NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

July 27, 2022

CP VII 78th Street Owner, LLC
Matthew Feldman
805 Third Avenue, 20th Floor
New York, NY 10022

RE: Site Name: 1487 1st Avenue Redevelopment Site
Site No.: C231152
Location of Site: 1487 1st Avenue, New York County, New York, NY 10075

Dear Matthew Feldman:

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the 1487 1st Avenue Redevelopment Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Kyle Pero, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 625 Broadway Albany, NY 12233-1500 or by email at kyle.pero@dec.ny.gov.

Sincerely,

Andrew Guglielmi

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Enclosure

ec: Michael MacCabe, Project Manager

cc: Kyle Pero, Esq.
Jennifer Andaloro, Esq./Cheryl Salem

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

BROWNFIELD SITE CLEANUP AGREEMENT
Index No. C231152-06-22

1487 1st Avenue Redevelopment Site
DEC Site No: C231152
Located at: 1487 1st Avenue
New York County
New York, NY 10075

Hereinafter referred to as "Site"

by:

CP VII 78th Street Owner, LLC
805 Third Avenue, 20th Floor, New York, NY 10022

Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Applicant submitted an application received by the Department on March 30, 2022; and

WHEREAS, the Department has determined that the Site and Applicant are eligible to participate in the BCP.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, CP VII 78th Street Owner, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

II. Tangible Property Tax Credit Status

Applicant requested a determination that the Site is eligible for tangible property tax credits. Pursuant to ECL § 27-1407(1-a), the Department has determined that the Site is not eligible for tangible property tax credits because the Site is located in a City having a population of one million or more and the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from

application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 0.230 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 1452-27
Street Number: 1487 1st Avenue, Manhattan
Owner: CP VII 78th Street Owner, LLC

IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

Michael MacCabe
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7016
michael.maccabe@dec.ny.gov

Christine Vooris (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
christine.vooris@health.ny.gov

Kyle Pero, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
kyle.pero@dec.ny.gov

2. Communication from the Department to Applicant shall be sent to:

CP VII 78th Street Owner, LLC
Attn: Matthew Feldman
805 Third Avenue, 20th Floor
New York, NY 10022
78thstreet@carmelpartners.com

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: 7/27/2022

THIS BROWNFIELD CLEANUP AGREEMENT IS HEREBY APPROVED, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: Andrew Guglielmi

Andrew O. Guglielmi, Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, and agrees to be bound by this Agreement.

CP VII 78th Street Owner, LLC

By: _____

Title: Authorized Signatory

Date: 7/13/2022

STATE OF NEW YORK)
) ss:
COUNTY OF)

* see attached

On the _____ day of _____ in the year 20___, 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 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.

_____
Signature and Office of individual
taking acknowledgment

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Francisco }

On July 13, 2022 before me, Rachel Wagner, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Matthew Golden
Name(s) of Signer(s)

_____,

who proved to me on the basis of satisfactory evidence to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

RACHEL WAGNER
Notary Public - California
San Francisco County
Commission # 2390117
My Comm. Expires Jan 10, 2026

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rachel Wagner
Place Notary Seal and/or Stamp Above *Signature of Notary Public*

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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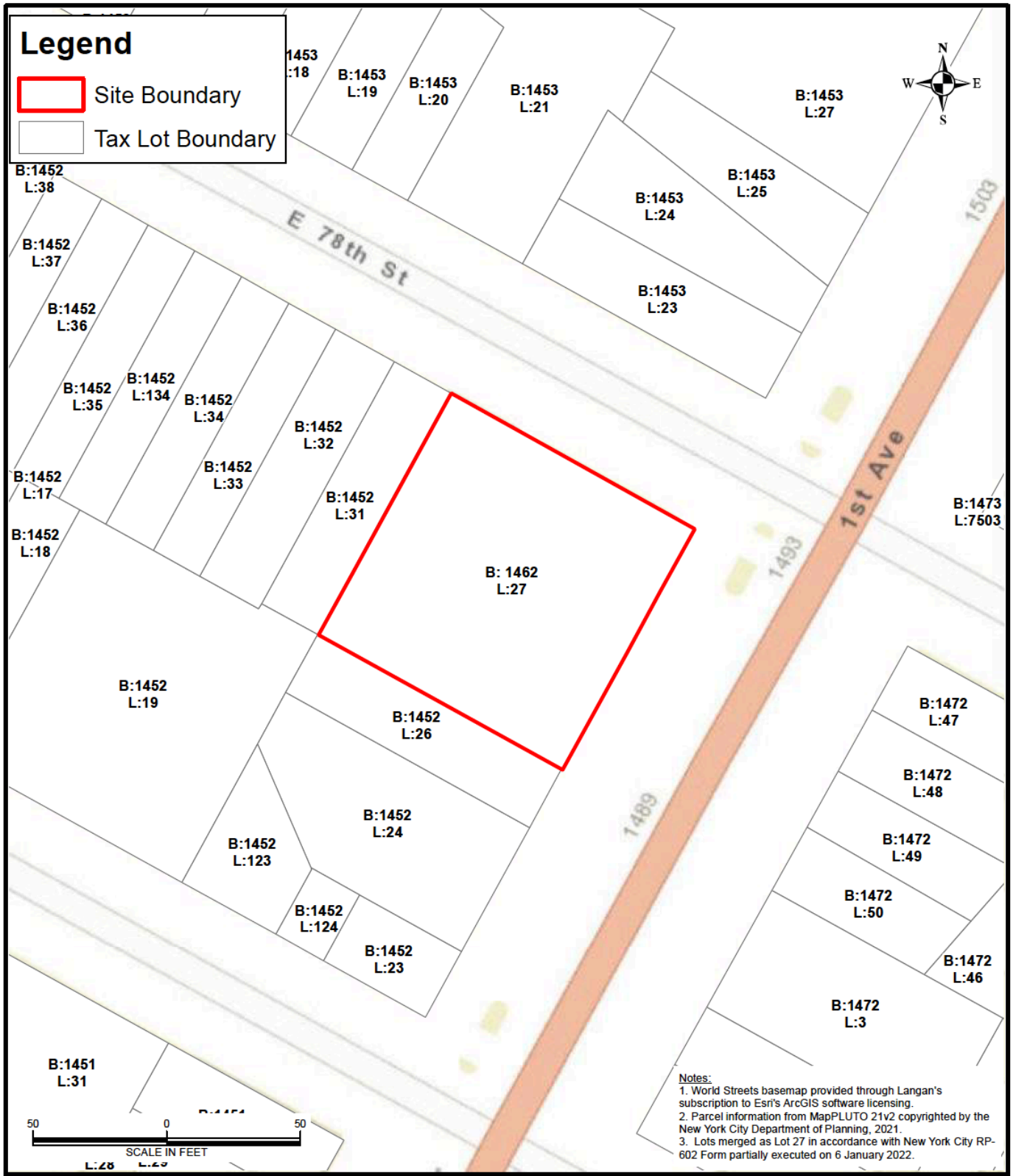
EXHIBIT A
SITE MAP



Notes:
1. World Streets basemap provided through Langan's subscription to Esri's ArcGIS software licensing.
2. Parcel information from MapPLUTO 21v2 copyrighted by the New York City Department of Planning, 2021.
3. Lots merged as Lot 27 in accordance with New York City RP-602 Form partially executed on 6 January 2022.

LANGAN
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Langan Engineering & Environmental Services, Inc.
Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C.
Langan International LLC
Collectively known as Langan
NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400

Project	Drawing Title	Project No.	Figure
1487 FIRST AVENUE REDEVELOPMENT SITE BLOCK No. 1452, LOT No. 27 MANHATTAN NEW YORK	TAX MAP	100805201	D-1
		Date 2/24/2022	
		Scale 1 " = 50 '	
		Drawn By IHB	

© 2013 Langan

Path: \\langan.com\data\PAR\data7\100963701\Project Data\ArcGIS\MXD\Environmental_Figures\2021-12\10.5\Figure D-1 Tax Map.mxd Date: 2/24/2022 User: ibaker Time: 5:22:31 PM

APPENDIX A

STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

II. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the Site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein. All work undertaken as part of a remedial program for a Site must be detailed in a department-approved Work Plan or a submittal approved in form and content by the Department.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law. All work undertaken as part of a remedial program, including work undertaken pursuant to submittals other than Work Plans, must be approved by the department prior to implementation by the Applicant.

E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such

determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the Site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5 (b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Division of Management and Budget
New York State Department of Environmental Conservation
625 Broadway, 10th Floor
Albany, New York 12233-4900

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR §§ 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of such recording (or such longer period of time as may be required to obtain a certified copy provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR § 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use “best efforts” to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant’s obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant’s best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant’s inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department’s project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department’s project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term “Applicant” shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL § 27-1421(6) and 6 NYCRR § 375-1.5(b)(5).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

New York State Department of State

Division of Corporations, State Records and Uniform Commercial Code

Please print this email for your records.

Thank you for submitting your ARTICLES OF ORGANIZATION through the Department of State's Online Filing System. The ARTICLES OF ORGANIZATION has been filed by the Department of State.

We have attached the official filing receipt and any related document(s) for the following entity:

DOS ID:	6355841
Entity Name:	CP VII 78TH STREET OWNER, LLC
County:	NEW YORK
Filing Date:	12/23/2021
Statement Due:	12/31/2023

- Retain this letter and attachment(s) for your records. The Department of State does not mail additional copies of the filing receipt or related attachment(s).

- Limited Liability Companies are required to file a Biennial Statement with the Department of State. To receive an email notice when the Biennial Statement is due, provide an email address at the Department of State's Email Address Submission/Update Service.

- You may obtain a Federal Employer Identification Number (EIN) from the Internal Revenue Service (IRS). You must obtain an EIN to identify your business to the IRS and the New York State Department of Taxation and Finance. Visit Employer Identification Number.

- Report your EIN by phone to the New York State Department of Taxation and Finance at 518-485-6027, Monday through Friday between 8:30 a.m. and 4:30 p.m.

Resources

- Instructions for filing Certificates of Correction, Certificates of Amendment and other documents with the Department of State
- Corporation tax information

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Contact Information

- Department of State: Email the Division of Corporations at corporations@dos.ny.gov.
- Department of Taxation and Finance: Visit Contact us for self-help options and telephone numbers.

NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE

FILING RECEIPT

ENTITY NAME :	CP VII 78TH STREET OWNER, LLC
DOCUMENT TYPE :	ARTICLES OF ORGANIZATION
ENTITY TYPE :	DOMESTIC LIMITED LIABILITY COMPANY
DOS ID :	6355841
FILE DATE :	12/23/2021
FILE NUMBER :	211223001402
TRANSACTION NUMBER :	202112230001395-473123
EXISTENCE DATE :	12/23/2021
DURATION/DISSOLUTION :	PERPETUAL
COUNTY :	NEW YORK
SERVICE OF PROCESS ADDRESS :	CORPORATION SERVICE COMPANY 80 STATE STREET, ALBANY, NY, 12207-2543, USA
FILER :	MATTHEW GOLDEN C/O CARMEL PARTNERS, 1000 SANSOME STREET, 1ST FLOOR SAN FRANCISCO, CA, 94111, USA
SERVICE COMPANY :	CORPORATION SERVICE COMPANY
SERVICE COMPANY ACCOUNT :	45
CUSTOMER REFERENCE :	348625 IG2

You may verfiy this document online at : *http://ecorp.dos.ny.gov*
AUTHENTICATION NUMBER : 100000820470

TOTAL FEES:	$360.00	TOTAL PAYMENTS RECEIVED:	$360.00
FILING FEE:	$200.00	CASH:	$0.00
CERTIFICATE OF STATUS:	$0.00	CHECK/MONEY ORDER:	$0.00
CERTIFIED COPY:	$10.00	CREDIT CARD:	$0.00
COPY REQUEST:	$0.00	DRAWDOWN ACCOUNT:	$360.00
EXPEDITED HANDLING:	$150.00	REFUND DUE:	$0.00

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy for CP VII 78TH STREET OWNER, LLC, File Number 211223001402 has been compared with the original document in the custody of the Acting Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the Department of State, at the City of Albany, on December 23, 2021.

Brendan C. Hughes
Executive Deputy Secretary of State

Authentication Number: 100000820471 To Verify the authenticity of this document you may access the Division of Corporation's Document Authentication Website at http://ecorp.dos.ny.gov

NEW YORK STATE OF OPPORTUNITY. | **Division of Corporations, State Records and Uniform Commercial Code**

New York State
Department of State
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
www.dos.ny.gov

(This form must be printed or typed in black ink)

ARTICLES OF ORGANIZATION OF

CP VII 78th Street Owner, LLC

(Insert name of Limited Liability Company)

Under Section 203 of the Limited Liability Company Law

FIRST: The name of the limited liability company is:

CP VII 78th Street Owner, LLC.

SECOND: The county within this state in which the office of the limited liability company is to be located is: New York.

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

Corporation Service Company, 80 State Street, Albany, NY 12207-2543.

X _____ *(Signature of Organizer)*

Matthew Golden *(Print or Type Name of Organizer)*

Filed with the NYS Department of State on 12/23/2021
Filing Number: 211223001402 DOS ID: 6355841

ARTICLES OF ORGANIZATION
OF

CP VII 78th Street Owner, LLC

(*Insert name of Limited Liability Company*)

Under Section 203 of the Limited Liability Company Law

Filer's Name and Mailing Address:

Matthew Golden

Name:

c/o Carmel Partners

Company, if Applicable:

1000 Sansome Street, 1st Floor

Mailing Address:

San Francisco, CA 94111

City, State and Zip Code:

348625 IG2

NOTES:

1. This form was prepared by the New York State Department of State for filing articles of organization for a domestic limited liability company. It does not contain all optional provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores.
2. The Department of State recommends that legal documents be prepared under the guidance of an attorney.
3. The Limited Liability Company Law requires that the name end with "Limited Liability Company," "LLC" or "L.L.C." The name of the limited liability company must be uniformly stated throughout this certificate.
4. The filer may not be the limited liability company being formed.
5. The certificate must be submitted with a **$200** filing fee made payable to the Department of State.

(For Office Use Only)

Filed with the NYS Department of State on 12/23/2021
Filing Number: 211223001402 DOS ID: 6355841

DocuSign Envelope ID: 932AD66C-411D-426A-86E0-7EBE879B5349

CP VII 78th STREET OWNER, LLC,
a Delaware limited liability company

Written Consent of Managing

Member(Appointment of Officers)

January 6, 2022

The undersigned, being the sole and managing member ("Managing Member") of CP VII 78th Street Owner, LLC, a New York limited liability company (the "Company"), hereby adopts, approves, and consents to the following preambles and resolutions by written consent pursuant tothe Limited Liability Company Agreement of the Company dated December 23, 2021 (the "LLC Agreement"), and the New York Limited Liability Company Law (as amended, the "Act"):

WHEREAS, the Company owns certain real property located on the west side of First Avenue between 77th and 78th Street in the City of New York, State of New York (the "Property"); and

WHEREAS, pursuant to Section 5.1 of the LLC Agreement, all of the business, operations, affairs, and properties of the Company shall be managed by its Managing Member; and

WHEREAS, the Managing Member desires to appoint officers of the Company, to serveat the pleasure of the Managing Member and with the duties specified below, for the purposes of granting authority to them to act on behalf of the Company in connection with municipal permitting and licensing for development, planning applications, entitlement agreements, statements of financial responsibility, utility applications, environmental applications, temporary construction access agreements, and execute and deliver Company instruments, agreements, and other documents relating thereto, all as provided herein.

NOW, THEREFORE, BE IT RESOLVED, that effective as of the date first written above, the following persons are appointed to the offices opposite their names, to serve inaccordance with the LLC Agreement and the Act, and at the discretion of the Managing Member in accordance with, and to have the powers and duties stated below:

Ron Zeff	President
Lee Bloch	Executive Vice President
Duane Carlson	Executive Vice President
Matt Feldman	Executive Vice President
Matthew Golden	Executive Vice President

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Steve Martinelli	Executive Vice President
Dennis Markus	Executive Vice President

(the "Officers"); and

FURTHER RESOLVED, that the Officers shall have the authority to take such actions on behalf of the Company as the owner of the Property, as may be necessary or advisable to develop the Property; provided, however, that such actions or the execution and delivery of such documents are consistent with direction from the Managing Member and the purposes of the Company; and

FURTHER RESOLVED, that as authorized representatives of the Company, each of the Officers is authorized to execute and deliver all documents and other instruments, in the name of and on behalf of the Company to the extent authorized by the foregoing resolution, as such Officer may deem necessary in order to carry out the intent and purposes of the foregoing resolution; the execution of such documents by such Officer to be conclusive evidence that such execution and delivery were authorized by these resolutions. and

FURTHER RESOLVED, that the foregoing Officers shall serve until their resignation or removal by the Managing Member and the foregoing titles for officers and the duties and responsibilities of each officer shall continue until modified by the Managing Member.

This consent may be executed by telefacsimile or electronic signature, and a telefacsimile or electronic signature shall constitute an original signature.

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IN WITNESS WHEREOF, the undersigned, being the Managing Member of CP VII 78th Street Owner, LLC, hereby consents to, approves, and adopts the foregoing preambles and resolutions effective as of the date first written above.

MANAGING MEMBER:

CP VII 78th STREET REIT, LLC,
a Delaware limited liability company

DocuSigned by:
By: Ron Zeff
FB0397ECFB3F4A6...
Name: Ron Zeff
Title: CEO