



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 Applicant seeks to amend the BCA to reflect that the Volunteer 241 West 28th Street Owner LLC is the ground lessee at the site, as reflected in the attached Memorandum of Lease.

Please note: The owners reflected on the Memorandum of Lease are Jay Street Associates, LLC and 249 W 28th Street Properties, LLC. As previously explained (and documented in BCA Amendment #2), on July 30, 2020, former Block 18 was transferred from Jay Street Associates, LLC to 249 W 28th Street Properties, LLC, which then held title to the entire site. On February 19, 2021, 249 W 28th Street Properties, LLC merged with and into 249 W 28th Street Properties, LP. As a result of the merger, 249 W 28th Street Properties, LP currently owns the Site as a successor in interest to 249 W 28th Street Properties, LLC.

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)? 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.

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? Yes 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

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

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

2. Check appropriate boxes below:

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

2a. PARCELS ADDED:

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

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

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

Total acreage to be removed: _____

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

2c. NEW SBL INFORMATION:

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

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

3. TOTAL REVISED SITE ACREAGE: _____

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

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input 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):	
<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

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

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am authorized signatory (title) of 241 West 28th Street Owner LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/23/2021 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:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 12/9/19

Signature by the Department:

DATED: 12/28/2021

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: *Susan Edwards*

Acting Director, DER

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 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.**

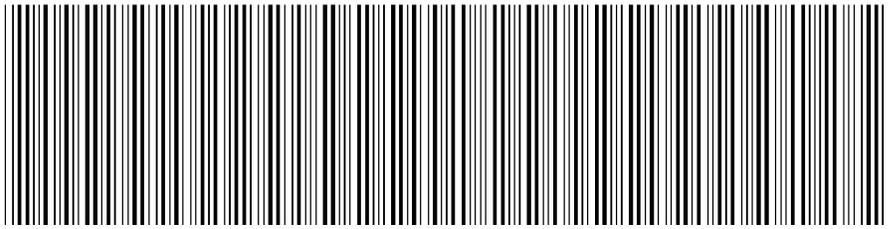
FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** Albany

PROJECT MANAGER: Michael MacCabe

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

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2018121800086002001EEF6F

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 11

Document ID: 2018121800086002 Document Date: 12-13-2018 Preparation Date: 12-18-2018
Document Type: MEMORANDUM OF LEASE
Document Page Count: 9

PRESENTER:
FIRST NATIONWIDE TITLE AGENCY LLC
HOLD FOR DENNISE A. TO PICK UP - FN-14166-NY
50 CHARLES LINDBERGH BLVD - SUITE 600
UNIONDALE, NY 11553
212-499-0100
RECORDING@FIRSTNATIONWIDETITLE.COM

RETURN TO:
FIRST NATIONWIDE TITLE AGENCY LLC
HOLD FOR DENNISE A. TO PICK UP - FN-14166-NY
50 CHARLES LINDBERGH BLVD - SUITE 600
UNIONDALE, NY 11553
212-499-0100
RECORDING@FIRSTNATIONWIDETITLE.COM

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	778	13	Entire Lot	251 WEST 28TH STREET

Property Type: COMMERCIAL REAL ESTATE

Borough	Block	Lot	Unit	Address
MANHATTAN	778	16	Entire Lot	247 WEST 28TH STREET

Property Type: COMMERCIAL REAL ESTATE

Additional Properties on Continuation Page

CROSS REFERENCE DATA

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

PARTIES

LESSOR:
249 W 28TH STREET PROPERTIES, LLC
C/O: EDISON PARKING CORPORATION, 100
WASHINGTON STREET
NEWARK, NJ 07102

LESSEE:
241 WEST 28TH STREET OWNER LLC
C/O: L&L HOLDING COMPANY, 142 WEST 57TH
STREET
NEW YORK, NY 10019

Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage :

Mortgage Amount:	\$	0.00
Taxable Mortgage Amount:	\$	0.00
Exemption:		
TAXES: County (Basic):	\$	0.00
City (Additional):	\$	0.00
Spec (Additional):	\$	0.00
TASF:	\$	0.00
MTA:	\$	0.00
NYCTA:	\$	0.00
Additional MRT:	\$	0.00
TOTAL:	\$	0.00
Recording Fee:	\$	91.00
Affidavit Fee:	\$	0.00

Filing Fee:

Filing Fee:	\$	250.00
NYC Real Property Transfer Tax:	\$	0.00
NYS Real Estate Transfer Tax:	\$	480,000.00

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

CITY OF NEW YORK

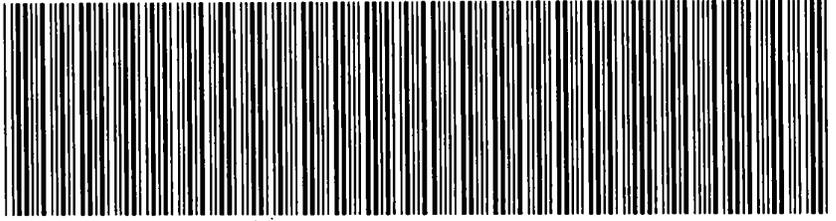
Recorded/Filed 12-20-2018 09:54
City Register File No.(CRFN):
2018000418672



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2018121800086002001CEDEF

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 11

Document ID: 2018121800086002

Document Date: 12-13-2018

Preparation Date: 12-18-2018

Document Type: MEMORANDUM OF LEASE

PROPERTY DATA

Borough	Block Lot	Unit	Address
MANHATTAN	778 18 Entire Lot		241 WEST 28TH STREET
Property Type: COMMERCIAL REAL ESTATE			
Borough	Block Lot	Unit	Address
MANHATTAN	778 66 Entire Lot		250 WEST 29TH STREET
Property Type: COMMERCIAL REAL ESTATE			

PARTIES

LESSOR:

JAY STREET ASSOCIATES, LLC
C/O: EDISON PARK CORPORATION, 100
WASHINGTON STREET
NEWARK, NJ 07102

RECORD AND RETURN TO:

Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Attention: Jonathan L. Mechanic, Esq.
File No.: _____
Title Order No.: _____

249 W 28TH STREET PROPERTIES, LLC, a New York limited liability company,

AND

JAY STREET ASSOCIATES, LLC, a New York limited liability company,

Together, as LANDLORD

AND

241 WEST 28TH STREET OWNER LLC, a Delaware limited liability company,

as TENANT

MEMORANDUM OF LEASE

December 13, 2018

This instrument affects real and personal property situated, lying, and being in the City of New York, State of New York, known as follows:

Block(s):	<u>778</u>
Lot(s):	<u>13, 16, 18 & 66</u>
Street Address:	<u>241 West 28th Street and 250 West 29th Street, New York, New York 10001</u>

MEMORANDUM OF LEASE

This **MEMORANDUM OF LEASE** (the "Memorandum") is entered into as of Dec 13, 2018 (the "Effective Date"), by and between **249 W 28TH STREET PROPERTIES, LLC** and **JAY STREET ASSOCIATES, LLC**, each a New York limited liability company with an address c/o Edison Parking Corporation, 100 Washington Street, Newark, NJ 07102, Attn: EVP Real Estate (together, "Landlord"), and **241 WEST 28TH STREET OWNER LLC**, a Delaware limited liability company, having an address c/o L&L Holding Company, LLC, 142 West 57th Street, New York, NY 10019 Attn: Kevin Fallon ("Tenant"). Terms may be used in this Memorandum before being defined.

By executing and recording this Memorandum, Landlord and Tenant give notice of the facts below. Any person taking any interest in the Premises shall do so subject to all documents (including all terms of those documents) and other matters that this Memorandum refers to or discloses.

1. *Premises.* Landlord owns the real property commonly known as 241 West 28th Street and 250 West 29th Street, New York, New York 10001 and more particularly described in **Exhibit A** (the "Premises").

2. *Fee Estate.* The "Fee Estate" means Landlord's fee simple interest in the Premises.

3. *Lease.* Landlord and Tenant entered into a Ground Lease dated the Effective Date (the "Lease").

4. *Demise of Premises.* For good and valuable consideration, Landlord has demised and hereby demises to Tenant the Premises, all as the Lease provides.

5. *Term.* The "Commencement Date" of the Lease is the Effective Date. The Term of the Lease began on the Commencement Date and ends at 11:59 p.m. on July 31, 2117,¹ unless terminated sooner under the Lease. The Lease grants Tenant no option or other right to expand, renew, extend or purchase.

Lien Law Trust Fund. Landlord, in compliance with Lien Law Section 13, covenants that Landlord will receive the consideration for this conveyance and will hold the right to receive that consideration as a trust fund to be applied first to pay the cost of the improvements at the Premises for which Landlord is responsible. Landlord will apply that consideration first to the payment of the cost of those improvements before using any part of it for any other purpose.

6. *Notice of Nonresponsibility.* LANDLORD SHALL UNDER NO CIRCUMSTANCE BE RESPONSIBLE OR OBLIGATED TO PAY (AND THE FEE ESTATE SHALL NOT BE SUBJECT TO ANY LIEN) FOR ANY MATERIALS, LABOR, SERVICES

¹ Confirm date and update Ground Lease.

OR EQUIPMENT PROVIDED TO TENANT OR ANY CONTRACTOR, SUBCONTRACTOR OR MATERIAL SUPPLIER OF TENANT FOR OR IN CONNECTION WITH ANY WORK OF IMPROVEMENT, OR ANY OTHER "COSTS OF IMPROVEMENT" (AS DEFINED IN THE NEW YORK LIEN LAW) RELATING TO THE PREMISES OR ANY PART OF IT AND DIRECTLY OR INDIRECTLY CAUSED BY ACTS OR OMISSIONS OF TENANT, OR OTHERWISE ACTUALLY OR POTENTIALLY THE BASIS FOR A LIEN UNDER THE NEW YORK LIEN LAW ARISING FROM THE ACTS OR OMISSIONS OF TENANT OR TENANT'S CONTRACTOR, SUBCONTRACTOR OR MATERIAL SUPPLIER OR ANYONE CLAIMING BY OR THROUGH ANY OF THEM OR ON ACCOUNT OF DEALINGS WITH ANY OF THEM (A "LIEN"). THE FEE ESTATE SHALL NOT BE SUBJECT TO ANY LIEN.

7. *No Effect on Lease.* The parties have prepared, signed and acknowledged this Memorandum only for recording purposes. It does not modify, increase, decrease or in any other way affect any party's rights, duties or obligations under the Lease. Landlord and Tenant each has rights, duties and obligations (and conditions to its rights) under the Lease but not stated here. If the Lease and this Memorandum conflict, the Lease governs. Nothing in this Memorandum constitutes a representation or warranty by either party. To the extent, if any, that the Lease limits anyone's liability, that limitation also applies to any liability under this Memorandum.

8. *Termination.* This Memorandum shall automatically terminate and be of no force or effect upon any termination of the Lease, including any termination by Landlord upon an Event of Default as the Lease provides.

9. *Further Assurances.* Each party shall execute, acknowledge (where necessary) and deliver such further documents, and perform such further acts, as are reasonably necessary to achieve the parties' intent as expressed in the Lease and this Memorandum. To the extent that the Lease terminates or expires, in whole or in part, Tenant shall execute, acknowledge, and deliver such documents as Landlord reasonably requires or as any title insurance, abstract company, or institutional lender requires to remove this Memorandum of record, if it has not already expired by its terms.

10. *Miscellaneous.* The Lease and this Memorandum bind and benefit the parties and their successors and assigns. This does not limit any restrictions on assignment or other transfer in the Lease. This Memorandum may be executed in counterparts. The parties waive jury trial in any dispute arising from this Memorandum.

[Signatures on Next Page]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the Effective Date.

LANDLORD

249 W. 28TH STREET PROPERTIES, LLC, a New York limited liability company

By: **EDISON PARKING CORP.**, its Manager

By:

Name: Benjamin Feigenbaum

Title: Executive Vice President

JAY STREET ASSOCIATES, LLC, a New York limited liability company

By: **EDISON PARKING CORP.**, its Manager

By:

Name: Benjamin Feigenbaum

Title: Executive Vice President

TENANT

241 WEST 28TH STREET OWNER LLC, a Delaware limited liability company

By: see attached ☺

Name: _____

Title: _____

Attachments:

Acknowledgments

Exhibit A—The Premises

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the Effective Date.

LANDLORD

249 W. 28TH STREET PROPERTIES, LLC, a New York limited liability company

By: **EDISON PARKING CORP.**, its Manager

By: see attached ⊕

Name: Benjamin Feigenbaum

Title: Executive Vice President

JAY STREET ASSOCIATES, LLC, a New York limited liability company

By: **EDISON PARKING CORP.**, its Manager

By: see attached ⊕

Name: Benjamin Feigenbaum

Title: Executive Vice President

TENANT

241 WEST 28TH STREET OWNER LLC, a Delaware limited liability company

By: 

Name: Mary Anne Filmarini

Title: Authorized Signatory

Attachments:

- Acknowledgments
- Exhibit A—The Premises

ACKNOWLEDGMENTS

STATE OF NEW JERSEY)
)
COUNTY OF ESSEX) ss:
)
)

On the 29 day of November in the year 2018, before me, the undersigned, personally appeared Benjamin Feuerbaum, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Valerie Klein
Notary Public **VALERIE KLEIN**
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50070271
My Commission Expires 10/18/2022

STATE OF NJ)
)
COUNTY OF ESSEX) ss:
)
)

On the 29 day of November in the year 2018, before me, the undersigned, personally appeared Benjamin Feuerbaum, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Valerie Klein
Notary Public
VALERIE KLEIN
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50070271
My Commission Expires 10/18/2022



ACKNOWLEDGMENTS

STATE OF NEW JERSEY)
)
COUNTY OF ESSEX) **ss:**
)
_____)

On the _____ day of _____ in the year 2018, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF New York)
)
COUNTY OF New York) **ss:**
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_____)

On the 7 day of December in the year 2018, before me, the undersigned, personally appeared Mary Anne Gilmartin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Kimberly Malik
Notary Public
KIMBERLY A. MALIK
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6284049
Qualified In New York County
My Commission Expires 06-17-2021



EXHIBIT A

Premises

As to Parcel I (Block 778 Lot 13 for information only):

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

BEGINNING at a point on the northerly side of 28th Street, opposite the easterly face of the easterly independent wall of the building known as 253-255 West 28th Street, which point is distant 154 feet 10 inches easterly from the corner formed by the intersection of the easterly side of 8th Avenue with the northerly side of 28th Street;

RUNNING THENCE easterly along the northerly side of 28th Street 49 feet 8 inches to a point opposite the westerly face of the westerly independent wall of the building known as 245-247 West 28th Street;

THENCE northerly along the westerly face of the building westerly wall last mentioned, and along a line in prolongation thereof, 159 feet and 7-1/4 inches, more or less to the point of intersection in a line prolongation easterly of the northerly face of the northerly wall of the 2 story building standing on the premises hereby described;

THENCE westerly along said line in prolongation easterly of the northerly face of the said northerly wall and along the northerly face of the said northerly wall, and along a line in prolongation thereof westerly 49 feet and 4 inches more or less, to its intersection with a line drawn in prolongation of the easterly face of the said easterly wall of the building known as 253-255 West 28th Street;

THENCE southerly along the said line prolongation of the easterly face of the said easterly wall of said building 253 and 255 West 28th Street, and along the said easterly face of said easterly wall last mentioned, 155 feet 4-1/2 inches to the point or place of **BEGINNING**.

As to Parcel II (Block 778 Lot 16 for information only):

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

BEGINNING at a point on the southerly side of West 29th Street distant 180 feet easterly from the corner formed by the intersection of the southerly side of West 29th Street with the easterly side of 8th Avenue;

RUNNING THENCE southerly parallel with 8th Avenue 37 feet and 3-1/2 inches;

THENCE RUNNING easterly on a line forming an angle of 83 degrees 53 minutes 40 seconds on its northerly side of with the last mentioned course 21 feet 8-1/4 inches;

THENCE southerly on a line forming an angle of 91 degrees 3 minutes 40 seconds on its easterly side with the northerly side of West 28th Street 162 feet 6-1/2 inches to the northerly side of West 28th Street;

THENCE easterly along the northerly side of West 28th Street, 49 feet and 9 inches;

THENCE northerly on a line forming an angle of 88 degrees 56 minutes 20 seconds on its westerly side with the northerly side of West 28th Street, 167 feet 10-1/2 inches;

THENCE westerly on a line forming an angle of 84 degrees 57 minutes 20 seconds on its southerly side with the last mentioned course, 1 foot 4-1/4 inches;

THENCE northerly on a line forming an interior angle on its westerly side with the last mentioned course, 96 degrees 5 minutes 20 seconds, 29 feet 9-1/2 inches to the southerly side of West 29th Street;

THENCE westerly along the southerly side of West 29th Street 70 feet, more or less, to the point or place of **BEGINNING**.

As to Parcel III (Block 778 Lot 66 for information only)

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 southerly side of 29th Street distant 155 feet easterly from the corner formed by the intersection of the easterly side of 8th Avenue with the southerly side of 29th Street;

RUNNING THENCE southerly parallel with 8th Avenue, 40 feet 1-1/2 inches, more or less to land formerly of Hammersley & Codlip;

THENCE easterly in a diagonal line extending towards 29th Street along said Hammersley's land 25 feet 1-3/4 inches to land formerly of Thomas Cramer;

THENCE northerly parallel with 8th Avenue, 37 feet 5-1/2 inches, more or less, to the southerly side of 29th Street; and

THENCE westerly along the southerly side of 29th Street, 25 feet to the point or place of **BEGINNING**.

As to Parcel IV (Block 778 Lot 18 for information only):

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

BEGINNING at a point on the northerly side of West 28th Street, distant 254 feet 4 inches easterly from the corner formed by the intersection of the northerly side of West 28th Street and the easterly side of 8th Avenue;

RUNNING THENCE northerly along a line forming an interior angle of 91 degrees 03 minutes 40 seconds a distance of 167 feet 9 inches;

THENCE westerly along a line forming an exterior angle of 84 degrees 55 minutes 30 seconds a distance of 1 foot 2-3/4 inches;

THENCE northerly along a line forming an interior angle of 83 degrees 51 minutes 50 seconds a distance of 29 feet 11-1/4 inches to the southerly side of West 29th Street;

THENCE easterly along the southerly side of West 29th Street 50 feet;

THENCE southerly at right angles to the southerly side of West 29th Street 24 feet 6-3/4 inches;

THENCE westerly along a line forming an exterior angle of 83 degrees 51 minutes 50 seconds a distance of 10-5/8 inches;

THENCE southerly 173 feet 1 inch to a point on the northerly side of West 28th Street distant 49 feet 9 inches from the point of **BEGINNING**; and

THENCE westerly along the northerly side of West 28th Street 49 feet 9 inches to the point or place of **BEGINNING**.