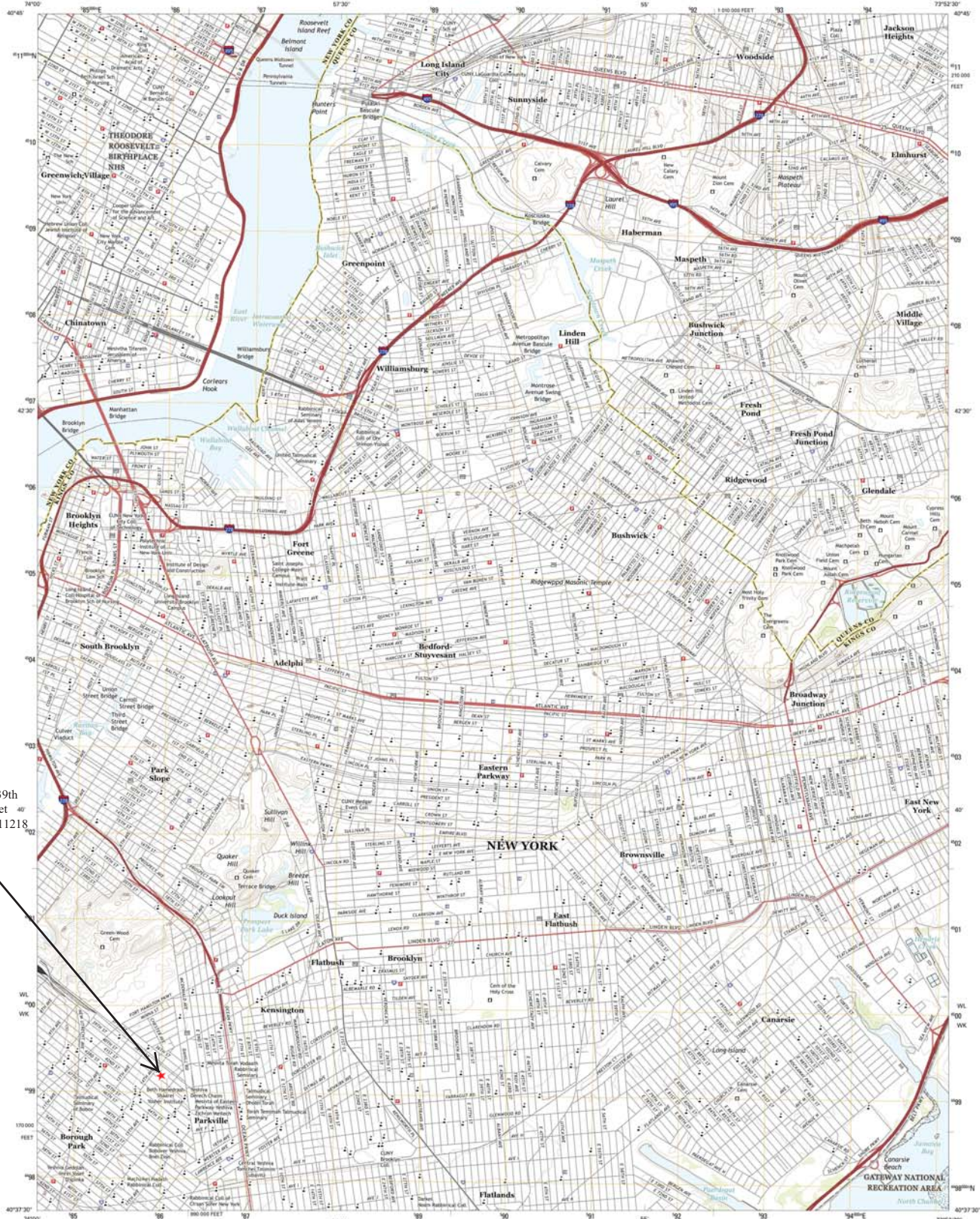
Letter	Adjacent Property Owner(s) Name(s)	Property Address	Borough-Block-Lot
<b>Q</b>	David Klein	1441 40 <sup>th</sup> Street	Brooklyn-5346-59
<b>R</b>	Isidore Mendelovitz	1437 40 <sup>th</sup> Street	Brooklyn-5346-60
<b>S</b>	Gan Bayis LLC	1435 40 <sup>th</sup> Street	Brooklyn-5346-61
<b>T</b>	Harrie Friedman/TR	1431 40 <sup>th</sup> Street	Brooklyn-5346-62
<b>U</b>	Katz Oshera	1429 40 <sup>th</sup> Street	Brooklyn-5346-63





**En-Zone Map**  
1440-1460 39th Street,  
Brooklyn, New York





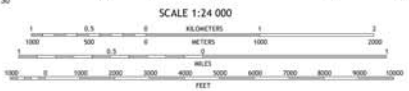
Site  
1440, 1446, 14456 39th  
Street and 40 Street  
Brooklyn, New York 11218

Produced by the United States Geological Survey

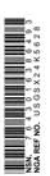
This map is not a legal document. Boundaries may be generated for this map scale. Private lands within government ownership may not be shown. Obtain permission before entering private lands.

Map Date: June 2013  
Base: U.S. Census Bureau, 2013 - 2016  
Topography: National Hydrography Dataset, 2015  
Contours: National Elevation Dataset, 2015  
Boundaries: Multiple sources; see metadata file 1872-2016

Wetlands: FWS National Wetlands Inventory 1877 - 2014



BROOKLYN, NY  
2016





Street Map: 1440 39<sup>th</sup> Street, 1446 39<sup>th</sup> Street, 1456 39<sup>th</sup> Street, and 40 Street

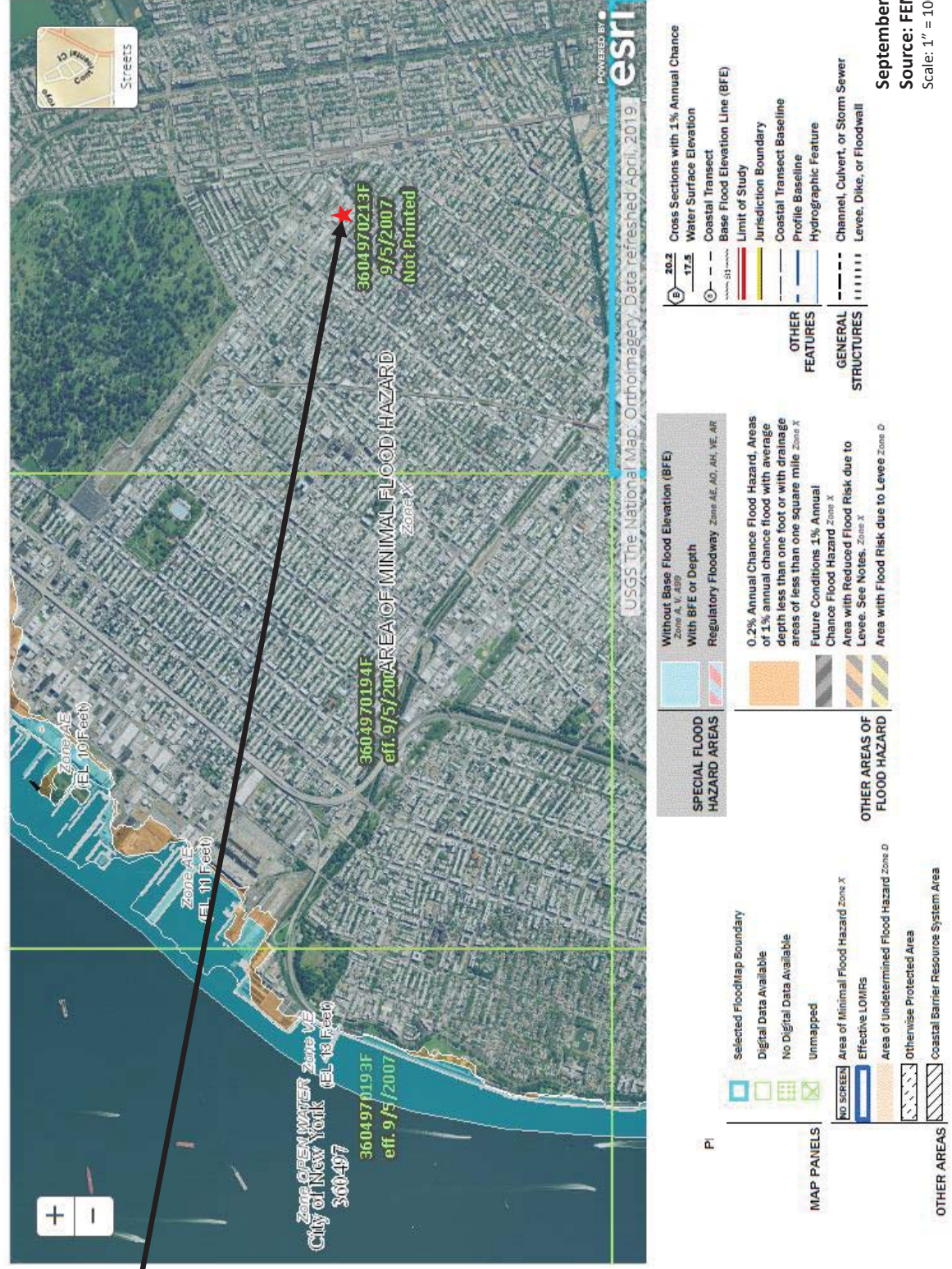


# **EXHIBIT H**



# FLOOD MAP

1440-1460 39th Street Site  
1440 39th Street, 1446 39th  
Street, 1456 39th Street, and 40  
Street  
Brooklyn, NY 11218



All feature locations are approximate. This map is intended as a schematic to be used in conjunction with the associated report, and it should not be relied upon as a survey for planning or other activities.

# **Exhibit I**

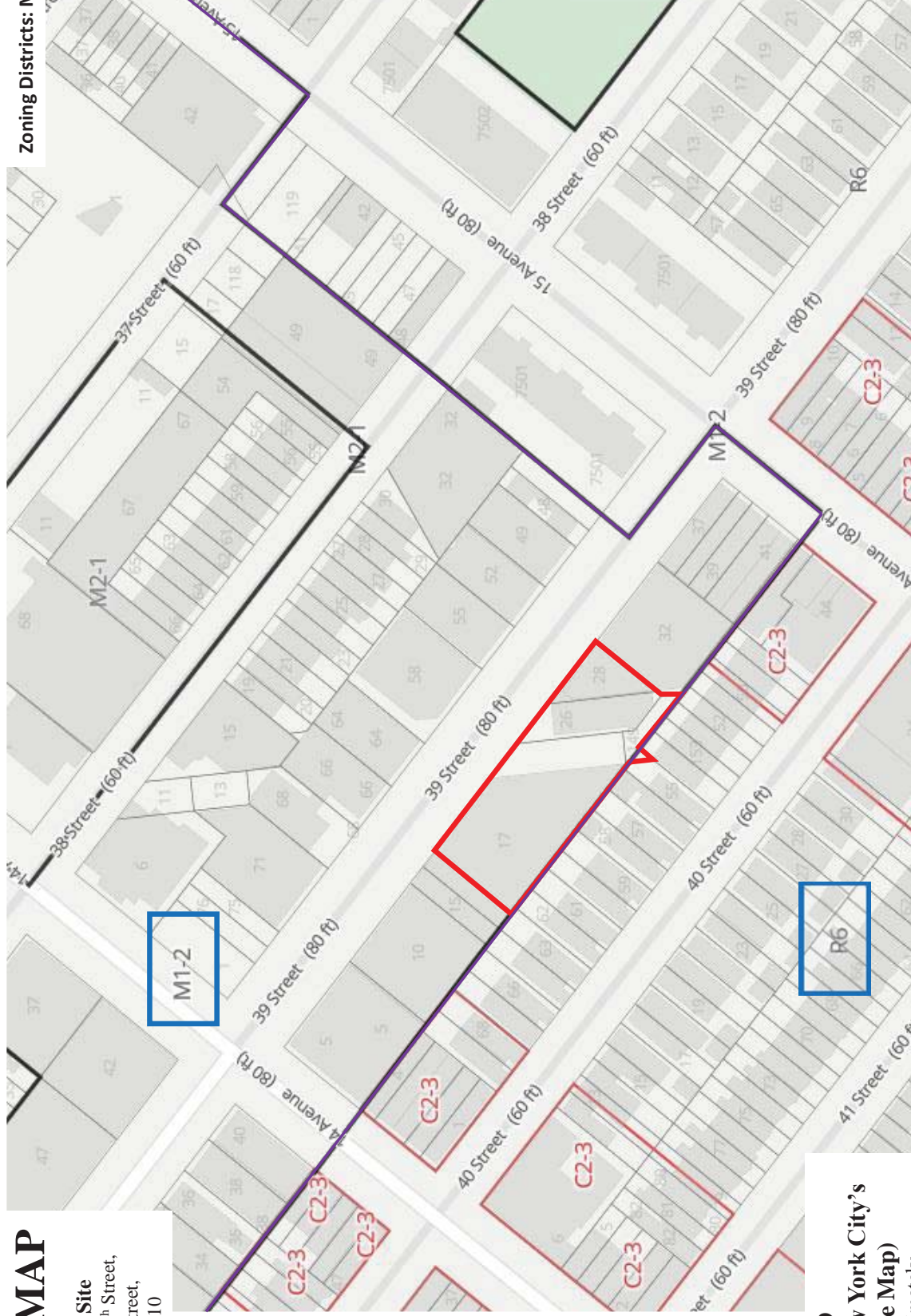


# ZONING MAP

**1440-1460 39th Street Site**

1440 39th Street, 1446 39th Street,  
1456 39th Street and 40 Street,  
Brooklyn, New York 11210

- Site
- Zoning district
- M1-2 Border
- Relevant Zoning Districts



Zoning Districts: M1-2 and R6



All feature locations are approximate. This map is intended as a schematic to be used in conjunction with the associated report, and it should not be relied upon as a survey for planning or other activities.

November 13, 2019  
Source: ZoLa (New York City's Zoning & Land Use Map)  
Scale: 1"=100" approximately



## Manufacturing Districts: M1

M1 districts range from the Garment District in Manhattan and Port Morris in the Bronx with multistory lofts, to parts of Red Hook or College Point with one- or two-story warehouses characterized by loading bays. M1 districts are often buffers between M2 or M3 districts and adjacent residential or commercial districts. M1 districts typically include light industrial uses, such as woodworking shops, repair shops, and wholesale service and storage facilities. Nearly all industrial uses are allowed in M1 districts if they meet the stringent M1 performance standards. Offices, hotels and most retail uses are also permitted. Certain community facilities, such as hospitals, are allowed in M1 districts only by special permit, but houses of worship are allowed as-of-right.

In M1-5A and M1-5B districts mapped in SoHo/NoHo, artists may occupy joint living-work quarters as an industrial use. Other than M1 districts paired with residence districts in Special Mixed Use Districts, M1-5M and M1-6M districts (by special permit) and M1-D districts (by authorization or certification) are the only manufacturing districts in which residences are permitted. However, in M1-6D districts, residential use may be allowed as-of-right on zoning lots under certain conditions.

In M1-5M and M1-6M districts, mapped in parts of Chelsea, space in an industrial building may be converted to residential use, provided a specified amount of floor area is preserved for particular industrial and commercial uses.

Floor area ratios in M1 districts range from 1.0 to 10.0, depending on location; building height and setbacks are controlled by a sky exposure plane which may be penetrated by a tower in certain districts. Although new industrial buildings are usually low-rise structures that fit within sky exposure plane, commercial and community facility buildings can be constructed as towers in M1-3 through M1-6 districts. In the highest density manufacturing district, M1-6, mapped only in Manhattan, a FAR of 12 can be achieved with a bonus for a public plaza. Except along district boundaries, no side yards are required. Rear yards at least 20 feet deep are usually required, except within 100 feet of a corner.

Parking and loading requirements vary with district and use. M1-1, **M1-2** and M1-3 districts are subject to parking requirements based on the type of use and size of an establishment. For example, a warehouse in an M1-1 district requires one off-street parking space per 2,000 square feet of floor area or per every three employees, whichever would be less. Parking is not required in Long Island City or M1-4, M1-5 and M1-6 districts, mapped mainly in Manhattan. Requirements for loading berths of specified dimensions differ according to district, size and type of use.

### Manufacturing Districts

#### M1-M3 Manufacturing Districts

Use	M1-1										M3-1			M3-2	
	ML-1	ML-2	ML-3	ML-4	ML-5	ML-6	M2-1	M2-2	M2-3	M2-4	M2-5	M2-6	M2-7	M2-8	M2-9
Residential															
Community Facility															
Commercial															
General Service															
Manufacturing															
Bulk															
Parking															
Required Accessory Manufacturing															
Parking (sq ft) PRC-B															
Streetscape			Height Above Curb Level			Size of Individual Sign			Surface area						
Illuminated or Flashing			40 ft			500 sf			5 X street frontage						
Indirect Illumination			75 ft			750 sf			5 X street frontage						
Non-illuminated			75 ft			1,200 sf			6 X street frontage						
Indirect Illumination			75 ft			750 sf			5 X street frontage						
Non-illuminated			75 ft			1,200 sf			6 X street frontage						

## Residence District: R6

R6 zoning districts are widely mapped in built-up, medium-density areas in Brooklyn, Queens and the Bronx. The character of R6 districts can range from neighborhoods with a diverse mix of building types and heights to large-scale “tower in the park” developments such as Ravenswood in Queens and Homecrest in Brooklyn. Developers can choose between two sets of bulk regulations. Standard height factor regulations, introduced in 1961, produce small multi-family buildings on small zoning lots and, on larger lots, tall buildings that are set back from the street. Optional Quality Housing regulations produce high lot coverage buildings within height limits that often reflect the scale of older, pre-1961 apartment buildings in the neighborhood.

### Height Factor Regulations

Buildings developed pursuant to height factor regulations are often tall buildings set back from the street and surrounded by open space and on-site parking. The floor area ratio (FAR) in R6 districts ranges from 0.78 (for a single-story building) to 2.43 at a typical height of 13 stories; the open space ratio (OSR) ranges from 27.5 to 37.5. Generally, the more open space, the taller the building. In the diagram, for example, 81% of the zoning lot with the 13-story building is required to be open space ( $2.43 \text{ FAR} \times 33.5 \text{ OSR}$ ). Thus, the maximum floor area ratio is achievable only where the zoning lot is large enough to accommodate a practical building footprint as well as the required amount of open space. There are no height limits for height factor buildings although they must be set within a sky exposure plane which begins at a height of 60 feet above the street line and then slopes inward over the zoning lot.

Off-street parking is generally required for 70 percent of a building's dwelling units, but requirements are lower for income-restricted housing units (IRHU) and are further modified in certain areas, such as within the Transit Zone and the Manhattan Core, or for lots less than 10,000 square feet. Parking can be waived if five or fewer spaces are required.

### Quality House Regulations

The optional Quality Housing regulations produce high lot coverage buildings set at or near the street line. Height limitations ensure that these buildings are often more compatible with older buildings in the neighborhood. As an incentive for developers to choose the Quality Housing option outside the Manhattan Core, greater floor area ratio, and therefore, more apartments, is permitted for buildings on or within 100 feet of a wide street than would be permitted under height factor regulations. The FAR is 3.0; the maximum base height before setback is 65 feet with a maximum building height of 75 feet with a qualifying ground floor (70 feet without). On a narrow street (beyond 100 feet of a wide street), the maximum FAR is 2.2; the maximum base height before setback is 45 feet with a maximum building height of 55 feet. The area between a building's street wall and the street line must be planted and the buildings must have interior amenities for the residents pursuant to the Quality Housing Program.

Higher maximum FAR and heights are available for buildings participating in the Inclusionary Housing Program or that provide certain senior facilities.

Off-street parking is generally required for 50 percent of a building's dwelling units, but requirements are lower for income-restricted housing units (IRHU) and are further modified in certain areas, such as within the Transit Zone and the Manhattan Core, or for lots less than 10,000 square feet. Parking can be waived if five or fewer spaces are required.

# **Exhibit J**

# Site Contact List

1440-1460 39th Street Site

1440 39th Street, 1446 39th Street, 1456 39th Street, and 40 Street

Brooklyn, NY 11218

Name	Title	Address	City	State	Zip
Hon. Charles Schumer	U.S. Senator	780 Thrid Ave., Suite 2301	New York	NY	10017
Hon. Kristen Giliibrand	U.S. Senator	780 Thrid Ave., Suite 2601	New York	NY	10017
Jerrold Nadler	U.S. House of Representatives- 10th Distirct	6605 Fort Hamilton Parkway	Brooklyn	NY	11219
Simcha Felder	New York State Senator-17th Distirct	1412 Avenue J, Suite 2E	Brooklyn	NY	11230
Nancy T. Sunshine	Kings County Clerk	360 Adams Street, Room 189	Brooklyn	NY	11201
Eric Adams	Kings County Executive (Borough President)	209 Joralemon Street	Brooklyn	NY	11201
Marisa Lago	Chairperson, NYC Planning Commission	16 Court Street, 7th Floor	Brooklyn	NY	11241-0103
Emily Lloyd	New York City Public Water Supply System Department	59-17 Junction Blvd.	Flushing	NY	11373
Alfonso Carney	Chair of New York City Water Board	59-17 Junction Blvd., 8th Floor	Flushing	NY	11373
Bill de Blasio	Mayor of New York City	City Hall	New York	NY	10007
Andrea Hagelgans	Strategic Planning Advisor, New York City	City Hall	New York	NY	10007
Eric L. Adams	Brooklyn Borough President	Brooklyn Borough Hall, 209 Jorakmon Street	Brooklyn	NY	11201
New York Daily News	Media Outlet	4 New York Plaza	New York	NY	10004
Lina Ding	Managing Librarian of Borough Park Libaray - Document Repository	1265 43rd Street	Brooklyn	NY	11219
Erica Steinberg	Principal of P.S. 164 Caesar Rodney	4211 14th Avenue	Brooklyn	NY	11219
Bernel Connelly	Principal of P.S. 179 Kensington	202 Avenue C	Brooklyn	NY	11218
Andrew Frank	Principal of J.H.S. 223 The Montauk	4200 16 Avenue	Brooklyn	NY	11219
Administrtor	Yeshiva Kehliath Yakov Inc (Early Childhood Center)	1402 40th Street	Brooklyn	NY	11218
Administrtor	Yeled V"Yalda (Early Childhood Center)	1312 38th Street	Brooklyn	NY	11218
Barry Spitzer	District Manager of Brooklyn Community Board #12 - Document Repository	5910 13th Ave	Brooklyn	NY	11219
Acierno Realty Corp	Adjacent Property Owner of 1428 39th Street	1428 39th Street	Brooklyn	NY	11219
Leva Realty LLC	Adjacent Property Owner of 1431 39th Street	1431 39th Street	Brooklyn	NY	11219
B & T Sales & Repair Shop	Adjacent Property Operator of 1435 39th Street	1435 39th Street	Brooklyn	NY	11219
Down Car Auto Repair	Adjacent Property Operator of 1437 39th Street	1437 39th Street	Brooklyn	NY	11220
Leva Realty LLC	Adjacent Property Owner of 1433 39th Street	1433 39th Street	Brooklyn	NY	11219
Executive Transportation Group	Adjacent Property Operator of 1440 39th Street	1440 39th Street	Brooklyn	NY	11219
Pearland Brokerage Inc	Adjacent Property Operator of 1446 39th Street	1446 39th Street	Brooklyn	NY	11219
Bais Tziporah Inc	Adjacent Property Owner of 1449 39th Street	1449 39th Street	Brooklyn	NY	11219
Claph LLC	Adjacent Property Owner of 1451 39th Street	1451 39th Street	Brooklyn	NY	11219
Chance Enterprise Corp.	Adjacent Property Operator of 1456 39th Street	1456 39th Street	Brooklyn	NY	11219
ZLT Realty Corp	Adjacent Property Owner of 1461 39th Street	1461 39th Street	Brooklyn	NY	11219
Harmony Services Inc	Adjacent Property Operator of 1467 39th Street	1467 39th Street	Brooklyn	NY	11219

28th Street Propertie	Adjacent Property Owner of 1469 39th Street	1469 39th Street	Brooklyn	NY	11219
Dependable Collision	Adjacent Property Operator of 1469 39th Street	1469 39th Street	Brooklyn	NY	11219
KCM Therapy	Adjacent Property Operator of 1470 39th Street	1470 39th Street	Brooklyn	NY	11219
Dependable Collision	Adjacent Property Operator of 1437 39th Street	1437 39th Street	Brooklyn	NY	11219
1470 39th Street LLC	Adjacent Property Owner of 1462 39th Street	1462 39th Street	Brooklyn	NY	11219
Hanna Leah Greenzweig	Adjacent Property Owner of 1465 40th Street	1465 40th Street	Brooklyn	NY	11219
Margaret Hershowitz	Adjacent Property Owner of 1463 40th Street	1463 40th Street	Brooklyn	NY	11219
Revina Singer	Adjacent Property Owner of 1461 40th Street	1461 40th Street	Brooklyn	NY	11219
Agnes Kilinger, as Trust	Adjacent Property Owner of 1459 40th Street	1459 40th Street	Brooklyn	NY	11219
Rita Safier, as Trust	Adjacent Property Owner of 1453 40th Street	1453 40th Street	Brooklyn	NY	11219
Florence Gruen Family	Adjacent Property Owner of 1449 40th Street	1449 40th Street	Brooklyn	NY	11219
1447 40th ST LLC	Adjacent Property Owner of 1447 40th Street	1447 40th Street	Brooklyn	NY	11219
Israel Meir Melamud	Adjacent Property Owner of 1443 40th Street	1443 40th Street	Brooklyn	NY	11219
David Klein	Adjacent Property Owner of 1441 40th Street	1441 40th Street	Brooklyn	NY	11219
Isidore Mendelovitz	Adjacent Property Owner of 1437 40th Street	1437 40th Street	Brooklyn	NY	11219
Gan Bayis LLC	Adjacent Property Owner of 1435 40th Street	1435 40th Street	Brooklyn	NY	11219
Harrie Friedman/TR	Adjacent Property Owner of 1431 40th Street	1431 40th Street	Brooklyn	NY	11219
Katz Oshera	Adjacent Property Owner of 1429 40th Street	1429 40th Street	Brooklyn	NY	11219

# **Exhibit K**





September 9, 2019

VIA FIRST CLASS MAIL

Barry Spitzer, District Manager  
Brooklyn Community Board No. 12  
5910 13th Ave  
Brooklyn, NY 11219

**RE: Brownfield Cleanup Program Application Repository Request**  
**Applicant: SnL XXII, LLC**  
**Site Name: 1440-1456 39th Street Site**  
**Site Address: 1440, 1446, and 1456 39th Street, and 40th Street**  
**Brooklyn, NY 11218**

Dear Mr. Spitzer:

We represent SnL XXII, LLC in its anticipated Brownfield Cleanup Program application for the above-referenced site at 1440, 1446, and 1456 39th Street, and 40th Street in Brooklyn, New York. It is a requirement of the New York State Department of Environmental Conservation that we supply it with a letter certifying that the local community board is willing and able to serve as one of two public repositories for all documents pertaining to the cleanup of this Site. To avoid significant use of your shelf space, all documents will be sent in CD or USB format.

Please sign below and return the original in the enclosed stamped self-addressed envelope as soon as possible if you are able to certify that the Brooklyn Community Board No. 12 would be willing and able to act as a temporary public repository for this Brownfield Cleanup Program project.

Thank you.

Sincerely,

KNAUF SHAW LLP

LINDA R. SHAW

Yes, the Brooklyn Community Board No. 12 is willing and able to act as a public repository for documents related to the cleanup of 1440, 1446, and 1456 39th Street, and 40th Street in Brooklyn, New York under the NYS Brownfield Cleanup Program.

  
Barry Spitzer, District Manager

11/6/20  
Date



October 8, 2019

VIA FIRST CLASS MAIL

Lina Ding, Branch Manager  
Brooklyn Public Library  
Borough Park Branch  
1265 43rd Street  
Brooklyn, NY 11219

**RE: Brownfield Cleanup Program Application Repository Request**  
**Applicant: SnL XXII, LLC**  
**Site Name: 1440-1460 39th Street Site**  
**Site Address: 1440, 1446, and 1456 39th Street, and 40th Street**  
**Brooklyn, NY 11218**

Dear Ms. Ding:

We represent SnL XXII, LLC in its anticipated Brownfield Cleanup Program application for the above-referenced site at 1440, 1446, and 1456 39th Street, and 40th Street in Brooklyn, New York. Your branch is currently the repository for this project. It is a requirement of the NYS Department of Environmental Conservation that we supply them with a letter certifying that the local library is willing and able to serve as a public repository for all documents pertaining to the cleanup of this property. To avoid significant use of your shelf space, all documents will be sent in either CD or USB format.

Please sign below and return the original in the enclosed stamped self-addressed envelope if you are able to certify that your library would be willing and able to act as the temporary public repository for this Brownfield Cleanup Program project.

Thank you.

Sincerely,

KNAUF SHAW LLP

LINDA R. SHAW

Yes, the Borough Park Branch of the Brooklyn Public Library is willing and able to act as a public repository for documents related to the cleanup of 1440, 1446, and 1456 39th Street, and 40th Street in Brooklyn, New York under the NYS Brownfield Cleanup Program.

  
Lina Ding, Branch Manager

10/18/19  
Date

# **Exhibit L**



FROM LOT 26 chain  
1950 DEED WITH LANGUAGE  
that Board of Estimate at  
a meeting determined that  
property described (Lot 26) is  
not needed for Public Use.

CON 7711 125 130

THIS INDENTURE, made this 12<sup>th</sup> day of December  
one thousand nine hundred and fifty, between THE CITY OF  
NEW YORK, a municipal corporation, having its principal office  
at the City Hall, Borough of Manhattan, party of the first  
part, and MAJESTIC LIVE-POULTRY INC., a corporation organized  
and existing under and by virtue of the laws of the State  
of New York, having its principal place of business at  
1456 39th Street, Borough of Brooklyn, City of New York,  
party of the second part.

WHEREAS, the Board of Estimate at a meeting held  
on the 26th day of October, 1950 (Cal. No. 95), adopted a  
resolution whereby it determined that the property herein-  
after bounded and described is not needed for any public  
use and pursuant to the provisions of the Administrative  
Code, authorized a release to Majestic Live Poultry Inc. of  
the interest of The City of New York in and to said bounded  
and described property being a portion of old New Utrecht  
Road (Block 5346, adjacent to Lot 26), Borough of Brooklyn,  
for the consideration hereinafter mentioned, and upon the  
stipulations, terms and conditions in said resolution  
specifically set forth:

NOW THEREFORE, THIS INDENTURE WITNESSETH, that  
in pursuance of the aforesaid resolution of the Board of  
Estimate, the said party of the first part, in consideration  
of the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00),  
lawful money of the United States, to it paid by the party  
of the second part, doth remise, release and quitclaim unto  
the said party of the second part, its successors and  
assigns forever, all the right, title and interest of The  
City of New York, of, in and to the following described  
property:



7711-121  
ALL that certain lot, 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 a point on the southwesterly side of 39th Street where it is intersected by the easterly side of old New Utrecht Road distant 275 feet 6 inches northwesterly from the corner formed by the intersection of the southwesterly side of 39th Street with the northwesterly side of 15th Avenue; thence northwesterly along the southwesterly side of 39th Street 46 feet 5-5/8 inches to the center line of old New Utrecht Road; thence southerly along the center line of old New Utrecht Road 114 feet 11-5/8 inches; thence easterly parallel with 39th Street 41 feet 3/8 inches, thence northerly at right angles to 39th Street 5 feet 5-3/4 inches to the easterly side of old New Utrecht Road; thence northerly along the easterly side of old New Utrecht Road and along the westerly line of Lot 28, 107 feet 3 inches to the southwesterly side of 39th Street, the point or place of beginning.

TO HAVE AND TO HOLD, the above described premises unto the said party of the second part, its successors and assigns forever, upon the following terms and conditions:

FIRST: That the party of the second part is the owner of the land fronting on the section of the road, street or avenue hereby conveyed, and should it at any time appear that the party of the second part was not, on the date of this deed, the owner of the land abutting the section of the road, street or avenue hereby conveyed, then this release shall become null and void.

SECOND: That the party of the second part, by its acceptance of this deed for itself, its successors and assigns, hereby covenants and agrees to waive and does hereby waive any and all claims for damages arising out of the closing of said road, street or avenue above referred to.

THIRD: That the party of the second part, by the acceptance of this deed, for itself, its successors and



CONF 711 AUG 1922

assigns, hereby assumes to pay and will pay all taxes, assessments and water charges which become liens against the property hereby conveyed from the date of the adoption of the resolution authorizing this conveyance.

IN WITNESS WHEREOF, the said THE CITY OF NEW YORK, party of the first part, has caused these presents to be subscribed to by the Deputy Mayor and by its City Clerk, and its corporate seal to be hereunto affixed the day and year first above written.

THE CITY OF NEW YORK

*Charles H. Hunt*  
DEPUTY MAYOR

*William J. H. ...*  
CITY CLERK

Approved as to form:

*[Signature]*  
Corporation Counsel.

DEC 1 1920



STATE OF NEW YORK  
COUNTY OF NEW YORK  
CITY OF NEW YORK

ss: s

11-123

On this 27<sup>th</sup> day of December, 1950, before me personally came MURRAY W. STAND, with whom I am personally acquainted, and known to me to be the City Clerk of The City of New York, who, being by me duly sworn, did depose and say that he resides at 171 Brown Street, in the Borough of Manhattan, City of New York; that he is the City Clerk of The City of New York, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed as provided by law, and that he signed his name thereto as City Clerk by like authority, and further, that he knows and is acquainted with CHARLES HOROWITZ, and knows him to be the person described in and who, as Deputy Mayor of The City of New York, executed the said instrument; that he executed the said instrument by virtue of an authorization of the Mayor of The City of New York, dated October 23, 1950, and filed in the office of the City Clerk of The City of New York on October 27, 1950, and which has not been revoked; that he saw him subscribe, execute and deliver the same, and that he acknowledged to him, the said MURRAY W. STAND, that he executed and delivered the same, and he, the said MURRAY W. STAND, thereupon subscribed his name thereto.

*Supervisor*  
JAMES E. WATSON  
County Clerk of New York

26373

Archibald R. Watson, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal and a Clerk, do hereby certify that the foregoing is a true and correct copy of the original of the instrument described in the foregoing deposition of the witness.

Witness my hand and the seal of said County of New York, at the City of New York, this 27th day of December, 1950.

FILED 254

*Archibald R. Watson*  
County Clerk and Clerk of the Supreme Court, New York County



# BOARD OF ESTIMATE CITY OF NEW YORK

CON 711 PAGE 124

(Cal No 95)

Resolved, That the Board of Estimate hereby determines that the property herein after mentioned to be returned to Majestic Long Property Inc. as an abject recipient for the public use of The City of New York.

Resolved, That the Board of Estimate, pursuant to the provisions of Chapter 18, Title A, Section 2492D of the Administrative Code, hereby authorizes a transfer to Majestic Long Property Inc., a domestic corporation having its principal place of business at 1450 5th Street, Brooklyn, New York, of the City's interest in the following described property being a portion of old New Utrecht Road (Block 1348, adjacent to Lot 28), Borough of Brooklyn, in consideration of the sum of \$1500.

All that certain lot, more or less, and actual being and lying in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

Beginning at a point on the southerly side of 5th Street where it intersects by the southerly side of old New Utrecht Road distant 225 feet 6 inches southerly from the corner formed by the intersection of the southerly side of 5th Street with the southerly side of 13th Avenue; thence southerly along the southerly side of 5th Street 46 feet 5 1/2 inches to the center line of old New Utrecht Road; thence southerly along the center line of old New Utrecht Road 114 feet 11 1/2 inches; thence southerly parallel with 5th Street 41 feet 6 inches; thence southerly at right angles to 5th Street 5 feet 3 1/2 inches to the southerly side of old New Utrecht Road; thence southerly along the southerly side of old New Utrecht Road and along the southerly line of Lot 28, 107 feet 3 inches to the southerly side of 5th Street, the point of place of beginning.

That the grantee shall pay to the Corporation Counsel of The City of New York the sum of \$25 the cost of preparing the necessary papers in connection with the release.

That the grantee is the owner of the lands abutting there to be conveyed.

The grantee shall pay for and furnish any revenue stamps required to be placed on the deed and shall also pay any other conveyance taxes, fees or revenue charges that may be in force at the time of the delivery of the deed.

That the grantee waive any and all claims for damages arising out of the closing of the street.

That the grantee will assume and pay all taxes, assessments and water charges which become due against the property to be conveyed from the date of the adoption of this resolution.

A true copy of resolution adopted by the Board of Estimate on OCTOBER 24, 1930.

*William G. Schwartz*  
Secretary



Approved  
11/11/50

5308

11/27/50  
PROPERTY OF NEW YORK

B4

MAJESTIC LIVE POULTRY, INC.

*[Signature]*

RELEASE

DEC 19 1950  
11/11/50  
11/11/50

JOHN P. McGRATH  
Corporation Counsel  
Manhattan Building  
New York 17, N.Y.

BERNARD SAM SHAPIRO & EPSTEIN

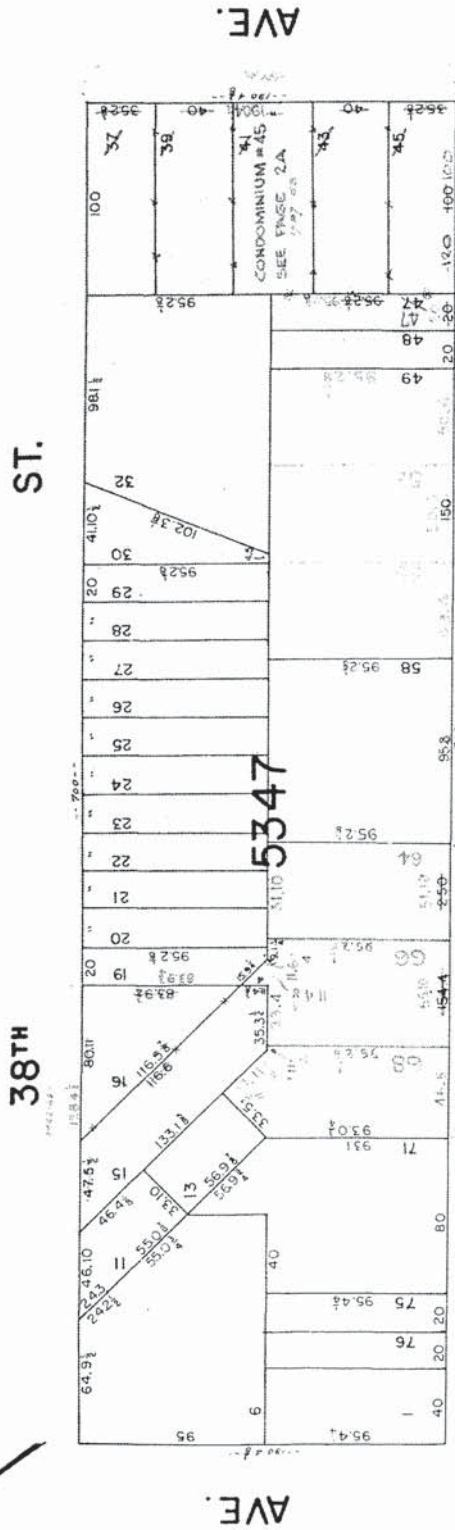
150 Broadway  
New York 7, N.Y.

See 11/11/50  
5308



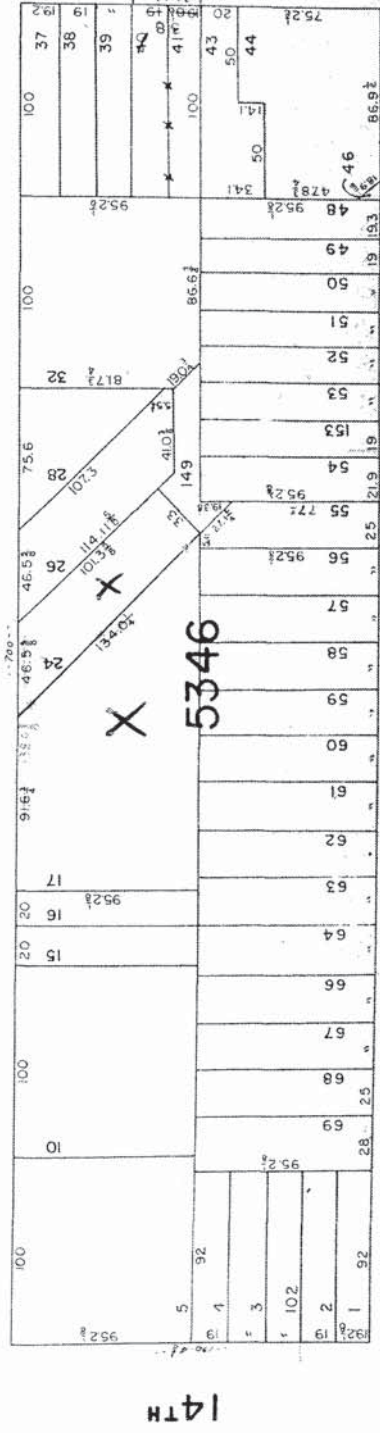
1968 city TAX MAP  
 OLD LOT 17 OLD LOT 24  
 ALSO OLD UTRECHT ROAD NOT MAPPED

SEE PAGE 3



SEE PAGE 12

39<sup>TH</sup> ST.



SEE PAGE 11

40<sup>TH</sup> ST.

2

SEE PAGE 1

SEE VOL. 5

2

# **Exhibit M**



5346 Received from New York Telephone Company, One Dollar \$1.00 (Nominal)

ENTRANCE

hereby grants unto said Telephone Company, its successors and assigns, the right, privilege and authority to place, operate, maintain and at its pleasure remove ENTRANCE IN CONDUIT UNDER SIDE WALLS TO APPEND ON INSIDE WALL ALONG IN SIDE WALL OF CHAMBER ON REAR INSIDE WALL OF the property which the undersigned owns or in which the undersigned has an interest, situate 1440 33 ST

in the Borough of Brooklyn, County of Kings, State of New York.

IN WITNESS WHEREOF, the undersigned has duly executed this instrument, under seal, this 25 day of SEPT nineteen hundred 1917 ONL

Witness: George Salomon JOSEPH N. ACIERNO 92 Q. A. A.

438-1100

Q-R/W-19

STATE OF *NEW YORK* )  
COUNTY OF *KINGS* )  
SS.

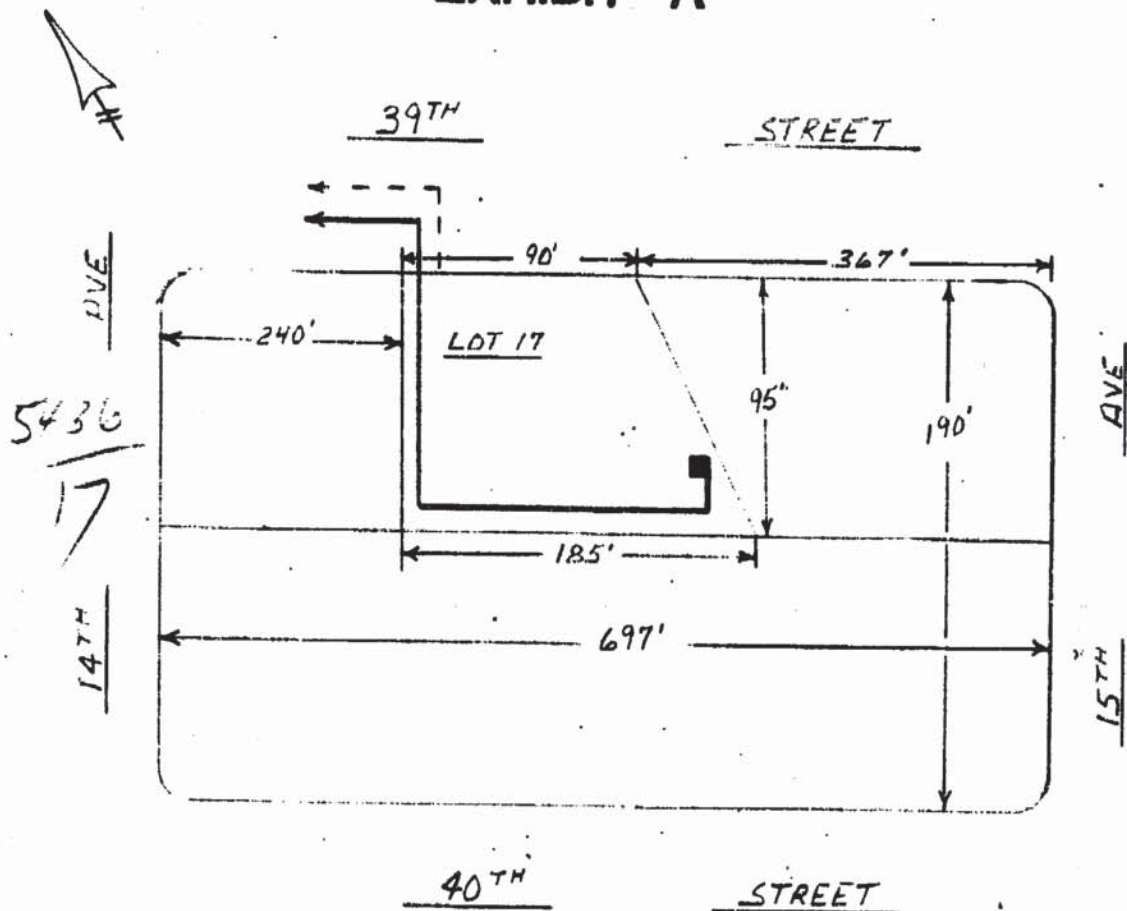
On this *25* day of *SEPTEMBER*, in the year of 19*81*, before me personally came *JOSEPH N. ACIERNO* to me known to be the individual described in, and who executed the annexed instrument, and acknowledged that he executed the same for the purposes therein mentioned.

*Geoff Salvan*  
Notary Public

GEORGE SALVENDY  
Notary Public State of New York  
No. 24-465531  
Qualified in Kings County  
Commission Expires March 30, 19*82*

REL 1303 MAY 11 1966

# EXHIBIT "A"



BLOCK 5346

LOT 17

BOROUGH OF BROOKLYN

COUNTY OF KINGS

STATE OF NEW YORK

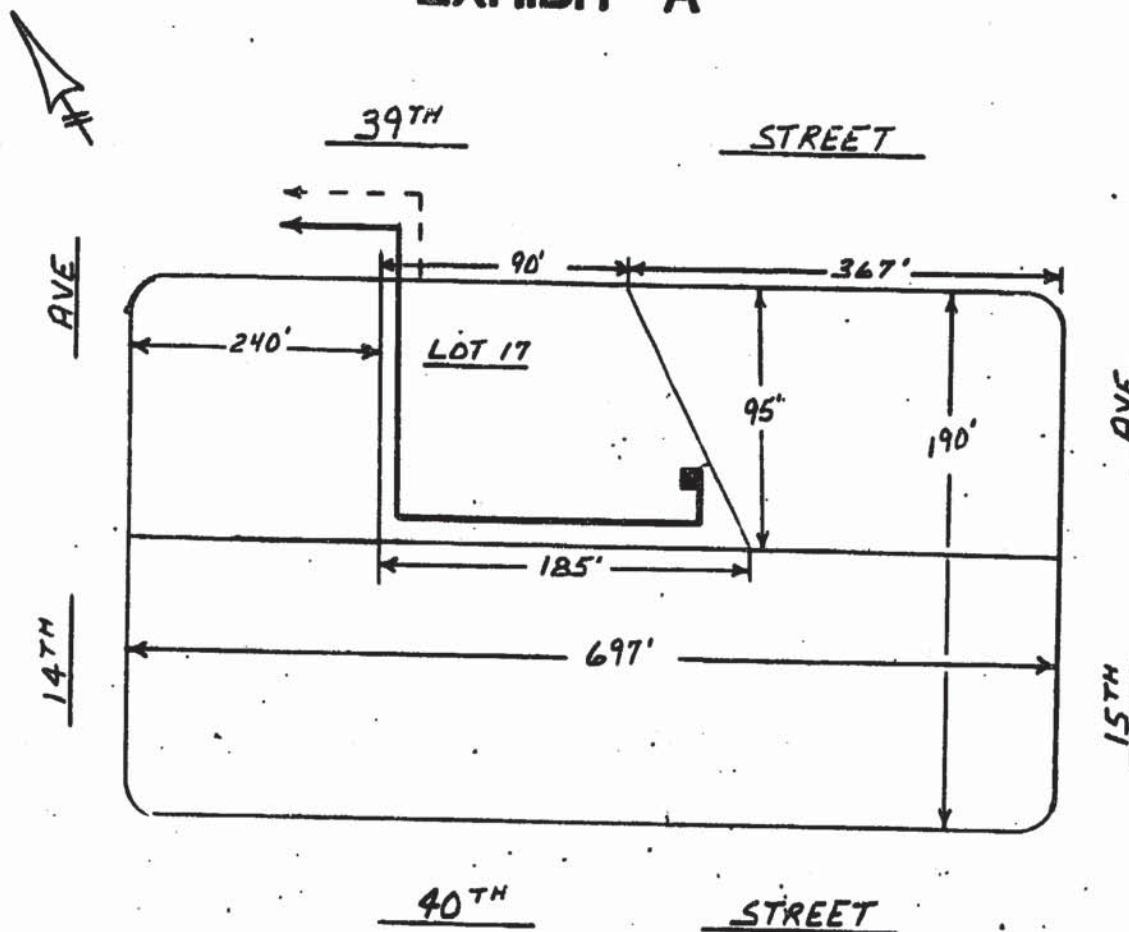
## LEGEND

- TEL CONDUIT
- TEL CABLE
- TEL TERM



# EXHIBIT "A"

REC 1303  
PAGE 1117



BLOCK 5346

LOT 17

BOROUGH OF BROOKLYN  
COUNTY OF KINGS  
STATE OF NEW YORK

## LEGEND

- TEL CONDUIT
- TEL CABLE
- TEL TERM

Return to  
New York Telephone Co.  
C. J. Salati

RIGHT OF WAY  
101 WILLICHAUSEY ST. ROOM 1212  
BROOKLYN, N. Y. 11201

70222

B-15-

8

B.H. 5346 L.H. 17

NOV 19 11 05

PT  
COOP

11-11-52 26062

OFFICE OF CITY CLERK  
New York County  
Clerk's Office  
Business at hand  
and official use

Ray J. Good

CLERK



# **Exhibit N**

---

STATE OF NEW YORK                    )  
  ) s.s.:  
COUNTY OF KINGS                    )

**AFFIDAVIT IN SUPPORT OF UNDERUTILIZED STATUS OF THE 1440-1460 39<sup>TH</sup>  
STREET SITE, BROOKLYN, NY**

**JOHN ACIERNO**, being duly sworn, deposes and says:

1. My Cousins, John Acierno III and Jeffrey Acierno, and I are the sole beneficial holders of the corporate and limited liability entities which own 1440-1460 39<sup>th</sup> Street Site (NYC Tax Block 5346 Lots 17, 26, 28 and 149) (collectively the “Site”).

2. My family has owned the 1440 39<sup>th</sup> Street parcel (Block 5346 Lot 17) since 1927 and has been operating car service transportation businesses, a call center, and garage out of the Site since that time. Lot 17 (formerly Old lot 17 and Old Lot 24) houses a 1-1/2 story building, with a total area of approximately 19,569 square feet, and which used to be occupied by the call center, billing office, garage and vehicle storage.

3. In addition, lots 26 and 28 house a 1-1/2 story building with a total area of approximately 9,240 square feet. Our family businesses used to occupy this building too.

4. Since Uber launched operations in New York City in May 2011, and Lyft subsequently in July 2014, we have experienced a significant decrease in business, which is the main reason we have decided to sell the Site.

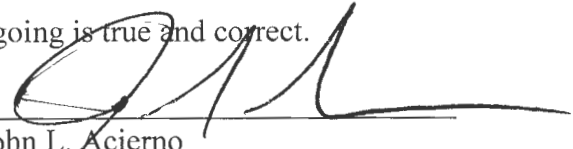
5. As of November 2019, when SnL XXII, LLC is submitting its BCP application, the footprint of our operations, which formerly occupied both on-Site buildings, has been reduced to less than fifty percent (50%) of the permissible floor area of each building for at least the last three years we have occupied the Site.

6. We went from having a large office staff of over 260 persons on three shifts handling 6000 calls per day and 1800+ drivers down to fewer than 3000 calls per day with fewer than 125 employees.

7. We completely vacated the building on Lot 17 recently since we downsized the business so much and were forced to move to another location. We also vacated the building on Lots 26 and 28 a year and a half ago, and temporarily rented it to a company serving Amazon as a warehouse until the sale to SnL XXII, LLC.

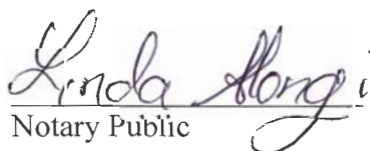
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 14, 2019

  
John L. Acierno  
Site Owner and Operator

STATE OF NEW YORK)  
COUNTY OF KINGS ) ss.: Queens

On the 14 day of November in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN L. ACIERNO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed, the instrument.

  
Notary Public

LINDA ALONGI  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01AL6393466  
Qualified in Queens County  
My Commission Expires 06-17-2023

# CITY CERTIFICATION

In Support of New York State Brownfield Cleanup Program ("BCP")  
Tangible Property Tax Credit Underutilized Site Analysis

## CERTIFICATE HOLDER(S):

**BCP Party:** SnL XXII, LLC

**Address:** 3333 New Hyde Park Road, Suite 200  
Lake Success, NY 11052

## NYSDEC BROWNFIELD CLEANUP AGREEMENT:

**Agreement Execution:** Pending

**Agreement Index:** Pending

**Application Approval Amendment:** Pending

## SITE INFORMATION:

**NYSDEC Site No.:** Pending

**Site Name:** 1440-1460 39<sup>th</sup> Street BCP Site

**Site Owner:** SnL XXII, LLC

**Site Address:** 1440 39th St., 1446 39th St., 1456-1460 39th St. and  
40th St.

**Municipality:** City of New York

**County:** Brooklyn

**NYSDEC Region:** 2

**Site Size:** .5744 acres

**Tax Map Identification Number(s):** Block 5346 Lots 17, 26, 28 and 149

**Percentage of Site located in an EnZone:** 0%

A survey of the Property subject to this Certification is attached as Exhibit A.

## CERTIFICATE ISSUANCE

This City of New York ("City") Certificate, hereinafter referred to as the "Certificate," is issued pursuant to Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii). This Certificate relies upon the Financial Expert Certificate, Qualifications and Analysis, attached hereto in Exhibit B, and the BCP Party's Certificate, attached hereto in Exhibit C, which certifies all information provided to the Financial Expert was accurate and complete.

The City hereby certifies that the proposed development could not take place without substantial government assistance in satisfaction of the criterion set forth at Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii).

By: Mark P. McIntyre

Date: June 22, 2020

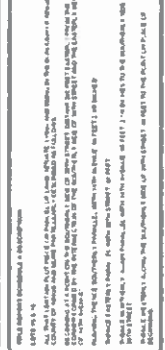
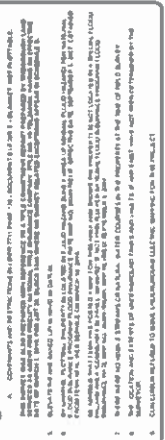
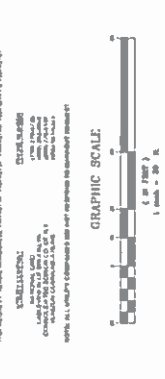
Mark P. McIntyre

Director and General Counsel, Mayor's Office of Environmental Remediation  
City of New York



# **EXHIBIT A**

## **Survey**



# **EXHIBIT B**

## **FINANCIAL EXPERT CERTIFICATE AND EXHIBITS**

# FINANCIAL EXPERT CERTIFICATION

In Support of New York State Brownfield Cleanup Program ("BCP")  
Tangible Property Tax Credit Underutilized Site Financial Analysis

## CERTIFICATE ISSUER(S):

**Name of Financial Expert:** HR&A Advisors, Inc.

**Qualifications:** See Attached in Exhibit A

## BCP PARTY:

**Name:** SnL XXII, LLC

**Address:** 3333 New Hyde Park Road, Suite 200  
Lake Success, NY 11042

## NYSDEC BROWNFIELD CLEANUP AGREEMENT:

**Agreement Execution:** Pending

**Agreement Index:** Pending

**Application Approval Amendment:** Pending

## SITE INFORMATION:

**NYSDEC Site No.:** Pending

**Site Name:** 1440-1460 39th Street BCP Site

**Site Owner:** SnL XXII, LLC as of December 2019

**Site Address:** 1440 39th St., 1446 39th St., 1456-1460 39th St. and  
40th St.

**Municipality:** City of New York

**County:** Brooklyn

**NYSDEC Region:** 2

**Site Size:** .5744 acres

**Tax Map Identification Number(s):** Block 5346 Lots 17, 26, 28 and 149

**Percentage of Site located in an EnZone:** 0%

## CERTIFICATE ISSUANCE

The Certificate Issuer has performed a financial analysis required pursuant to Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii), to determine if the proposed development could take place without substantial government assistance. Based on the financial analysis performed, the Certificate Issuer has concluded the proposed development could not take place without substantial government assistance. The financial analysis is attached hereto in Exhibit B. This Certificate may be relied upon by the City of New York ("City") when the City issues its Certificate to the New York State Department of Environmental Conservation.

## CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns.

By: \_\_\_\_\_

Cary Hirschstein

Partner, HR&A Advisors, Inc.,

Date: April 26, 2020



# **EXHIBIT A**

## **QUALIFICATIONS OF THE FINANCIAL ADVISOR**



“

We founded this firm to continue the reinvention of the American city into vibrant urban centers that offer jobs and sustain a high quality of life for diverse communities

”

John H. Alschuler, Chairman



HR&A Advisors, Inc. (HR&A) is an industry-leading real estate, economic development and public policy consulting firm.

We have provided strategic advisory services for some of the most complex mixed-use, neighborhood, downtown, campus, and regional development projects across North America and abroad for over forty years. We understand the importance of linking accretive private investment with public resources to support the aspirations and responsibilities of investors and communities.

We have offices in New York, Los Angeles, Dallas, Raleigh, and Washington DC, a presence that allows us to serve clients all over the world.

From Southern California to Brooklyn, and London to Hong Kong, we have guided hundreds of clients in transforming real estate and economic development concepts, and public infrastructure, first into actionable plans then into job-producing, community-strengthening assets. We have served a range of clients – real estate owners and investors, hospitals and universities, cultural institutions, community development organizations and governments – since 1976.

## RELEVANT PROJECT EXPERIENCE

### **Long Island City Development Tax Credit Advisory, NY**

Reviewed and assessed the developer's pro forma analysis for a proposed commercial development located at 38-01 Queens Boulevard in Long Island City, Queens to support an application for Qualified Tangible Property (QTP) Tax Credits under New York State's Brownfield Cleanup Program. HR&A's review determined whether the project met the NYS Department of Environmental Conservation's definition of "underutilized" and whether as-of-right development at the site would be able to realize a reasonable economic return without the QTP Tax Credit.

### **Catalyzing Brownfield Redevelopment through PlaNYC**

The New York City Economic Development Corporation (NYCEDC) retained HR&A to formulate strategies to spur redevelopment of New York City's brownfields. The impetus for the Mayor's PlaNYC 2030 plan was the need to prepare for a tremendous long-term increase in both residents and jobs. City leadership recognized that brownfield redevelopment would be vital to accommodating this growth.

HR&A analyzed existing policies and tools, at both the City and State level, to facilitate brownfield remediation and redevelopment. The firm interviewed stakeholders from the development, insurance and legal fields to determine changes to existing policies or new policies that might spur development. HR&A also reviewed best practices from other municipalities to establish the framework for a New York City toolkit. HR&A created development pro formas for different building types, estimating the impacts of contemplated policy options. The firm shaped final policy guidelines in close collaboration with NYCEDC and the Mayor's Office. Many of HR&A's proposed redevelopment tools are included in PlaNYC, including a streamlined cleanup certification process, municipal liability protection, and local cleanup grants. In August 2010, New York City Mayor Bloomberg launched the nation's first municipal brownfield cleanup program and later that year, the City marked the completion of all of the brownfield policy initiatives set forth in PlaNYC.

### **Mixed-Use District Development Vision for 15-Acre Site, Long Island City, NY**

On behalf of Plaxall, a family-owned plastics manufacturing company, HR&A managed a nine-firm team supporting an ambitious plan and to secure entitlements for a mixed-use district on over 12 acres of the Long Island City waterfront at Anable Basin. The team devised a pioneering plan integrating industrial and artisan space into new residential uses, recognizing local interest in job creation and leveraging Plaxall's experience leasing their existing buildings to a mix of light industrial businesses. The plan also includes a unique 3-acre waterfront open space around the inlet, delivers a new 700+ seat public school, and includes building forms that reflect the neighborhood's industrial heritage. HR&A advised on negotiations for future use of the site, and oversaw all planning activities associated with the site, leading engagement with City leadership on a rezoning, evaluating the financial performance of mixed-use development, and working with Plaxall to shape a long-term redevelopment strategy. The site rezoning will pave the way for thousands of new housing units, the creation of thousands of permanent jobs, and a new public waterfront esplanade for the Long Island City community. HR&A also estimated the value of tax credits under alternative remedial scenarios, including Qualified Tangible Property Credits under the Brownfield Redevelopment Tax Credit Program.

## RELEVANT PROJECT EXPERIENCE

### **Sunnyside Yard Feasibility Study**

On behalf of the New York City Economic Development Corporation, and as part of a multi-disciplinary team with FXCollaborative and WSP, HR&A assessed the viability of creating a new mixed-use community over the nearly 200-acre Sunnyside Rail Yard in Western Queens. Through an iterative process involving engineering, urban design and economic analysis, the study proposed and evaluated four development scenarios and alternative approaches for financing the development. HR&A led the economics work stream and delivered precedent research of transformative infrastructure projects and value capture mechanisms, detailed market analysis, linear optimization analysis, and an assessment of the financial feasibility of each scenario from multiple perspectives, including private developer, the City, and Yard's landowners.

### **CUNY Real Estate Repositioning Strategy**

HR&A completed a review of 17 City University of New York (CUNY) properties in 2008, during which we assessed the revenue generating potential of asset disposition and repositioning. Among other strategies, revenue may be generated by asset sale, public-private development partnerships, transfer of development rights, and leasing of ground floor retail space. HR&A conducted an initial high-level triage of the 17 sites, based on the relative value and feasibility of revenue production on each site. For sites found to have the highest potential value to CUNY, HR&A completed a set of thorough asset scans, summarizing existing site utilization, zoning, site opportunities and constraints.

### **Macerich Atlas Park**

On behalf of Macerich, HR&A supported the company's efforts to obtain a zoning variance at The Shops at Atlas Park, a 400,000 SF shopping mall and lifestyle center in Glendale, Queens, NY. Built as an inward facing retail center with little external visibility, The Shops at Atlas Park had historically faced challenges in attracting tenants. When Macerich acquired the site in 2011, it set forth plans to reposition the property with a series of major capital improvements and a significant re-tenanting strategy. As part of this effort, HR&A worked with Macerich to pursue a variance allowing for increased perimeter signage to increase visibility and the attractiveness of the site to potential tenants. HR&A developed an economic hardship case to present to the Board of Standards and Appeals during the initial variance application process. The case included a documentation of site visibility constraints and a narrative describing the role of the variance in attracting a successful retail tenant mix to the property.

### **National Black Theatre Site Feasibility Study**

HR&A supported the owners of 2031-2033 Fifth Avenue, home of the National Black Theatre, in a development feasibility study for the property. Located on 125th Street in Central Harlem, the building site is at the center of a long-emerging development market that centers around the unique cultural offerings in the district. HR&A coordinated with design professionals and land use counsel to create a market-supportable program for the site, including a preliminary market scan to determine the highest and best use for the site, a test of the feasibility of supporting other community amenities above and beyond the existing cultural use, and creation of a narrative for repositioning the site and National Black Theatre's home. HR&A prepared multi-year cash flows for various development scenarios, and explored the implications of various deal structures on generated revenue and investor returns. This work resulted in materials to support the ownership group's public engagement and outreach around rezoning of the property.



**EXHIBIT B**  
**FINANCIAL ANALYSIS**

## MEMORANDUM

To: Mayor's Office of Environmental Remediation

From: HR&A Advisors, Inc.

Date: April 20, 2020

Re: New York State Brownfield Cleanup Program  
Financial Assessment, 1440-1460 39<sup>th</sup> Street Brooklyn, NY

### Introduction

In July 2015, the New York State legislature amended the Brownfield Cleanup Program (BCP) to include new rules that separate BCP eligibility and Qualified Tangible Property (QTP) credit eligibility and limit the costs which qualify for the Site Preparation Credit (SPC) for New York City (NYC) brownfield sites. "Generation 3" sites are sites with approved application dates of July 1, 2015 through December 31, 2022. The program only allows certain NYC sites or project types to qualify for the QTP credits including affordable housing projects, sites located in environmental zones, upside-down sites, and underutilized sites for commercial and industrial projects. These sites must meet a multi-part test, pursuant to a regulatory definition in 6 N.Y.C.R.R. §375-3.2(l) for "underutilized" sites, to qualify for the QTP tax credits. This Financial Assessment Memo is only related to one part of this multi-part test, which requires the City of New York ("City") to certify whether the BCP party seeking QTP eligibility has demonstrated that their project is financially infeasible without government assistance (the "Financial Test").

Acting on behalf of the City, which is responsible for making a certification of the Financial Test, the Office of Environmental Remediation (OER) requires that an independent financial advisor be retained to assess whether the proposed development could take place with or without substantial government assistance. If a project is deemed to be financially infeasible absent additional government assistance, here in the form of the QTP and SPC, and if the property satisfies the remaining criteria of the multi-part test, then the property can be deemed "underutilized" under BCP program rules.

Under the regulatory site definition of "underutilized," the City must issue its certification to the New York State Department of Environmental Conservation (NYSDEC) after review of this independent financial analysis to determine if the Financial Test is met. NYSDEC then analyzes the additional documentation provided by the BCP Party required to meet the other elements of the multi-part "underutilized" standard.

SNL XXII, LLC (SnL) engaged HR&A Advisors, Inc. (HR&A) to conduct an independent, third-party review of SnL's financial pro forma to determine whether the project meets the financial justification to be deemed "underutilized" under the BCP.

SnL purchased four parcels located at 1440, 1446, and 1465 39<sup>th</sup> Street and lot 149 on 40<sup>th</sup> Street in Brooklyn in 2019 (the Site). The parcels total 29,000 square feet. SnL proposes to construct a 108,000 square foot self-storage facility including 1,979 storage units (the Project). SnL and its remedial engineering firm, SESI Consulting Engineers (SESI), have indicated to HR&A that the full extent of the remediation needs of the Site cannot actually be known until demolition takes place and buried underground storage tanks are uncovered. SnL reports that the remediation estimates add unexpected costs to the Project.

This memorandum reports the results of HR&A's independent financial assessment. HR&A reviewed SnL's baseline rent and financing assumptions and verified them with local brokers and self-storage experts to determine whether the Project would be financially viable without government assistance. Construction assumptions were prepared by both SnL and SESI. HR&A also reviewed the construction budgets, operating expenses and revenue performance of completed projects previously undertaken by SnL.

### **Summary of Findings**

HR&A's findings indicate that absent subsidy, the Project fails to meet a market-acceptable return, especially in light of the anticipated economic impacts of the Covid-19 pandemic. Based on that finding, HR&A believes that the Project meets the Financial Test to be determined an "underutilized" property under the BCP.

## Project Overview

The Site is located in the Borough Park neighborhood of Brooklyn in an M1-2 zone, which permits self-storage as-of-right. The proposed self-storage facility includes 101,700 net rentable square feet, including 1,979 self-storage units in a four-story building.

Previous tenants occupied the Site at the time of purchase, which limited SnL's ability to test the soil pre-emptively. After SnL acquired the Site, testing revealed extensive soil contamination, which SnL predicts will lead to a 25 percent delay in their typical excavation period. Because only costs that are incurred after the Brownfield Cleanup Agreement is fully executed, SnL has not begun demolition or excavation on the Site at this time. SnL plans to begin construction in September 2020. While it is difficult to know the full cost of remediation before the demolition and underground storage tank removal work occurs, SnL engaged SESI to estimate these costs based on the assumption that some soil contamination will be present under the tanks and some groundwater and soil vapor mitigation work will be required. Two rounds of testing have occurred to date.

The following remedial actions were identified by SESI:

- Site demolition
- Asbestos abatement
- Site excavation
- Soil disposal
- Tank removal
- Soil vapor mitigation
- Groundwater remediation
- Clean fill import and placement
- Foundation concrete footing and slabs
- Foundation waterproofing
- Development of remedial documents by environmental engineers
- Field inspection, oversight and management during remediation
- Testing, including soil and groundwater analysis, remedial investigation reporting and post excavation samples

The Site is also eligible for commercial tax abatements through New York City's Industrial and Commercial Abatement Program (ICAP), which reduces ongoing operating costs for 25 years. ICAP estimates were provided by Anthony Como Associates, a real estate tax accounting firm, engaged by SnL.

## Methodology

### Overview

HR&A's financial analysis included the following tasks:

- Review of SnL's cost and revenue assumptions,



- Market research and third-party conversations to compare SnL's return metrics, revenue assumptions, and operating assumptions,
- Review of previous SnL construction budgets for comparable self-storage facilities at nearby properties,
- Preparation of an independent financial pro forma to assess project feasibility, and
- Assessment of whether a potential project funding gap exists.

The **real estate pro forma** is an analytic tool that a developer employs to calculate the potential financial return that a proposed development is likely to create. Inputs to the model include **revenues** (i.e., rents) likely to be achieved, as well as **costs** that will be incurred (i.e., construction costs, debt service). Developers calculate these inputs to forecast expected future cash flows, establish the required total return, and discount the cash flow back to the present at a required rate of return.

Return on cost (ROC) is one metric commonly used by developers to analyze the value added to the investment through development.<sup>1</sup> ROC is based on the stabilized-year net operating income (NOI) (the numerator) as a percentage of the total development cost (the denominator). ROC is typically 250-300 basis points above prevailing market capitalization rates (cap rates) for self-storage investments. HR&A reviewed a report detailing investor expectations for self-storage in Brooklyn, which supports this spread over current cap rates.<sup>2</sup> Given current cap rates of around 5 percent, investors would expect an ROC of 7.5 to 8 percent.

SnL's prior models indicate an ROC of 8.6 to 8.9 percent for the three comparable development projects mentioned above. HR&A referred to a past self-storage development project in the outer boroughs, undertaken by another party, in which the developer deemed 6 percent to be a reasonable ROC assumption. However, the project in question was undertaken in 2019 when the self-storage market in Brooklyn was very strong. HR&A also interviewed industry professionals at a national brokerage firm both before and after the onset of the COVID-19 crisis. They confirmed that, given current market conditions, investors would be unlikely to pursue a project below a 7 percent ROC due to significant increased risk. Cap rates had already gone up in recent quarters in the self-storage market in Brooklyn and are projected to increase, which indicates that the risk for this product has increased.<sup>3</sup> Given our review of industry reports, conversations with brokers, conversations with SnL, and increased investment risk due to COVID-19, **we believe that a minimum ROC of 7.0 should serve as a lower threshold for project feasibility**, with an ROC of 8.0 or above being more attractive to self-storage developers.

SnL provided HR&A with a financial pro forma. HR&A reviewed this pro forma in advance of preparing an independent financial model that incorporates verified revenue and cost assumptions (discussed in the next section) to determine whether the proposed Project would reach a target return on cost without substantial government assistance. HR&A calculated a **baseline scenario** reflecting SnL's assumptions and analyzed the

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<sup>1</sup> The internal rate of return (IRR) value is another indicator of project profitability and reflects the impact of time on the investment and subsequent returns. Leverage in the form of permanent and construction financing can increase a project's return and results in a "levered IRR." HR&A referred to past financial analyses for self-storage development projects, including three comparable projects either completed or currently under construction by SnL. Project IRRs ranged from 22 to 29.6 percent for these projects based on SnL's models. Given stronger data points on ROC as a metric for comparable self-storage projects, we chose to utilize ROC for the purposes of this analysis.

<sup>2</sup> HR&A reviewed a confidential Q1 2020 investor report for self-storage in New York City and Brooklyn.

<sup>3</sup> HR&A took into account the considerable uncertainty in capital markets introduced by COVID-19.

**impact on project feasibility of BCP tax credits.** Projects not assumed to reach an acceptable return threshold are unlikely to be pursued by a developer absent subsidy; projects with acceptable return projections are likely to be pursued.

### **Revenue and Cost Assumptions**

HR&A conducted due diligence research and analysis to confirm or adjust SnL's key revenue and cost assumptions. Revenues and costs fall into two categories—ongoing and upfront—and are described below:

#### **Ongoing Revenues and Costs**

- **Rents**, defined as rental income from tenants plus any additional revenues by land use/program. In this case, rents are for self-storage units ranging from 5x5 cubic feet to 300 cubic feet.
- **Operating costs**, calculated as regularly recurring costs that are paid on an ongoing basis by the building's owner.
- **Vacancy reserve**, defined as the share of a building assumed to be vacant at any given time following upfront lease-up.
- **Net operating income (NOI)**, defined as building income which accrues to the building owner after accounting for vacancy and after deducting landlord-borne operating costs.
- **Discounts**, defined as reduced rental income offered for new tenants for a set period of time.

#### **Upfront Costs**

- **Development costs**, defined as all upfront costs incurred during the development period, such as site preparation (which included asbestos abatement and demolition), construction materials, labor, design and other professional work, permits, fees, construction loan interest, land acquisition, and environmental remediation.
- **Financing**, defined as all assumptions related to raising permanent and construction debt, including loan term, amortization period, construction timing, interest rates, closing costs, loan-to-value and loan-to-cost ratios.

**Operating assumptions.** For each revenue and cost assumption provided by SnL, HR&A conducted an independent review of data, researching comparable projects provided by SnL, reviewing professional market reports, conducting interviews with SnL's team of consultants, and conducting interviews with independent brokers. After completing our due diligence, HR&A found that SnL's rent assumptions at the Site were high given our review of comparable properties in the area, conversations with brokers, and our assessment of changing market conditions.

- **Rent:** After completing our due diligence, HR&A found that SnL's rent assumptions at the Site were at the high end of the range of comparable properties. SnL's rent assumptions range from \$1.96 to \$4.58 per square foot per month based on unit size, or \$45 per square foot annually on average. HR&A analyzed comparable properties in nearby neighborhoods, finding that these rents are at the higher end of the range. At the time that SnL purchased the land, the self-storage market in Brooklyn was strong and SnL sought to build a "best-in-class" product. However, given the current unfolding economic crisis in New York City and after further conversations with SnL, HR&A found that comparable properties have already reduced asking rents by 15 to 20 percent from asking rents in February 2020. Further, HR&A reviewed a current rent roll from SnL for a nearby property, which

showed that leases have been signed at this site for about \$35 per square foot on average pre-discount. Given these rapidly changing market conditions and our review of comparable properties, we reduced the rent assumption to \$38 per square foot annually, pre-discount.

*Vacancy contingency:* The pro forma analysis applied a vacancy contingency of 10 percent, which is considered standard for the market. Our conversations with brokers indicated that there is considerable uncertainty about how vacancy may change in this market over the next few months, however there is no clear indication yet of what those changes will be.

*Lease-up Period:* SnL's pro forma analysis applied a 36-month lease-up period. However, after discussions with third-party industry experts and taking into consideration the current economic conditions, HR&A adjusted this lease-up period to 48 months. Because of recent completions in the Brooklyn self-storage market, brokers informed HR&A that lease-up for a product this large would likely take four years.

*Rental Growth Rate:* HR&A adjusted the rent growth rate to be 0 percent (after inflation). This was due to conversations with brokers who indicated that the self-storage market is expected to slow in the coming years due to declining returns for investors and an increase in supply. Further, HR&A took into consideration current economic events, which have the potential to substantially impact economic conditions in New York City in the coming years.

*Discounts:* SnL provided HR&A with a discount schedule, which indicates a starting discount of 40 percent in year 1, a 22 percent discount in year 2 and 4 percent discount in years 3 and 4. HR&A compared this with self-storage offerings on competing self-storage websites and found these discounts to be in line with the competition.

**Construction costs.** During the pre-development phase, SnL prepared construction cost estimates<sup>4</sup> and solicited a series of professional remediation cost estimates from their environmental engineers, SESI. HR&A reviewed these estimates and compared them to cost estimates provided by SnL for three previous comparable development projects in Brooklyn.

HR&A reviewed all cost estimate reports. Costs are estimated at \$280 per gross square foot, not including land. Total development costs, including land and financing costs, are estimated at \$533 per gross square foot. Construction cost estimates by SESI indicate a total remediation cost of \$9.3 million, or about \$86 per gross square foot. Because the costs are specific to the remediation of this Site, HR&A verified SESI's remediation cost categories using the BCP standards available online but relied on the third-party expertise for this remediation cost estimate.

HR&A tested the construction cost estimates against three previous comparable development budgets provided by SnL. One of the three projects was completed in August 2018, and the other two are in the final phases of construction. All three development projects are within 1.5 miles of the Site. The hard costs ranged from \$152 to \$187 per gross square foot, compared to an estimated hard cost of \$186 per gross square foot for the proposed Project. Given the additional cost of remediation, HR&A found the cost

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<sup>4</sup> SnL self-manages construction projects, rather than utilizing a third-party construction manager. Other than the remediation estimates provided by SESI, all construction costs were estimated by SnL. Because HR&A did not have an independent third-party assessment of costs, we compared the projected construction costs to past SnL projects to verify that they were within a reasonable range.

assumption reasonable compared to SnL's other recent projects. Table 2 provides a summary of development costs.

- **Financing conditions.** HR&A considered financing assumptions for the proposed Project, including construction and permanent financing. Based on our understanding of outer borough commercial lending, market reports reviewed internally, and financing assumptions provided by SnL, we assumed a loan to value (LTV) of 70 percent for the permanent financing.
- **Tax credit assumptions.** Lastly, HR&A measured the different tax credit subsidies—the Site Preparation Credit (SPC) and Qualified Tangible Property Credit (QTP)—which could apply to SnL's development. Additional information on HR&A's calculation of the SPC and QTP are provided in the appendix to this memorandum. HR&A estimated credits based on an indication from SESI that SnL is likely to achieve a Track 4 commercial cleanup level for the site. HR&A assumes that the Site Preparation Credit would be received after completion of remediation and the Tangible Property Credit would be received after project completion.

**Table 1: Development Costs**

Total Project Costs	
Acquisition Costs <sup>i</sup>	\$15,000,000
Hard Costs <sup>ii</sup>	\$21,800,000
Soft Costs <sup>iii</sup>	\$7,280,000
Development Fee <sup>iv</sup>	\$2,400,000
Capitalized Interest <sup>v</sup>	\$8,170,000
<b>Total Development Costs (Pre-BCP)</b>	<b>\$54,660,000</b>
i.	SnL purchased the land in 2019.
ii.	Hard cost estimates provided by third party environmental engineer.
iii.	Soft costs based on both third party and SnL-provided assumptions.
iv.	SnL assumption.
v.	HR&A-verified assumption.

**Table 2: Tax Credit Analysis**

BCP Tax Abatement Summary	
<b>Site Preparation Credit</b>	
Project Planning	\$55,000
Field Work	\$2,260,000
Reporting	\$14,000
Engineering Support	\$6,000
<b>Total SPC</b>	<b>\$2,300,000</b>
<b>Qualified Tangible Property Credit</b>	
Capital Imp Costs	\$1,140,000
<b>Total Possible Credits</b>	<b>\$3,500,000</b>
<b>Revised Total Development Costs</b>	<b>\$51,200,000</b>
i.	Assumed 25% of clean-up costs are covered under BCP guidelines.
ii.	Assumed the base credit of 10% for a Track 4 cleanup using BCP guidelines



## Financial Analysis Summary

HR&A verified and applied SnL's baseline rent, financing, and construction assumptions to arrive at the project's return on cost. As shown in Table 3, the project would generate a return on cost of 5.9 percent without the SPC and QTP credits. Based on HR&A's analysis, the tax credits help to increase the ROC to 6.3 percent assuming BCP Track 4 commercial remediation is achieved.

As stated prior, HR&A's due diligence suggests that an ROC of 7.0 reflects a low-end threshold for a return acceptable to self-storage investors given current market conditions. Given that the Project's estimated return on cost is below this threshold taking into account both credits, HR&A finds that the Project meets the Financial Test to be determined an "underutilized" property under BCP. In addition, this assessment suggests that SnL may need to access other resources in addition to the QTP in order to advance the project.

**Table 3: Returns Summary**

Project Returns	
Stabilized Year NOI	\$3,206,004
Return on Cost Pre-Credits	5.9%
Return on Cost Post-Credits <sup>i</sup>	6.3%
Project Levered IRR Pre-Credits	14.8%
Project Levered IRR Post-Credits	17.9%

i. Includes both the SPC and QTP credits.

## Appendix

### Appendix 1: Remediation Costs for Track 4 Credit

HR&A analyzed the Track 4 commercial tax credit calculations based on a preliminary determination made by SESI and SnL's legal counsel indicating that the Project was most likely to be a candidate for this track in the BCP, based on a current understanding of the remediation that will need to be done.

Item	Cost
Project Planning	\$220,000
Field Work	\$9,030,000
Reporting	\$58,000
Engineering Support	\$23,000
<b>Total</b>	<b>\$9,340,000</b>

i. Assumed 25% of clean-up costs are covered under BCP guidelines.

ii. Assumed the base credit of 10% based on Track 4 cleanup using BCP guidelines

# **EXHIBIT C**

## **BCP PARTY CERTIFICATE**

# BCP PARTY CERTIFICATION

In Support of New York State Brownfield Cleanup Program ("BCP")  
Tangible Property Tax Credit Underutilized Site Financial Analysis

## BCP PARTY:

Name: SnL XXII, LLC

Address: 3333 New Hyde Park Road, Suite 200  
Lake Success, NY 11042

## NYSDEC BROWNFIELD CLEANUP AGREEMENT:

Agreement Execution: Pending  
Application Approval Amendment: Pending

Agreement Index: Pending

## SITE INFORMATION:

NYSDEC Site No.: Pending

Site Name: 1440-1460 39th Street BCP Site

Site Owner: SnL XXII, LLC as of December 2019

Site Address: 1440 39<sup>th</sup> St., 1446 39<sup>th</sup> St., 1456-1460 39<sup>th</sup> St. and  
40<sup>th</sup> St.

Municipality: City of New York

County: Brooklyn

NYSDEC Region: 2

Site Size: .5744 acres

Tax Map Identification Number(s): Block 5346 Lots 17, 26, 28 and 149

Percentage of Site located in an EnZone: 0%

A survey of the Property subject to this Certification is attached.

## CERTIFICATE ISSUANCE

The BCP Party hereby certifies that all information provided to the Financial Expert was complete and accurate. The BCP Party further certifies that the proposed development could not take place without substantial government assistance in satisfaction of the criterion set forth at Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii).

## CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns.

By: 

SnL XXII, LLC  
Aryeh Goldman

Date: April 25, 2020

February 20, 2020

Philip Lepine  
**SnL Construction, LLC.**  
3333 New Hyde Park Road, Suite 200  
Lake Success, New York 11042

Re: Structural assessment of existing building at 1440 39th Street, Brooklyn, NY

Dear Mr. Lepine

This report presents our assessment of the structural integrity of 1440 39th Street, Brooklyn, NY

### **Building Description**

MJED observed (3) existing lots as part of the overall site assessment. Lot #17 is the large building which was used as a commercial call center for taxi companies. It is now unoccupied. Lots #26 and 28 were used for various commercial services (Loan Company/ Mechanics Shop / Amazon delivery hub).

### **Site Visit and Observations**

Site visit was performed on Tuesday, February 11<sup>th</sup>, 2020.

The primary structural system is observed to be CMU and brick walls encased steel columns with long span steel roof joists located at columns lines. Wooden roof joists are used as filler beams in between steel joists. Floor is concrete slab on grade, flooring at Lot #17 is built up wood joists and plywood over slab on grade. Framing at all exterior perimeter walls is exterior brick and masonry.

The built up floor at the call center, is observed to be in very bad condition. At many locations throughout the Building, Major holes in floor, improper loading and construction were observed.

Mezzanine level floor framing at lot 26 was found to be in very poor condition. Floor is sagging and the base boards are deteriorated. Ceiling is also sagging at many locations throughout.

Party wall along north and south property line is observed to have a large diagonal crack continuing into the wall footing. And face also had a diagonal crack.

Slab at Lot 26 was found to be in very poor condition Major holes at many locations.

Cracks were observed at the structural lintels in the exterior wall at door openings. Please see attached photos of the some of the conditions observed at the site.



**Condition of Façade**



Photo #1 - Cracks in exterior wall along lot #17. It appears that settlement has occurred at the exterior wall.



Photo #2 - Additional cracks in exterior wall along lot #17 at the parking lot. It appears that settlement has occurred at the exterior wall.



Photo #3 - Additional cracks in exterior wall along lot #17 at the parking lot. It appears that settlement has occurred at the exterior wall.

**Condition of flooring**



Photo #4 - Cracks observed in the slab on grade at lot 26 & 28. Slab appears to be in disrepair.



Photo #5 - Additional cracks observed in the slab on grade at lot 26 & 28. Slab appears to be in disrepair.



Photo #6 - Uneven and settling slab on grade observed in the slab on grade at lot 17. Slab appears to be in disrepair. The linoleum floor tile appears to be lifting and cracking which could be caused by the settling, or by moisture infiltration through the slab.

### Condition of brick



Photo #7 - Cracks above exterior door lintel at lot 26 in the exterior masonry wall. Cracks appear to be caused by settlement. The mortar in the masonry joints is also missing in areas.



Photo #8 - Additional cracks observed above exterior door lintels at lot 26 & 28 in the exterior masonry wall. Cracks appear to be caused by settlement.



Photo #9 - Missing bricks and holes observed in the exterior perimeter wall at lot 26 & 28. Cause of possible water infiltration and structural deficiency in masonry wall.



Photo #10 - Additional cracks observed above existing door lintel at lot 26. It appears that the grout is missing in several places and the quality of the brick where the wall settled is very poor.



### Condition of Roof

Photo #11 - Observed quality of the roof is very poor. There have been several repairs made, and areas observed that need additional repairs due to water infiltration.

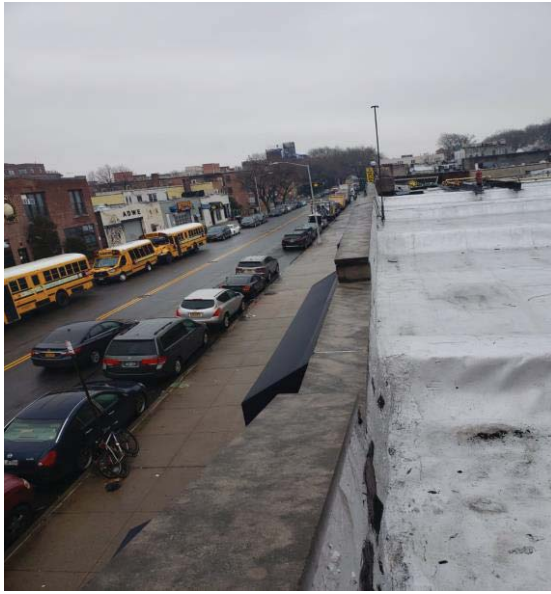


Photo #12 - Ponding water observed at several areas at the existing roof. The overall quality of the roof is in very poor condition.



Photo #13 - Settlement cracks observed in the exterior perimeter masonry wall along Lot 17 and the neighbors property.



Photo #14 - Settlement cracks observed in the exterior perimeter masonry wall along Lot 17 and the neighbors property.



## Conclusion

Overall building stability is questionable. Significant observed damage at exterior perimeter walls (cracks / missing mortar joints / evidence of water infiltration) due to settlement and poor upkeep on the building may lead to partial or full collapse of the roof structure in the future. Cracks above door lintels could lead to a life safety issue should the building be re-occupied in the future. Significant structural repairs would have to be made to prevent further settlement issues of the perimeter exterior walls. Cracks at exterior walls create an unsafe support structure for the existing roof, which bears directly on the existing perimeter walls. Cracks were observed in the perimeter masonry walls at lots #17, 26, and 28.

We observed the roof on a day of precipitation. The condition of the roof is very poor. Several ponding water spots were observed which indicates that settlement of the roof structure has likely occurred. Ponding of water at the roof is an unsafe condition as the roof structure appears to be designed to shed water and not retain water for long periods of time. Cracks observed in the exterior perimeter walls could also be caused by sagging of the roof joist, which could cause further movement in the brick wall and partial collapse or shift of the brick wall into the sidewalk over time.

Cracks in the slab on grade could be caused by machine use, or settlement issues. The slab on grade is in overall poor condition at lot #17, 26, and 28. The slab on grade at Lot #17 has linoleum tile which has de-laminated from the slab due to settlement, or moisture infiltration. A large portion of the floor at Lot #17 has a wood sleeper floor built over the slab on grade. There are several holes observed in the sleeper floor. We are not sure what structural loading the sleeper floor has been designed to accommodate, but it appears to not be part of the original construction of the building and added at a later time.

Should you have any questions, please do not hesitate to contact us.

Thank you.

Very truly yours,  
**MJ Engineering & Design.**

Magdy Youssef, P.E.

