



Department of Environmental Conservation

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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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

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

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

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DEC 27 2022

Bur Of Tech. Support

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

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

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

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

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

Other (explain in detail below)

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

473 President LLC owns the Site located 514 Union Street, Brooklyn, NY (Block 440, Lot 12). On or about November 23, 2022, 473 President LLC entered into a Purchase and Sale Agreement with Gowanus President Owner LLC pursuant to which Gowanus President Owner LLC will have an ownership interest in the Site. 473 President LLC seeks to add Gowanus President Owner LLC as a Volunteer to the Brownfield Cleanup Agreement (Index No. C224318-08-21) for the Site.

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

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

Section I. Current Agreement Information		
BCP SITE NAME: 514 Union Street		BCP SITE NUMBER: C224318
NAME OF CURRENT APPLICANT(S): 473 President LLC		
INDEX NUMBER OF AGREEMENT: C224318-08-21 DATE OF ORIGINAL AGREEMENT: 10/21/21		
Section II. New Requestor Information (complete only if adding new requestor or name has changed)		
NAME Gowanus President Owner LLC		
ADDRESS c/o The Brodsky Organization, 400 West 59th Street		
CITY/TOWN New York		ZIP CODE 10019
PHONE (212) 315-5555	FAX	E-MAIL jdamro@brodsky.com
1. Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 		
NAME OF NEW REQUESTOR'S REPRESENTATIVE J. Dean Amro		
ADDRESS c/o The Brodsky Organization, 400 West 59th Street		
CITY/TOWN New York		ZIP CODE 10019
PHONE (212) 315-5555	FAX	E-MAIL jdamro@brodsky.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Charles S. Warren		
ADDRESS Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas		
CITY/TOWN New York		ZIP CODE 10036
PHONE (212) 715-9387	FAX (212) 715-8096	E-MAIL cwarren@kramerlevin.com
2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
3. Describe Requestor's Relationship to Existing Applicant: On or about November 23, 2022, the Requestor, Gowanus President Owner LLC entered into a Purchase and Sale Agreement with the Existing Applicant, 473 President LLC, pursuant to which Gowanus President Owner LLC will have an ownership interest in the Site.		

Section III. Current Property Owner/Operator Information (only include if new owner/operator)
 Owner below is: Existing Applicant New Applicant Non-Applciant

OWNER'S NAME (if different from requestor) **473 President LLC**

ADDRESS **c/o Avery Hall Investments, 51 East 12th Street- 7th Floor**

CITY/TOWN **New York** ZIP CODE **10003**

PHONE (646) **374-3184** FAX _____ E-MAIL **avi@averyhallinvestments.com**

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

ADDRESS

CITY/TOWN _____ ZIP CODE _____

PHONE _____ FAX _____ E-MAIL _____

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

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

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
 Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

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

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

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

Prior Owner Current Owner Potential /Future Purchaser Other _____

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

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

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

1. Property information on current agreement:

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

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

2. Check appropriate boxes below:

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

2a. PARCELS ADDED:

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

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

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

Total acreage to be removed: _____

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

2c. NEW SBL INFORMATION:

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

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

3. TOTAL REVISED SITE ACREAGE: _____

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

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


PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 514 Union Street	BCP SITE NUMBER: C224318
NAME OF CURRENT APPLICANT(S): 473 President LLC	
INDEX NUMBER OF AGREEMENT: C224318-08-21	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 10/21/21	

Declaration of Amendment:

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

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

Statement of Certification and Signatures: New Requestor(s) (if applicable)
(Individual) I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department. Date: _____ Signature: _____ Print Name: _____
(Entity) I hereby affirm that I am (title <u>Authorized Signatory</u>) of (entity <u>Gowanus President Owner LLC</u>); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. <u>J. Dean Amro's</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department. Date: <u>12/15/2022</u> Signature:  Print Name: <u>J. Dean Amro</u>

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

(Individual)

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

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Signatory (title) of 473 President LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Avi Fisher's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/15/2022 Signature: _____

Print Name: Avi Fisher



REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 10/21/21

Signature by the Department:

DATED: 2/1/2023

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: *Andrew Guglielmi*

Andrew Guglielmi, Director
Division of Environmental Remediation

SUBMITTAL REQUIREMENTS:

- **Two (2) copies, one hard copy with original signatures and one electronic copy in final, non-fillable Portable Document Format (PDF) must be sent to:**

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

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

FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER: _____

ACCESS AGREEMENT

**BROWNFIELD CLEANUP APPLICATION
ACCESS AND CONSENT AGREEMENT
DEC SITE NO. C224318**

ACCESS AGREEMENT made as of this 14th day of December, 2022, by and between 473 President LLC, a New York limited liability company (“Grantor”) and Gowanus President Owner LLC, a Delaware limited liability company (“Grantee”).

WHEREAS, Grantor owns the real property located at 514 Union Street, Brooklyn, Kings County, State of New York (Block 440, Lot 12 as shown on the Tax Map of the City of New York), together with the building and improvements thereon (the “Real Property”); and

WHEREAS, Grantee submitted a Brownfield Cleanup Agreement Amendment Application to the New York State Department of Environmental Conservation (“DEC”) to add Grantee to Brownfield Site Clean Up Agreement (DEC Site No. C224318) for the Real Property as a volunteer for the purpose of allowing Grantee to investigate and remediate the Real Property and obtain a Certificate of Completion under the New York State Brownfield Cleanup Program (the “Work”); and

WHEREAS, Grantee requires access to Grantor’s Property to perform the Work; and

WHEREAS, Grantor has agreed to grant access to Grantor’s Property and permit the performance of the Work, subject to the terms and conditions as set forth in this Agreement.

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

1. Grantor hereby grants access and a license upon, into, under and through Grantor’s Property for the purpose of the entry thereon by Grantee, its agents, employees, architects, engineers, contractors and consultants, successors or assigns (collectively, the “Grantee Related Parties” and each a “Grantee Related Party”), vehicles, equipment and materials required by Grantee in order to perform all tasks reasonable and necessary in connection with the Work, including the demolition of any buildings and consent of the Grantor to the filing by the Grantee of an Environmental Easement on the Grantor’s Property as may be required for the issuance of the Certificate of Completion.

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

3. Grantee shall provide reasonable notice to Grantor prior to Grantee’s need for access to Grantor’s Property to perform the Work.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Any proceedings initiated by either party to enforce the terms of or otherwise related to this Agreement shall be brought in the state or federal court in Kings County, New York.

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

Grantor:

Grantee:

By: 473 President LLC

By: Gowanus President Owner LLC

Name: Avi Fisher

Name: J. Dean Amro



Title: _____

Title: authorized Signatory

Date: _____

Date: 12/15/22

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

Grantor:

Grantee:

By:  473 President LLC

By: Gowanus President Owner LLC

Name: Avi Fisher

Name: J. Dean Amro

Title: Authorized Sig

Title: _____

Date: 12/21/22

Date: _____

CHANGE OF USE NOTIFICATION



60-Day Advance Notification of Site Change of Use, Transfer of Certificate of Completion, and/or Ownership

Required by 6NYCRR Part 375-1.11(d) and 375-1.9(f)

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

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

I. Site Name: 514 Union Street **DEC Site ID No.** C224318

II. Contact Information of Person Submitting Notification:

Name: Avi Fisher
Address1: 473 President LLC c/o Avery Hall Investments
Address2: 51 East 12th Street, New York, NY 10003
Phone: (646) 374-3184 E-mail: avi@averyhallinvestments.com

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

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

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

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

Gowanus President Owner LLC entered into a Purchase Agreement for 514 Union Street, Brooklyn (Bl. 440, Lot 12) by which it will have an ownership interest in the Site and wishes to be added to the BCA as a Volunteer.

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

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

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

Name: _____
(Signature)

12/19/22
(Date)

Avi Fisher

(Print Name)

Address1: 473 President LLC

Address2: 51 East 12th Street, New York, NY 10003 -7th Floor

Phone: (646) 374-3184 E-mail: avi@averyhallinvestments.com

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

Prospective Owner Prospective Remedial Party Prospective Owner Representative

Name: Gowanus President LLC

Address1: c/o The Brodksy Organization

Address2: 400 West 59th Street, New York, New York 10019

Phone: (212) 315-5555 E-mail: jdamro@brodsky.com

Certifying Party Name: Avi Fisher

Address1: c/o Avery Hall Investment

Address2: 51 East 12th Street, New York, NY - 7th Floor

Phone: (646) 374-3184 E-mail: avi@averyhallinvestments.com


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

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

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

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

Name:



(Signature)

12/19/22

(Date)

Avi Fisher

(Print Name)

Address1: 473 President LLC 

Address2: 51 East 12th Street, New York, NY 10003- 7th Floor

Phone: (646) 374-3184

E-mail: avi@averyhallinvestments.com

Continuation Sheet

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

Prospective Owner/Holder Prospective Remedial Party Prospective Owner Representative
Name: _____
Address1: _____
Address2: _____
Phone: _____ E-mail: _____

REQUESTOR'S PROOF OF AUTHORITY

**LIMITED LIABILITY COMPANY
OPERATING AGREEMENT OF
GOWANUS PRESIDENT OWNER LLC**

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT (this "Agreement") of Gowanus President Owner LLC, a Delaware limited liability company (the "Company"), is dated as of the 15th of November, 2022 (the "Effective Date"), by and among Brodsky Control LLC, a New York limited liability company ("Manager"), as manager, and Gowanus President Nominee LLC, a Delaware limited liability company, as sole member (the "Sole Member").

WITNESSETH:

WHEREAS, the Manager and the Sole Member desire to form a limited liability company pursuant to (i) the provisions of the Delaware Limited Liability Company Act, Del Code, title 6, Sections 18-101, et seq, as amended from time to time (the "Act") and (ii) the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Formation. The Manager and the Sole Member, by execution of this Agreement, hereby agree to form and operate the Company as a limited liability company pursuant to the Act. The Company shall exist under and shall be governed by the Act. Prior to the Effective Date, the Manager has caused a Certificate of Formation (the "Certificate") to be filed for record in the appropriate Office of the Secretary of State of Delaware, and if necessary in the future, the Manager shall execute such further documents (including amendments to the Certificate) and take such other further action as shall be appropriate to comply with the requirements of law for the formation and operation of a limited liability company pursuant to the laws of the State of Delaware and to qualify the Company to do business in such other state in which the Company may elect to do business. J. Dean Amro is hereby appointed as an "Authorized Signatory" of the Company, with full power to take such actions on behalf of the Company and to bind the Company (including by executing documents in such capacity) as he may deem necessary or appropriate, and an authorized person within the meaning of the Act. J. Dean Amro has executed, delivered and filed the Certificate, and each action taken by said Authorized Signatory prior to the Effective Date in furtherance of the execution, delivery and filing of the Certificate is hereby ratified and confirmed by the Manager and the Sole Member. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate in accordance with the Act.

2. Name. The name of the Company shall be "Gowanus President Owner LLC", and all business of the Company shall be conducted under that name or under any other name as the Manager may determine from time to time; provided, however, that the words "Limited Liability Company" or the initials "L.L.C." or "LLC" shall be included in the name where necessary.

3. Purpose. The purpose of the Company is, directly or indirectly, to acquire, own, hold, finance and sell the assets of the Company, including, without limitation, real property together with the buildings and improvements located thereon, and any personal property used in connection therewith that is owned by the Company (collectively, the "Assets"), and in connection therewith, to sell, assign, transfer, operate, lease, hypothecate, pledge or otherwise deal with all or any part of the Assets. In furtherance of the foregoing purposes and businesses, the Company shall have and exercise all of the powers now or hereafter conferred under the laws of the State of Delaware on limited liability companies

formed under such laws and may do any and all things necessary or incidental to such purposes or businesses.

4. **Principal Office.** The principal office of the Company shall initially be located c/o The Brodsky Organization, 400 West 59th Street, New York, NY 10019. The Manager shall be responsible for maintaining at the Company's principal place of business any records required by the Act and by this Agreement to be maintained there. The Manager may change the principal office of the Company from time to time.

5. **Registered Office and Agent.** The address of the registered office of the Company for service of process on the Company in the State of Delaware is 251 Little Falls Drive, Wilmington, Delaware 19808 and the name of the registered agent of the Company at such address is Corporation Service Company. The Manager may change the registered office or registered agent of the Company from time to time.

6. **Powers.** The business and affairs of the Company shall be managed by the Manager. The Manager shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by members under the laws of the State of Delaware. The Manager and J. Dean Amro are hereby designated as authorized persons, within the meaning of the Act, to execute, deliver and file any amendments and/or restatements to the Certificate and any other certificates necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business (including, without limitation, the State of New York).

7. **Dissolution.** The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (a) the sale, transfer or other disposition of all or substantially all of the Assets and the distribution of all proceeds thereof, and the determination of the Manager to dissolve, (b) the entry of a decree of judicial dissolution under the Act, (c) the determination of the Manager to dissolve the Company; or (d) the happening of any of the events set forth in Section 18-801(a)(4) of the Act.

8. **Capital Contributions.** Concurrently with the Effective Date, the Sole Member has contributed such cash and/or property, to the Company as shown on the books and records of the Company. The Sole Member is not required to make any additional capital contributions to the Company; **however,** the Sole Member may make additional capital contributions to the Company at such time and in such amounts and forms as is agreed to by the Manager and Sole Member. The provisions of this **Section 8** are intended solely to benefit the Sole Member and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor of the Company shall be a third-party beneficiary of this Agreement) and the Sole Member shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

(a) Except as otherwise specifically provided herein, in no event shall the Sole Member, by reason of its admission as a member of the Company, be liable to pay for any loss beyond the amount of any capital actually contributed by it pursuant to this **Section 8** or be personally liable for any debts of the Company.

(b) Neither the Sole Member nor Manager, and no partner, employee, Affiliate, member, manager, principal (disclosed or undisclosed), shareholder, director or officer of the Sole Member or Manager, shall have any personal liability to make any capital contribution to the Company.

(c) The Manager acknowledges that the Sole Member has by this Agreement not made any commitment or obligation of any kind or nature to make any capital contributions.

(d) The parties hereto acknowledge that notwithstanding anything contained in this Agreement, the Manager shall not be required to make any capital contribution or other advance of funds to the Company.

9. **Distributions.** All distributions by the Company shall be distributed 100% to the Sole Member at such times and in such amounts as is determined by the Sole Member. The Sole Member shall not be entitled to demand and receive property other than cash in return for its capital contributions to the Company.

10. **Tax Matters.** The Sole Member and Manager acknowledge that it is intended that the Company be treated as a disregarded entity for federal income tax purposes and, to the extent allowed, for state and local income tax purposes and all of the assets of the Company shall be treated as held directly by the Sole Member. The taxable year of the Company shall be the same as the Sole Member's taxable year, unless the Sole Member shall determine otherwise in compliance with applicable laws. All elections by the Company for U.S. federal, state and local and franchise tax purposes shall be determined by the Sole Member on a basis consistent with the terms of this Agreement. The Company shall have accountants provide assistance in the preparation of any U.S. federal, state and local tax returns that are required of the Company and shall file the same, or cause the same to be filed, on a timely basis (including extensions) after they have been approved by the Sole Member.

11. **Manager Does Not Have Ownership Interest.** The Manager shall not, by virtue of its appointment as the manager hereunder, have any ownership interest in the Company.

12. **Reimbursement of Expenses.**

(a) The Company shall reimburse the Manager for its out-of-pocket expenses incurred in connection with its acting as manager hereunder in accordance with the terms hereof, including, without limitation, the cost of any third party litigation (subject to Section 11(b)), the cost of any accounting, administrative, legal, technical and management services rendered to the Company by the Manager or its Affiliates. All such costs and expenses and all costs and expenses incurred by the Company in connection with the operations of the Company shall be paid by the Company and the Manager shall be entitled to reimbursement by the Company for any expenditures incurred by the Manager on behalf of the Company which is made other than out of funds of the Company.

(b) In the event any litigation is commenced against the Manager that arises out of the business of the Company, then the Company shall reimburse the Manager for its expenses arising therefrom unless such litigation arises as a result of the gross negligence or willful misconduct of the Manager, in which event the Company shall not be obligated to so reimburse the Manager for such expenses, provided, however, in the event of litigation that is not between the Manager, on the one hand, and the Sole Member or the Company, on the other hand, if the Manager disputes the determination that such litigation is the result of the gross negligence or willful misconduct of the Manager, then, pending the resolution by a court of competent jurisdiction of the issue whether such litigation arose as a result of the gross negligence or willful misconduct of the Manager, the Company shall reimburse the Manager for its expenses arising out of such litigation; provided, further, that if a court of competent jurisdiction ultimately determines that such litigation arose as a result of the gross negligence or willful misconduct of the Manager, then the Manager shall repay to the Company any expenses reimbursed to the Manager by the Company as hereinabove provided.

13. Liability of Manager. The Manager shall not be liable to the Sole Member or the Company for honest mistakes of judgment, or for action or inaction, taken in good faith for a purpose that was reasonably believed to be in the best interests of the Company (even if such decisions ultimately turn out to not be beneficial to the Company), or for losses due to such mistakes, action or inaction, or for the negligence, dishonesty or bad faith of any employee, broker or other agent of the Manager or the Company. Without limitation of the foregoing, the Manager shall be entitled to make such decisions as are determined by the Manager in its sole and absolute discretion and neither the Manager, the Sole Member nor the Company shall have any liability to the others for the results of its decisions. The Manager may consult with counsel and accountants in respect of Company affairs and be fully protected and justified in any action or inaction that is taken in accordance with the advice or opinion of such counsel or accountants. The Sole Member shall look solely to the Assets for the return of its capital and, if the Assets remaining after payment or discharge of the debts and liabilities of the Company are insufficient to return such capital, it shall have no recourse against the Manager (or any Manager Exculpated Party) for such purpose. Notwithstanding anything to the contrary contained in this Agreement, no direct or indirect partner, officer, director, shareholder, member, manager, employee, agent or Affiliate of the Manager (any such Person, a "Manager Exculpated Party") shall have any liability of any kind or nature arising out of this Agreement.

14. Restrictions on Duties. Notwithstanding anything to the contrary contained in this Agreement or otherwise applicable provision of law or equity, the Manager and Sole Member agree that, to the fullest extent permitted by the Act, neither the Manager nor the Sole Member shall have any duties or obligations (including fiduciary duties) to the Company, each other or any other person except as expressly set forth in this Agreement.

15. Indemnification of Manager. The Company agrees to indemnify the Manager and each Manager Exculpated Party to the fullest extent permitted by law and to save and hold them harmless from and in respect of all (a) fees, costs and expenses paid in connection with or resulting from any claim, action or demand against the Company, the Manager or any Manager Exculpated Party that arises out of or in any way relates to the Company, its properties, business or affairs and (b) such claims, actions and demands and any losses or damages resulting from such claims, actions and demands, including amounts paid in settlement or compromise (if recommended by attorneys for the Company) of any such claim, action or demand. In the event that a claim is raised against Manager as to which Manager reasonably believes that it is entitled to indemnification as aforesaid, then, pending any determination as to whether Manager is in fact entitled to such indemnification, Manager shall have the right to utilize the Assets to reimburse Manager for the cost of defending against such claim, including, without limitation, the cost of legal counsel in connection therewith; provided, however, that if it is eventually determined that Manager was not entitled to such indemnification, then Manager shall reimburse the Company for any payments made to it on account of such indemnification.

16. Transfers. The Sole Member shall have the right to sell, transfer, assign, or otherwise dispose of, directly or indirectly, its right, title or interest in the Company, or any portion thereof or any interest therein, to any other Person at any time as is determined by the Sole Member. In the event that the Sole Member (the "Transferor") shall transfer its membership interest to another Person (the "Transferee") in accordance with the terms hereof, no such transfer shall be made or shall be effective to make such Transferee a member, as the case may be or entitle such Transferee to any benefits or rights hereunder until (a) the Transferee shall have agreed in writing, with a duplicate original delivered to the Manager, to assume and be bound by all the obligations of the Transferor with respect to the membership interest transferred arising from and after the date of such transfer, and to be subject to all the restrictions to which the Transferor is subject under the terms of this Agreement and (b) all required consents to such transfer of any mortgage or other Person or entity, if any, shall have been obtained in writing and delivered to the Manager.

17. Involuntary Transfers. In the event the Sole Member shall be adjudged bankrupt, enter into proceedings for reorganization or into an assignment for the benefit of creditors, have a receiver appointed to administer the Sole Member's interest in the Company, be the subject of a voluntary or involuntary petition for bankruptcy, apply to any court for protection from its creditors or have its interest in the Company seized by a judgment creditor (the Sole Member in such instance being referred to as a "Bankrupt Member" as the case may be), the trustee (or successor in interest) of the Bankrupt Member shall not become an additional or substitute member unless and until the conditions set forth in Section 15 are satisfied.

18. Dissolution or Termination of Members. In the event of the dissolution of the Sole Member, the successors in interest of the dissolved Sole Member shall not, for the purposes of winding up the affairs of the dissolved Sole Member, become the substituted Sole Member unless and until the conditions set forth in Section 15 are satisfied.

19. Certain Defined Terms. As used herein, "Person" shall mean natural person, partnership, corporation, limited liability company and any other form of business or legal entity.

20. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware (without regard for conflict of laws principles).

21. WAIVER OF JURY TRIAL. THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HERewith. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY THE PARTIES, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY EACH OTHER PARTY, AS APPLICABLE.

22. VENUE AND JURISDICTION. THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK COUNTY OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE MANAGER MAY, IN ITS SOLE DISCRETION, ELECT THE STATE OF NEW YORK, NEW YORK COUNTY, OR THE UNITED STATES OF AMERICA, SOUTHERN DISTRICT OF NEW YORK, AS THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE TO SUCH VENUE AS BEING AN INCONVENIENT FORUM. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE ACT REQUIRES THAT A SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT BE SUBMITTED TO THE COURT OF CHANCERY OR ANY OTHER COURT OF THE STATE OF DELAWARE, THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF SUCH COURT WITH RESPECT TO SUCH SUIT, ACTION OR PROCEEDING.

23. No Third Party Beneficiaries. Except as provided for herein, this Agreement is for the sole benefit of the parties hereto and the Company, and nothing herein, express or implied, shall give or be construed to give to any Person, other than the parties hereto, and the Company, any legal or equitable rights hereunder.

24. Successors and Assigns. This Agreement shall be binding upon and, subject to the restrictions on transfer set forth in Article 15, shall inure to the benefit of the successors and assigns of the parties hereto.

25. No Right to Partition. The Sole Member, on behalf of itself and its successors and assigns, if any, hereby specifically renounce, waive and forfeit all rights, whether arising under contract or statute or by operation of law to seek, bring or maintain any action in any court of law or equity for partition of the Company or any Asset of the Company, or any interest which is considered to be Company property, regardless of the manner in which title to such property may be held.

26. Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same Agreement. This Agreement shall become effective on the Effective Date.

27. Integration, Modification and Waiver. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties are merged in and are contained in this Agreement. This Agreement may not be waived, changed, modified or discharged orally, but only by an agreement in writing signed by the party against whom any waiver, change, modification or discharge is sought. Failure on the part of the Manager or the Sole Member to complain of any act or failure to act by the Manager or the Sole Member or to declare the Manager or the Sole Member in default, irrespective of how long such failure continues, shall not constitute a waiver by the Manager or the Sole Member of its rights hereunder. The giving of consent (to the extent any such consent is required) by the Manager or the Sole Member in any one instance shall not limit or waive the necessity to obtain the Manager's or the Sole Member's consent in any future instance.

28. Headings. The captions or titles and the table of contents contained in or appended to this Agreement are for convenience of reference only and shall not be deemed a part of the context of this Agreement.

29. Severability. If any term or provision of this Agreement or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any payments required to be made under this Agreement shall be in excess of the amounts allowed by law, the amounts of such payments shall be reduced to the maximum amounts allowable by law.

30. Meaning of "hereof", etc. The terms "hereof", "herein", "hereunder" and "hereinafter" and words of similar import, shall be construed to refer to this Agreement as a whole, and not to any particular paragraph or provision, unless expressly so stated.


31. Number and Gender. All words or terms used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

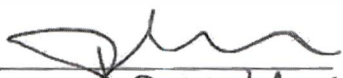
Manager:

Brodsky Control LLC, a New York limited liability company

By: 
Name: J. DEAN ANNO
Title: Authorized Signatory

Sole Member:

Gowanus President Nominee LLC , a Delaware Limited Liability Company

By: 
Name: J. DEAN ANNO
Title: Authorized Signatory

DOS ENTITY AND CERTIFICATE OF FORMATION

Department of State Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details

ENTITY NAME: IGOWANUS PRESIDENT .OWNER LLC	DOS ID: 6659967
FOREIGN LEGAL NAME: GOWANUS PRESIDENT .OWNER LLC	FICTITIOUS NAME:
ENTITY TYPE: FOREIGN LIMITED LIABILITY COMPANY	DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: LIMITED LIABILITY COMPANY - 802 LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW	ENTITY STATUS: ACTIVE
DATE OF INITIAL DOS FILING: 12/02/2022	REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 12/02/2022	INACTIVE DATE: *
FOREIGN FORMATION DATE: 11/15/2022	STATEMENT STATUS: CURRENT
COUNTY: NEW YORK	NEXT STATEMENT DUE DATE: 12/31/2024
JURISDICTION: DELAWARE, UNITED STATES	NFP CATEGORY:

[ENTITY DISPLAY](#)
[NAME HISTORY](#)
[FILING HISTORY](#)
[MANAGER HISTORY](#)
[ALIASED NAME HISTORY](#)

Service of Process Name and Address

Name: C/O CORPORATION SERVICE COMPANY .
Address: 80 STATE STREET, ALBANY, NY, UNITED STATES, 12207 - 2543

Chief Executive Officer's Name and Address

Name:
Address:

Principal Executive Office Address

Address:

Registered Agent Name and Address

Name:
Address:

Entity Primary Location Name and Address

Name:
Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value

Number Of Shares

Value Per Share

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "GOWANUS PRESIDENT OWNER LLC" AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF FORMATION, FILED THE FIFTEENTH DAY OF NOVEMBER, A.D. 2022, AT 4:05 O`CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID LIMITED LIABILITY COMPANY, "GOWANUS PRESIDENT OWNER LLC".




Jeffrey W. Bullock, Secretary of State

7139691 8100H
SR# 20224260839

Authentication: 205088983
Date: 12-14-22

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:05 PM 11/15/2022
FILED 04:05 PM 11/15/2022
SR 20224024374 - File Number 7139691

STATE OF DELAWARE
CERTIFICATE OF FORMATION
OF LIMITED LIABILITY COMPANY

The undersigned authorized person, desiring to form a limited liability company pursuant to the Limited Liability Company Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited liability company is Gowanus President Owner LLC

2. The Registered Office of the limited liability company in the State of Delaware is located at 251 Little Falls Drive (street), in the City of Wilmington, Zip Code 19808. The name of the Registered Agent at such address upon whom process against this limited liability company may be served is Corporation Service Company

By: /S/ J. Dean Amro
Authorized Person

Name: J. Dean Amro
Print or Type

VOLUNTEER STATUS STATEMENT

Brownfield Cleanup Program BCA Amendment
514 Union Street
BCP Site C224318

Volunteer Status Statement:

The prospective BCA Holder qualifies as a “Volunteer” in the BCP because it has no connection with any prior owner or operator and did not cause, contribute, or permit the disposal of any contaminants at the Site, and did not control the Site when such contamination occurred. The prospective BCA Holder will take the necessary steps to secure the property and prevent any threatened future release, and prevent and limit human, environmental or natural resource exposure to any previously released contamination at the Site. As such, the requestor qualifies as a Volunteer as designed in ECL 27-1405(1)(b).