



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)

☒ 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:

BCA amendment requested to reflect transfer of title in the site from 374 Fourth Avenue Realty, LLC to 380 4th Avenue Owner, LLC. 380 4th Avenue Owner, LLC is the current requestor on the BCA. A copy of the recorded deed is attached.

This amendment also seeks a determination of eligibility for tangible property credits because the site is in an NYC Mandatory Inclusionary Housing area and will be developed as affordable housing. A copy of the recorded restrictive declaration for the property is attached.

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: 380 4th Avenue		BCP SITE NUMBER: C224358	
NAME OF CURRENT APPLICANT(S): 380 4th Avenue Owner, LLC			
INDEX NUMBER OF AGREEMENT: C224358-10-22		DATE OF ORIGINAL AGREEMENT: 10/19/22	
Section II. New Requestor Information (complete only if adding new requestor or name has changed)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No • If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
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 type="checkbox"/> Yes <input type="checkbox"/> No			
3. Describe Requestor's Relationship to Existing Applicant:			

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

OWNER'S NAME (if different from requestor) 380 4th Avenue Owner, LLC (existing requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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

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

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

☐ PARTICIPANT

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

☐ VOLUNTEER

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

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

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

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:

Acreage
Added by
Parcel

Parcel Address

Section No. Block No. Lot No.

Total acreage to be added: _____

☐

Reduction of property

2b. PARCELS REMOVED:

Acreage
Removed
by Parcel

Parcel Address

Section No. Block No. Lot No.

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

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 380 4th Avenue	BCP SITE NUMBER: C224358
NAME OF CURRENT APPLICANT(S): 380 4th Avenue Owner, LLC	
INDEX NUMBER OF AGREEMENT: C224358-10-22	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 10/19/22	

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 _____) of (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.

_____ 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: _____

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 380 4th Avenue Owner, 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. My _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 10/24/22 Signature: 

Print Name: TIMOTHY QUINLAN

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:

☐

PARTICIPANT

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

☒

VOLUNTEER

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

Effective Date of the Original Agreement: 10/19/22

Signature by the Department:

DATED: 11/21/2022

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: Andrew Guglielmi

Andrew Guglielmi, Director
Division of Environmental Remediation

Site Code: C224358

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:_____

BROWNFIELD CLEANUP PROGRAM (BCP) INSTRUCTIONS FOR COMPLETING A BCP AMENDMENT APPLICATION

This form must be used to add a party, modify a property description, or reduce/expand property boundaries for an existing BCP Agreement. NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

COVER PAGE

Please select all options that apply. Provide a brief narrative of the nature of the amendment requested. At the bottom of the page, please enter the site code. This field will auto-populate in the bottom left corner of the subsequent pages.

SECTION I CURRENT AGREEMENT INFORMATION

Provide the site name, site code and current requestor exactly as it appears on the existing agreement. Provide the agreement index number and the date of the initial BCA, regardless of any executed amendments.

SECTION II NEW REQUESTOR INFORMATION

Requestor Name

Provide the name of the person(s)/entity requesting participation in the BCP. (If more than one, attach additional sheets with requested information. If an LLC, the members/owners' names need to be provided on a separate attachment). The requestor is the person or entity seeking DEC review and approval of the remedial program.

If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

Requestor Address, etc.

Provide the requestor's mailing address, telephone number; fax number and e-mail address. Representative Name, Address, etc.

Provide information for the requestor's authorized representative. This is the person to whom all correspondence, notices, etc will be sent, and who will be listed as the contact person in the BCA. Invoices will be sent to the representative unless another contact name and address is provided with the application.

Consultant Name, Address, etc.

Provide information for the requestor's consultant. Attorney Name, Address, etc.
Provide information for the requestor's attorney.

Please provide 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.

SECTION III CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Only include if a transfer of title has taken place resulting in a change in ownership and/or operation of the site. Provide the relationship of the owner to the site by selecting one of the check-box options.

Owner Name, Address, etc.

Provide information for the new owner of the property. List all new parties holding an interest in the property. Attach separate pages as needed.

Operator Name, Address, etc.

Provide information for the new operator, if applicable.

SECTION IV NEW REQUESTOR ELIGIBILITY INFORMATION

As a separate attachment, provide complete and detailed information in response to any eligibility questions answered in the affirmative. It is permissible to reference specific sections of existing property reports; however, it is requested that such information be summarized. For properties with multiple addresses or tax parcels, please include this information for each address or tax parcel.

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.

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 signing the BCA and throughout the BCP project, including the ability to place an easement on the site. A purchase contract does not suffice as proof of access.

SECTION V PROPERTY DESCRIPTION AND DESCRIPTION OF CHANGES / ADDITIONS / REDUCTIONS (IF APPLICABLE)

NOTE: DEC requires a standard application to request major changes to the description of the property set forth in the BCA (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). The application must be submitted to DEC in the same manner as the original application to participate.

1. Property Information on Existing Agreement

Provide the site address and tax parcel information exactly as it appears on the current agreement (or as it has been modified in previous amendments).

2a. Addition of Property

Provide the tax parcel information and acreage for each parcel to be added. Provide the total acreage to be added below the far-right column.

2b. Reduction of Property

Provide the tax parcel information and acreage for each parcel to be removed. Provide the total acreage to be removed below the far-right column.

2c. Change to SBL or metes and bounds description

Provide the new tax parcel information and attach a metes and bounds description.

All requested changes to this section should be accompanied by a revised survey or other acceptable map depicting the proposed new site boundary. Additionally, provide a county tax map with the site boundary outlined, as well as a USGS 7.5-minute quadrangle map with the site location clearly identified.

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

This page should only be completed if:

a. The site is located in the five boroughs comprising New York City

AND

b. The site does not currently have an eligibility determination for tangible property credits.

PART II

The information in the top section of page 7 should auto-populate with the information provided on page 2. If a new requestor is applying to enter the program, provide the required information and signature at the bottom of page 7 and the required information and signature on page 8.

If no new requestor is applying to the program but any other change has been made, provide the required information and signature on page 8.

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

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RECORDING AND ENDORSEMENT COVER PAGE

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Document ID: 2022101700518002

Document Date: 10-06-2022

Preparation Date: 10-17-2022

Document Type: DEED

Document Page Count: 4

PRESENTER:

FIRST AMERICAN TITLE INSURANCE COMPANY
666 THIRD AVENUE
3020-1064340
NEW YORK, NY 10017
212-850-0675
CBLISTEIN@FIRSTAM.COM

RETURN TO:

HUNTON ANDREWS KURTH LLP
ATTENTION: LAURIE GRASSO, ESQ.
200 PARK AVENUE, 53RD FLOOR
NEW YORK, NY 10166

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	980	77	Entire Lot	376 4 AVENUE
Property Type: COMMERCIAL REAL ESTATE				

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

374 FOURTH AVENUE REALTY, LLC
666 THIRD AVENUE
NEW YORK, NY 10017

GRANTEE/BUYER:

380 4TH AVENUE OWNER, LLC
C/O: QUINLAN DEVELOPMENT GROUP, LLC, 157
COLUMBUS AVENUE
NEW YORK, NY 10023

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 57.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 250.00

NYC Real Property Transfer Tax:

\$ 630,000.00

NYS Real Estate Transfer Tax:

\$ 156,000.00

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 10-18-2022 12:40

City Register File No.(CRFN):

2022000395586



Annette McMill

City Register Official Signature

3020-1064340

First American Title
Insurance Company
666 Third Avenue, 5th FL
New York, N.Y. 10017
Phone (212) 922-9700
Fax (212) 922-0881

BARGAIN AND SALE DEED

WITHOUT COVENANT AGAINST GRANTOR'S ACTS

374 FOURTH AVENUE REALTY, LLC

TO

380 4TH AVENUE OWNER, LLC

ADDRESS: 374 4TH Avenue,
Brooklyn, New York

BLOCK: 980

LOT: 77

COUNTY: Kings

RETURN BY MAIL TO:

**Hunton Andrews Kurth LLP
200 Park Avenue, 53rd Floor
New York, New York 10166
Attention: Laurie Grasso, Esq.**

BARGAIN AND SALE DEED WITHOUT COVENANT AGAINST GRANTOR'S ACTS

THIS INDENTURE, made as of this 6th day of October, 2022

BETWEEN 374 FOURTH AVENUE REALTY, LLC, having an address at 374 4th Avenue, Brooklyn, New York, having an address at 374 4th Avenue, Brooklyn, New York 11215, party of the first part, and 380 4TH AVENUE OWNER, LLC, having an address at 157 Columbus Avenue, New York, New York 10023, party of the second part,

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

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in Kings County, City and State of New York, more commonly known as 374 4th Avenue, Brooklyn, New York and more particularly described on Exhibit A attached hereto and hereby made part hereof.

BEING the same premises conveyed to the party of the first part herein by deed made by 370 Fourth Avenue Corp. dated January 3, 2012 and recorded on January 18, 2012 under CRFN 2012000021660.

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

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

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

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

[SIGNATURE ON FOLLOWING PAGE]


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

374 FOURTH AVENUE REALTY, LLC,
a New York limited liability company

By: 
Name: Susan Rattner
Title: Authorized Signatory

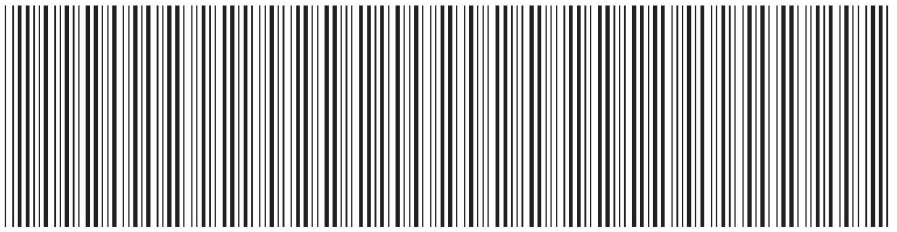
STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 28th day of SEPT. in the year 2022, before me, the undersigned a Notary Public in and for said state, personally appeared SUSAN RATTNER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public
CAMILLE FALZARANO
Notary Public, State of New York
Reg. No. 01FA6075263
Qualified in Nassau County
Commission Expires June 3, 2026

**NYC DEPARTMENT OF FINANCE
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RECORDING AND ENDORSEMENT COVER PAGE

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Document ID: 2022101700518007

Document Date: 10-06-2022

Preparation Date: 10-18-2022

Document Type: SUNDRY MISCELLANEOUS

Document Page Count: 42

PRESENTER:

FIRST AMERICAN TITLE INSURANCE COMPANY
666 THIRD AVENUE
3020-1064340
NEW YORK, NY 10017
212-850-0675
CBLISTEIN@FIRSTAM.COM

RETURN TO:

NYC DEPT OF HOUSING PRESERVATION AND
DEVELOPMENT
ATTENTION: ALYSON LANZER, ESQ.
100 GOLD STREET, ROOM 5S7
NEW YORK, NY 10038

PROPERTY DATA

Borough	Block	Lot	Unit	Address
BROOKLYN	980	77	Entire Lot	380 4 AVENUE
Property Type: COMMERCIAL REAL ESTATE				

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

380 4TH AVENUE OWNER, LLC
157 COLUMBUS AVENUE, SUITE 2E
NEW YORK, NY 10023

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 247.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

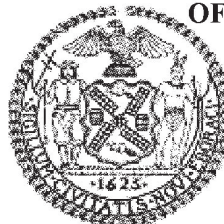
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 10-18-2022 12:40

City Register File No.(CRFN):

2022000395591



Annette McMill

City Register Official Signature

**MANDATORY INCLUSIONARY HOUSING
RESTRICTIVE DECLARATION**

THIS RESTRICTIVE DECLARATION ("Restrictive Declaration"), made as of the 6th day of October, 2022, by **380 4th Avenue Owner, LLC**, a Delaware limited liability company formed pursuant to the laws of the State of Delaware ("Applicant"), having an office at 157 Columbus Avenue, Suite 2E, New York, New York 10023.

WHEREAS, Applicant is owner in fee simple of the premises located in the County of Kings, City and State of New York, known as and by the street address 380 4th Avenue, Brooklyn, New York, identified as Block 980, Lot 77 on the Tax Map of the City (the "Premises"), more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, the Premises is located in a Mandatory Inclusionary Housing area within the meaning of Section 23-911 of the New York City Zoning Resolution (the "Resolution") and the Inclusionary Housing Program Guidelines (the "Guidelines") (the Guidelines and Resolution are collectively referred to herein as the "Program"); and

WHEREAS, pursuant to Section 23-154(d)(1) of the Resolution, no Residential Development, Enlargement or Conversion from non-Residential to Residential Use is permitted at a property located in a Mandatory Inclusionary Housing area, unless either Affordable Housing is provided, a contribution is made to the Affordable Housing Fund, or a special permit exempting the property from such requirements is obtained from the Board of Standards and Appeals ("BSA"), and

WHEREAS, Applicant has not obtained a special permit from the BSA; and

WHEREAS, Applicant does not qualify to make a contribution to the Affordable Housing Fund or chooses to forgo making such contribution to the Affordable Housing Fund; and

WHEREAS, Applicant intends to satisfy the requirements of the Program by constructing improvements on the Premises that will constitute Affordable Housing within the meaning of the Program; and

WHEREAS, the New York City Department of Housing Preservation and Development (the "Department") has been duly authorized to administer the Program; and

WHEREAS, Applicant has filed with the Department a MIH Application pursuant to Section 23-961(d) of the Resolution, attached hereto and made a part hereof as Exhibit B, and the Department has evaluated and approved the MIH Application as such terms and requirements of the MIH Application are reflected in this Restrictive Declaration; and

WHEREAS, Applicant intends to construct one or more buildings on the Premises with a total Residential Floor Area not to exceed 164,074.60 square feet; and

WHEREAS, Applicant intends to provide 41,230.41 square feet of Affordable Floor Area for Qualifying Households (as defined in Section 23-911 of the Resolution (the "Affordable Housing Units") to be affordable to and occupied by Qualifying Households; and

WHEREAS, Capitalized terms not specifically defined herein shall have the meaning set forth in the Resolution.

NOW THEREFORE, the Applicant has agreed to execute and record this Restrictive Declaration against the Premises.

1. Applicant shall construct fifty (50) Affordable Housing Units on the Premises (the "Building") pursuant to the building plans submitted to and approved by the Department ("Building Plans"). Attached hereto as Exhibit C, is a list identifying each Affordable Housing Unit.
2. The amount of Affordable Floor Area for Qualifying Households shall be equal to at least 25% of the total Residential Floor Area to be constructed on the Premises.
3. The weighted average of all Income Bands for Affordable Housing Units shall not exceed 60% of the Income Index and no Income Band shall exceed 130% of the Income Index. At least 10% of the Residential Floor Area within the MIH Development shall be affordable within an Income Band at 40% of the Income Index.
4. Construction Requirements and Construction Period.
 - (a) Applicant shall not permit the Building Plans to be professionally certified to the City of New York Department of Buildings ("DOB"). Applicant shall submit (i) such Building Plans and (ii) applicable zoning calculations to a DOB plan examiner for review and approval. Construction of Affordable Housing Units shall be in accordance with the Program requirements and the Building Plans with respect to the Affordable Housing Units (which Program requirements and Building Plans with respect to the Affordable Housing Units are collectively defined as "Construction Requirements"). Applicant shall not alter the Construction Requirements that relate to the Program requirements or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) without the Department's prior written approval.
 - (b) Applicant shall complete the construction of the Affordable Housing Units within three (3) years from the date of this Restrictive Declaration ("Completion Deadline"). The construction of the Affordable Housing Units shall be deemed complete upon the Department's issuance of a Completion Notice in accordance with Section 8 of this Restrictive Declaration ("Completion").
5. Affordable Housing Units will be occupied solely by tenants who are Qualifying Households at the time of such tenant's Initial Occupancy and shall be operated as Affordable Housing for Qualifying Households for the life of the MIH Development. Such obligation shall run with the land.
6. Rents.
 - (i) The rents charged by Applicant for the Affordable Housing Units upon Initial Occupancy shall: (a) not exceed the rents set forth in the schedule attached hereto as Exhibit D, which have been established by the Department pursuant to Sections 23-961(b) of the Resolution, (b) be registered with the New York State Division of Housing and Community Renewal or any successor agency ("DHCR") and (c) thereafter be subject to Rent Stabilization without regard to whether such Affordable Housing Units are

statutorily subject to Rent Stabilization. If a court determines that Rent Stabilization is statutorily inapplicable to an Affordable Housing Unit, such unit shall remain subject to Rent Stabilization in accordance with the terms of this Restrictive Declaration and the lease for such Affordable Housing Unit for the remainder of the Regulatory Period. Applicant shall register all Affordable Housing Units with DHCR upon the earlier to occur of: (A) the occupancy of the last remaining unit, or (B) one year from Completion Deadline (the "DHCR Registration Deadline").

(ii) Rents for existing tenants of the Affordable Housing Units upon renewal of leases for such units or at any time during the term of the lease shall be the lesser of (a) the rent allowed by Rent Stabilization, or (b) the Maximum Monthly Rent for Qualifying Households.

(iii) Upon rental of an Affordable Housing Unit that becomes vacant after the Initial Occupancy, the rent for any new tenant shall be the lesser of (a) the rent allowed by Rent Stabilization, or (b) the Maximum Monthly Rent for Qualifying Households.

(iv) Notwithstanding anything to the contrary contained herein, Applicant shall not utilize any exemption or exclusion from any requirement of Rent Stabilization to which Applicant might otherwise be or become entitled with respect to one or more Affordable Housing Units, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of Rent Stabilization due to (i) the vacancy of a unit where the rent exceeds a prescribed maximum amount, (ii) the fact that tenant income and/or a unit's rent exceeds prescribed maximum amounts, (iii) the nature of the tenant, or (iv) any other factor.

(v) Applicant shall grant all tenants in Affordable Housing Units the same rights that they would be entitled to pursuant to Rent Stabilization, and such rights shall be stated in each lease for an Affordable Housing Unit.

7. Applicant shall not request or accept a temporary certificate of occupancy ("TCO") or a permanent certificate of occupancy ("CO") for any portion of the MIH Development until the Department issues a Completion Notice; provided, however, that Applicant is permitted, without the Department's prior approval and prior to the issuance by the Department of a Completion Notice, to request or accept a TCO for any Stories in the building to be constructed on the Premises that contain Affordable Housing Units.

8. Applicant acknowledges that the Department shall not issue a Completion Notice prior to Applicant complying with the following requirements (a) through (l) of this Section 8:

(a) submission of proof satisfactory to the Department that each Affordable Housing Unit has received a CO or a TCO and such CO or TCO has not expired, been suspended or been revoked and that, except for the issuance of a Completion Notice, the MIH Development is otherwise eligible to receive a TCO or CO;

(b) at the discretion of the Department, performance by the Department of a site inspection which establishes to the satisfaction of the Department that (i) the Affordable Housing Units meet the requirements of Section 23-96(d) of the Resolution, and (ii) the Building(s) comprising the MIH Site meets the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

- (c) submission of proof, satisfactory to the Department, that the Affordable Housing Units are being rented in accordance with the Program and that Applicant has entered into leases with tenants for at least ten percent (10%) of the Affordable Housing Units in accordance with the Program, pursuant to which the tenants may begin occupancy upon the issuance of a CO or TCO;
- (d) submission of certificates of insurance evidencing coverage of the types and in the amounts required by Section 11 of this Restrictive Declaration with all premiums for the current year fully paid;
- (e) submission on or after the date that DOB either certifies to the Department that DOB is prepared to issue the CO or the TCO for all of the Affordable Housing Units or that DOB has issued the CO or the TCO for all of the Affordable Housing Units, as the case may be, of (i) a policy of fee title insurance dated as of the date the Applicant acquired title to the Premises, or a title policy insuring the lien of mortgage of the primary Lender for the Premises and/or the Premises or such Lender's credit enhancer, dated as of the date of the closing of the financing of such mortgage, will satisfy the foregoing, where such policy (a) has been issued by a title company in good standing licensed to issue title insurance in New York State and contains the Standard New York Endorsement (Owner's Policy) in substantially the form that appears as Exhibit E hereto, (b) such policy evidences fee simple ownership in the Applicant and the absence of liens and other encumbrances on the Premises other than those approved by the Department, (ii) proof of payment of premiums therefor, and (iii) title continuations run by the title company from the date of the title policy to the date of submission of such title policy together with a letter from the title company confirming the absence of liens and encumbrances on the Premises other than those previously approved by the Department and mechanics liens which have been bonded;
- (f) submission of (1) proof of registration of the Building and all Affordable Housing Units with DHCR; (2) proof that such Building is entirely free of violations of record issued by any city or state agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and the Program; and (3) submission of an affidavit stating that Applicant shall complete multiple dwelling registration of the Building in accordance with the New York City Housing Maintenance Code;
- (g) certification that all applicable representations, warranties and statements made by Applicant in this Restrictive Declaration and in any other documents submitted to the Department in connection with this Restrictive Declaration and the Program remain true and correct as of the date on which the foregoing conditions have been satisfied;
- (h) [Omitted];
- (i) submission of a Memorandum of Restrictive Declaration, in the form attached hereto as Exhibit F, where applicable, and the Restrictive Declaration stamped as recorded separately in the Office of the City Register in accordance with Section 14;

- (j) submission of proof that any required Affordable Housing Subordination Agreement (defined in Section 12 herein) was recorded immediately following execution thereof and that Applicant fully complied with the requirements of Section 12 herein;
 - (k) submission of proof that the Building Plans submitted to the Department were reviewed by a DOB plan examiner and submission of a zoning sheet approved, prior to the issuance of a TCO or a CO, by DOB; the Department's issuance of the Completion Notice shall be based upon such DOB approved calculations; and
 - (l) compliance with the terms of this Restrictive Declaration.
9. Warranties. Applicant shall obtain and retain commercially reasonable warranties of the work on the Affordable Housing Units from the general contractor and all subcontractors performing such work and, at the Department's request, shall submit such warranties for inspection.
10. Renting Affordable Housing Units. Applicant has contracted with **Affordable for NY, Inc.** a not-for profit organization qualified by the Department to participate in the Program, to act as Administering Agent for the Affordable Housing Units ("Administering Agent Agreement"). The Administering Agent Agreement shall require that the Administering Agent ensure that Affordable Housing Units are rented at Rent-up and each subsequent vacancy, in compliance with this Restrictive Declaration and all of the requirements of the Program. The Applicant shall ensure that within (60) sixty days after the DHCR Registration Deadline, the Administering Agent submit an affidavit to the Department attesting that at Initial Occupancy, the Monthly Rent registered and charged for each Affordable Housing Unit complied with the Monthly Rent requirements for such unit. The Applicant shall also ensure that each March after the DHCR Registration Deadline, the Administering Agent submit an affidavit to the Department attesting that each lease or sublease of an Affordable Housing Unit or renewal thereof, during the preceding year, complied with the applicable Monthly Rent requirements of the Program. A contract between the Administering Agent and the Department is attached and made a part hereof as Exhibit G. The Department may replace the Administering Agent in the event that the Affordable Housing Units are not rented at Rent-up and each subsequent vacancy thereafter in compliance with the Program. Applicant may not terminate the Administering Agent Agreement without simultaneously entering into a new Administering Agent Agreement approved in writing by the Department.
11. Insurance.
- (a) Insurance.
 - (i) Applicant shall obtain and maintain in force all-risk casualty insurance, including broad form extended coverage that, in the event of a casualty to the Building containing the Affordable Housing Units, will pay an amount of insurance equal to full replacement value of the Building containing the Affordable Housing Units.

- (ii) Applicant shall obtain and maintain in force commercial general liability insurance and other insurance of commercially reasonable types and amounts with respect to the Building containing the Affordable Housing Units.

(b) Casualty.

- (i) In the event of a casualty, Applicant shall promptly notify the Department thereof. Subject to the terms and conditions set forth in this Section 11, the proceeds of the insurance on the Premises may be utilized as determined by the lender or lenders participating in the financing of the Building (the "Financiers") in accordance with the documents governing such Financiers' loan(s), copies of which have been provided to the Department (the "Loan Documents"). Applicant shall promptly inform the Department of the disposition of such insurance proceeds.

- (ii) (A) In the event of a partial casualty, if the Building is reconstructed after such casualty, the Affordable Housing Units shall also be reconstructed so as to maintain in the Building the same ratio of Affordable Housing to total Residential Floor Area required by the Program, notwithstanding the availability of, or priority of payment of, insurance proceeds, and the terms of this Restrictive Declaration shall remain in full force and effect.

(B) If the Applicant and Financiers determine that, due to the nature of the casualty and the condition of the remaining structure, it is not practicable to include the Affordable Housing Units as originally configured in the replacement building, the Affordable Housing Units may be reconstructed in a location other than the Premises in accordance with Section 23-154(d)(5) of the Resolution, the requirements of this Restrictive Declaration and the Program.

- (iii) In the event of a total casualty, where all Residential Floor Area created pursuant to this Restrictive Declaration ceases to exist and the Applicant elects not to reconstruct Residential Floor Area in the restored building, if any, then all proceeds shall be applied in accordance with the Loan Documents.

- (iv) Applicant agrees that if the Building containing the Affordable Housing Units is reconstructed as provided in Section 11(b)(ii), then: (A) at such time as the restored portion of the Building or any new building is ready for occupancy, the Affordable Housing Units on each restored floor shall be made available for occupancy and re-rented prior to the market rate units on the same floor; (B) Applicant shall restore, repair, replace, rebuild, alter or otherwise improve the Affordable Housing Units in accordance with this Restrictive Declaration and the Program in effect as of the date hereof; (C) such construction shall be free of all violations under the New York City Building Code, the New York State Multiple Dwelling Law and the New York City Housing Maintenance Code; and (D) Applicant shall, upon request of the Department, amend this Restrictive Declaration to reflect any changes to the number, configuration or location of the Affordable Housing Units in any replacement building.

- (v) Applicant may require the Financiers under any current or future Mortgage to use the insurance proceeds for the rebuilding of the Premises (with certain protective procedures).
12. Debt Restrictions. Applicant shall not mortgage or otherwise encumber the Affordable Housing Units or this Restrictive Declaration with debt other than any initial debt approved by the Department and any modifications of same unless, (1) Applicant has notified the Department of such debt; (2) the lender is a local, state, or federal agency, savings bank, commercial bank, life insurance company, public real estate investment company, pension fund, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), or other lender approved by the Department, (3) if the debt service coverage ratio for the mortgaged property would be less than 1.1 if the Affordable Housing Units were to be encumbered with such subsequent debt, Applicant has obtained the prior written consent of the Department, and (4) if such debt is a new indebtedness and/or a new mortgage, the lender enters into a subordination and non-disturbance agreement between the lender, Owner and the Department ("Affordable Housing Subordination Agreement") in form and substance satisfactory to the Department, substantially in the form annexed hereto as Exhibit H, which Applicant shall cause to be recorded against the Affordable Housing Units immediately following execution thereof in the Office of the City Register for the county in which the Premises are located.
13. Construction Monitoring. The Department may monitor the construction of the Affordable Housing Units in any reasonable manner, including inspection of the Premises. Upon request (a) Applicant shall give the Department notice of planning and construction progress meetings by telephone or in writing, and (b) the Department may (i) participate in planning and construction progress meetings, (ii) review construction contracts, plans, specifications and materials samples, and (iii) review proposed changes to the foregoing. Following the Department's request for any documents pursuant to Section 13(iii) herein, Applicant shall give to the Department (x) notice of proposed changes to such documents or materials, and (y) notice of any casualty to or other material event concerning the work on the Affordable Housing Units.
14. Condominium Declaration. Nothing in this Restrictive Declaration shall prohibit the Applicant from subdividing the Building into condominium units, so long as (i) any condominium documents, including, but not limited to, the condominium declaration and by-laws (the "Condominium Declaration") with all exhibits thereto, necessary to effectuate such subdivision of the Building are submitted to the Department, for review and approval prior to submission to the New York State Attorney General's Office and prior to recording of the Condominium Declaration with the Office of the City Register and (ii) the Memorandum of Restrictive Declaration has been recorded against the Affordable Housing Units prior to receipt of a Completion Notice in accordance with Section 8 of this Restrictive Declaration. After such review and approval, the portions of the Condominium Declaration affecting the Affordable Housing Units shall not be modified without the prior written approval of the Department.
15. Covenants Running With The Land. The restrictions, covenants and provisions set forth in this Restrictive Declaration shall run with the land, bind Applicant and all other parties in interest to the Premises and their respective successors and assigns, and be

perpetual in duration. In the event of any conveyance of the Premises, the grantee(s) shall be bound to the terms and conditions contained in this Restrictive Declaration.

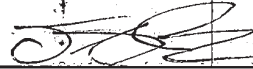
16. Recordation. Applicant, at its sole expense, shall promptly after execution of this Restrictive Declaration submit this Restrictive Declaration for recordation against the Premises in the Office of the City Register, and deliver satisfactory evidence of such recordation to the Department.
17. Amendments. This Restrictive Declaration may only be amended or modified by an instrument in recordable form executed by Applicant with the written approval of the Department thereon.
18. No Third Party Beneficiaries. The provisions of this Restrictive Declaration are solely and exclusively for the benefit of the City and Applicant and no other person shall be a beneficiary thereof.
19. No Waiver. No failure or delay on the part of the City to exercise any right, power or remedy under this Restrictive Declaration or available at law or in equity shall operate as a waiver thereof, or limit or impair the City's right to take any action or to exercise any such right, power or remedy, or prejudice its rights against Applicant in any respect.
20. Enforcement. The City of New York or the Department may enforce the terms of this Restrictive Declaration through the exercise of remedies at law or in equity.
21. Primary Residence. Affordable Housing Units may only be occupied as a primary residence, as defined in Rent Stabilization, by natural persons or families pursuant to a one or two year lease who have met the applicable income requirements for Qualifying Households at the time of such tenant's initial occupancy of such unit. Applicant shall only offer a vacant dwelling unit for occupancy by persons or families intending to occupy such unit as their primary residence pursuant to a one or two year lease and shall not cause or permit the sublease or assignment of any dwelling unit for transient occupancy, for occupancy by any household that is not income eligible, or to any corporation or other entity.
22. HPD's eRent Roll System. Applicant shall submit required rent rolls to the Department in such form and in such manner as directed by the Department, including, but not limited to, submission by electronic means using software designated by the Department.

[No further text; signature page immediately follows]

IN WITNESS WHEREOF, Applicant has executed this Restrictive Declaration as of the day and year first above written.

380 4TH AVENUE OWNER, LLC

By:



Name: Timothy Quinlan

Title: Authorized Signatory

APPROVED AS TO FORM BY
STANDARD TYPE OF CLASS
UNTIL November 18, 2022

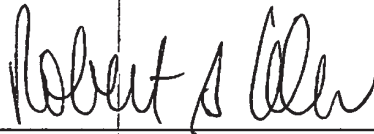
By: /s/ Isabel Galis-Menendez
Acting Corporation Counsel

380 4th Avenue, Restrictive Declaration

STATE OF NEW YORK.)

COUNTY OF New York) SS:

On this 3rd day of October 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Timothy Quinlan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



NOTARY PUBLIC

<p>ROBERT S. COHEN NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01CO4853984 Qualified in Westchester County My Commission Expires <u>3/3/2026</u></p>

EXHIBIT A

PROPERTY DESCRIPTION

ALL those certain plots, pieces or parcels of land situate, lying and being in the City and State of New York described as follows and the improvements now or hereafter located thereon:

<u>Block</u>	<u>Lot</u>	<u>Address</u>
980	77	380 4 th Avenue

Borough: Brooklyn

County: Kings

EXHIBIT B
MIH APPLICATION

(following page)

THE CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
OFFICE OF DEVELOPMENT
100 GOLD STREET, ROOM 5G, NEW YORK, NEW YORK 10038
Inclusionary@hpd.nyc.gov

**AFFORDABLE HOUSING PLAN APPLICATION PURSUANT TO
THE MANDATORY INCLUSIONARY HOUSING PROGRAM**
Please indicate "Not Applicable" or "NA" where appropriate. Do not leave any lines blank.

1. Applicant: 380 4th Avenue Owner, LLC

Address: 157 Columbus Avenue, Suite 2E, New York, NY 10023

Fax: 212-724-6386

Email: kcohen@quinlandev.com, jbiel@quinlandev.com

Primary Contact (Name, Phone, Email):

Josh Biel, 212-712-6196, jbiel@quinlandev.com

2. Owner (if different): same as above

Address: _____

Fax: _____

Email: _____

Primary Contact (Name, Phone, Email):

3. Administering Agent: Affordable for New York

Address: 670 Myrtle Ave, Ste. 7181, Brooklyn, NY, 11205

Fax: 212-655-9241

Email: eugene@afny.org

Primary Contact (Name, Phone, Email):

Eugene Goldstein, 212-655-5800 #250, eugene@afny.org

4. General Contractor: KBE-NY, LLC

Address: 11 East 44th Street, 17th Floor, New York, NY 10017

Fax: _____

Email: wtelesca@kbe-ny.com

Primary Contact (Name, Phone, Email):

William Telesca, 917-633-5499, wtelesca@kbe-ny.com

5. Architect: GF55 Architects

Address: 225 West 39th Street, 9th Floor, New York, NY 10018

Fax: _____

Email: info@gf55.com

Primary Contact (Name, Phone, Email):

Jesse McKeever, 646-201-9208, jesse@gf55.com

6. Attorney and Firm: Seiden & Schein, P.C.

Address: 570 Lexington Ave, 14th Floor, New York, NY

Fax: 212-593-4545

Email: info@seidenschein.com

Primary Contact (Name, Phone, Email):

Alvin Schein, 212-935-1400, aschein@seidenschein.com

7. Location of Affordable Housing Units

Street Address: 380 4th Avenue, Brooklyn, New York, 11215

Borough: Brooklyn

Block(s)/Lot(s): 98 / 77

Community Board: Brooklyn Community District 6

8. Mandatory Inclusionary Housing Area

(Include Zoning Resolution Appendix F Map Reference):

ZR Appendix F, Brooklyn Community District 6, Map 1

☐ Special Permit: _____

9. MIH Option for Compliance with Affordable Housing Requirement – ZR 23-154 (d)(3)(i-iv):

☒ Option 1

☐ Option 2

☐ Deep Affordability Option

☐ Workforce Option

10. Unit Count:

Total Units: 197

Total MIH Units: 50

Super's Units: 0

Income Distribution of Affordable Housing Units:

Number of low-income units (equal to or less than 80% AMI): 40

Number of moderate-income units (equal to or less than 125% AMI): 10

Number of middle-income units (equal to or less than 175% AMI): _____

11. If publicly financed, list all sources of governmental assistance, including tax credits, bond financing, and land disposition programs:

Tax Exemption to be requested: 421a option A

12.Type of Project (check all that apply)

Construction type:

- ☒ New Construction
- ☐ Conversion
- ☐ Enlargement

Location of MIH Units:

- ☒ On-site (MIH Site is located on the same zoning lot as MIH Development)
- ☐ Off-site (MIH Site is located on a different zoning lot to MIH Development)

Tenure of Units:

MIH Units

- ☒ Rental
- ☐ Homeownership

Non-MIH Units

- ☒ Rental
- ☐ Homeownership
- ☐ Not Applicable/All units are MIH units

13.Tenant-Paid Utilities:

Check all tenant-paid utilities that will apply, or check N/A if owner-paid

Apartment Electricity

- ☒ Electricity
- ☐ N/A: Apartment electric is paid by owner

Cooking

- ☐ Gas Stove
- ☒ Electric Stove
- ☐ N/A: Cooking is paid by owner

Heating

- ☐ Gas Heating
- ☒ Electric Heat: Cold Climate Air Source Heat Pump (ccASHP)*
- ☐ Electric Heat: other (e.g. Electric Resistance Heating, Electric PTACs, Electric Furnace)
- ☐ N/A: Heating is paid by owner

*Product must be listed on the NEEP Cold Climate Air Source Heat Pump (ccASHP) Product List:

<https://ashp.neep.org/#/>

Hot Water

- ☐ Gas Hot Water Heater
- ☐ Electric Hot Water Heating: Heat Pump Water Heaters (HPWHs)
- ☐ Electric Hot Water Heating: Other (e.g. resistance-type Hot Water Heater)
- ☒ N/A: Hot water heating is paid by owner

14. If the project will contain a condominium or cooperative structure, please describe the structure and the use of each unit. If not, please indicate N/A:

N/A

Authorized Signature of Applicant:



Print name:

Tyler Wilkins

Date:

7/21/22

EXHIBIT C
LIST OF AFFORDABLE UNITS
(following page)

380 4th Avenue

Exhibit C

Inclusionary Housing Units			
Construction Floor	Marketing Floor	Apt #	# Bedrooms
2	2	2A	1
2	2	2D	1
2	2	2L	1
2	2	2N	2
3	3	3A	1
3	3	3D	1
3	3	3G	1
3	3	3H	1
3	3	3I	2
3	3	3K	1
3	3	3N	2
4	4	4A	1
4	4	4D	1
4	4	4G	1
4	4	4H	1
4	4	4I	2
4	4	4K	1
4	4	4N	2
5	5	5A	1
5	5	5D	1
5	5	5G	1
5	5	5H	1
5	5	5I	2
5	5	5K	1
5	5	5N	2
6	6	6A	1
6	6	6D	1
6	6	6G	1
6	6	6H	1
6	6	6I	2
6	6	6K	1
6	6	6N	2
7	7	7D	1
7	7	7G	1
7	7	7H	1
7	7	7I	2
7	7	7K	1
7	7	7N	2
8	8	8F	1
8	8	8G	1
8	8	8H	1
8	8	8N	2
9	9	9G	1

Unit Summary	
# Bedrooms	Units
Studios	0
1 Bedroom	35
2 Bedroom	15
3 Bedroom	0
Total	50

Inclusionary Housing Units			
Construction Floor	Marketing Floor	Apt #	# Bedrooms
9	9	9H	1
9	9	9N	2
10	10	10G	1
10	10	10H	1
10	10	10N	2
11	11	11N	2
12	12	12E	1

EXHIBIT D
SCHEDULE OF RENTS AND EXPENSES

(following page)

Mandatory Inclusionary Housing Units --Rents*			
	# Units	Income Band/AMI Level	Legal Regulated Rent**
1 BR	17	40%	\$874 (2022 AMIs)
2 BR	2		\$1,031 (2022 AMIs)
Subtotal	19		

	# Units	Income Band/AMI Level	Legal Regulated Rent**
1 BR	15	60%	\$1,374 (2022 AMIs)
2 BR	6		\$1,631 (2022 AMIs)
Subtotal	21		

	# Units	Income Band/AMI Level	Legal Regulated Rent**
1 BR	3	90%	\$2,125 (2022 AMIs)
2 BR	7		\$2,532 (2022 AMIs)
Subtotal	10		
Project Total	50		

*Tenants are responsible for apartment electricity, electric stove, and electric heat

**The maximum Legal Regulated Rent is 30% of the applicable income band as defined in the New York City Zoning Resolution, including applicable utility allowances.

380 4th Avenue

Exhibit D

Total Units: 197

Mandatory Inclusionary Housing Units: 50

EXPENSES	Amount	Per Unit
Legal	\$45,000	\$228
Accounting	\$20,000	\$102
Management Fee	\$303,830	\$1,542
Fire and Liability Insurance	\$139,000	\$706
Heating	\$70,000	\$355
Electricity	\$50,000	\$254
Water & Sewer	\$90,000	\$457
Supplies/Cleaning/Exterminating	\$36,000	\$183
Other Service Contracts	\$87,000	\$442
Repairs/Replacement	\$155,000	\$787
Super & Maintenance (or Janitorial)	\$265,000	\$1,345
Other Payroll	\$485,085	\$2,462
Elevator	\$27,000	\$137
Reserves	\$49,250	\$250
Real Estate Taxes	\$119,003	\$604
Total Expenses	\$1,941,168	\$9,854

*The expenses reflect the overall 380 4th Avenue project underwriting dated September 26, 2022, which comprises 197 units, of which 50 are Mandatory Inclusionary Housing units.

EXHIBIT E

**STANDARD NEW YORK ENDORSEMENT
(OWNER'S POLICY)**

1. The following is added to the insuring provisions on the face page of this policy:

"___. Any statutory lien for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereafter gain priority over the estate or interest of the insured as shown in Schedule A of this policy."

2. Exclusion Number 5 is deleted, and the following is substituted:

5. Any lien on the Title for real estate taxes, assessments, water charges or sewer rents imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as Shown in Schedule A.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

IN WITNESS WHEREOF, _____ Insurance Company of New York has caused this Endorsement to be signed and sealed on its date of issue set forth herein.

DATED:

COUNTERSIGNED

Authorized Signatory

Insurance Company

BY: _____

EXHIBIT F

MEMORANDUM OF RESTRICTIVE DECLARATION

THIS MEMORANDUM OF RESTRICTIVE DECLARATION made this ____ day of _____, 202[##], by [owner], [description of legal entity (e.g., a New York limited liability company formed pursuant to the laws of the State of New York)], ("Applicant"), having an office at [address].

WITNESSETH THAT:

1. The Applicant is owner in fee simple of the premises located in the County of _____, City and State of New York, known as and by the street address [address], identified as Block [##], Lot [##] on the Tax Map of the City (the "Premises"), more particularly described in Exhibit A attached hereto and made a part hereof;
2. The Applicant has covenanted and agreed for and on behalf of itself, its successors, assigns, heirs, grantees and lessees, which covenants shall be covenants running with the land to provide Affordable Housing on the Premises in accordance with the Mandatory Housing Restrictive Declaration ("Declaration"), dated as of [insert date] by [insert name(s) of non-HPD parties] and recorded in the Office of the City Register for New York County on [insert date] as CRFN [insert CRFN number], the provisions of which are by this reference made a part hereof and Section 23-90 (Inclusionary Housing), inclusive of the Resolution.
3. The Declaration and the covenants therein, shall run with the land that constitutes the Premises in accordance with the terms therein.
4. This Memorandum of Declaration is intended to provide constructive notice of the existence and terms of the Declaration and in no way modifies or amends the Declaration. If any provisions of this Memorandum of Declaration conflict with the Declaration, the terms of the Declaration shall prevail. The Applicant at its sole cost and expense shall cause this Memorandum of Restrictive Declaration to be recorded against each tax lot within the zoning lot containing the Affordable Housing whether or not such tax lot existed at the time the Declaration was recorded.

NO FURTHER TEXT

IN WITNESS WHEREOF, this Memorandum of Restrictive Declaration has been executed as of the date first set forth above.

UNIFORM ACKNOWLEDGEMENTS

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this _____ day of _____, 202_, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that [s]he executed the same in [her]his capacity, and that by [her]his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

UNIFORM ACKNOWLEDGEMENTS

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this _____ day of _____, 202_, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that [s]he executed the same in [her]his capacity, and that by [her]his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT G

Administering Agent Agreement Inclusionary Housing Program

AGREEMENT made this 6th day October 2022, between **Affordable for NY, Inc.** ("Administering Agent"), having an office at 670 Myrtle Avenue, Suite 7181, Brooklyn, New York 11205 and the **Department of Housing Preservation and Development** ("Department"), having an office at 100 Gold Street, Ninth Floor, New York, NY 10038.

WHEREAS, 380 4th Avenue Owner, LLC, a Delaware limited liability company formed pursuant to the laws of the State of Delaware, having an office at 157 Columbus Avenue, Suite 2E, New York, New York 10023 ("Applicant" or "Owner") has recorded a Restrictive Declaration (the "Restrictive Declaration") pursuant to which Owner has agreed to create fifty (50) Affordable Housing Units located at 380 4th Avenue, Brooklyn, New York 11215, identified as Block 980, Lot 77 on the Tax Map of the City of New York (the "Affordable Housing Units") in accordance with Section 23-90 (Inclusionary Housing), inclusive of the Zoning Resolution ("Resolution") and with the Inclusionary Housing Guidelines ("Guidelines"), and together with the Resolution collectively referred to as the "Program"); and

WHEREAS, Administering Agent has agreed to ensure that the Affordable Housing Units are rented in compliance with the Restrictive Declaration at Rent-up and each subsequent vacancy and has signed an agreement with the Applicant to that effect; and

WHEREAS, Administering Agent has been qualified to act as an Administering Agent by the Department;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed that Administering Agent will assume the ongoing responsibility for ensuring that each Affordable Housing Unit is rented and upon vacancy re-rented in compliance with the Restrictive Declaration. In addition, the Administering Agent shall (1) maintain records setting forth the facts that form the basis of any affidavit submitted to the Department; (2) maintain such records as the Department may require at the Administering Agent's office or other location approved by the Department; and (3) make all records and facts of the operation of the Administering Agent available for the Department's inspection.

Notwithstanding any other remedy contained herein, the Department may commence an action against Administering Agent to require specific performance of Administering Agent's obligations herein. Department reserves the right to replace Administering Agent in the event that the Affordable Housing Units are not rented at Rent-up and each subsequent vacancy thereafter in compliance with the Program. If the agreement between Applicant and Administering Agent is terminated or expires, Administering Agent shall provide the Department with written notice of such termination or expiration and this Administering Agent Agreement shall be terminated.

This Administering Agent Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

THE CITY OF NEW YORK

By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

By: 

Name: Tricia Dietz

Title: Assistant Commissioner,
Housing Incentives

Affordable for NY, Inc.

By: _____

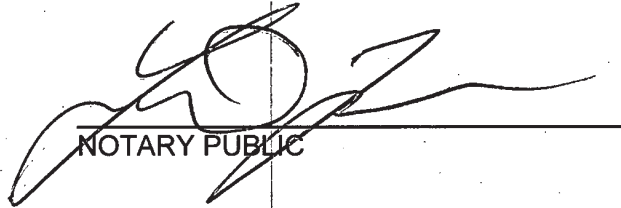
Name: _____

Title: _____

UNIFORM ACKNOWLEDGEMENTS

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this 27 day of September 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Tricia Dietz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



NOTARY PUBLIC

Loretta DeIorenzo
Notary Public, State of New York
Registration No. 01DE6331348
Qualified in New York County
Commission Expires October 5, 2023

STATE OF NEW YORK)
) SS:
COUNTY OF)

On this _____ day of September 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that [s]he executed the same in [her]his capacity, and that by [her]his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

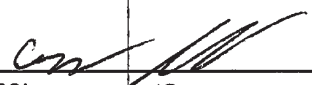
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

THE CITY OF NEW YORK

BY: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

By: _____
Name: Tricia Dietz
Title: Assistant Commissioner,
Housing Incentives

AFFORDABLE FOR NY, INC.

By:  _____
Name: Eugene Gdosten
Title: CEO

UNIFORM ACKNOWLEDGEMENTS

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this ____ day of October 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Tricia Dietz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
) SS:
COUNTY OF)

On this 29 day of ^{September}~~October~~ 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Eugene Goldstein, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that [s]he executed the same in [her]his capacity, and that by [her]his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Hindy Weinberger
NOTARY PUBLIC

Weinberger Hindy
Notary Public-State Of New York
No. 01WE6416379
Qualified in Kings County
My Commission expires 04/12/2025

380 4th Avenue, Restrictive Declaration

EXHIBIT H

AFFORDABLE HOUSING SUBORDINATION AGREEMENT

(following pages)

THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT ("Agreement"), made as of this ____ day of _____, 202__, by _____, [describe type of entity], having an address at _____ ("Mortgagee" or "Lender"), in favor of **THE CITY OF NEW YORK**, (the "City") a municipal corporation acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having an office at 100 Gold Street, New York, New York 10038 ("HPD").

WHEREAS, Mortgagee holds a certain mortgage or mortgages dated of even date herewith, as follows: (a) [Construction Loan Mortgage, Assignment of Leases and Rents and Security Agreement, dated of even date herewith], in the principal amount of \$ _____; (b) [describe all subordinate mortgages, if any], in the principal amount of \$ _____ and each made by [Borrower], a [describe type of entity] ("Applicant") [and describe owner if different than applicant ("Owner")] in favor of Lender to secure, among other things, the aggregate principal sum of _____ DOLLARS AND _____ CENTS (\$ _____) or so much thereof as may be advanced pursuant thereto, and interest, (the "Mortgage(s)") covering the premises described in **Schedule A** annexed hereto and incorporated herein ("Premises");

[**WHEREAS**, Owner and Borrower have entered into a Declaration of Interest and Nominee Agreement, dated as of the date hereof, pursuant to which Owner will retain legal title to the Premises and Beneficial Owner will, collectively, hold the beneficial interests in the Premises;]

WHEREAS, Applicant has executed a certain Mandatory Inclusionary Housing Restrictive Declaration ("Restrictive Declaration") dated as of the date hereof, which Restrictive Declaration is intended to be recorded against the Premises immediately following execution and delivery thereof;

WHEREAS, the Restrictive Declaration was entered into under the Mandatory Inclusionary Housing Program, which is governed by Sections 23-90 the New York City Zoning Resolution (the "Resolution") and the Inclusionary Housing Program Guidelines (the "Guidelines") (the Guidelines and the Resolution are collectively referred to as the "Program");

WHEREAS, the Restrictive Declaration provides that Applicant shall not mortgage or otherwise encumber the Premises or the Restrictive Declaration without the prior written consent of HPD and that, if HPD consents to a mortgage loan, the lender must subordinate the loan to all of the terms and conditions of the Restrictive Declaration;

WHEREAS, Applicant has entered into the Mortgage and other instruments evidencing or securing obligations of the Premises to Mortgagee (collectively, "Other Loan Documents"; the

Mortgage and the Other Loan Documents are referred to collectively as the "Loan Documents"); and

WHEREAS, HPD has consented to the Loan Documents on the condition that Mortgagee subordinate the Loan Documents to all the terms and conditions of the Restrictive Declaration in the manner hereinafter described.

NOW THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, Mortgagee hereby represents to and agrees with HPD, notwithstanding any contrary term, provision, agreement, covenant, warranty, and/or representation contained or implied in any Loan Documents or any other document executed in connection with the Premises, that:

1. The Loan Documents are and shall continue to be subject and subordinate to the terms, covenants, agreements, and conditions of the Restrictive Declaration.
2. As used in this Agreement (a) the term "Mortgage" shall refer to any amendments, replacements, substitutions, extensions, modifications, or renewals thereof, and (b) the term "Mortgagee" shall include the Mortgagee's successors and assigns.
3. As used in this Agreement, the phrase "subject and subordinate" means that:
 - (a) to the extent there are any inconsistencies between the provisions of the Restrictive Declaration and any provisions of the Loan Documents, the provisions of the Restrictive Declaration shall take priority over the inconsistent provisions of the Loan Documents, except as provided herein; and
 - (b) if Mortgagee or if any person or entity becomes the owner of the Premises (including, if the Premises is defined as a leasehold interest as well as a fee interest, the owner of such leasehold interest) by foreclosure, conveyance in lieu of foreclosure, or otherwise ("New Owner"), (i) the Restrictive Declaration shall continue in full force and effect and the Mortgagee and New Owner shall have no right to disturb the rights of HPD under the Restrictive Declaration, (ii) HPD shall not be named as a defendant in any action or proceeding to foreclose the Mortgage or otherwise enforce the Mortgagee's or New Owner's rights thereunder, except as set forth below, and (iii) the Premises shall be subject to the Restrictive Declaration in accordance with the provisions thereof; provided, however, that Mortgagee and New Owner shall not be liable for any act or omission of Applicant or bound by any subsequent amendment of or modification to the Restrictive Declaration without its written consent. Subject to the foregoing, nothing contained herein shall prevent the Mortgagee or New Owner from naming HPD in any foreclosure or other action or proceeding initiated by the Mortgagee or New Owner pursuant to the Mortgage to the extent necessary under applicable law in order for the Mortgagee or New Owner to avail itself of and complete the foreclosure or other remedy.

4. Upon a declaration of default under the Restrictive Declaration, HPD shall give Mortgagee notice thereof by hand delivery or reputable overnight courier and a reasonable opportunity to cure (if such default can be cured), provided, however, that Mortgagee shall have no obligation to cure any such default. If Mortgagee cures the default during such cure period (if any) or has commenced to cure the specified default within such period and is diligently pursuing completion of such cure, or has commenced the exercise of remedies under the Loan Documents within such period, HPD shall not exercise any remedies under the Restrictive Declaration by reason of such default. Nothing herein shall limit HPD's right to consent to a replacement manager pursuant to Paragraph 6 herein.
5. Mortgagee hereby acknowledges that it has no interest in or rights to any funds held in the Special Reserve Fund pursuant to the Restrictive Declaration.
6. Notwithstanding anything contained in the Restrictive Declaration or the Loan Documents, neither HPD nor Mortgagee may assume responsibility for management of the Affordable Housing Units (as defined in the Restrictive Declaration) or designate a third party to manage the Affordable Housing Units without the consent of the other. If, in the exercise of its remedies under the Restrictive Declaration, HPD notifies Mortgagee of its intention to install a replacement manager of the Affordable Housing Units, then Mortgagee's consent to such manager shall not be unreasonably withheld or delayed. If, in the exercise of its remedies under the Loan Documents, Mortgagee notifies HPD of its intention to install a replacement manager of the Affordable Housing Units, then HPD's consent to such manager shall not be unreasonably withheld or delayed. The aforesaid provisions shall apply to management of the Premises (and not only management of the Affordable Housing Units) if it is not feasible or practical for the Affordable Housing Units to be managed separately from the rest of the Premises.
7. Upon a casualty to a building on the Premises,
 - (a) where the repair or reconstruction cost is more than thirty-five percent (35%) of the replacement value of a building on the Premises, Mortgagee shall have the right to determine whether insurance proceeds are applied for the reconstruction or repair of the Premises or towards repayment of the Mortgage, and
 - (b) where the repair or reconstruction cost is less than or equal to thirty-five percent (35%) of the replacement value of the Premises, HPD shall have the right to determine how insurance proceeds shall be applied. HPD shall make such determination within sixty (60) days after HPD is notified of the occurrence of the casualty. If HPD determines in such case not to apply the insurance proceeds for the reconstruction or repair of the Premises, the insurance proceeds shall be retained by Mortgagee to the extent of sums then due under the Mortgage.

This paragraph supersedes any contrary provisions in the Restrictive Declaration or Loan Documents.

8. No failure to exercise and no delay in exercising, on the part of HPD, of any right, power or privilege under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege operate as a waiver of any other right, power or privilege under this Agreement.
9. The covenants, provisions and terms of this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York, and shall be binding upon and inure to the benefit of Mortgagee, HPD, and their respective successors, transferees, and assigns.
10. Neither this Agreement nor any provision hereof (including this paragraph) may be changed, modified, amended, waived, supplemented, discharged, abandoned, or terminated orally except by an instrument in writing signed by the party against whom enforcement of the change, modification, amendment, waiver, discharge, abandonment, or termination is sought.
11. All notices, approvals, requests, waivers, consents or other communications given or required to be given under this Agreement shall be in writing and sent as follows:

If to HPD, in duplicate, to: Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038
Attn: Assistant Commissioner, Housing Incentives

and: Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038
Attn: General Counsel

If to Lender, in duplicate, to: [Lender Name]
[Lender Address]
Attn:

and: [Lender's Counsel Name]
[Lender's Counsel Address]
Attn:

Notices must be hand delivered, sent by overnight delivery (e.g., FEDEX) or sent by certified or registered U.S. mail, return receipt requested. Notice shall be deemed to have been given upon delivery if sent by hand delivery, U.S. mail or overnight delivery. Each party named above may designate a change of address by written notice to all of the other parties.

12. This Agreement shall be recorded against the Premises immediately after the execution hereof, in the Office of the City Register for the County in which the Premises are located and the Applicant [and/or Owner] shall pay all required fees and taxes in connection therewith.

13. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

[No further text - signatures on the next page]

IN WITNESS WHEREOF, the undersigned have duly executed this Subordination and Non-Disturbance Agreement as of the day and year first above written.

THE CITY OF NEW YORK

**BY: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT**

By: _____

Tricia Dietz
Assistant Commissioner, Housing Incentives

APPROVED AS TO FORM BY
STANDARD TYPE OF CLASS
UNTIL

By: /s/ Lori Barrett- Peterson
Acting Corporation Counsel

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

On the ____ day of _____ in the year 202_ before me, the undersigned, personally appeared **Tricia Dietz**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

[LENDER]

By: _____
Name: _____
Title: _____

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

On the ____ day of _____ in the year 202_ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

PROPERTY DESCRIPTION

All those certain plots, pieces and parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of the _____, in the City and State of New York, designated as:

Block

Lots

Address

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

by and between
THE CITY OF NEW YORK

-and-
[LENDER]

The property affected by this written instrument lies within the:

Block Lot / Address

County:
Address:

RECORD AND RETURN TO:

[HPD COUNSEL]

**MANDATORY INCLUSIONARY HOUSING
RESTRICTIVE DECLARATION**

BY

380 4th Avenue Owner, LLC

The property affected by this instrument lies within the:

<u>Block</u>	<u>Lot</u>	<u>Address</u>
980	77	380 4 th Avenue

Borough: Brooklyn

County: Kings

Record and Return To:

Alyson Lanzer, Esq.
NYC Department of Housing Preservation and
Development
100 Gold Street, Room 5S7
New York, New York 10038

Exhibit A to Deed

Legal Description

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF 4TH AVENUE, DISTANT 100 FEET NORTHEASTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHWESTERLY SIDE OF 4TH AVENUE WITH THE NORTHEASTERLY SIDE OF 6TH STREET;

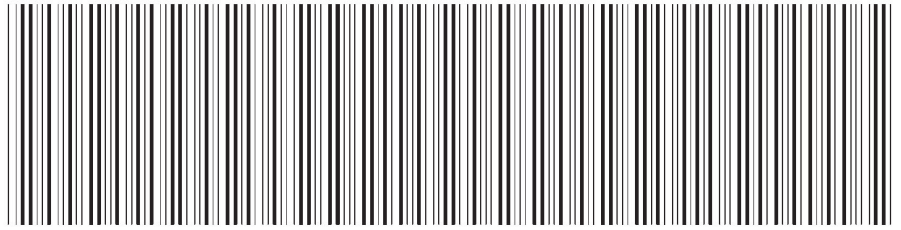
RUNNING THENCE NORTHWESTERLY PARALLEL WITH 6TH STREET, 100 FEET;

THENCE NORTHEASTERLY PARALLEL WITH 4TH AVENUE, 200 FEET;

THENCE SOUTHEASTERLY PARALLEL WITH 6TH STREET, 100 FEET TO THE NORTHWESTERLY SIDE OF 4TH AVENUE;

THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF 4TH AVENUE 200 FEET TO THE POINT OR PLACE OF BEGINNING.

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022101700518002001S0555

SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2022101700518002
Document Type: DEED

Document Date: 10-06-2022

Preparation Date: 10-17-2022

ASSOCIATED TAX FORM ID: 2022091200053

SUPPORTING DOCUMENTS SUBMITTED:

Page Count

DEP CUSTOMER REGISTRATION FORM FOR WATER AND SEWER BILLING
RP - 5217 REAL PROPERTY TRANSFER REPORT

1
3



The City of New York
Department of Environmental Protection
Bureau of Customer Services
59-17 Junction Boulevard
Flushing, NY 11373-5108

Customer Registration Form for Water and Sewer Billing

Property and Owner Information:

- (1) Property receiving service: BOROUGH: BROOKLYN BLOCK: 980 LOT: 77
- (2) Property Address: 376 4 AVENUE, BROOKLYN, NY 11215
- (3) Owner's Name: 380 4TH AVENUE OWNER, LLC
- Additional Name:

Affirmation:



Your water & sewer bills will be sent to the property address shown above.

Customer Billing Information:

Please Note:

- A. Water and sewer charges are the legal responsibility of the owner of a property receiving water and/or sewer service. The owner's responsibility to pay such charges is not affected by any lease, license or other arrangement, or any assignment of responsibility for payment of such charges. Water and sewer charges constitute a lien on the property until paid. In addition to legal action against the owner, a failure to pay such charges when due may result in foreclosure of the lien by the City of New York, the property being placed in a lien sale by the City or Service Termination.
- B. Original bills for water and/or sewer service will be mailed to the owner, **at the property address or to an alternate mailing address**. DEP will provide a duplicate copy of bills to one other party (such as a managing agent), however, any failure or delay by DEP in providing duplicate copies of bills shall in no way relieve the owner from his/her liability to pay all outstanding water and sewer charges. Contact DEP at (718) 595-7000 during business hours or visit www.nyc.gov/dep to provide us with the other party's information.

Owner's Approval:

The undersigned certifies that he/she/it is the owner of the property receiving service referenced above; that he/she/it has read and understands Paragraphs A & B under the section captioned "Customer Billing Information"; and that the information supplied by the undersigned on this form is true and complete to the best of his/her/its knowledge.

Print Name of Owner: 380 4th Avenue Owner LLC

Signature: [Signature] Date (mm/dd/yyyy)

Name and Title of Person Signing for Owner, if applicable:

TIMOTHY QUINNAN, AUTHORIZED SIGNATORY

FOR CITY USE ONLY

C1. County Code C2. Date Deed Recorded / /
 Month Day Year

C3. Book OR C4. Page
 C5. CRFN



REAL PROPERTY TRANSFER REPORT

 STATE OF NEW YORK
 STATE BOARD OF REAL PROPERTY SERVICES

RP - 5217NYC

PROPERTY INFORMATION

1. Property Location 376 4 AVENUE BROOKLYN 11215
 STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name 380 4TH AVENUE OWNER, LLC
 LAST NAME / COMPANY FIRST NAME

 LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address
 Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form) LAST NAME / COMPANY FIRST NAME
 STREET NUMBER AND STREET NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR ☐ Part of a Parcel

4A. Planning Board Approval - N/A for NYC
 4B. Agricultural District Notice - N/A for NYC

5. Deed Property Size FRONT FEET X DEPTH OR ACRES

Check the boxes below as they apply:

6. Ownership Type is Condominium ☐
 7. New Construction on Vacant Land ☐

8. Seller Name 374 FOURTH AVENUE REALTY LLC
 LAST NAME / COMPANY FIRST NAME

 LAST NAME / COMPANY FIRST NAME

9. Check the box below which most accurately describes the use of the property at the time of sale:

A ☐ One Family Residential C ☐ Residential Vacant Land E ☒ Commercial G ☐ Entertainment / Amusement I ☐ Industrial
 B ☐ 2 or 3 Family Residential D ☐ Non-Residential Vacant Land F ☐ Apartment H ☐ Community Service J ☐ Public Service

SALE INFORMATION

10. Sale Contract Date 9 / 1 / 2022
 Month Day Year

11. Date of Sale / Transfer 10 / 6 / 2022
 Month Day Year

12. Full Sale Price \$ 2 4 0 0 0 0 0 0
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:

A ☐ Sale Between Relatives or Former Relatives
 B ☐ Sale Between Related Companies or Partners in Business
 C ☐ One of the Buyers is also a Seller
 D ☐ Buyer or Seller is Government Agency or Lending Institution
 E ☐ Deed Type not Warranty or Bargain and Sale (Specify Below)
 F ☐ Sale of Fractional or Less than Fee Interest (Specify Below)
 G ☐ Significant Change in Property Between Taxable Status and Sale Dates
 H ☐ Sale of Business is Included in Sale Price
 I ☐ Other Unusual Factors Affecting Sale Price (Specify Below)
 J ☒ None

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

15. Building Class G 9 16. Total Assessed Value (of all parcels in transfer) 8 9 6 4 0 0

17. Borough, Block and Lot / Roll Identifier(s) (If more than three, attach sheet with additional identifier(s))

BROOKLYN 980 77

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

380 4th Avenue
Owner, LLC

BUYER

BUYER'S ATTORNEY

BUYER SIGNATURE <i>[Signature]</i>		DATE 11/11/2020		LAST NAME Squibb		FIRST NAME	
C/O: QUINLAN DEVELOPMENT GROUP, LLC AVENUE		57 COLUMBUS					
STREET NUMBER		STREET NAME (AFTER SALE)		AREA CODE		TELEPHONE NUMBER	
NEW YORK		NY		10023			
CITY OR TOWN		STATE		ZIP CODE		SELLER SIGNATURE <i>[Signature]</i>	
						DATE	

SELLER

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER				BUYER'S ATTORNEY	
BUYER SIGNATURE <i>See attached</i>		DATE		LAST NAME	FIRST NAME
C/O: QUINLAN DEVELOPMENT GROUP, LLC 157 COLUMBUS AVENUE					
STREET NUMBER	STREET NAME (AFTER SALE)		AREA CODE	TELEPHONE NUMBER	
NEW YORK				374 Fourth Avenue Realty LLC	
CITY OR TOWN	STATE	ZIP CODE	SELLER SIGNATURE	DATE	
	NY	10023	<i>Susan Rathner</i>		

Susan Rathner, Authorized Signatory

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