



Department of
Environmental
Conservation

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

Please refer to the attached instructions for guidance on completing this application.

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment seeks to add or subtract more than an insignificant acreage of property to the BCA, applicants are encouraged to consult with the DEC project team prior to submitting this application.

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

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

<input checked="" type="checkbox"/>	Amendment to modify the existing BCA (check one or more boxes below):
<input checked="" type="checkbox"/>	Add applicant(s)
<input type="checkbox"/>	Substitute applicant(s)
<input type="checkbox"/>	Remove applicant(s)
<input type="checkbox"/>	Change in name of applicant(s)
<input type="checkbox"/>	Amendment to reflect a transfer of title to all or part of the brownfield site:
	a. A copy of the recorded deed must be provided. Is this attached? Yes <input type="radio"/> No <input type="radio"/>
	b. <input type="checkbox"/> Change in ownership <input type="checkbox"/> Additional owner (such as a beneficial owner)
	c. Pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been submitted prior to a transfer of ownership. If this has not yet been submitted, include the form with this application. Is this form attached? Yes <input type="radio"/> No <input type="radio"/> Submitted on: _____
<input type="checkbox"/>	Amendment to modify description of the property(ies) listed in the existing BCA
<input type="checkbox"/>	Amendment to expand or reduce property boundaries of the property(ies) listed in the existing BCA
<input type="checkbox"/>	Sites in Bronx, Kings, New York, Queens or Richmond Counties ONLY: amendment to request determination that the site is eligible for tangible property credit component of the brownfield redevelopment tax credit.
<input type="checkbox"/>	Other (explain in detail below)

2. REQUIRED: Please provide a brief narrative describing the specific requests included in this amendment:
The purpose of this BCA Amendment application is to add "737 4th Equity Owner, LLC" to the BCA as an additional Volunteer in connection with an internal restructuring. Both existing Volunteers, "737 4th Avenue, LLC" and "745 4th Avenue, LLC", will remain on the BCA as Remedial Parties. See Exhibit A for all supporting documents to add the new Volunteer.

SECTION I: CURRENT AGREEMENT INFORMATION*This section must be completed in full. Attach additional pages as necessary.*

BCP SITE NAME: 737 4th Avenue	BCP SITE CODE: C224332
NAME OF CURRENT APPLICANT(S): 737 4th Avenue, LLC; 745 4th Avenue, LLC	
INDEX NUMBER OF AGREEMENT: C224332-11-21	DATE OF ORIGINAL AGREEMENT: 11/19/2021

SECTION II: NEW REQUESTOR INFORMATION*Complete this section only if adding new requestor(s) or the name of an existing requestor has changed.*

NAME: 737 4th Equity Owner, LLC			
ADDRESS: 26 Harbor Park Drive			
CITY/TOWN: Port Washington, NY			ZIP CODE: 11050
PHONE: 516-207-7400	EMAIL: lbrodsky@bebcapital.com		
REQUESTOR CONTACT: Lee Brodsky			
ADDRESS: 26 Harbor Park Drive			
CITY/TOWN: Port Washington, NY			ZIP CODE: 11050
PHONE: 516-207-7400	EMAIL: lbrodsky@bebcapital.com		
REQUESTOR'S CONSULTANT: P.W. Grosser Consulting	CONTACT: Jennifer Lewis, P.G.		
ADDRESS: 630 Johnson Ave, Suite 7			
CITY/TOWN: Bohemia, NY			ZIP CODE: 11716
PHONE: 631-589-6353	EMAIL: jenniferl@pwgrosser.com		
REQUESTOR'S ATTORNEY: Sive, Paget & Riesel, P.C.	CONTACT: David Yudelson, Esq.		
ADDRESS: 560 Lexington Ave, 15th Floor			
CITY/TOWN: New York, NY			ZIP CODE: 10022
PHONE: 646-378-7219	EMAIL: dyudelson@sprlaw.com		
		Y	N
1. Is the requestor authorized to conduct business in New York State?		<input checked="" type="radio"/>	<input type="radio"/>
2. If the requestor is a corporation, LLC, LLP, or other entity requiring authorization from the NYS Department of State (NYSDOS) to conduct business in NYS, the requestor's name must appear exactly as given above in the NYSDOS Corporation & Business Entity Database. A print-out of entity information from the NYSDOS database must be submitted with this application. Is this print-out attached?		<input checked="" type="radio"/>	<input type="radio"/>
3. Requestor must submit proof that the party signing this application and amendment has the authority to bind the requestor. This would be documentation showing the authority to bind the requestor in the form of corporate organizational papers, a Corporate Resolution or an Operating Agreement or Resolution for an LLC. Is this proof attached?		<input checked="" type="radio"/>	<input type="radio"/>
4. If the requestor is an LLC, the names of the members/owners must be provided. Is this information attached?		N/A <input type="radio"/>	<input checked="" type="radio"/>
5. Describe the new requestor's relationship to all existing applicants: The new Requestor, "737 4th Equity Owner, LLC", is an affiliate of and within the same organizational family as the two existing Volunteers, "737 4th Avenue, LLC" and "745 4th Avenue, LLC".			

SECTION III: CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Complete this section only if a transfer of ownership has taken place. Attach additional pages if necessary.

Owner listed below is: <input type="checkbox"/> Existing Applicant <input type="checkbox"/> New Applicant <input type="checkbox"/> Non-Applicant		
OWNER'S NAME:		CONTACT:
ADDRESS:		
CITY/TOWN:		ZIP CODE:
PHONE:	EMAIL:	
OPERATOR:		CONTACT:
ADDRESS:		
CITY/TOWN:		ZIP CODE:
PHONE:	EMAIL:	

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION

Complete this section only if adding new requestor(s). Attach additional pages if necessary.

If answering "yes" to any of the following questions, please provide additional information as an attachment. Please refer to ECL § 27-1407 for details.

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="radio"/>	<input checked="" type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for the site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input checked="" type="radio"/>
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 or regulation of the state or federal government? If so, provide additional information as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as site name, address, DEC site number, reason for denial, and any other relevant information.	<input type="radio"/>	<input checked="" type="radio"/>
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 or contaminants?	<input type="radio"/>	<input checked="" type="radio"/>
7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting of contaminants; or (ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?	<input type="radio"/>	<input checked="" type="radio"/>
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?	<input type="radio"/>	<input checked="" type="radio"/>

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION (continued)		Y	N
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="radio"/>	<input checked="" type="radio"/>	
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="radio"/>	<input checked="" type="radio"/>	
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input checked="" type="radio"/>	
12. 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:			
<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 disposal of a 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 they have 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's liability arises solely as a result of ownership, operation of or involvement with the site, they must submit a statement describing why they should be considered a volunteer – be specific as to the appropriate care taken.		
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?		N/A <input type="radio"/>	Y <input checked="" type="radio"/> N <input type="radio"/>
14. Requestor's relationship to the property (check all that apply):			
<input type="checkbox"/> Prior Owner <input type="checkbox"/> Current Owner <input type="checkbox"/> Potential/Future Purchaser <input checked="" type="checkbox"/> Other: <small>Member of Future Purchaser</small>			
15. If the requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before being added to the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?		N/A <input type="radio"/>	Y <input checked="" type="radio"/> N <input type="radio"/>

SECTION V: PROPERTY DESCRIPTION AND REQUESTED CHANGES

Complete this section only if property is being added to or removed from the site, a lot merger or other change to site SBL(s) has occurred, or if modifying the site address for any reason.

1. Property information on current agreement (as modified by any previous amendments, if applicable):

ADDRESS:

CITY/TOWN

ZIP CODE:

CURRENT PROPERTY INFORMATION

TOTAL ACREAGE OF CURRENT SITE:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

PARCEL ADDRESS	SECTION	BLOCK	LOT	ACREAGE

2. Requested change (check appropriate boxes below):

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

PARCELS ADDED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

PARCEL ADDRESS	SECTION	BLOCK	LOT	ACREAGE

TOTAL ACREAGE TO BE ADDED: _____

b. Reduction of property

PARCELS REMOVED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

PARCEL ADDRESS	SECTION	BLOCK	LOT	ACREAGE

TOTAL ACREAGE TO BE REMOVED: _____

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

NEW PROPERTY INFORMATION:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

PARCEL ADDRESS	SECTION	BLOCK	LOT	ACREAGE

3. TOTAL REVISED SITE ACREAGE: _____

4. For all changes requested in this section, documentation must be provided. Required attachments are listed in the application instructions. Is the required documentation attached?

Y	N
<input type="radio"/>	<input type="radio"/>

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

Complete this section only if the site is located within the five counties comprising New York City and the requestor is seeking a determination of eligibility for tangible property credits. Provide supporting documentation as required. Refer to the application instructions for additional information.

	Y	N
1. Is the site located in Bronx, Kings, New York, Queens or Richmond County?	<input type="radio"/>	<input type="radio"/>
2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit?	<input type="radio"/>	<input type="radio"/>
3. 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="radio"/>	<input type="radio"/>
4. Is the property upside down as defined below? From ECL 27-1405(31): "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.	<input type="radio"/>	<input type="radio"/>
5. Is the project and affordable housing project as defined below? 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' household's 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 homeowners 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.	<input type="radio"/>	<input type="radio"/>

APPLICATION SUPPLEMENT FOR NYC SITES (continued)	Y	N
<p>6. Is the project a planned renewable energy facility site as defined below?</p> <p>From ECL 27-1405(33) as of April 9, 2022:</p> <p>“Renewable energy facility site” shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.</p> <p>From Public Service Law Article 4 Section 66-p as of April 23, 2021:</p> <p>(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.</p>	<input type="radio"/>	<input type="radio"/>
<p>7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and meets the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?</p> <p>From ECL 75-0111 as of April 9, 2022:</p> <p>(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.</p>	<input type="radio"/>	<input type="radio"/>

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT	
EXISTING AGREEMENT INFORMATION	
BCP SITE NAME: 737 4th Avenue	BCP SITE CODE: C224332
NAME OF CURRENT APPLICANT(S): 737 4th Avenue, LLC; 745 4th Avenue, LLC	
INDEX NUMBER OF AGREEMENT: C224332-11-21	DATE OF ORIGINAL AGREEMENT 11/19/2021

Declaration of Amendment:

By the requestor(s) and/or applicant(s) signature(s) 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 obligations held under the Agreement or those same laws.

STATEMENT OF CERTIFICATION AND SIGNATURES: NEW REQUESTOR

Complete the appropriate section (individual or entity) below only if this Amendment adds a new requestor. Attach additional pages as needed.

(Individual)

I hereby affirm that the 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.

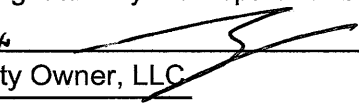
Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am the Authorized Signatory (title) of 737 4th Equity Owner, LLC (entity); 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.

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

Date: 1/24/2024 Signature: 

Print Name: Lee Brodsky / 737 4th Equity Owner, LLC

STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)

An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.

(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 the Authorized Signatory (title) of 737 4th Avenue, 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. Lee Brodsky's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 4/24/24 Signature: 

Print Name: Lee Brodsky / 737 4th Avenue, LLC

PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either (1) was the owner of the site at the time of the disposal of contamination or (2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 11/19/2021

Signature by the Department:

DATED: 2/29/24

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:



David Harrington, Assistant Director
 Division of Environmental Remediation

STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)

An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.

(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 the Authorized Signatory (title) of 745 4th Avenue, 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. Lee Brodsky's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 1/24/24 Signature: 

Print Name: Lee Brodsky / 745 4th Avenue, LLC

PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either (1) was the owner of the site at the time of the disposal of contamination or (2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 11/19/2021

Signature by the Department:

DATED: 2/29/24

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:



David Harrington, Assistant Director
 Division of Environmental Remediation

Exhibit A to BCA Amendment No. 4:

Supporting Documents to Add
“737 4th Equity Owner, LLC” as a New Volunteer

Department of State Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details



ENTITY NAME: 737 4TH EQUITY OWNER, LLC

DOS ID: 7232315

FOREIGN LEGAL NAME: 737 4TH EQUITY 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: 01/18/2024

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 01/18/2024

INACTIVE DATE:

FOREIGN FORMATION DATE: 01/17/2024

STATEMENT STATUS: CURRENT

COUNTY: NASSAU

NEXT STATEMENT DUE DATE: 01/31/2026

JURISDICTION: DELAWARE, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)

[NAME HISTORY](#)

[FILING HISTORY](#)

[MERGER HISTORY](#)

[ASSUMED NAME HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: THE LLC

Address: 26 HARBOR PARK DRIVE, PORT WASHINGTON, NY, UNITED STATES, 11050

Electronic Service of Process on the Secretary of State as agent: Not Permitted

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

**LIMITED LIABILITY COMPANY AGREEMENT
OF
737 4th EQUITY OWNER, LLC**

This Limited Liability Company Agreement (this "Agreement") of **737 4th Equity Owner, LLC** is entered into by 737 4th Avenue, LLC as the sole member (the "Member").

The Member has formed a limited liability company pursuant to and in accordance with the Delaware Limited Liability Act, as amended from time to time (the "Act"), and hereby agree as follows:

1. **Name.** The name of the limited liability company formed hereby is **745 4th Equity Owner, LLC** (the "Company"). The Certificate of Formation was filed with the Secretary of State of the State of Delaware on January 17, 2024.

2. **Place of Business.** The principal office and place of business of the Company shall be at 26 Harbor Park Drive, Port Washington, New York 11050.

3. **Purpose.** The Company is formed for the purpose of engaging in any lawful act or activity for which limited liability companies may be formed under the Act, including but not limited to, the ownership, purchase, sale, and leasing of real property and to engage in any and all activities necessary or incidental to the foregoing.

4. **Members.** The name and the business, residence, or mailing address of the Members are as follows:

<u>Name</u>	<u>Address</u>
737 4th Avenue, LLC	26 Harbor Park Drive Port Washington, New York 11050

5. **Management.** The business and affairs of the Company shall be conducted by the Member who 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 Act.

6. **Books and Records.** The books and records of the Company shall be maintained by the Member on behalf of the Company at the Company's principal office or at any other location as the Member deems appropriate.

7. **Capital Contributions.** The Member shall have an individual capital account in an amount as established by the regularly engaged accountant of the Company.

8. **Ownership Interests.** The ownership interest of the Member shall be as follows:

737 4th Avenue, LLC – 100%

9. **Additional Capital Contributions.** Additional capital contributions may be made by the Member from time to time.

10. **Allocation of Profits and Losses.** The Company's profits and losses shall be allocated in proportion to the ownership interest of the Member as set forth in Section 8 or as modified from time to time by the Member.

11. **Distributions.** Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Such distributions shall be allocated to the Member in the same proportion as its then interest in the profits and losses.

12. **Assignments.** The Member may assign in whole or in part its limited liability company interest.

13. **Withdrawal of a Member.** The Member may withdraw from the Company in accordance with the Act and at any time.

14. **Admission of Additional Members.** One (1) or more additional members of the Company may be admitted to the Company, but only with the consent of the Member.

15. **Liability of Members.** The Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act.

16. **Exculpation of Members.** The Member shall not be liable for any breach of duty in such capacity, except that if a judgment or other final adjudication adverse to it establishes that its acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that it personally gained in fact a financial profit or other advantage to which it was not legally entitled or its acts were not performed in accordance with the Act.

17. **Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of New York, all rights and remedies being governed by said laws.

18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Agreement as of the 18th day of January, 2024.

737 4th Avenue, LLC

By: 737 4th Management, LLC, its Manager

By: BSI, LLC, its Manager

By: _____

Lee J. Brodsky, Manager

**WRITTEN CONSENT OF SOLE MEMBER OF
737 4TH EQUITY OWNER, LLC**

The undersigned, being an authorized signatory of 737 4TH AVENUE, LLC, which is the sole member (the “**Sole Member**”) of 737 4TH EQUITY OWNER, LLC, a Delaware limited liability company authorized to transact business in New York (the “**Company**”), hereby consents to and adopts the following Resolutions:

1. LEE BRODSKY is a representative of the Company and has the full power and authority on behalf of the Company, as an authorized signatory (the “**Authorized Signatory**”), to:
 - a. Execute documents in connection with the application of the Company for participation in the New York State Brownfield Cleanup Program (“BCP”);
 - b. Enter into agreements with the New York State Department of Environmental Conservation (“DEC”) in connection with the Company’s participation in the BCP;
 - c. Execute any and all documents in connection with the Company’s participation in the BCP, including but not limited to applications, agreements, easements, and tax returns;
 - d. Take any action necessary to the furtherance of the Company’s participation in the BCP, including but not limited to conducting negotiations on behalf of the Company.
2. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the passage of this Consent are hereby approved and ratified. The authority hereby conferred shall continue in full force and effect until the DEC shall have received notice, in writing, of the revocation hereof by a resolution duly adopted by a manager of the Company. Any such revocation shall be effective only as to actions taken by the Company subsequent to DEC's receipt of such notice.
3. The undersigned hereby represents and warrants that (i) the undersigned is an authorized signatory of 737 4TH AVENUE, LLC, which is the Sole Member of the Company; and (ii) the consent of the undersigned is sufficient to authorize the Company to take the aforementioned actions.

[Signature page follows]


24 IN WITNESS WHEREOF, the undersigned has executed this Written Consent as of
January, 2024.

SOLE MEMBER:

737 4TH AVENUE, LLC

By: 737 4TH MANAGEMENT, LLC
its Manager

By: BSI, LLC,
its Manager

By: 
Name: Lee J. Brodsky
Title: Manager

Organizational Chart for 737 4th Equity Owner, LLC



**VOLUNTEER STATEMENT OF
745 4TH AVENUE, LLC**

The Requestor, 737 4th Equity Owner, LLC, is properly designated as a “Volunteer” because its liability will arise solely from its future involvement with the BCP Site after the discharge or disposal of contaminants at the BCP Site. The Requestor will exercise appropriate care with respect to current site conditions to prevent any threatened future release and to prevent or limit human, environmental, or natural resource exposures to any previously released contamination. The Requestor has not contributed to or exacerbated any site environmental conditions and is prepared to undertake all necessary remediation required to address identified site contamination. As such, the Requestor, 745 4th Equity Owner, LLC, qualifies as a “Volunteer” per ECL 27-1405(1).

ACCESS AGREEMENT

ACCESS AGREEMENT made as of this 24 day of January 2024, by and between 737 4th Avenue, LLC (“**Grantor**”), and 737 4th Equity Owner, LLC (“**Grantee**”).

WHEREAS, Grantor owns that certain real property located at 737 4th Avenue, Brooklyn, New York, Block 652, Lot 1, together with the building and improvements thereon (“**Grantor’s Property**”); and

WHEREAS, Grantor’s Property was accepted into the New York State Brownfield Cleanup Program (“**BCP**”) as Site No. C224332, pursuant to that certain Brownfield Cleanup Agreement (“**BCA**”), Index No. C224332-11-19; and

WHEREAS, Grantor and Grantee mutually desire for Grantee to apply for admission to the BCP as an additional Requestor, as that term is defined in 6 NYCRR 375-3.2; and

WHEREAS, following admission of Grantee to the BCP as an additional Requestor, Grantee may require access to Grantor’s Property to carry out certain investigatory, remedial and other related tasks required by the BCP (collectively, the “**Work**”); and

WHEREAS, Grantor desires to grant Grantee such access.

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

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

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

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

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


5. Grantor hereby also grants Grantee the right and authority to place an environmental easement pursuant to Article 71, Title 36 of the Environmental Conservation Law ("ECL") on Grantor's Property, should an environmental easement be deemed necessary as an element of the site remediation under the BCP, and to record such environmental easement with the Office of the City Register of New York City.

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

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


GRANTOR:

737 4th Avenue, LLC

By: 
Name: Lee J. Brodsky
Title: Authorized Signatory

GRANTEE:

737 4th Equity Owner, LLC

By: 
Name: Lee J. Brodsky
Title: Authorized Signatory