



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

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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 owner 173 Christopher Street, LLC submits this BCA Amendment Form (1) to reflect the new ownership status of the BCP Site and (2) to request addition as a Participant to the existing BCA.

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

<b>Section I. Existing Agreement Information</b>		
BCP SITE NAME: Christopher and Weehawken Streets		BCP SITE NUMBER: C231098
NAME OF CURRENT APPLICANT(S): Kermit 79 L.L.C., 7-9-11 Weehawken Street, LLC, and 300 West 10th Street, LLC		
INDEX NUMBER OF EXISTING AGREEMENT: C231098-06-15		DATE OF EXISTING AGREEMENT: 09/09/15
<b>Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)</b>		
NAME 173 Christopher 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)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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 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 & 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 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Describe Requestor's Relationship to Existing Applicant:		
Existing applicants Kermit 79 L.L.C., 7-9-11 Weehawken Street, LLC, and 300 West 10th Street, LLC transferred Site ownership to New Requestor 173 Christopher Street LLC in connection with the formation of a joint venture agreement.		

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**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) 173 Christopher 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:

<input checked="" type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> <b>VOLUNTEER</b> 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.  <b>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.</b>
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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>	

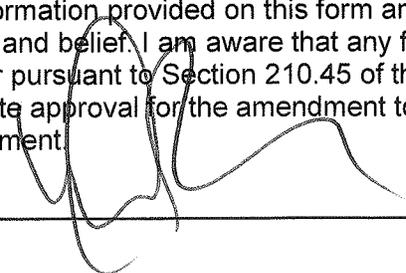
**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**

<b>Existing Agreement Information</b>	
BCP SITE NAME: Christopher and Weekhawken Streets	BCP SITE NUMBER: C231098
NAME OF CURRENT APPLICANT(S): <del>173 Christopher Street LLC</del> , <sup>173 Christopher Street LLC</sup> Kermit 79 LLC, 7-9-11 Weekhawken Street, LLC,	
INDEX NUMBER OF EXISTING AGREEMENT: C231098-06-15	and 300 West 10th Street, LLC
EFFECTIVE DATE OF EXISTING AGREEMENT: 09/09/15	

**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>
<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>Authorized Signatory</u>) of (entity <u>173 Christopher 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>10/24/19</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 Authorized Signatory (title) of Kermit 79 L.L.C. (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: 10/24/19 Signature: \_\_\_\_\_

Print Name: Neil Bender

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

Status of Agreement:

<input checked="" type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> <b>VOLUNTEER</b> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 9/9/2015

Signature by the Department:

DATED: 1/2/20

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

**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 7-9-11 Weehawken 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: 10/24/19 Signature: 

Print Name: Neil Bender

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

Status of Agreement:

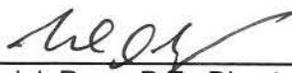
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Effective Date of the Original Agreement: 9/9/2015

Signature by the Department:

DATED: 1/2/20

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By:   
\_\_\_\_\_  
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**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 300 West 10th 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: 10/24/19 Signature: \_\_\_\_\_

Print Name: Neil Bender

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

Status of Agreement:

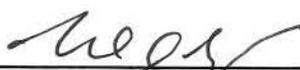
<input checked="" type="checkbox"/> <b>PARTICIPANT</b> A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input type="checkbox"/> <b>VOLUNTEER</b> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 9/9/2015

Signature by the Department:

DATED: 1/2/20

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

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**FOR DEPARTMENT USE ONLY**

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

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

# Exhibit A

**Attachment A**

**Member Information for 173 Christopher Street LLC**

173 Christopher Street LLC, EIN: 83-3264865, has a sole member, Christopher Street Development Ventures, LLC, EIN: 83-3072491.

# Exhibit B

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through October 4, 2019.

Selected Entity Name: 173 CHRISTOPHER STREET LLC

Selected Entity Status Information

**Current Entity Name:** 173 CHRISTOPHER STREET LLC

**DOS ID #:** 5471877

**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.

ONE COMMERCE PLAZA

99 WASHINGTON AVENUE, STE 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
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No Information Available

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
JAN 09, 2019	Actual	173 CHRISTOPHER 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

**173 CHRISTOPHER STREET LLC**

**LLC RESOLUTION**

The undersigned, being the sole member (the "Member") of 173 CHRISTOPHER STREET LLC, a New York domestic limited liability company (the "Company"), does hereby consent to and adopt the following resolutions:

**WHEREAS**, the Company is the fee owner of certain real property located at 173 Christopher Street, New York, NY 10014, Tax Map/Parcel No.: 636-34 (the "Property");

**WHEREAS**, the Company desires to include the Property in the New York State Department of Environmental Conservation Brownfield Cleanup Program (the "BCP"); and

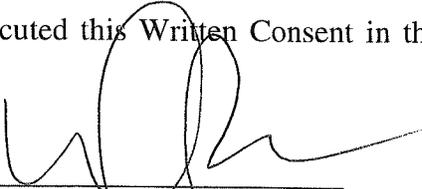
**WHEREAS**, the Company desires to enter into a Brownfield Site Cleanup Agreement with the New York State Department of Environmental Conservation (the "Agreement") to evidence the inclusion of the Property in the BCP.

**NOW, THEREFORE, BE IT RESOLVED**, that the Company is hereby authorized and directed to execute and deliver any and all documents in connection with the Brownfield Site Cleanup Agreement, including an environmental easement and any other documents deemed necessary in substantial accordance with this Resolution.

**AND BE IT FURTHER RESOLVED**, that the Member of the Company hereby authorizes and directs NEIL BENDER, as authorized signatory (the "Authorized Signatory") to acknowledge, execute and deliver for and on behalf of the Company, any and all agreements, resolutions, documents, certificates, easements, and authorizations which may be necessary, convenient or advisable to effect the inclusion of the Property in the BCP, including but not limited to, the Agreement and any required environmental easement for the Property, and to take such additional actions as he deems desirable and appropriate to carry out the intent and to accomplish the purposes of these resolutions;

**AND BE IT FURTHER RESOLVED**, that any and all lawful action taken in good faith by the Authorized Signatory prior to the date hereof on behalf of the Company and in furtherance of the transactions contemplated by the foregoing resolution are in all respects ratified, confirmed and approved by the Company as its own acts and deeds, and shall conclusively be deemed to be the acts and deeds of the Company for all purposes.

**IN WITNESS WHEREOF**, the undersigned has executed this Written Consent in the capacity noted below as of this 24<sup>th</sup> day of October 2019.

  
\_\_\_\_\_  
**173 Christopher Street Ventures,  
LLC**  
By: Neil Bender  
Title: Manager