



**Department of
Environmental
Conservation**

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

Please refer to the attached instructions for guidance on completing this application.

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment seeks to add or subtract more than an insignificant acreage of property to the BCA, applicants are encouraged to consult with the DEC project team prior to submitting this application.

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification(s) requested:

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Amendment to modify the existing BCA (check one or more boxes below): |
| <input checked="" type="checkbox"/> | Add applicant(s) |
| <input type="checkbox"/> | Substitute applicant(s) |
| <input type="checkbox"/> | Remove applicant(s) |
| <input type="checkbox"/> | Change in name of applicant(s) |
| <input checked="" type="checkbox"/> | Amendment to reflect a transfer of title to all or part of the brownfield site: |
| | <p>a. A copy of the recorded deed must be provided. Is this attached? Yes <input checked="" type="radio"/> No <input type="radio"/></p> <p>b. <input checked="" type="checkbox"/> Change in ownership <input type="checkbox"/> Additional owner (such as a beneficial owner)</p> <p>c. Pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been submitted prior to a transfer of ownership. If this has not yet been submitted, include the form with this application. Is this form attached? Yes <input checked="" type="radio"/> No <input type="radio"/> Submitted on: _____</p> |
| <input type="checkbox"/> | Amendment to modify description of the property(ies) listed in the existing BCA |
| <input type="checkbox"/> | Amendment to expand or reduce property boundaries of the property(ies) listed in the existing BCA |
| <input type="checkbox"/> | Sites in Bronx, Kings, New York, Queens or Richmond Counties ONLY: amendment to request determination that the site is eligible for tangible property credit component of the brownfield redevelopment tax credit. |
| <input type="checkbox"/> | Other (explain in detail below) |

2. REQUIRED: Please provide a brief narrative describing the specific requests included in this amendment:
The purpose of this BCA Amendment is to modify the BCA to reflect a change in site ownership and to add the new owner as an additional Volunteer Applicant. Tenant in common and current Applicant 3761 10th Avenue Realty Corp. conveyed its 20% undivided interest to 3761 207th Street Realty LLC via the attached deed, dated September 11, 2023. The sole member of 3761 207th Street Realty LLC is 3761 10th Avenue Realty Corp.

SECTION I: CURRENT AGREEMENT INFORMATION*This section must be completed in full. Attach additional pages as necessary.*

BCP SITE NAME: 401 West 207th Street Redevelopment

BCP SITE CODE: C231151

NAME OF CURRENT APPLICANT(S): 401 W 207th Realty LLC and 3761 10th Avenue Realty Corp.

INDEX NUMBER OF AGREEMENT: C231151-03-22

DATE OF ORIGINAL AGREEMENT: 03/25/2022

SECTION II: NEW REQUESTOR INFORMATION*Complete this section only if adding new requestor(s) or the name of an existing requestor has changed.*

NAME: 3761 207th Street Realty LLC

ADDRESS: 3857 9th Avenue

CITY/TOWN: New York

ZIP CODE: 10034

PHONE: 212-569-8713

EMAIL: 333scd@gmail.com

REQUESTOR CONTACT: Paul Gagliardi

ADDRESS: 3857 9th Avenue

CITY/TOWN: New York

ZIP CODE: 10034

PHONE: 212-569-8713

EMAIL: 333scd@gmail.com

REQUESTOR'S CONSULTANT: Haley & Aldrich of New York

CONTACT: James Bellew

ADDRESS: 213 West 35th Street, 7th Floor

CITY/TOWN: New York, NY

ZIP CODE: 10001

PHONE: 646-277-5686

EMAIL: jbellew@haleyaldrich.com

REQUESTOR'S ATTORNEY: Herrick, Feinstein LLP

CONTACT: Seth Friedland

ADDRESS: Two Park Avenue

CITY/TOWN: New York, NY

ZIP CODE: 10016

PHONE: (212) 592-1457

EMAIL: sfriedland@herrick.com

| | Y | N |
|---|----------------------------------|----------------------------------|
| 1. Is the requestor authorized to conduct business in New York State? | <input checked="" type="radio"/> | <input type="radio"/> |
| 2. If the requestor is a corporation, LLC, LLP, or other entity requiring authorization from the NYS Department of State (NYSDOS) to conduct business in NYS, the requestor's name must appear exactly as given above in the NYSDOS Corporation & Business Entity Database. A print-out of entity information from the NYSDOS database must be submitted with this application. Is this print-out attached? | <input checked="" type="radio"/> | <input type="radio"/> |
| 3. Requestor must submit proof that the party signing this application and amendment has the authority to bind the requestor. This would be documentation showing the authority to bind the requestor in the form of corporate organizational papers, a Corporate Resolution or an Operating Agreement or Resolution for an LLC. Is this proof attached? | <input checked="" type="radio"/> | <input type="radio"/> |
| 4. If the requestor is an LLC, the names of the members/owners must be provided. Is this information attached? | N/A <input type="radio"/> | <input checked="" type="radio"/> |
| 5. Describe the new requestor's relationship to all existing applicants: 3761 207th Street Realty LLC is a Tenant in Common owner of the site with existing Applicant 401 W 207th Realty LLC. The sole member of 3761 207th Street Realty LLC is 3761 10th Avenue Realty Corp. | | |

SECTION III: CURRENT PROPERTY OWNER/OPERATOR INFORMATION*Complete this section only if a transfer of ownership has taken place. Attach additional pages if necessary.*

| | | | |
|--|--|--|--|
| Owner listed below is: | <input checked="" type="checkbox"/> Existing Applicant | <input type="checkbox"/> New Applicant | <input type="checkbox"/> Non-Applicant |
| OWNER'S NAME: 401 W 207th Realty LLC (80% TIC) | | CONTACT: Jacob Kohn | |
| ADDRESS: 40 Oser Avenue, Suite 4 | | | |
| CITY/TOWN: Hauppauge, NY | | ZIP CODE: 11788 | |
| PHONE: (917) 846-1115 | EMAIL: kohnjacob@gmail.com | | |
| OPERATOR: 401 W 207th Realty LLC | | CONTACT: Jacob Kohn | |
| ADDRESS: 40 Oser Avenue, Suite 4 | | | |
| CITY/TOWN: Hauppauge, NY | | ZIP CODE: 11788 | |
| PHONE: (917) 846-1115 | EMAIL: kohnjacob@gmail.com | | |

SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION*Complete this section only if adding new requestor(s). Attach additional pages if necessary.*

If answering "yes" to any of the following questions, please provide additional information as an attachment. Please refer to ECL § 27-1407 for details.

| | Y | N |
|---|-----------------------|----------------------------------|
| 1. Are any enforcement actions pending against the requestor regarding this site? | <input type="radio"/> | <input checked="" type="radio"/> |
| 2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? | <input type="radio"/> | <input checked="" type="radio"/> |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for the site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. | <input type="radio"/> | <input checked="" type="radio"/> |
| 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 or regulation of the state or federal government? If so, provide additional information as an attachment. | <input type="radio"/> | <input checked="" type="radio"/> |
| 5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as site name, address, DEC site number, reason for denial, and any other relevant information. | <input type="radio"/> | <input checked="" type="radio"/> |
| 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 or contaminants? | <input type="radio"/> | <input checked="" type="radio"/> |
| 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? | <input type="radio"/> | <input checked="" type="radio"/> |
| 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? | <input type="radio"/> | <input checked="" type="radio"/> |

SECTION III: CURRENT PROPERTY OWNER INFORMATION (CONTINUATION SHEET)

20% Tenant In Common Owner Information

3761 10th Avenue Realty Corp.
3857 9th Ave.
New York 10034
Contact: Paul Gagliardi
212-569-8713
333scd@gmail.com

| SECTION IV: NEW REQUESTOR ELIGIBILITY INFORMATION (continued) | | Y | N |
|--|--|---------------------------------------|----------------------------|
| 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? | <input type="radio"/> | <input checked="" type="radio"/> | |
| 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? | <input type="radio"/> | <input checked="" type="radio"/> | |
| 11. Are there any unregistered bulk storage tanks on-site which require registration? | <input type="radio"/> | <input checked="" type="radio"/> | |
| 12. 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 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 disposal of a 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 they have 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's liability arises solely as a result of ownership, operation of or involvement with the site, they must submit a statement describing why they should be considered a volunteer – be specific as to the appropriate care taken. | | |
| 13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached? | N/A <input type="radio"/> | Y <input checked="" type="radio"/> | N <input type="radio"/> |
| 14. Requestor's relationship to the property (check all that apply): <input type="checkbox"/> Prior Owner <input checked="" type="checkbox"/> Current Owner <input type="checkbox"/> Potential/Future Purchaser <input checked="" type="checkbox"/> Other: 20% tenant in common | | | |
| 15. If the requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before being added to the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached? | N/A <input checked="" type="radio"/> | Y <input type="radio"/> | N <input type="radio"/> |

SECTION V: PROPERTY DESCRIPTION AND REQUESTED CHANGES

Complete this section only if property is being added to or removed from the site, a lot merger or other change to site SBL(s) has occurred, or if modifying the site address for any reason.

1. Property information on current agreement (as modified by any previous amendments, if applicable):

ADDRESS:

CITY/TOWN

ZIP CODE:

CURRENT PROPERTY INFORMATION

TOTAL ACREAGE OF CURRENT SITE:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

2. Requested change (check appropriate boxes below):

☐

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

PARCELS ADDED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE ADDED: _____

☐

b. Reduction of property

PARCELS REMOVED:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

TOTAL ACREAGE TO BE REMOVED: _____

☐

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

NEW PROPERTY INFORMATION:

PARCEL ADDRESS

SECTION

BLOCK

LOT

ACREAGE

3. TOTAL REVISED SITE ACREAGE: _____

4. For all changes requested in this section, documentation must be provided. Required attachments are listed in the application instructions. Is the required documentation attached?

Y

☐

N

☐

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

Complete this section only if the site is located within the five counties comprising New York City and the requestor is seeking a determination of eligibility for tangible property credits. Provide supporting documentation as required. Refer to the application instructions for additional information.

| | Y | N |
|--|-----------------------|-----------------------|
| 1. Is the site located in Bronx, Kings, New York, Queens or Richmond County? | <input type="radio"/> | <input type="radio"/> |
| 2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit? | <input type="radio"/> | <input type="radio"/> |
| 3. 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="radio"/> | <input type="radio"/> |
| 4. Is the property upside down as defined below? | <input type="radio"/> | <input type="radio"/> |
| <p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p> | | |
| 5. Is the project and affordable housing project as defined below? | <input type="radio"/> | <input type="radio"/> |
| <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' household's 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 homeowners 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> | | |

| APPLICATION SUPPLEMENT FOR NYC SITES (continued) | Y | N |
|---|-----------------------|-----------------------|
| <p>6. Is the project a planned renewable energy facility site as defined below?</p> <p>From ECL 27-1405(33) as of April 9, 2022:</p> <p>"Renewable energy facility site" shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.</p> <p>From Public Service Law Article 4 Section 66-p as of April 23, 2021:</p> <p>(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.</p> | <input type="radio"/> | <input type="radio"/> |
| <p>7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and meets the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?</p> <p>From ECL 75-0111 as of April 9, 2022:</p> <p>(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.</p> | <input type="radio"/> | <input type="radio"/> |

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**EXISTING AGREEMENT INFORMATION**

BCP SITE NAME: 401 West 207th Street Redevelopment

BCP SITE CODE: C231151

NAME OF CURRENT APPLICANT(S): 401 W 207th Realty LLC and 3761 10th Avenue Realty Corp.

INDEX NUMBER OF AGREEMENT: C231151-03-22

DATE OF ORIGINAL AGREEMENT 03/25/2022

Declaration of Amendment:

By the requestor(s) and/or applicant(s) signature(s) 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 obligations held under the Agreement or those same laws.

STATEMENT OF CERTIFICATION AND SIGNATURES: NEW REQUESTOR

Complete the appropriate section (individual or entity) below only if this Amendment adds a new requestor. Attach additional pages as needed.

(Individual)

I hereby affirm that the 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 authorized representative (title) of 3761 207th Street Realty LLC (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.

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

Date: 2/13/2024 Signature: Print Name: Paul Gagliardi

STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)

An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.

(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 President (title) of 3761 10th Avenue Realty Corp. (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: 2/13/2024 Signature: Print Name: Paul Gagliardi

PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS

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

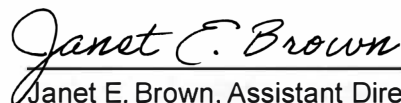
A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement: 03/25/2022

Signature by the Department:

DATED: 3/8/24NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

Janet E. Brown, Assistant Director
Division of Environmental Remediation

STATEMENT OF CERTIFICATION AND SIGNATURES: EXISTING APPLICANT(S)

An authorized representative of each applicant must complete and sign the appropriate section (individual or entity) below. Attach additional pages as needed.

(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 Managing Member (title) of 401 W 207th Realty 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: 2/12/24 Signature: Print Name: Jacob Kohn

PLEASE SEE THE FOLLOWING PAGE FOR SUBMITTAL INSTRUCTIONS

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

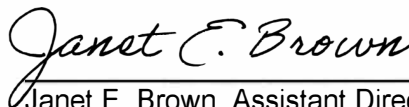
A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement: 03/25/2022

Signature by the Department:

DATED: 3/8/24NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

Janet E. Brown, Assistant Director
Division of Environmental Remediation