



Department of  
Environmental  
Conservation

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

### PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☒ Amendment to [check one or more boxes below]

- ☒ Add
- ☐ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☒ Yes ☐ No

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

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

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

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

☐ Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

New owners 144 Barrow Street LLC and 150 Barrow Street LLC submit this BCA Amendment Form (1) to reflect the new ownership status of the Keller Hotel Site and (2) to request addition as Volunteers to the existing BCA.

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

Section I. Existing Agreement Information			
BCP SITE NAME:		BCP SITE NUMBER:	
NAME OF CURRENT APPLICANT(S):			
INDEX NUMBER OF EXISTING AGREEMENT: C231092-05-15    DATE OF EXISTING AGREEMENT: 06/16/15			
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME		See Attachment A	
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)?                      Yes                      No			
<ul style="list-style-type: none"> <li>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 &amp; 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.    See Attachment B</li> </ul>			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?    See Attachment C                      Yes                      No			
Describe Requestor's Relationship to Existing Applicant:			

**Section I. Existing Agreement Information**

BCP SITE NAME: Keller Hotel

BCP SITE NUMBER: C231092

NAME OF CURRENT APPLICANT(S): 144-150 Barrow Street LLC

INDEX NUMBER OF EXISTING AGREEMENT: C231092-05-15 DATE OF EXISTING AGREEMENT: 06/16/15

**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME 144 Barrow Street LLC

See Attachment A

ADDRESS 177 Christopher Street

CITY/TOWN New York, NY

ZIP CODE 10014

PHONE (212) 989-3100

FAX (212) 929-2101

E-MAIL nbender@wmgottlieb.com

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



Yes



No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (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. See Attachment B

NAME OF NEW REQUESTOR'S REPRESENTATIVE Neil Bender

ADDRESS 177 Christopher Street

CITY/TOWN New York, NY

ZIP CODE 10014

PHONE (212) 989-3100

FAX (212) 929-2101

E-MAIL nbender@wmgottlieb.com

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Michael Burke, Langan Engineering

ADDRESS 360 West 31st Street, 21 Penn Plaza, 8th Floor

CITY/TOWN New York, NY

ZIP CODE 10001

PHONE (212) 479-5400

FAX (212) 479-5444

E-MAIL mburke@langan.com

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) David Yudelson, Sive, Paget &amp; Riesel P.C.

ADDRESS 560 Lexington Avenue, 15th Floor

CITY/TOWN New York, NY

ZIP CODE 10022

PHONE (646) 378-7219

FAX (212) 421-1891

E-MAIL dyudelson@sprlaw.com

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? See Attachment C



Yes



No

Describe Requestor's Relationship to Existing Applicant:

Existing applicant 144-150 Barrow Street LLC transferred ownership of the property to New Requestors 144 Barrow Street LLC and 150 Barrow Street LLC in connection with the formation of a joint venture agreement.

**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor) 144 Barrow Street LLC, 150 Barrow Street LLC

ADDRESS 177 Christopher Street

CITY/TOWN New York, NY

ZIP CODE 10014

PHONE (212) 989-3100

FAX (212) 929-2101

E-MAIL nbender@wmgottlieb.com

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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

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

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

☐ PARTICIPANT

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

☒ VOLUNTEER

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

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

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

Requestor's Relationship to Property (check one):

☐ Prior Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other \_\_\_\_\_

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

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

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

ADDRESS

CITY/TOWN

ZIP CODE

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

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

Check appropriate boxes below:

☐

Changes to metes and bounds description or TBL correction

☐

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

Approximate acreage added: \_\_\_\_\_

**ADDITIONAL PARCELS:**

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

☐

Reduction of property

Approximate acreage removed: \_\_\_\_\_

**PARCELS REMOVED:**

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

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

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

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>From ECL 27-1405(31):</b></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 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>	

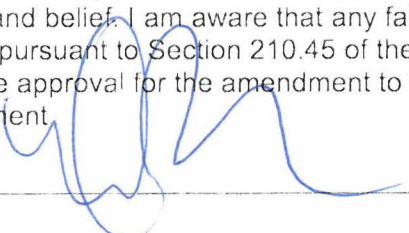
## PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

<b>Existing Agreement Information</b>	
BCP SITE NAME: Keller Hotel	BCP SITE NUMBER: C231092
NAME OF CURRENT APPLICANT(S): 144-150 Barrow Street LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C231092-05-15	
EFFECTIVE DATE OF EXISTING AGREEMENT: 06/16/15	

### 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.

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>
(Individual)
I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date: _____ Signature: _____
Print Name: _____
(Entity)
I hereby affirm that I am (title <u>Manager</u> ) of (entity <u>144 Barrow Street LLC</u> ); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. <u>Neil Bender's</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date: <u>4/22/19</u> Signature: 
Print Name: <u>Neil Bender</u>



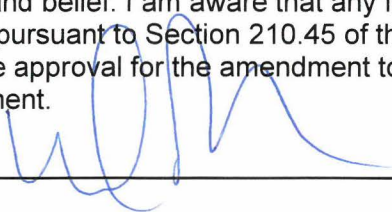
## PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Keller Hotel	BCP SITE NUMBER: C231092
NAME OF CURRENT APPLICANT(S): 144-150 Barrow Street LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C231092-05-15	
EFFECTIVE DATE OF EXISTING AGREEMENT: 06/16/15	

### 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)
<p>(Individual)</p> <p>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.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>
<p>(Entity)</p> <p>I hereby affirm that I am (title <u>Manager</u>) of (entity <u>150 Barrow Street LLC</u>); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. <u>Neil Bender's</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: <u>4/22/19</u> Signature: </p> <p>Print Name: <u>Neil Bender</u></p>

**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 Manager (title) of 144-150 Barrow Street 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. Neil Bender's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 4/22/19 Signature: \_\_\_\_\_

Print Name: Neil Bender

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

☐

PARTICIPANT

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

☐

VOLUNTEER

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

Effective Date of the Original Agreement:

Signature by the Department:

DATED:

June 3, 2019

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

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

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

**SUBMITTAL INFORMATION:**

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

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

---

**FOR DEPARTMENT USE ONLY**

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

**PROJECT MANAGER:** \_\_\_\_\_

# Exhibit A

**Attachment A**

**Member Information for 144 Barrow Street LLC and 150 Barrow Street LLC**

144 Barrow Street LLC is a sole member LLC. Its sole member is Barrow Street Ventures, LLC, EIN: 83-3038020.

150 Barrow Street LLC is a sole member LLC. Its sole member is Barrow Street Ventures, LLC, EIN: 83-3038020.

# Exhibit B

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through February 20, 2019.

---

**Selected Entity Name:** 144 BARROW STREET LLC

**Selected Entity Status Information**

**Current Entity Name:** 144 BARROW STREET LLC

**DOS ID #:** 5471886

**Initial DOS Filing Date:** JANUARY 09, 2019

**County:** ALBANY

**Jurisdiction:** DELAWARE

**Entity Type:** FOREIGN LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

**Selected Entity Address Information**

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

ALLSTATE CORPORATE SERVICES CORP.

99 WASHINGTON AVENUE

SUITE 1008

ALBANY, NEW YORK, 12260

**Registered Agent**

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

**\*Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

### Name History

Filing Date	Name Type	Entity Name
JAN 09, 2019	Actual	144 BARROW STREET LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through February 20, 2019.

---

Selected Entity Name: 150 BARROW STREET LLC

Selected Entity Status Information

**Current Entity Name:** 150 BARROW STREET LLC

**DOS ID #:** 5471807

**Initial DOS Filing Date:** JANUARY 09, 2019

**County:** ALBANY

**Jurisdiction:** DELAWARE

**Entity Type:** FOREIGN LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

Selected Entity Address Information

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

ALLSTATE CORPORATE SERVICES CORP.

99 WASHINGTON AVENUE

SUITE 1008

ALBANY, NEW YORK, 12260

**Registered Agent**

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

**\*Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

\*Stock information is applicable to domestic business corporations.

### Name History

Filing Date	Name Type	Entity Name
JAN 09, 2019	Actual	150 BARROW STREET LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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# Exhibit C

**LIMITED LIABILITY COMPANY  
OPERATING AGREEMENT  
OF  
144 BARROW STREET LLC**

This Limited Liability Company Operating Agreement (this "Agreement") of 144 BARROW STREET LLC (the "Company") is entered into as of December 3, 2018, by BARROW STREET VENTURES LLC, a Delaware limited liability company (the "Member"), pursuant to the terms of the Delaware Limited Liability Company Law (the "Law") and this Agreement.

1. Name. The name of the limited liability company is 144 BARROW STREET LLC. All business of the Company shall be conducted in such name.

2. Term. The term of the Company commenced on December 3, 2018, the date that the Certificate of Formation (the "Certificate of Formation") was filed in the Office of the Secretary of State of the State of Delaware (the "Secretary") in accordance with the Law and shall continue in perpetuity unless dissolved in accordance with the terms of the Law. The Member shall take any and all other actions reasonably necessary to perfect and, except as otherwise provided in this Agreement, to maintain the status of the Company as a limited liability company under the laws of the State of Delaware.

3. Purpose. The Company has been formed for any lawful purpose and to engage in any activities necessary, customary, convenient or incident to the foregoing.

4. Member. The name and the business address of the Member is as follows:

<u>Name</u>	<u>Address</u>
BARROW STREET VENTURES LLC	177 Christopher Street New York, New York 10014

5. Management. The overall management and control of the business and affairs of the Company shall be vested in the Member acting pursuant to the Law.

6. Environmental Clean-Up. Without limiting the foregoing in any way but subject to the approval of the Member, the Company authorizes and directs Neil Bender, Robert Cayre or any officer of the Company as an authorized signatory (the "**Authorized Signatory**") to acknowledge, execute and deliver for and on behalf of Company, any and all agreements, resolutions, documents, certificates, easements, and authorizations with respect to the development parcel situated at 144 Barrow Street, New York, New York, 176 Christopher Street, New York and 178 Christopher Street, New York (the "Property"), which may be necessary, convenient or advisable to effect the inclusion of the Property in the New York State Department of Environmental Conservation Brownfield Cleanup Program ("**BCP**"), including but not limited to, the BCP Agreement, any amendments thereto, and an environmental

easement, and to take such additional actions as the Authorized Signatory deems desirable and appropriate to carry out the intent and to accomplish the purposes of participation in the BCP.

7. Capital Account. The Company shall maintain a capital account ("Capital Account") for the Member on the books of the Company in accordance with the following provisions:

(a) The Member's Capital Account shall be increased by (i) the amount of the Member's capital contributions, (ii) any net income or other item of income allocated to the Member and (iii) the amount of Company liabilities, if any, assumed by the Member or secured, in whole or in part, by any Company assets that are distributed to the Member.

(b) The Member's Capital Account shall be decreased by (i) the amount of cash and the fair market value on the date of distribution of any other Company property distributed to the Member, (ii) any net loss or other item of loss or deduction allocated to the Member, and (iii) the amount of liabilities, if any, of the Member assumed by the Company.

8. Allocation of Profits and Losses. The Company's profits and losses shall be allocated to the Member.

9. Distributions. Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member.

10. Title to Property. All real and personal property owned by the Company shall be owned by the Company as an entity and the Member shall not have any ownership interest in such property in its individual name or right, and the Member's interest in the Company shall be personal property for all purposes. The Company shall hold all of its property in the name of the Company and not in the name of the Member.

11. Liquidation and Distribution of Assets. The Company shall cease to engage in any further business upon the happening of any event requiring the dissolution of the Company under the Law, upon the sale of all of its assets or the vote of the Member, except to the extent necessary to perform existing obligations, and shall wind up its affairs and liquidate or distribute its assets. Upon the occurrence of such event, the Member shall appoint a liquidator (who may, but need not, be the Member) who shall have sole authority and control over the winding up of the Company's business and affairs and shall diligently pursue the winding up of the Company. Subject to the requirements set forth in the Law, upon the dissolution of the Company, the proceeds of any liquidation shall be applied as follows: (i) first, to pay all expenses of liquidation and winding up; (ii) second, to pay all debts, obligations and liabilities of the Company in the order of priority as provided by law; (iii) third, to the Member in accordance with, and to the extent of, its Capital Account until the Capital Account of the Member is zero; and (iv) fourth, to the Member in respect of its interest. Upon dissolution and completion of the winding up of the Company and distribution of its assets, the liquidator shall cause to be executed and filed with the Secretary the certificate of dissolution in accordance with the Law.

12. Contributions. Unless otherwise agreed by the Member, the Member shall not be required to contribute additional capital to the Company. The Member shall not be entitled to receive interest on its capital contributions.

13. Bank Accounts. The Member may, from time to time, open bank accounts in the name of the Company.

14. Tax Qualification. It is intended that the Company shall be treated as a disregarded entity for income tax purposes.

15. Officers. The Member may designate one or more individuals as officers of the Company who shall have such titles and exercise and perform such powers and duties as shall be assigned to them, from time to time, by the Member. Any officer may be removed by the Member at any time, with or without cause. Each officer shall hold office until his or her successor is elected and qualified. Any number of offices may be held by the same individual.

16. Loans. The Member may lend or advance money to the Company. If the Member shall make any loan or loans to the Company or advance money on its behalf, the amount of any such loan or advance shall not be treated as a contribution to the capital of the Company but shall be a debt from the Company. The amount of any such loan or advance by the Member shall be repayable out of the Company's working capital and shall bear interest at the rate determined by the Member. The Member shall not be obligated to make any loan to the Company.

17. Admission of Additional Members. One or more additional members may be admitted to the Company with the consent of the Member.

18. Liability of the Member. The Member shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Law.

19. Governing Law. The laws of the State of Delaware, without reference to its choice of law or conflicts of law provisions, shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the Member.

20. Binding Effect. The provisions of this Agreement shall extend to, be binding upon and inure to the benefit of the Member and its successors and assigns.

21. Waiver. No waiver of any of the provisions hereof shall be effective unless in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver or waiver in respect of any subsequent breach or default, whether of similar or different nature, unless so expressly stated in writing.

22. Modification. This Agreement may not be orally cancelled, changed, modified or amended, and no cancellation, change, modification or amendment shall be effective or binding, unless in writing and signed by the Member.

23. Severability. If any provision of this Agreement is found to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the Member with the same effect as though the void or unenforceable part had been severed and deleted.

24. Stricken Words or Phrases. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated had never appeared in this Agreement.

25. Entire Agreement. This Agreement, including all other documents referred to herein which form a part hereof, contains the entire understanding with respect to the subject matter contained herein and therein. This Agreement supersedes all prior agreements and understandings, if any, with respect to such subject matter.

26. Headings. The section headings contained in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement.

27. Usage. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural as the identity of the Member may require. All terms defined in this Agreement in their singular or plural forms have correlative meanings when used in their plural or singular forms respectively. Unless otherwise expressly provided, the words "include", "includes", "including" do not limit the preceding words or terms and shall be deemed to be followed by the words "without limitation".

28. Notices. All notices, requests, demands, documents and other communications given or due hereunder shall hereafter be made in writing and shall be deemed to have been duly given: (i) when delivered, if personally delivered against receipt therefor; (ii) three days after being deposited in the United States mail by registered or certified mail, return receipt requested, postage prepaid; or (iii) upon transmission by facsimile with a confirmation copy delivered on the second following business day by recognized overnight courier, to the address for the Member set forth in this Agreement or at such other address as the Member may from time to time designate by notice given in accordance with the provisions of this Section 27. Notices required or permitted to be given hereunder may be given by a party's attorneys.

29. Third Party Beneficiaries. Except as expressly provided elsewhere in this Agreement, there are no third party beneficiaries of or in this Agreement, or of any of the terms or provisions hereof or of any of the rights, privileges, duties, liabilities or obligations created hereby.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned has entered into this Agreement as of the day and year first above written.

Member:

**BARROW STREET VENTURES LLC,**  
a Delaware limited liability company

By: 

Name: Neil Bender

Title: Manager



**LIMITED LIABILITY COMPANY  
OPERATING AGREEMENT  
OF  
150 BARROW STREET LLC**

This Limited Liability Company Operating Agreement (this "Agreement") of 150 BARROW STREET LLC (the "Company") is entered into as of December 3, 2018, by BARROW STREET VENTURES LLC, a Delaware limited liability company (the "Member"), pursuant to the terms of the Delaware Limited Liability Company Law (the "Law") and this Agreement.

1. Name. The name of the limited liability company is 150 BARROW STREET LLC. All business of the Company shall be conducted in such name.

2. Term. The term of the Company commenced on December 3, 2018, the date that the Certificate of Formation (the "Certificate of Formation") was filed in the Office of the Secretary of State of the State of Delaware (the "Secretary") in accordance with the Law and shall continue in perpetuity unless dissolved in accordance with the terms of the Law. The Member shall take any and all other actions reasonably necessary to perfect and, except as otherwise provided in this Agreement, to maintain the status of the Company as a limited liability company under the laws of the State of Delaware.

3. Purpose. The Company has been formed for any lawful purpose and to engage in any activities necessary, customary, convenient or incident to the foregoing.

4. Member. The name and the business address of the Member is as follows:

<u>Name</u>	<u>Address</u>
BARROW STREET VENTURES LLC	177 Christopher Street New York, New York 10014

5. Management. The overall management and control of the business and affairs of the Company shall be vested in the Member acting pursuant to the Law.

6. Environmental Clean-Up. Without limiting the foregoing in any way but subject to the approval of the Member, the Company authorizes and directs Neil Bender, Robert Cayre or any officer of the Company as an authorized signatory (the "**Authorized Signatory**") to acknowledge, execute and deliver for and on behalf of Company, any and all agreements, resolutions, documents, certificates, easements, and authorizations with respect to the development parcel situated at 150 Barrow Street, New York, New York (the "Property"), which may be necessary, convenient or advisable to effect the inclusion of the Property in the New York State Department of Environmental Conservation Brownfield Cleanup Program ("**BCP**"), including but not limited to, the BCP Agreement, any amendments thereto, and an environmental easement, and to take such additional actions as the Authorized Signatory deems

desirable and appropriate to carry out the intent and to accomplish the purposes of participation in the BCP.

7. Capital Account. The Company shall maintain a capital account ("Capital Account") for the Member on the books of the Company in accordance with the following provisions:

(a) The Member's Capital Account shall be increased by (i) the amount of the Member's capital contributions, (ii) any net income or other item of income allocated to the Member and (iii) the amount of Company liabilities, if any, assumed by the Member or secured, in whole or in part, by any Company assets that are distributed to the Member.

(b) The Member's Capital Account shall be decreased by (i) the amount of cash and the fair market value on the date of distribution of any other Company property distributed to the Member, (ii) any net loss or other item of loss or deduction allocated to the Member, and (iii) the amount of liabilities, if any, of the Member assumed by the Company.

8. Allocation of Profits and Losses. The Company's profits and losses shall be allocated to the Member.

9. Distributions. Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member.

10. Title to Property. All real and personal property owned by the Company shall be owned by the Company as an entity and the Member shall not have any ownership interest in such property in its individual name or right, and the Member's interest in the Company shall be personal property for all purposes. The Company shall hold all of its property in the name of the Company and not in the name of the Member.

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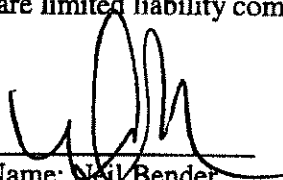
[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned has entered into this Agreement as of the day and year first above written.

Member:

**BARROW STREET VENTURES LLC,**  
a Delaware limited liability company

By:

  
Name: Neil Bender  
Title: Manager

# Exhibit D

**Attachment D**

**Section VII. New Requestor Volunteer Certification**

***Statement describing why the Requestor should be considered a Volunteer:***

In accordance with the definitions outlined in ECL 27-1405(1), 144 Barrow Street LLC and 150 Barrow Street LLC, the new Requestors, are both considered Volunteers, as their liability arises solely as a result of site ownership *subsequent* to the disposal of hazardous waste or discharge of petroleum.