



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:

The tax lots reflected on the original Brownfield Cleanup Agreement are Tax Map/Parcel Nos. Block 778, Lots 13, 16, 18, and 66. These lots have been merged into a single tax lot at Block 778, Lot 18. The boundaries and acreage of the site remain unchanged.

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 a non-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: 241 West 28th Street		BCP SITE NUMBER: C231139
NAME OF CURRENT APPLICANT(S): 241 West 28th Street Owner LLC		
INDEX NUMBER OF AGREEMENT: C231139-11-19		DATE OF ORIGINAL AGREEMENT: 12/9/19
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)

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 241 West 28th Street

CITY/TOWN New York

ZIP CODE 10001

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: 0.670

Parcel Address

Section No. Block No. Lot No. Acreage

See attached Schedule A.

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

241 West 28th Street, New York		778	18	0.670

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: N/A _____

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

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31): "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.	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From 6 NYCRR 375- 3.2(a) as of August 12, 2016: (a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units. (1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income. (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income. (3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 241 West 28th Street	BCP SITE NUMBER: C231139
NAME OF CURRENT APPLICANT(S): 241 West 28th Street Owner LLC	
INDEX NUMBER OF AGREEMENT: C231139-11-19	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 12/9/19	

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 _____) 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.</p> <p>_____ 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>

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)

authorized signatory

241 West 28th Street Owner LLC

I hereby affirm that I am _____ (title) of _____ (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: 10/6/21 Signature: 

Print Name: Susi Yu

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.

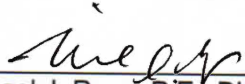
Effective Date of the Original Agreement: 12/9/19

Signature by the Department:

DATED: 10/27/2021

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:


Michael J. Ryan, P.E., Director

Division of Environmental Remediation

Site Code: C231139

SUBMITTAL INFORMATION:

- **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:_____

SIVE | PAGET | RIESEL

KATHERINE GHILAIN TRUDELL
DIRECT DIAL: 646.378.7287
KGHILAINTRUDELL@SPRLAW.COM

October 8, 2021

VIA EMAIL

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

Re: **Brownfield Cleanup Program Site No. C231139**
Brownfield Cleanup Agreement Amendment Application

Dear Ms. Lewandowski:

Enclosed please find an application to amend the Brownfield Cleanup Agreement for the above-referenced BCP Site to modify the Site's description to reflect the merger of the Site's four tax lots into one. The tax lots reflected on the original Brownfield Cleanup Agreement are Block 778, Lots 13, 16, 18, and 66. These lots have since been merged into a single tax lot: Block 778, Lot 18. The boundaries and acreage of the BCP Site remain unchanged. We will be resubmitting the Environmental Easement application to reflect the tax lot merger shortly.

Please do not hesitate to contact me if there are any questions or concerns. Thank you for your assistance in this matter.

Sincerely,



Katherine Ghilain Trudell

Attachments

cc: Michael MacCabe, DEC, (via email), Michael.maccabe@dec.ny.gov
Kieran McCarthy, DEC, (via email), kieran.mccarthy@dec.ny.gov
Brad Burns, DEC, (via email), bradford.burns@dec.ny.gov
Susi Yu, MAG Partners, (via email), syu@llmag.com
Michael Bogin, Sive, Paget & Riesel P.C., (via email), mbogin@sprlaw.com
Jennifer Coghlan, Sive, Paget & Riesel P.C., (via email), jcoghlan@sprlaw.com
Elizabeth Adkins, Langan, (via email), eadkins@langan.com

SCHEDULE A

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

1. Property information on current agreement:

TAX BLOCK AND LOT (SBL)

Parcel Address	Section No.	Block No.	Lot No.	Acreage
251 West 28th Street, New York, NY		778	13	0.18
250 West 29th Street, New York, NY		778	66	0.02
247 West 28th Street, New York, NY		778	16	0.24
241 West 28th Street, New York, NY		778	18	0.23

Environmental Easement Legal Description

241 West 28th Street, Lot 18 (f/k/a Lots 13, 16, 18, and 66)

All that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County, and State of New York, bounded and described as follows:

Beginning at a point on the northerly side of West 28th Street (60 feet wide) distant 154.83 feet easterly from the intersection formed by said northerly side of West 28th Street with the easterly side of Eighth Avenue and running thence;

North 02 degrees 28 minutes 28 seconds West, a distance of 157.23 feet to a point; thence

North 82 degrees 29 minutes 27 seconds East, a distance of 3.094 feet to a point; thence

North 01 degree 24 minutes 48 seconds West, a distance of 39.96 feet to a point on the southerly side of West 29th Street (60 feet wide), said point being distant 155.00 feet easterly from the intersection formed by said southerly side of West 29th Street with said easterly side of Eighth Avenue; thence

Along said southerly side of West 29th Street, North 88 degrees 35 minutes 12 seconds East a distance of 145.00 feet to a point; thence

South 01 degree 36 minutes 00 seconds East, a distance of 24.56 feet to a point; thence

North 82 degrees 27 minutes 02 seconds East, a distance of 0.88 feet to a point; thence

South 02 degrees 26 minutes 58 seconds East, a distance of 173.08 feet to a point on said northerly side of West 28th Street; thence

Along said northerly side of West 28th Street, south 88 degrees 35 minutes 12 seconds West, a distance of 149.25 feet to the point or place of beginning.

Encompassing an area of 0.67 acres, more or less.

[241 W 28th Street - Digital Tax Map - New York City Dept. of Finance \(9/24/2021\)](#)

- | | | | |
|--|-------------------------------|------------|------------------------------------|
| | Borough Boundary | C50 | Condo Flag/Condo Number |
| | Tax Block Boundary | A50 | Air Right Flag/Lot Number |
| | Tax Block Number | S50 | Subterranean Right Flag/Lot Number |
| | Tax Lot Boundary | R | REUC Flag |
| | Tax Lot Number | | Under Water Tax Lot Boundary |
| | Condo FKA Tax Lot Number | | Other Boundary |
| | Tax Lot Dimension | | Possession Hook |
| | Approximate Tax Lot Dimension | | Miscellaneous Text |
| | Condo Units Range Label | | Small Tax Lot Dimension |
| | Building Footprint | | Surface Water |



APPLICATION FOR APPORTIONMENTS OR MERGERS

Instructions: Please complete this application and submit in person to: **Department of Finance, Property Division - Tax Map Office, 66 John Street, 2nd floor, New York, NY 10038.** Please read the instructions for further details before completing this form. Print clearly.

SECTION A: PROPERTY INFORMATION

Borough: MANHATTAN Block: 778 Present Lot(s): 13, 16, 18, 66

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

☒ Merger

☐ Apportionment

Number of

Lots Requested 1

Lot Number: 18

☐ Air

☐ Subterranean

Lot(s) Usage:
(check one)

☐ Residential
Building Gross
Sq/Ft: _____

☒ Commercial
Building Gross
Sq/Ft: 0

☐ Mix (Residential & Commercial)
Building Gross
Sq/Ft: _____

Property

1. Owner's Name (as per Deed): _____

LAST NAME

FIRST NAME

OR

Company Name: 249 W. 28TH STREET PROPERTIES, LLC

Property

2. Address: 241 WEST 28TH STREET

NUMBER AND STREET

Manhattan

CITY

NY

STATE

10001

ZIP CODE

3. Filing Representative (if applicable): KAROLINA CASTRO

SECTION B: CERTIFICATION

1. Architect/Engineer/Applicant's Name: _____

COOK

LAST NAME

RICHARD

FIRST NAME

2. Address: 250 WEST 57TH STREET, NEW YORK, NY, 10107

NUMBER AND STREET

CITY

STATE

ZIP CODE

3. Telephone Number: (212) 233-6344

4. Email Address: RCOOK@COOKFOX.COM

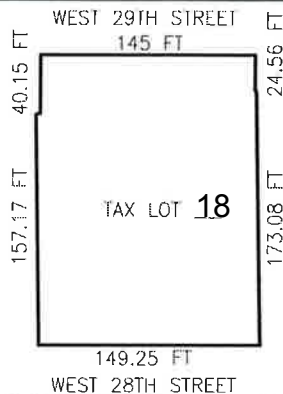
The applicant hereby certifies that, in making this application for merger/apportionment, s/he is the owner, or acting under the direction of the owner.

Signature of Architect/ Engineer/Applicant: _____

Date: 7 / 1 / 2019

TAX MAP CHANGE WILL NOT BE MADE UNTIL PRESENTATION OF REQUIRED DOCUMENTS (see reverse for the required documents)

DRAW SKETCH TO SCALE 1" = 50', IF POSSIBLE INDICATE NORTH ARROW



(Architect or Engineer's seal)

Tentative Lot(s) issued:

Customer Service Representative: G. Laios

Date: 10 / 8 / 2020

New Lot(s): _____

Lot(s) Affected: 18

Lot(s) Dropped: 13, 16, 66

Please note: Map changes will not be made until presentation of all required documents is reviewed and approved by the Specialist.
Lots are tentative until final approval is received from the Tax Map Office.

Map Updated:

Tax Map Specialist: _____ Date: ____/____/____

