



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:

This Brownfield Cleanup Agreement ("BCA") amendment seeks to add 3 new entities to the BCA (FRV Phase 2 LIHTC LLC, FRV Phase 2 Commercial LLC, and Rockaway Village II Housing Development Fund Corporation), amend to reflect the creation of Tax Lot 101, correct a misstatement of the acreage on the BCA, and to correct the name of an existing applicant on the BCA.

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: Far Rockaway Project		BCP SITE NUMBER: C241224
NAME OF CURRENT APPLICANT(S): Redfern FRP LLC, FRV Phase I Moderate LLC, FRV Phase I LIHTC LLC, FRV Phase 1 Commercial LLC, Rockaway Village Housing Development Fund Corp.		
INDEX NUMBER OF AGREEMENT: C241224-11-18		DATE OF ORIGINAL AGREEMENT: 12/11/2018
Section II. New Requestor Information (complete only if adding new requestor or name has changed)		
NAME FRV Phase 2 LIHTC LLC, FRV Phase 2 Commercial LLC, Rockaway Village II Housing Development Fund Corp.		
ADDRESS (See Attached Supplement)		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No • If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.		
NAME OF NEW REQUESTOR'S REPRESENTATIVE (See attached Supplement)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No		
3. Describe Requestor's Relationship to Existing Applicant: 		

Section III. Current Property Owner/Operator Information (only include if new owner/operator)
Owner below is: ☐ Existing Applicant ☐ New Applicant ☐ Non-Applicant

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

Answers below apply to all New Requestors

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 20-02 Mott Avenue

CITY/TOWN Queens County, Far Rockaway

ZIP CODE 11691

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

Parcel Address	Section No.	Block No.	Lot No.	Acreage
20-02 Mott Avenue, Far Rockaway, NY 11691		15537	P/O Lot 1; tent. Lot 101	4.06

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
20-02 Mott Avenue, Far Rockaway, NY 11691		15537	Lot 101	4.08976

Total acreage to be added: 0.0297☐ 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: 4.08976

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

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From 6 NYCRR 375- 3.2(a) as of August 12, 2016: (a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units. (1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income. (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income. (3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

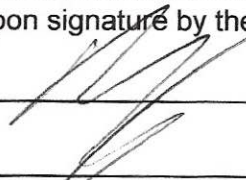
PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
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NAME OF CURRENT APPLICANT(S): Redfern FRP LLC, FRV Phase 1 Moderate LLC, FRV Phase 1 LIHTC LLC, FRV Phase 1 Commercial LLC, Rockaway Village Housing Development Fund Corporation	
INDEX NUMBER OF AGREEMENT: C241224-11-18	
EFFECTIVE DATE OF ORIGINAL AGREEMENT: 12/11/2018	

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 <u>Authorized Signatory</u>) of (entity <u>FRV Phase 2 Commercial LLC</u>); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.
<u>Matthew Kelly's</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.
Date: <u>5/4/2021</u> Signature: 
Print Name: <u>Matthew Kelly</u>

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
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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.

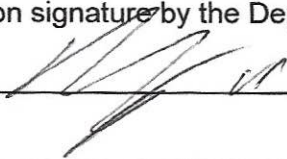
Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title Authorized Signatory) of (entity Rockaway Village II Housing Development Fund Corporation); 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.

Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 5/4/2021 Signature: 

Print Name: Matthew Kelly

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Far Rockaway Project	BCP SITE NUMBER: C241224
NAME OF CURRENT APPLICANT(S): Redfern FRP LLC, FRV Phase 1 Moderate LLC, FRV Phase 1 LIHTC LLC, FRV Phase 1 Commercial LLC, Rockaway Village Housing Development Fund Corporation	
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EFFECTIVE DATE OF ORIGINAL AGREEMENT: 12/11/2018	

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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.

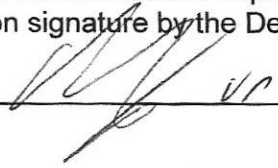
Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title Authorized Signatory) of (entity FRV Phase 2 LIHTC LLC); 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.

Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 5/4/2021 Signature: 

Print Name: Matthew Kelly

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 FRV Phase 1 Moderate 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. Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 5/4/2021 Signature: 

Print Name: Matthew Kelly

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:



PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.



VOLUNTEER

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

Effective Date of the Original Agreement: 12/11/2018

Signature by the Department:

DATED: 06/03/2021

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



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

Site Code: C241224

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

(Individual)

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Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Signatory (title) of Redfern FRP 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. Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 6/3/2021 Signature: 

Print Name: Matthew Kelly

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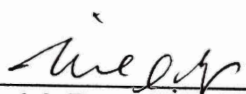
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By:



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Date: _____ Signature: _____

Print Name: _____

(Entity)

Rockaway Village Housing Development Fund Corporation

I hereby affirm that I am Authorized Signatory (title) of _____ (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 6/3/2021 Signature: 

Print Name: Matthew Kelly

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DATED: 06/03/2021

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:


Michael J. Ryan, P.E., Director

Division of Environmental Remediation

Site Code: C241224

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Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Authorized Signatory (title) of FRV Phase 1 Commercial 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. Matthew Kelly's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

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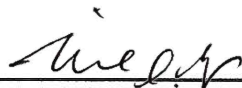
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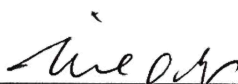
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Michael J. Ryan, P.E., Director
Division of Environmental Remediation

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:**_____

PROJECT MANAGER:_____

BROWN SHARLOW DUKE & FOGEL, P.C.

ATTORNEYS AND COUNSELORS AT LAW
WWW.BSDFLAW.COM

James K. Ward, Esq.
Brown Duke & Fogel, P.C.
350 Fifth Avenue, Suite 4640
New York, New York 10118
gduke@bsdflaw.com
Tel: 646-915-0236
Fax: 646-219-2601

May 6, 2021

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

RE: Application to Amend Brownfield Cleanup Agreement to add Applicants
Site Name: Far Rockaway Project
DEC Site No.: C241224
20-02 Mott Avenue
Far Rockaway, NY 11691
Block 15537, Lot 1(Portion of)

Dear Site Control Section Chief:

We represent the Applicants in the above-referenced matter. The above-referenced site was entered into the New York State Department of Environmental Conservation (“DEC”) Brownfield Cleanup Program (“BCP”) as evidenced by a Brownfield Cleanup Agreement (“BCA”) dated December 11, 2018. The current ‘Applicants’ listed on the BCA are Redfern FRP LLC, FRV Phase I Moderate LLC, FRV Phase I LIHTC LLC, FRV Phase I Commercial LLC and Rockaway Village Housing Development Fund Corporation. The Applicants are participating in the BCP as Volunteers as defined in ECL 27-1405(1).

Enclosed with this letter is an application to amend the BCA to add additional Applicants (“Amendment Application”), namely, FRV Phase 2 LIHTC LLC, FRV Phase 2 Commercial LLC, and Rockaway Village II Housing Development Fund Corporation (collectively, the “New Requestors”). This Amendment Application to amend also seeks to correct the name of an existing Applicant. Currently, the applicant listed on the BCA as “Rockaway Village Housing Development Fund Corp.” should be revised to read as “Rockaway Village Housing Development Fund Corporation”.

SYRACUSE

MONTICELLO

NEW YORK CITY

Further, this Amendment Application also seeks to correct the acreage of the Site listed in the BCA and to reflect the finalization Tax Lot 101. Since this Amendment Application is simply seeking to modify the BCA to add Applicants, on the BCA and is not seeking to replace a Volunteer with a Participant, we believe that this Amendment Application should be considered a minor modification consistent with DER-32 V(F)(4)(b).

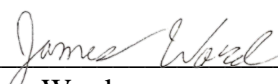
The enclosures with this letter are organized as follows:

- Exhibit A – Completed Amendment Application Form with Original Signature Pages
- Exhibit B – Supplement to Sections II and IV of the Amendment Application
- Exhibit C – NYS Department of State Entity Information for New Requestors
- Exhibit D – Resolutions Authorizing Parties to Sign Amendment Application
- Exhibit E – Site Survey Reflecting Proper Acreage
- Exhibit F – New York City Department of Finance Tax Map
- Exhibit G – Proof of Site Access

As this is a time-sensitive matter, we respectfully request that DEC review and process the Amendment Application as quickly as possible. Please feel free to contact me if you have any questions or comments regarding the Amendment Application. We thank you for your attention to this matter.

Very truly yours,

BROWN DUKE & FOGEL, P.C.

By: 
James Ward

Enclosures

EXHIBIT B

BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

**Far Rockaway Project
BCP Site No. C241224**

Supplement to Sections II and IV

New Requestor Information:

Entity Name/New Requestor	Members/Owners	Contact Information/Requestor's Representative
FRV Phase 2 LIHTC LLC 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org	FRV Phase 2 Management Corp. FRV Phase 2 Holdings Inc.	Matthew Kelly 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org
FRV Phase 2 Commercial LLC 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org	Phipps Houses	Matthew Kelly 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org
Rockaway Village II Housing Development Fund Corporation 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org	Phipps Houses	Matthew Kelly 902 Broadway, 13th Floor New York, NY 10010 Phone: 212-695-8100 Email: mkelly@phippsny.org

New Requestors' relationship to Existing Applicants and Property:

Mott Center LLC is the current owner of the BCP Site. The additional proposed New Requestors listed above are affiliated entities to the existing Applicants and anticipate cooperating with existing Applicants with completing obligations required under the Brownfield Cleanup Program, as part of the redevelopment of the Property into affordable housing. New Requestor Rockaway Village II Housing Development Fund Corporation entered into a ground lease of the Property from Mott Center LLC during construction to enable redevelopment, while the remaining New Requestors have entered into subsequent nominee agreements (See Exhibit G).

After completion of the redevelopment, it is anticipated that certain interests of the redevelopment will be transferred to certain Requestors.

New Requestors' Eligibility as a Volunteer

New Requestors' to enter the into the Brownfield Cleanup Program as a Volunteer.

Under ECL § 27-1405(1)(b) and 6 NYCRR §375-3.2(c)(2), a Volunteer is defined as follows:

“Volunteer” shall mean an applicant other than a participant, including without limitation a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants, provided however, such person exercises appropriate care with respect to contamination found at the facility by taking reasonable steps to:

- (i) stop any continuing release;
- (ii) prevent any threatened future release; and
- (iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.

The New Requestors are recently formed entities with no relationship to any prior owners or operators that may be responsible for onsite contamination. Accordingly, Requestor's do not have liability for the contamination and are Volunteers pursuant to ECL § 27-1405(1)(b) and 6 NYCRR §375-3.2(c)(2).

EXHIBIT C

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 23, 2021.

Selected Entity Name: ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION

Selected Entity Status Information

Current Entity Name: ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION

DOS ID #: 5534093

Initial DOS Filing Date: APRIL 15, 2019

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC NOT-FOR-PROFIT CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION

902 BROADWAY 13TH FL.

NEW YORK, NEW YORK, 10010

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares Type of Stock \$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 15, 2019	Actual	ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 23, 2021.

Selected Entity Name: FRV PHASE 2 LIHTC LLC

Selected Entity Status Information

Current Entity Name: FRV PHASE 2 LIHTC LLC

DOS ID #: 5654660

Initial DOS Filing Date: NOVEMBER 12, 2019

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O PHIPPS HOUSES

902 BROADWAY, 13TH FLOOR

NEW YORK, NEW YORK, 10010

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares

Type of Stock

\$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
NOV 12, 2019	Actual	FRV PHASE 2 LIHTC LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 23, 2021.

Selected Entity Name: FRV PHASE 2 COMMERCIAL LLC

Selected Entity Status Information

Current Entity Name: FRV PHASE 2 COMMERCIAL LLC

DOS ID #: 5654627

Initial DOS Filing Date: NOVEMBER 12, 2019

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O PHIPPS HOUSES

902 BROADWAY, 13TH FLOOR

NEW YORK, NEW YORK, 10010

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares

Type of Stock

\$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
NOV 12, 2019	Actual	FRV PHASE 2 COMMERCIAL LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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EXHIBIT D

FRV PHASE I LIHTC LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members FRV Phase I LIHTC LLC, a New York limited liability company (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").

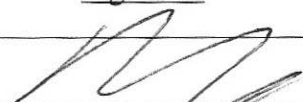
WHEREAS, in connection with the redevelopment of the Property, the Company is a Volunteer participating in the New York State Brownfield Cleanup Program ("BCP") pursuant to a Brownfield Cleanup Agreement ("BCA") (Index No. Index No. C241224-11-18); and seeks to file related documents with the New York State Department of Environmental Conservation ("DEC") in furtherance of its participation in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	


IN WITNESS WHEREOF, the undersigned have signed and sealed this Member Consent on May 4, 2021.

MEMBERS:

FRV Phase 1 Moderate LLC


By: Matthew Kelly

Phipps Houses Holdings LLC


By: Matthew Kelly

FRV PHASE I COMMERCIAL LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members FRV Phase I Commercial LLC, a New York limited liability company (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company is a Volunteer participating in the New York State Brownfield Cleanup Program ("BCP") pursuant to a Brownfield Cleanup Agreement ("BCA") (Index No. Index No. C241224-11-18); and seeks to file related documents with the New York State Department of Environmental Conservation ("DEC") in furtherance of its participation in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

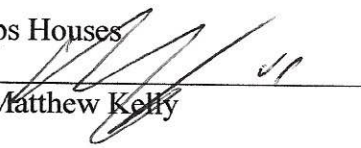
<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member
Consent on May 11, 2021.

MEMBERS:

Phipps Houses

By: Matthew Kelly



FRV PHASE 2 LIHTC LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members of FRV Phase 2 LIHTC LLC, a New York limited liability company (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company has or will prepare and submit an application to participate in the New York State Brownfield Cleanup Program ("BCP") and, if accepted into the BCP, sign onto the existing Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); file related documents with the New York State Department of Environmental Conservation ("DEC") to participate in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and


RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	


IN WITNESS WHEREOF, the undersigned have signed and sealed this Member Consent on May 4, 2021.

MEMBERS:

FRV Phase 2 Management Corp.


By: Matthew Kelly

FRV Phase 2 Holdings Inc.


By: Matthew Kelly

FRV PHASE 2 COMMERCIAL LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members of FRV Phase 2 Commercial LLC, a New York limited liability company (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company has or will prepare and submit an application to participate in the New York State Brownfield Cleanup Program ("BCP") and, if accepted into the BCP, sign onto the existing Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); file related documents with the New York State Department of Environmental Conservation ("DEC") to participate in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

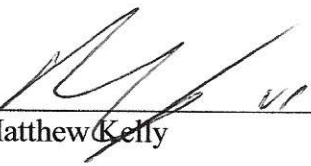
RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member Consent on May 4, 2021.

MEMBERS:

Phipps Houses


By: Matthew Kelly

**ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND
CORPORATION AUTHORIZATION
TO COMPLETE REMEDIAL REQUIREMENTS**

The undersigned, being all of the members of Rockaway Village II Housing Development Fund Corporation, a New York not-for-profit corporation (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company has or will prepare and submit an application to participate in the New York State Brownfield Cleanup Program ("BCP") and, if accepted into the BCP, sign onto the existing Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); file related documents with the New York State Department of Environmental Conservation ("DEC") to participate in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member
Consent on May 4, 2021.

MEMBERS:

Phipps Houses


By: Matthew Kelly

**ROCKAWAY VILLAGE HOUSING DEVELOPMENT FUND
CORPORATION AUTHORIZATION
TO COMPLETE REMEDIAL REQUIREMENTS**

The undersigned, being all of the members Rockaway Village Housing Development Fund Corporation, a New York not-for-profit corporation (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").

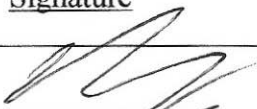
WHEREAS, in connection with the redevelopment of the Property, the Company is a Volunteer participating in the New York State Brownfield Cleanup Program ("BCP") pursuant to a Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); and seeks to file related documents with the New York State Department of Environmental Conservation ("DEC") in furtherance of its participation in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member
Consent on May 7, 2021.

MEMBERS:

Phipps Houses

By: Matthew Kelly

REDFERN FRP LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members of Redfern FRP LLC, a New York limited liability company (the "Company") hereby certify as of May 4, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company is a Volunteer participating in the New York State Brownfield Cleanup Program ("BCP") pursuant to a Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); and seeks to file related documents with the New York State Department of Environmental Conservation ("DEC") in furtherance of its participation in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and


RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member
Consent on May 4, 2021.

MEMBERS:

Phipps Houses


By: Matthew Kelly

FRV PHASE I MODERATE LLC AUTHORIZATION TO COMPLETE REMEDIAL REQUIREMENTS

The undersigned, being all of the members FRV Phase I Moderate LLC, a New York limited liability company (the "Company") hereby certify as of May 9, 2021, as follows and adopt the following resolutions and authorize the Company to authorize and direct Matthew Kelly (the "Authorized Signatory") to take the following actions on behalf of the Company:

WHEREAS, the Company desires to authorize the Authorized Signatory to undertake actions necessary to redevelop 20-02 Mott Avenue, Far Rockaway, New York 11691; Block 15537, Lot 1(Portion of) (the "Property" or the "Site").


WHEREAS, in connection with the redevelopment of the Property, the Company is a Volunteer participating in the New York State Brownfield Cleanup Program ("BCP") pursuant to a Brownfield Cleanup Agreement ("BCA") (Index No. C241224-11-18); and seeks to file related documents with the New York State Department of Environmental Conservation ("DEC") in furtherance of its participation in the BCP; and undertake certain environmental remediation work related thereto consistent with applicable laws, regulations and guidance under the BCP (collectively referred to as the "Remedial Program Requirements");

NOW THEREFORE, BE IT

RESOLVED, the Authorized Signatory be, and hereby is, authorized and directed, in the name of and on behalf of the Company, to execute and to deliver all applications, documents and instruments required to effectuate the BCA (including execution of the BCA or subsequent amendments), and make any filings required to comply with the BCA consistent with the Remedial Program Requirements; and be it further;

RESOLVED, that this Authorization may be signed in any number of counterparts, including but not limited to electronic, and shall become effective as of the date herein below written when each person named below shall have signed a copy hereof; and

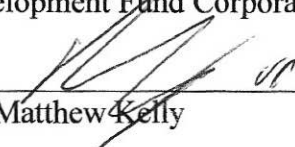
RESOLVED, The Authorized Signatory is authorized to bind the Company as an Authorized Signatory for the purposes set forth in this Authorization, the signature set forth opposite his name below is his actual signature:

<u>Authorized Signatory</u>	<u>Signature</u>
Matthew Kelly	

IN WITNESS WHEREOF, the undersigned have signed and sealed this Member Consent on May 4, 2021.

MEMBERS:

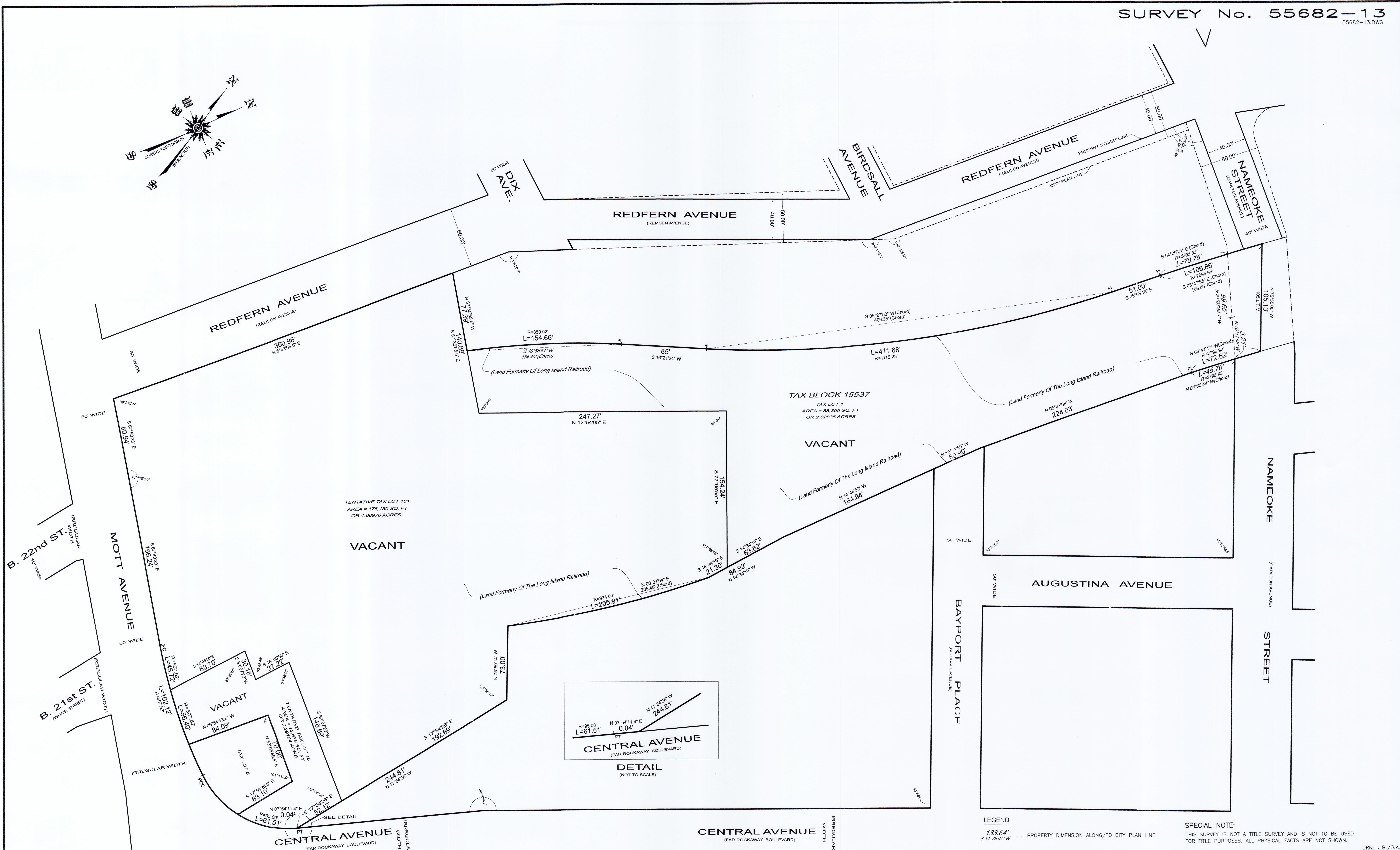
Rockaway Village Housing
Development Fund Corporation


By: Matthew Kelly

FRV Phase 1 Holdings Inc.


By: Matthew Kelly

EXHIBIT E

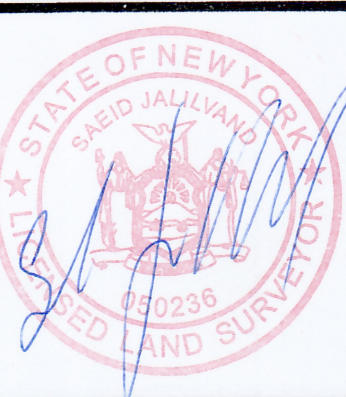


133.84'
S 11°26'00"WPROPERTY DIMENSION ALONG/TO CITY PLAN LINE

RN: J.B./Q.A.

UNAUTHORIZED /
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SECTION 7209 OF /
EDUCATION LAW /
ONLY COPIES FR- /
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OF THE LAND SU- /
OR HIS EMPLOYS- /
CONSIDERED TO /
THE ORIGINAL OF /
WITH AN ORIGINAL /
VEYON'S WAXED SEAL /
SEAL SHALL BE /
VALID TRUE COPIES /
CERTIFICATIONS P- /
HATED HEREON SH- /
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SURVEY IS PREP- /
TO THE TITLE COM- /
AGENCY AND LE- /
HEREON, AND TO /
LENDING INSTITU- /
ARE NOT TRANS- /
INSTITUTIONS OR /
TERATION OR ADDI- /
A VIOLATION OF /
THE NEW YORK STATE /
EDUCATION LAW /
PERSON FOR WHOM IT /
AND ON HIS BEHA- /
GOVERNMENTAL /
ING INSTITUTION LISTED /
THE ASSIGNEES OF /
IN, CERTIFICATIONS /
ABLE TO ADDITIONAL /
DISSENTING OWNERS

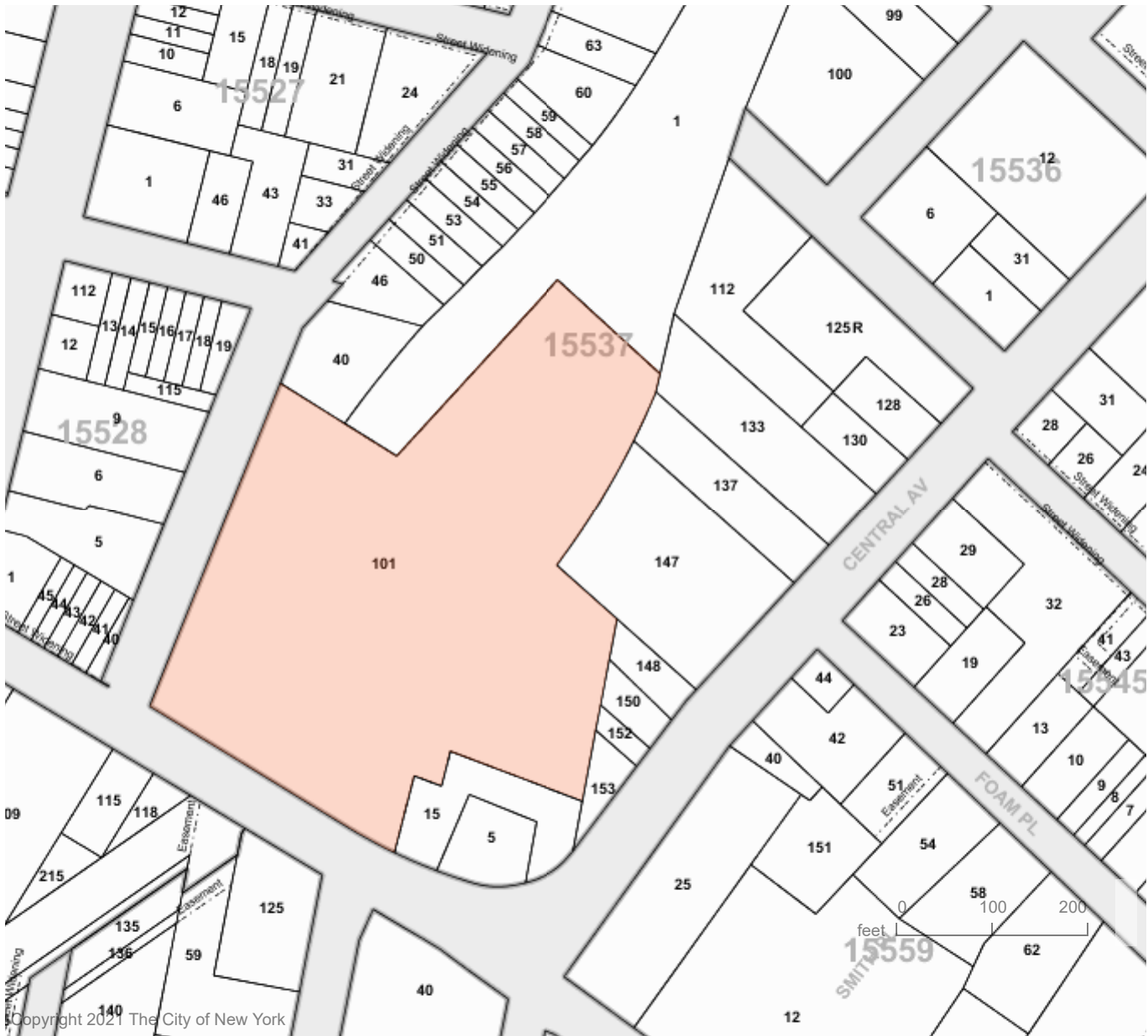
MONTROSE
SURVEYING CO., LLP.
CITY & LAND SURVEYORS



CITY OF NEW YORK
COUNTY OF QUEENS
TAX BLOCK 15537
TAX LOTS AS SHOWN

SCALE 1" = 40'

EXHIBIT F

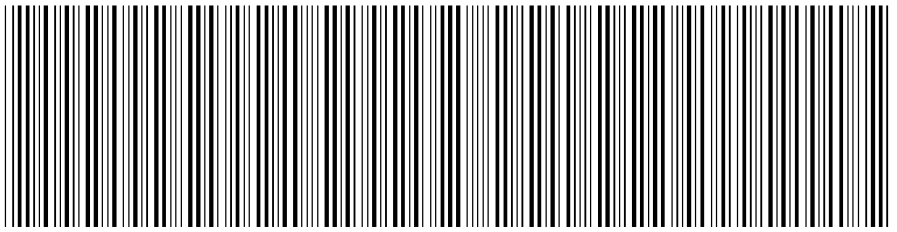
Lot 101 - Digital Tax Map - New York City Dept. of Finance (5/5/2021)

- | | |
|---|---|
| Borough Boundary | C50 Condo Flag/Condo Number |
| Tax Block Boundary | A50 Air Right Flag/Lot Number |
| 50 Tax Block Number | S50 Subterranean Right Flag/Lot Number |
| Tax Lot Boundary | R REUC Flag |
| 50 Tax Lot Number | Under Water Tax Lot Boundary |
| Condo FKA Tax Lot Number | Other Boundary |
| 50.5 Tax Lot Dimension | Possession Hook |
| +/-5.5 Approximate Tax Lot Dimension | Misc Miscellaneous Text |
| Condo Units Range Label | Small Tax Lot Dimension |
| Building Footprint | Surface Water |

EXHIBIT G

**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.



2020010601013005003E8496

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 7

Document ID: 2020010601013005

Document Date: 12-30-2019

Preparation Date: 01-09-2020

Document Type: MEMORANDUM OF LEASE

Document Page Count: 6

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
CT19-00028-Q CB
NEW YORK, NY 10017
212-880-1200
CTINYRECORDING@CTT.COM

RETURN TO:

HIRSCHEN SINGER & EPSTEIN LLP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	15537	1	Partial Lot	20-02 MOTT AVENUE

Property Type: COMMERCIAL REAL ESTATE

Borough	Block	Lot	Unit	Address
QUEENS	15537	5	Entire Lot	20-10 MOTT AVENUE

Property Type: COMMERCIAL REAL ESTATE

CROSS REFERENCE DATA

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

PARTIES

LESSOR:

MOTT CENTER, LLC
C/O: ESTATE OF FRED STARK, 198-10 JAMAICA AVENUE
HOLLIS, NY 11423

LESSEE:

ROCKAWAY VILLAGE II HDFC
C/O: PHIPPS HOUSES, 902 BROADWAY, 13TH FLOOR
NEW YORK, NY 10010

FEES AND TAXES

Mortgage :

Mortgage Amount:	\$	0.00
------------------	----	------

Taxable Mortgage Amount:	\$	0.00
--------------------------	----	------

Exemption:

TAXES: County (Basic):	\$	0.00
------------------------	----	------

City (Additional):	\$	0.00
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Spec (Additional):	\$	0.00
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TASF:	\$	0.00
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MTA:	\$	0.00
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NYCTA:	\$	0.00
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Additional MRT:	\$	0.00
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TOTAL:	\$	0.00
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Recording Fee:	\$	70.00
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Affidavit Fee:	\$	0.00
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Filing Fee:

\$	100.00
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NYC Real Property Transfer Tax:

\$	0.00
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NYS Real Estate Transfer Tax:

\$	0.00
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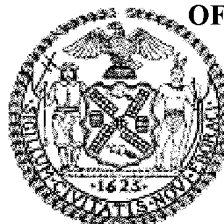
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 01-14-2020 10:00

City Register File No.(CRFN):

2020000014812



Annette McMill

City Register Official Signature

CT14-00028 Q
RJR: Hirsch Singer
902 Broadway NYC 10010

B 15537 L 1
QUEENS COUNTY

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE (this "Memorandum"), dated as of December 30th, 2019, is by and between MOTT CENTER, LLC, a New York limited liability company, having an address at 198-10 Jamaica Avenue, Hollis, New York 11423, as landlord ("Landlord"), and ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION, a New York not-for-profit corporation having an address at c/o Phipps Houses, 902 Broadway, 13th Floor, New York, New York 10010, as tenant ("Tenant").

Landlord and Tenant hereby acknowledge the following:

1. Lease

Landlord and Tenant have entered into a certain lease of Landlord's interest in the Premises (as hereinafter defined), dated as of December 30th, 2019 (the "Lease").

2. Commencement Date

December 30th, 2019 (the "Commencement Date")

3. Name and Address of Landlord

MOTT CENTER, LLC
198-10 Jamaica Avenue
Hollis, New York 11423

4. Name and Address of Tenant

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION
c/o Phipps Houses
902 Broadway, 13th Floor
New York, New York 10010

5. Description of Leased Premises in the Form Contained in the Lease

The "Premises" consist of that certain real property located in Far Rockaway, New York, and identified on the New York City Tax Map for the Borough of Queens as Block 15537, part of Lot 1 and Lot 5 which real property is more particularly described on Schedule A attached hereto (the "Land") and the Buildings (as defined in the Lease).

6. Term of Lease

The term of the Lease is to commence on the Commencement Date and to terminate on June 26th, 2117 (the "Fixed Expiration Date"), unless sooner terminated in accordance with the terms and provisions of the Lease.

(6)

7. Purchase Option

Tenant has the right to purchase the Premises, which right shall be exercised within a period of time that is stated in the Lease, subject to the terms set forth in the Lease.

8. Put Option

Landlord has the right to sell the Premises to Tenant, which right shall be exercised by Landlord during a period of time set forth in the Lease, subject to the terms set forth in the Lease.

9. Restrictions on Use of Tenant's Retail Space

In the event that Tenant enters into retail subleases with subtenants for certain retail space in the Premises, such subleases will be subject to restrictions on the use of such space, as set forth in the Lease.

10. Counterparts.

This Memorandum may be executed in one or more counterparts, each such counterpart being deemed an original hereof and all such counterparts taken together constituting one and the same instrument.

11. Terms of Lease Govern

This Memorandum of Lease is intended solely to summarize certain of the provisions of the Lease, for filing purposes only, in compliance with the provisions of Article 9 of the Real Property Law of the State of New York. This Memorandum of Lease is not intended to modify, amend, supplement or otherwise add to any of the terms, conditions and provisions of the Lease and, in the event of any inconsistencies between the provisions of the Lease and this Memorandum of Lease, the provisions of the Lease will prevail.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have hereunto executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

MOTT CENTER, LLC

By: Jamaica Avenue Property Management, LLC
Its Manager

By: Estate of Fred Stark
Its sole member

By: Elizabeth Farrell
Elizabeth Farrell, Administratrix, cta

COUNTY OF Queens)
)ss:
STATE OF NEW YORK)

Diana Claittli

On Dec 17, 2019 before me, Elizabeth Farrell, personally appeared Elizabeth Farrell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Given under my hand and seal this 17 day of Dec, 2019

Diana Claittli
Notary Public

DIANA GLAITTLI
NOTARY PUBLIC, State of New York
NO.01GL4816993
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES January 31, 2023

TENANT:

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT
FUND CORPORATION

By: 

Name: Matthew Kelly

Title: Vice President

COUNTY OF NEW YORK)

)ss:

STATE OF NEW YORK)

On Dec 13, 2013 before me, FRANIA GRIELEN personally appeared Matthew Kelly, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Given under my hand and seal this 13 day of Dec, 2013


Notary Public

FRANIA B. GRIELEN
Notary Public, State of New York
Reg. No. 01GR4878542
Qualified in New York County
Commission Expires November 24, 2017

SCHEDULE A
TO
MEMORANDUM OF LEASE
DESCRIPTION OF PREMISES

Metes and Bounds Description
MSC Survey 55682-4
Tax Block 15537
Phase 2 Parcel

PARCEL I

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

BEGINNING at a point the following four (4) courses and distances from the corner formed by the intersection of the easterly side of Redfern Avenue (60 feet wide) with the northerly side of Mott Avenue (60 feet wide);

1. THENCE North 06 degrees 52 minutes 55.5 seconds West, along the easterly side of Redfern Avenue, 360.96 feet to a point;
2. THENCE South 87 degrees 35 minutes 55.5 seconds East, 140.89 feet to a point;
3. THENCE North 12 degrees 54 minutes 04.5 seconds East, 247.27 feet to a point;
4. THENCE South 77 degrees 05 minutes 55.5 seconds East, 56.50 feet to the point or place of BEGINNING;
RUNNING THENCE South 12 degrees 54 minutes 04.5 seconds West, 240.26 feet to a point;

RUNNING THENCE South 84 degrees 55 minutes 02 seconds East, 154.83 feet to the Land Now or Formerly of the Long Island Railroad;

RUNNING THENCE northerly along the land now or formerly of the Long Island Railroad along a curve bearing to the left having a radius of 934.00 feet an arc length of 205.90 feet being subtended by a chord bearing North 00 degrees 01 minutes 04.4 seconds East a chord distance of 205.48 feet to a point;

RUNNING THENCE North 14 degrees 34 minutes 10.5 seconds West continuing along the land now or formerly of the Long Island Railroad, 21.29 feet to a point;

RUNNING THENCE North 77 degrees 05 minutes 55.5 seconds West , 97.75 feet to the point or place of the BEGINNING.

PARCEL II

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

BEGINNING at a point on the northerly side of Mott Avenue (irregular width) distant 292.90 feet easterly from the corner formed by the intersection of the easterly side of Redfern Avenue (60 feet wide) with the northerly side of Mott Avenue (60 feet wide);

THENCE easterly continuing along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 507.52 feet, an arc length of 90.01 feet to a point of compound curvature;

THENCE easterly and northeasterly along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 95.00 feet, an arc length of 114.57 feet to a point of tangency;

Thence North 07 degrees 54 minutes 11.4 seconds East along the westerly side of Central Avenue (irregular width) 0.04 feet to a point;

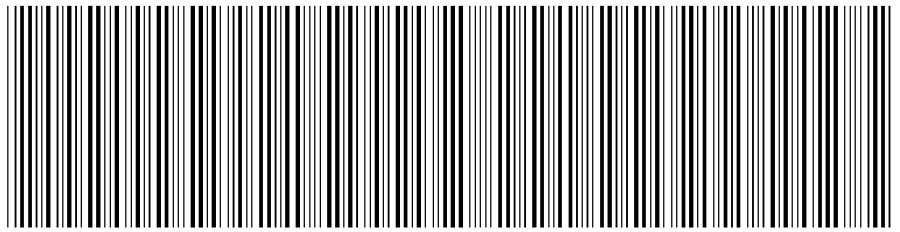
THENCE North 17 degrees 54 minutes 26 seconds West 52.12 feet to a point;

THENCE South 82 degrees 07 minutes 22 seconds West 176.87 feet to a point;

THENCE South 14 degrees 05 minutes 50 seconds East 120.92 feet to a point on the Northerly line of Mott Avenue to the point or place of BEGINNING.

**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.



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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 14

Document ID: 2020010601013006

Document Date: 12-20-2019

Preparation Date: 01-07-2020

Document Type: SUNDRY AGREEMENT

Document Page Count: 13

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
CT19-00028-Q CB
NEW YORK, NY 10017
212-880-1200
CTINYRECORDING@CTT.COM

RETURN TO:

HIRSCHEN SINGER & EPSTEIN LLP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	15537	1	Entire Lot	1725 VILLAGE LANE

Property Type: NON-RESIDENTIAL VACANT LAND

Borough	Block	Lot	Unit	Address
QUEENS	15537	5	Entire Lot	1701 VILLAGE LANE

Property Type: COMMERCIAL REAL ESTATE

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT
FUND CORP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PARTY 2:

FRV PHASE 2 LIHTC LLC
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

FEES AND TAXES

Mortgage :

Mortgage Amount:	\$	0.00
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Taxable Mortgage Amount:	\$	0.00
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Exemption:

TAXES: County (Basic):	\$	0.00
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City (Additional):	\$	0.00
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Spec (Additional):	\$	0.00
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TASF:	\$	0.00
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MTA:	\$	0.00
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NYCTA:	\$	0.00
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Additional MRT:	\$	0.00
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TOTAL:	\$	0.00
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Recording Fee:	\$	105.00
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Affidavit Fee:	\$	0.00
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Filing Fee:

\$	0.00
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NYC Real Property Transfer Tax:

\$	0.00
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NYS Real Estate Transfer Tax:

\$	0.00
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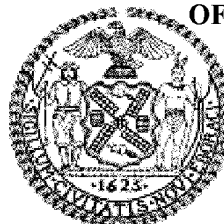
**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 01-14-2020 10:00

City Register File No.(CRFN):

2020000014813



Annette McMill

City Register Official Signature

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION,

AND

FRV PHASE 2 LIHTC LLC

Block 15537 part of Lot 1 and Lot 5

1725 Village Lane, Queens, New York
1701 Village Lane, Queens, New York

Record and Return to:

Hirschen Singer & Epstein LLP
902 Broadway, 13th Floor
New York, New York 10010
Attn: Oliver G. Chase, Esq.

**DECLARATION OF INTEREST AND NOMINEE AGREEMENT
(RESIDENTIAL UNITS, RESIDENTIAL PARKING UNIT
AND RESIDENTIAL COMMERCIAL UNIT)**

Declaration of Interest and Nominee Agreement (this "**Agreement**"), dated as of the 30th day of December, 2019, by and between ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION, a New York not-for-profit corporation (the "**HDFC**") and FRV PHASE 2 LIHTC LLC, a New York limited liability company (the "**COMPANY**"), each of the foregoing with an office at 902 Broadway, 13th Floor, New York, New York.

WHEREAS, Mott Center, LLC, a New York limited liability company (the "**Fee Owner**") and HDFC entered into that certain Phase 2 Replacement Ground Lease, dated as of even date herewith (the "**Replacement Lease**"), the HDFC has acquired record leasehold interest in certain plots, pieces or parcels of real property, lying and being in Queens County, the City and State of New York, located in Queens, New York and designated on the Tax Map for the City of New York, Queens County as Block 15537, part of Lot 1 and Lot 5, as more particularly described in Exhibit A, attached hereto and made a part hereof (the "**Land**" or the "**Phase 2 Property**"); and

WHEREAS, by this Agreement, the HDFC, contemporaneously with its acquisition of the Property, transfers all beneficial and equitable leasehold interest in, to and with respect to that certain portion of the Land that will become the Residential Borrower Unit, as defined below and more specifically depicted through their respective Exhibits (the "**Property**");

WHEREAS, the Fee Owner intends to subject the Phase 2 Property, along with certain additional real property to a condominium regime which will consist of four (4) to be constructed buildings containing seventeen (17) condominium units to be known as the Rockaway Village Condominium (the "**Condominium**"); and

WHEREAS, the Condominium shall consist of the following condominium units: (i) a condominium unit located in Building B2/3 containing approximately 110 residential rental units and the common elements appurtenant thereto ("**Unit 1**"); (ii) a condominium unit located in Building B2/3 containing approximately 116 residential rental units (including one superintendent's unit), and the common elements appurtenant thereto ("**Unit 2**"); (iii) a condominium unit located in Building B2/3 containing 37,707 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 3**"); (iv) a condominium unit located in Building C containing approximately 117 residential rental units, and the common elements appurtenant thereto ("**Unit 4**"); (v) a condominium unit located in Building C containing approximately 114 residential rental units (including one superintendent's unit), and the common elements appurtenant thereto ("**Unit 5**"); (vi) a condominium unit located in Building C containing 52,465 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 6**"); (vii) a condominium unit located in Building H containing approximately 153 residential units to be rented in accordance with the Regulatory Agreement (as hereinafter defined), and the common elements appurtenant thereto ("**Unit 7**"); (viii) a condominium unit located in Building H containing approximately 78 residential units to be rented in accordance

with the Regulatory Agreement (including one superintendent's unit), and the common elements appurtenant thereto ("**Unit 8**"); (ix) a condominium unit located in Building C containing approximately 161 residential parking spaces, and the common elements appurtenant thereto ("**Unit 9**"); (x) a condominium unit located in Building B2/3 containing approximately 87 commercial parking spaces, and the common elements appurtenant thereto ("**Unit 10**"); (xi) a condominium unit located in Building B1 containing approximately 56 residential units to be rented in accordance with the Regulatory Agreement, and the common elements appurtenant thereto ("**Unit 11**"); (xii) a condominium unit located in Building B1 containing approximately 29 residential units to be rented in accordance with the Regulatory Agreement, and the common elements appurtenant thereto ("**Unit 12**" and, together with Unit 7, Unit 8 and Unit 11, collectively, the "**LIHTC Unit**"); (xiii) a condominium unit located in Building B1 containing 9,038 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 13**"); (xiv) a condominium unit located in Building B1 containing 4,416 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 14**"); (xv) a condominium unit located in Building B1 containing approximately 6 residential parking spaces and the common elements appurtenant thereto ("**Unit 15**"); (xvi) a condominium unit located in Building B1 containing approximately 60 retail parking spaces and the common elements appurtenant thereto ("**Unit 16**"; and together with Unit 13, the "**Commercial Borrower Unit**"); and (xvii) a condominium unit located in Building B2/3 containing approximately 49 residential parking spaces and the common elements appurtenant thereto (which unit shall be subject to an easement for the benefit of the Residential Borrower) ("**Unit 17**"). Unit 14, Unit 15, and the LIHTC Unit, shall collectively be referred to herein as the "**Residential Borrower Unit**" and, together with the Commercial Borrower Unit, collectively, the "**Project**"); and

WHEREAS, Unit 1, Unit 2, Unit 3, Unit 4, Unit 5, Unit 6, Unit 9, Unit 10, and Unit 17 (collectively, the "**Phase 1 Project**") are components in a separate project; and

WHEREAS, subsequent to the execution hereof, the HDFC, the COMPANY and the FRV PHASE 2 COMMERCIAL LLC, a New York limited liability company (the "Commercial Company") will finance the construction of the Improvements on the Land through (i) a loan from the New York City Housing Development Corporation ("**HDC**") in the approximate principal amount of \$79,045,000 (the "**HDC Loan**"), a portion of which HDC Loan shall be funded from the proceeds of tax-exempt bonds issued by HDC (the "**HDC Bonds**"), (ii) a second loan from HDC in the approximate principal amount of \$18,725,000 (the "**HDC Second Loan**"), (iii) a subordinate mortgage loan from HDC in the approximate principal amount of \$48,809,744 (the "**HPD Loan**"), which HPD Loan shall be funded by a grant from the City of New York, acting by and through its Department of Housing Preservation and Development ("**HPD**"), (iv) one or more subordinate sponsor loans from Phipps Houses in the approximate amount of \$4,166,025, (v) a subordinate loan of the deferred developer fee in the approximate principal amount of \$16,920,152 made to Borrower, (vi) an equity investment from USA Institutional FRV II LLC or its affiliates, successors or assigns (the "**Investor Member**") in the COMPANY in connection with the low-income housing tax credits ("**LIHTCs**") to be generated by the Project, in the approximate principal amount of \$60,520,562 (the "**Equity Investment**"), and (vii) such other loans and grants deemed necessary to finance the construction and operation of the Project ((i) through (vii) collectively referred to as the "**Financing**" and together with the Land, Buildings, to-be-formed Condominium, and Improvements, the "**Project**"); and

WHEREAS, by this Agreement, the HDFC transfers all beneficial and equitable leasehold interest in, to and with respect to the allocable portion of the Project associated with the Residential Borrower Unit (the "**Residential Project**") to the COMPANY; and

WHEREAS, by a separate Declaration of Interest and Nominee Agreement, by and between the HDFC and COMMERCIAL COMPANY, the HDFC shall transfer all beneficial and equitable leasehold interest in, to and with respect to the allocable portion of the Project that pertain to the Commercial Unit (the "**Commercial Project**") to the COMMERCIAL COMPANY; and

WHEREAS, in the event the Company causes the HDFC to exercise its Purchase Option (as defined under the Replacement Lease) with respect to the Residential Project, then: (a) the Replacement Lease will terminate with respect to the Commercial Project; (b) HDFC will become the fee owner of the Residential Project, (c) HDFC will continue to hold record title to the Residential Borrower Unit as nominee for the COMPANY pursuant to the terms of this Agreement, and (d) the COMPANY will continue to hold the equitable and beneficial interest in the Residential Borrower Unit.

WHEREAS, the HDFC and the COMPANY agree that the HDFC will hold legal title to the Residential Project solely as nominee on behalf of the COMPANY in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein contained, the adequacy of which are hereby acknowledged, the parties hereto jointly and severally covenant and agree as follows:

1. Until such time as the COMPANY shall elect to have record title transferred pursuant to Section 6(e) hereof, record title to the Residential Project shall be held by the HDFC, as the nominee, for and on behalf of the COMPANY, it being understood that the beneficial and equitable ownership of the Residential Project from the date hereof and at all times in the future, shall be vested in the COMPANY, and its successors and assigns, and the HDFC does not, and shall not have, any personal or beneficial interest of any kind in the Residential Project. The COMPANY shall, at all times, have all the benefits, rights, approval, burdens and immunities accruing with respect to the Residential Project. The HDFC further acknowledges that the COMPANY has furnished all of the consideration for acquiring and developing the Residential Project, including the assumption of obligations for financing the total development of the Residential Project, and all of the rents, issues and profits of the Project, or any portion thereof shall at all times be the property of the COMPANY, provided, however, that the HDFC has executed one or more promissory notes in connection with the Financing in order to qualify for a New York State Sales and Use Tax Exemption Certificate. The HDFC warrants and represents that it has acquired good and marketable title to the Property subject only to those covenants, easements, restrictions and encumbrances of record set forth in the title insurance policy issued by Chicago Title Insurance Company (the "**Title Policy**") to the HDFC and the COMPANY and COMMERCIAL COMPANY as of the date hereof ("**Permitted Encumbrances**"). The HDFC agrees to warrant and defend title against any and all claims whatsoever, subject only to the Permitted Encumbrances. The HDFC agrees to convey title to

the Project to the COMPANY or to any other party designated by the COMPANY, at any time, by bargain and sale deed, subject only to the Permitted Encumbrances.

2. The HDFC has notified or will notify all interested third parties that pursuant to this Agreement the HDFC is acting solely as nominee of the COMPANY with respect to the Residential Project. The HDFC shall provide the COMPANY with evidence of such notification reasonably satisfactory to the COMPANY. The HDFC shall also obtain any written acknowledgments which are necessary and advisable from all interested third parties with respect to the HDFC holding title to the Residential Project as nominee of the COMPANY.

3. The equitable interest in the Residential Project shall accrue to the COMPANY in a manner satisfactory to the COMPANY.

4. The HDFC shall not do any act with respect to the Residential Project without the prior written consent of the COMPANY.

5. So long as the HDFC shall hold record title to the Residential Project:

a. any and all notices, statements and communications received by the HDFC, as holder of record title with respect to the Residential Project, shall be promptly delivered to the COMPANY;

b. all benefits, including any proceeds of title insurance received pursuant to the Title Policy accruing with respect to the Residential Project shall belong to the COMPANY, and if received by the HDFC, shall be turned over to the COMPANY promptly upon receipt;

c. the HDFC shall not do or suffer to be done, any act or omission with respect to the Residential Project, or the record title thereto, or convey or encumber the same, in any way, except as directed by the COMPANY, its successors and assigns.

d. the HDFC shall comply with all directions which may be given to it by the COMPANY with respect to the Residential Project; provided, however, that the HDFC shall not be required to take any action as provided in this Agreement unless furnished with sufficient funds by the COMPANY therefor.

e. the COMPANY shall be deemed an insured for purposes of the Title Policy and entitled to all proceeds of title insurance recoverable pursuant to same.

6. The COMPANY and the HDFC on behalf of themselves, and their respective successors and assigns, who are recognized as "third party beneficiaries" hereunder, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

a. So long as the HDFC shall hold legal title in the Residential Project, the COMPANY shall have complete and exclusive possession and control of the

Residential Project and the HDFC shall not have any right to possess or control the Residential Project;

b. The COMPANY is the "owner", as that term is defined in Section 2 of the New York Lien Law, of the Premises and the HDFC is not in any respects an "owner" of the Residential Project for federal tax purposes under the New York Lien Law and the COMPANY is the "owner" of the Premises for federal tax purposes;

c. The HDFC has received and reviewed the documents executed in connect with the Financing (the "Loan Documents"), and acknowledges that any and all rights, title, interests and/or benefits the HDFC has under this Agreement are absolutely and completely subject and subordinate to any and all rights, benefits, terms, conditions and provisions contained in and/or created by the Loan Documents;

d. The HDFC shall have no power, right and/or authority to transfer, encumber, lien, and/or create or grant any rights and/or interests in or to all or any portion of the Residential Project, the allocable portion of Improvements and/or any part or parts thereof without the written consent of the COMPANY and any transfer, encumbrance, lien, right and/or interest purported to be created, granted, permitted and/or resulting from any action or inaction of the HDFC in connection with the Residential Project, the allocable portion of Improvements and/or any part or parts thereof, without said consent, shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon the COMPANY;

e. Upon the written demand of the COMPANY, the HDFC shall immediately execute and record in the appropriate land records a bargain and sale deed of the Residential Project and Improvements to the COMPANY or to any other person or entity designated by the COMPANY and in connection with the execution and recordation of any such bargain and sale deed, the HDFC hereby unconditionally and unequivocally constitutes and appoints the COMPANY to be its lawful and true agent and attorney-in-fact, with full power of substitution to either separately or jointly execute and record any such bargain and sale deed on behalf of the HDFC, in the name, place and stead of the HDFC with the same force and effect as if such deed was executed and recorded by the HDFC, provided, however, that any consents required pursuant to any and all city, state or federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments (collectively, the "Government Financing Documents") shall have been obtained. The HDFC authorizes any third party to rely on the aforesaid power of attorney granted in the previous sentence and hereby waives and releases any claim or claims the HDFC may have against such third party in so relying on such power of attorney;

f. The HDFC shall have no rights, powers and/or authority over, with respect to and/or in connection with the Residential Project, the allocable Improvements and/or any part or parts thereof in any bankruptcy or other proceeding in which the COMPANY may hereafter be a party, and no shareholder, officer, trustee, receiver, administrator, legal representative, regulator or creditor of the HDFC shall have any right, power and/or authority over, with respect to and/or in connection with the Residential Project, the allocable Improvements and/or any part or parts thereof;

g. The COMPANY and the HDFC each have full power and authority to enter into this Agreement and to comply with all of the terms, provisions and conditions contained in this Agreement;

h. Neither the execution, delivery or recording of this Agreement, nor the fulfillment of or compliance with the terms, conditions or provisions of this Agreement conflicts with, violates or results in a breach of the terms, conditions or provisions of any agreement, instrument, law, rule or regulation of which the COMPANY and/or the HDFC is now a party or by which either or both may be bound or affected or results in the creation of any lien, charge or encumbrance upon the Residential Project, the allocable Improvements and/or any part or parts thereof;

i. Any and all notices, demands and other communication made by either the COMPANY or the HDFC to the other party shall be in writing and sent to the addresses as set forth above, and to HDC, HPD and the Investor Member at the addresses below, by hand, by mail (registered, certified, return receipt requested) or by nationally recognized overnight courier:

New York City Housing Development Corporation
110 William Street
New York, New York 10038
Attn: SVP for Development

New York City Department of Housing Preservation and Development
100 Gold Street
New York, New York 10038
Attn: Associate Commissioner, Development

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Account Specialist
Deal ID # 26022

USA Institutional FRV 2 LLC
777 West Putnam Avenue
Greenwich, Connecticut 06830
Attention: Joanne D. Flanagan, Esq.

7. The COMPANY shall have the beneficial ownership of the Residential Project for all purposes (including, federal income tax purposes) and shall have all rights related thereto including, but not limited to, the right to claim depreciation deductions with respect to any depreciable property comprising a part of the Residential Project, the right to receive an allocation of federal low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, the right to amortize capital costs and to claim any other federal or

state tax benefits attributable to the Residential Project, the right to receive all proceeds from the Residential Project, including from rents and other moneys from mortgages, pledges, sales, or other dispositions of the Residential Project, and to all tax benefits, including depreciation and the low income housing tax credits. In addition thereto, it shall be in the sole and absolute discretion of the COMPANY to develop, operate, manage, assign, encumber, transfer or sell the Residential Project or any portion thereof or interest therein or any right or indicia of ownership in connection therewith, and at the request of the COMPANY, the HDFC shall cooperate with the COMPANY and execute any and all documents required by the COMPANY in connection with the development, operation, management, assignment, encumbrance, transfer or sale of the Residential Project or any portion thereof or interest therein, or any right or indicia of ownership in connection therewith. In furtherance of the foregoing, and without limitation, the HDFC shall transfer and convey the Residential Project, by bargain and sale deed, subject only to the Permitted Encumbrances and Regulatory Agreements, in connection with the transfer or sale of the Residential Project or any portion thereof or any interest therein to any party designated by the COMPANY.

8. The COMPANY shall have all management authority and control over the Residential Project, with respect to, but not by way of limitation, construction and development of the Residential Project, performance and enforcement of all leases, agreements with regard to the sale of the Residential Project or otherwise, and any covenants concerning the Residential Project.

9. The HDFC covenants and agrees to perform all acts reasonably requested by the COMPANY in regard to or arising from the ownership, management and operation of the Residential Project.

10. This Agreement may not be amended or revoked except by written instrument duly executed by each of the parties hereto.

11. This Agreement shall be construed in accordance with the laws of the State of New York.

12. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. All communications given pursuant to this Agreement shall be in writing and sent by hand or by certified or registered mail, return receipt requested, or by reputable overnight courier, and addressed to the parties at their addresses set forth above.

14. This Agreement may be executed in one or more counterparts, and by different signatories hereto in separate counterparts, each of which when so executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

15. This Agreement may not be amended or revoked except by written instrument duly executed by each of the parties hereto and provided that, for long as the Investor

Member is a member of the COMPANY, this Agreement may not be modified, amended, terminated or revoked without the prior written consent of the Investor Member.

16. The COMPANY and the HDFC hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal court sitting in The City of New York over any suit, action or proceeding arising out of or relating to this Agreement and/or the Loan Documents, and the COMPANY and the HDFC hereby agree and consent that, in addition to any methods of service of process provided for under applicable law, all of service of process in any such suit, action or proceeding in any New York State or Federal court sitting in the City of New York may be made by certified or registered mail, return receipt requested, directed to the COMPANY and the HDFC at the address indicated in the captioned agreement, and service so made shall become complete five (5) days after the same shall have been so mailed.

17. Both the COMPANY and the HDFC both hereby, knowingly, voluntarily, intentionally, **expressly and unconditionally waive**, in connection with any suit, action or proceeding, arising out of, under or in connection with this Agreement, any and every right either or both of them may have to **A TRIAL BY JURY**.

18. Notwithstanding anything contained herein to the contrary, if there is an event of default under any Government Financing Document, the HDFC shall have the right to enter the Property to cure the default as agent for and on behalf of the COMPANY, provided that COMPANY is not diligently acting to cure such default.

19. Intentionally Omitted.

20. Conversion of Equitable and Beneficial Interest.

a. In the event the Purchase Option is exercised and upon the recordation of a deed or indenture instrument conveying the fee simple interests in the Residential Project to the HDFC ("**Residential Project Deed**"), the interests allocated herein shall convert, such that immediately after the delivery of the Residential Project to HDFC, the allocation of the interests under this Nominee Agreement shall be as follows:

- (i) the HDFC shall own record legal interest, as nominee for COMPANY, in the Residential Borrower Unit, and all allocable portions of the Building, Land, Condominium, Improvements, Financing which relate to the Residential Borrower Unit;
- (ii) the COMPANY shall own equitable and beneficial interest in the in the Residential Borrower Unit, and all allocable portions of the Building, Land, Condominium, Improvements, Financing which relate to the and Residential Borrower Unit; and

Upon the recordation of the Residential Project Condo Deed, the parties hereto may record one or more addenda to this Agreement, confirming that equitable and beneficial interest of the Residential Borrower Unit, are held by the COMPANY, provided however that failure to record such addendum shall not fail to cause the above transfers of equitable and beneficial interests.

Until recordation of the Residential Project Condo Deed, the term "Residential Project" used herein shall refer to the Land, Building, Condominium, Improvements, Financing allocable to the Residential Borrower Unit, as defined in the Recitals.

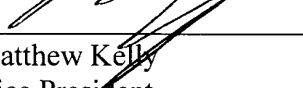
b. In the event the Purchase Option is not exercised and/or the HDFC enters into a Residential Replacement Lease (as such term is defined in the Replacement Lease), this Agreement and the Master Lease will remain in full force and effect pursuant to the terms hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

COMPANY:

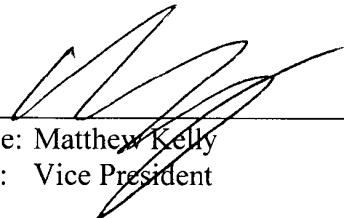
FRV PHASE 2 LIHTC LLC,
a New York limited liability company

By: FRV Phase 2 Management Corp.,
its managing member

By: 
Name: Matthew Kelly
Title: Vice President

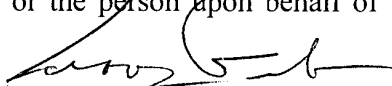
HDFC:

**ROCKAWAY VILLAGE II HOUSING
DEVELOPMENT FUND CORPORATION**

By: 
Name: Matthew Kelly
Title: Vice President

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 17 day of December, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared MATTHEW KELLY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.


Notary Public


FRANIA B. GRIELEN
Notary Public, State of New York
Reg. No. 01GR4678542
Qualified in New York County
Commission Expires November 24, 2021 

EXHIBIT A

Metes and Bounds of Land Under Replacement Lease

PARCEL I

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

BEGINNING at a point the following four (4) courses and distances from the corner formed by the intersection of the easterly side of Redfern Avenue (60 feet wide) with the northerly side of Mott Avenue (60 feet wide);

1. THENCE North 06 degrees 52 minutes 55.5 seconds West, along the easterly side of Redfern Avenue, 360.96 feet to a point;
2. THENCE South 87 degrees 35 minutes 55.5 seconds East, 140.89 feet to a point;
3. THENCE North 12 degrees 54 minutes 04.5 seconds East, 247.27 feet to a point;
4. THENCE South 77 degrees 05 minutes 55.5 seconds East, 56.50 feet to the point or place of BEGINNING;
RUNNING THENCE South 12 degrees 54 minutes 04.5 seconds West, 240.26 feet to a point;

RUNNING THENCE South 84 degrees 55 minutes 02 seconds East, 154.83 feet to the Land Now or Formerly of the Long Island Railroad;

RUNNING THENCE northerly along the land now or formerly of the Long Island Railroad along a curve bearing to the left having a radius of 934.00 feet an arc length of 205.90 feet being subtended by a chord bearing North 00 degrees 01 minutes 04.4 seconds East a chord distance of 205.48 feet to a point;

RUNNING THENCE North 14 degrees 34 minutes 10.5 seconds West continuing along the land now or formerly of the Long Island Railroad, 21.29 feet to a point;

RUNNING THENCE North 77 degrees 05 minutes 55.5 seconds West , 97.75 feet to the point or place of the BEGINNING.

PARCEL II

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

BEGINNING at a point on the northerly side of Mott Avenue (irregular width) distant 292.90 feet easterly from the corner formed by the intersection of the easterly side of Redfern Avenue (60 feet wide) with the northerly side of Mott Avenue (60 feet wide);

THENCE easterly continuing along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 507.52 feet, an arc length of 90.01 feet to a point of compound curvature;

THENCE easterly and northeasterly along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 95.00 feet, an arc length of 114.57 feet to a point of tangency;

Thence North 07 degrees 54 minutes 11.4 seconds East along the westerly side of Central Avenue (irregular width) 0.04 feet to a point;

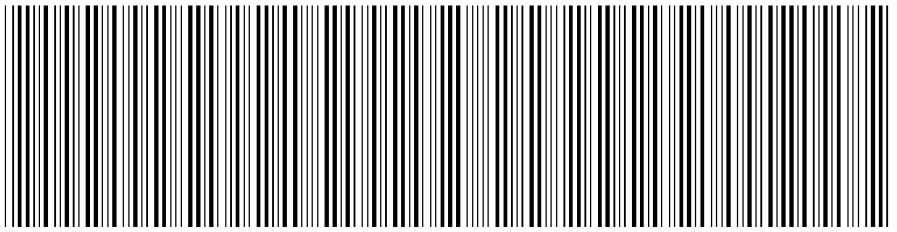
THENCE North 17 degrees 54 minutes 26 seconds West 52.12 feet to a point;

THENCE South 82 degrees 07 minutes 22 seconds West 176.87 feet to a point;

THENCE South 14 degrees 05 minutes 50 seconds East 120.92 feet to a point on the Northerly line of Mott Avenue to the point or place of BEGINNING.

**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.



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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 12

Document ID: 2020010601013007

Document Date: 12-20-2019

Preparation Date: 01-07-2020

Document Type: SUNDRY AGREEMENT

Document Page Count: 11

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
CT19-00028-Q CB
NEW YORK, NY 10017
212-880-1200
CTINYRECORDING@CTT.COM

RETURN TO:

HIRSCHEN SINGER & EPSTEIN LLP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	15537	1	Entire Lot	1725 VILLAGE LANE

Property Type: NON-RESIDENTIAL VACANT LAND

Borough	Block	Lot	Unit	Address
QUEENS	15537	5	Entire Lot	1701 VILLAGE LANE

Property Type: COMMERCIAL REAL ESTATE

CROSS REFERENCE DATA

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

PARTIES

PARTY 1:

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT
FUND CORP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PARTY 2:

FRV PHASE 2 COMMERCIAL LLC
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

FEES AND TAXES

Mortgage :

Mortgage Amount:	\$	0.00
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Taxable Mortgage Amount:	\$	0.00
--------------------------	----	------

Exemption:

TAXES: County (Basic):	\$	0.00
------------------------	----	------

City (Additional):	\$	0.00
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Spec (Additional):	\$	0.00
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TASF:	\$	0.00
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MTA:	\$	0.00
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NYCTA:	\$	0.00
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Additional MRT:	\$	0.00
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TOTAL:	\$	0.00
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Recording Fee:	\$	95.00
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Affidavit Fee:	\$	0.00
----------------	----	------

Filing Fee:

\$	0.00
----	------

NYC Real Property Transfer Tax:

\$	0.00
----	------

NYS Real Estate Transfer Tax:

\$	0.00
----	------

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

CITY OF NEW YORK

Recorded/Filed 01-14-2020 10:00

City Register File No.(CRFN):

2020000014814



Annette McMill

City Register Official Signature

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

nep

ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION

AND

FRV PHASE 2 COMMERCIAL LLC

Block 15537 part of Lots 1 and 5

1725 Village Lane, Queens, New York
1701 Village Lane, Queens, New York

Record and Return to:

Hirschen Singer & Epstein LLP
902 Broadway, 13th Floor
New York, New York 10010
Attn: Oliver G. Chase, Esq.

11

DECLARATION OF INTEREST AND NOMINEE AGREEMENT (COMMERCIAL UNITS)

Declaration of Interest and Nominee Agreement (this “**Agreement**”), dated as of the 30th day of December, 2019, by and among ROCKAWAY VILLAGE II HOUSING DEVELOPMENT FUND CORPORATION, a New York not-for-profit corporation (the “**HDFC**”), FRV PHASE 2 COMMERCIAL LLC, a New York limited liability company (the “**COMPANY**”), each of the foregoing with an office at 902 Broadway, 13th Floor, New York, New York.

WHEREAS, Mott Center, LLC, a New York limited liability company (the “**Fee Owner**”) and HDFC entered into that certain Phase 2 Replacement Lease, dated as of even date herewith (the “**Replacement Lease**”), pursuant to which the HDFC has acquired record leasehold interest in certain plots, pieces or parcels of real property, lying and being in Queens County, the City and State of New York, located in Queens, New York and designated on the Tax Map for the City of New York, Queens County as Block 15537, part of Lot 1 and Lot 5, as more particularly described in Exhibit A, attached hereto and made a part hereof (the “**Land**”); and

WHEREAS, by this Agreement, the HDFC, contemporaneously with its acquisition of the Property, transfers all beneficial and equitable leasehold interest in, to and with respect to that certain portion of the Land that will be subject to the Commercial Units, as defined below and more specifically depicted through their respective Exhibits (the “**Property**”);

WHEREAS, the Fee Owner intends to subject the Phase 2 Property, along with certain additional real property to a condominium regime which will consist of four (4) to be constructed buildings containing seventeen (17) condominium units to be known as the Rockaway Village Condominium (the “**Condominium**”); and

WHEREAS, the Condominium shall consist of the following condominium units: (i) a condominium unit located in Building B2/3 containing approximately 110 residential rental units and the common elements appurtenant thereto (“**Unit 1**”); (ii) a condominium unit located in Building B2/3 containing approximately 116 residential rental units (including one superintendent’s unit), and the common elements appurtenant thereto (“**Unit 2**”); (iii) a condominium unit located in Building B2/3 containing 37,707 square feet of commercial space, and the common elements appurtenant thereto (“**Unit 3**”); (iv) a condominium unit located in Building C containing approximately 117 residential rental units, and the common elements appurtenant thereto (“**Unit 4**”); (v) a condominium unit located in Building C containing approximately 114 residential rental units (including one superintendent’s unit), and the common elements appurtenant thereto (“**Unit 5**”); (vi) a condominium unit located in Building C containing 52,465 square feet of commercial space, and the common elements appurtenant thereto (“**Unit 6**”); (vii) a condominium unit located in Building H containing approximately 153 residential units to be rented in accordance with the Regulatory Agreement (as hereinafter defined), and the common elements appurtenant thereto (“**Unit 7**”); (viii) a condominium unit located in Building H containing approximately 78 residential units to be rented in accordance with the Regulatory Agreement (including one superintendent’s unit), and the common elements

appurtenant thereto ("**Unit 8**"); (ix) a condominium unit located in Building C containing approximately 161 residential parking spaces, and the common elements appurtenant thereto ("**Unit 9**"); (x) a condominium unit located in Building B2/3 containing approximately 87 commercial parking spaces, and the common elements appurtenant thereto ("**Unit 10**"); (xi) a condominium unit located in Building B1 containing approximately 56 residential units to be rented in accordance with the Regulatory Agreement, and the common elements appurtenant thereto ("**Unit 11**"); (xii) a condominium unit located in Building B1 containing approximately 29 residential units to be rented in accordance with the Regulatory Agreement, and the common elements appurtenant thereto ("**Unit 12**" and, together with Unit 7, Unit 8 and Unit 11, collectively, the "**LIHTC Unit**"); (xiii) a condominium unit located in Building B1 containing 9,038 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 13**"); (xiv) a condominium unit located in Building B1 containing 4,416 square feet of commercial space, and the common elements appurtenant thereto ("**Unit 14**"); (xv) a condominium unit located in Building B1 containing approximately 6 residential parking spaces and the common elements appurtenant thereto ("**Unit 15**"); (xvi) a condominium unit located in Building B1 containing approximately 60 retail parking spaces and the common elements appurtenant thereto ("**Unit 16**"; and together with Unit 13, the "**Commercial Borrower Unit**"); and (xvii) a condominium unit located in Building B2/3 containing approximately 49 residential parking spaces and the common elements appurtenant thereto (which unit shall be subject to an easement for the benefit of the Residential Borrower) ("**Unit 17**"). Unit 14, Unit 15, and the LIHTC Unit, shall collectively be referred to herein as the "**Residential Borrower Unit**" and, together with the Commercial Borrower Unit, collectively, the "**Project**"); and

WHEREAS, Unit 1, Unit 2, Unit 3, Unit 4, Unit 5, Unit 6, Unit 9, Unit 10, and Unit 17 (collectively, the "**Phase 1 Project**") are components in a separate project; and

WHEREAS, the HDFC, COMPANY, and FRV PHASE 1 LIHTC LLC, a New York limited liability company (the "**LIHTC COMPANY**") desire to acquire, assemble, develop, own, operate and manage a mixed-use project consisting of 315 rental apartment units in the aggregate (plus one non-revenue generating superintendent's unit), approximately 13,454 square feet of commercial retail space and one additional commercial retail space of approximately 4,416 square feet and approximately 19,111 square feet of parking, a public plaza and other amenities, as more specifically allocated to the Buildings under the Condominium regime described above (the "**Improvements**"); and

WHEREAS, subsequent to the execution hereof, the HDFC, the LIHTC COMPANY and COMPANY will finance the construction of the Improvements on the Land through (i) a loan from the New York City Housing Development Corporation ("**HDC**") in the approximate principal amount of \$79,045,000 (the "**HDC Loan**"), a portion of which HDC Loan shall be funded from the proceeds of tax-exempt bonds issued by HDC (the "**HDC Bonds**"), (ii) a second loan from HDC in the approximate principal amount of \$18,725,000 (the "**HDC Second Loan**"), (iii) a subordinate mortgage loan from HDC in the approximate principal amount of \$48,809,744 (the "**HPD Loan**"), which HPD Loan shall be funded by a grant from the City of New York, acting by and through its Department of Housing Preservation and Development ("**HPD**"), (iv) one or more subordinate sponsor loans from Phipps Houses in the approximate amount of \$4,166,025, (v) a subordinate loan of the deferred developer fee in the approximate principal amount of \$16,920,152 made to Borrower, (vi) an equity investment from USA Institutional

FRV II LLC or its affiliates, successors or assigns (the "**Investor Member**") in LIHTC COMPANY in connection with the low-income housing tax credits ("**LIHTCs**") to be generated by the Project, in the approximate principal amount of \$60,520,562 (the "**Equity Investment**"), and (viii) such other loans and grants deemed necessary to finance the construction and operation of the Project ((i) through (viii) collectively referred to as the "**Financing**" and together with the Land, Buildings, to-be-formed Condominium, and Improvements, the "**Project**"; and

WHEREAS, by this Agreement, the HDFC transfers all beneficial and equitable interest in, to and with respect to the allocable portion of the Project associated with the Commercial Units (the "**Commercial Project**") to the COMPANY; and

WHEREAS, by a separate Declaration of Interest and Nominee Agreement, by and between the HDFC and the LIHTC COMPANY, HDFC shall transfer all beneficial and equitable leasehold interest in, to and with respect to the allocable portion of the Project that pertain to the Residential Borrower Unit to the LIHTC COMPANY (the "**Residential Project**").

WHEREAS, the HDFC and the COMPANY agree that the HDFC will hold legal title to the Commercial Project solely as nominee on behalf of the COMPANY in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein contained, the adequacy of which are hereby acknowledged, the parties hereto jointly and severally covenant and agree as follows:

1. Until such time as the COMPANY shall elect to have record title transferred pursuant to Section 6(e) hereof, record title to the Commercial Project shall be held by the HDFC, as the nominee, for and on behalf of the COMPANY, it being understood that the beneficial and equitable ownership of the Commercial Project from the date hereof and at all times in the future, shall be vested in the COMPANY, and its successors and assigns, and the HDFC does not, and shall not have, any personal or beneficial interest of any kind in the Commercial Project. The COMPANY shall, at all times, have all the benefits, rights, approval, burdens and immunities accruing with respect to the Commercial Project. The HDFC further acknowledges that the COMPANY has furnished all of the consideration for acquiring and developing the Commercial Project, including the assumption of obligations for financing the total development of the Commercial Project, and all of the rents, issues and profits of the Project, or any portion thereof shall at all times be the property of the COMPANY, provided, however, that the HDFC has executed one or more promissory notes in connection with the Financing in order to qualify for a New York State Sales and Use Tax Exemption Certificate. The HDFC warrants and represents that it has acquired good and marketable title to the Property subject only to those covenants, easements, restrictions and encumbrances of record set forth in the title insurance policy issued by Chicago Title Insurance Company (the "**Title Policy**") to the HDFC and the COMPANY and COMMERCIAL LLC as of the date hereof ("**Permitted Encumbrances**"). The HDFC agrees to warrant and defend title against any and all claims whatsoever, subject only to the Permitted Encumbrances. The HDFC agrees to convey title to the Project to the COMPANY or to any other party designated by the COMPANY, at any time, by bargain and sale deed, subject only to the Permitted Encumbrances.

2. The HDFC has notified or will notify all interested third parties that pursuant to this Agreement the HDFC is acting solely as nominee of the COMPANY with respect to the Commercial Project. The HDFC shall provide the COMPANY with evidence of such notification reasonably satisfactory to the COMPANY. The HDFC shall also obtain any written acknowledgments which are necessary and advisable from all interested third parties with respect to the HDFC holding title to the Commercial Project as nominee of the COMPANY.

3. The equitable interest in the Commercial Project shall accrue to the COMPANY in a manner satisfactory to the COMPANY.

4. The HDFC shall not do any act with respect to the Commercial Project without the prior written consent of the COMPANY.

5. So long as the HDFC shall hold record title to the Commercial Project:

a. any and all notices, statements and communications received by the HDFC, as holder of record title with respect to the Commercial Project, shall be promptly delivered to the COMPANY;

b. all benefits, including any proceeds of title insurance received pursuant to the Title Policy accruing with respect to the Commercial Project shall belong to the COMPANY, and if received by the HDFC, shall be turned over to the COMPANY promptly upon receipt;

c. the HDFC shall not do or suffer to be done, any act or omission with respect to the Commercial Project, or the record title thereto, or convey or encumber the same, in any way, except as directed by the COMPANY, its successors and assigns.

d. the HDFC shall comply with all directions which may be given to it by the COMPANY with respect to the Commercial Project; provided, however, that the HDFC shall not be required to take any action as provided in this Agreement unless furnished with sufficient funds by the COMPANY therefor.

e. the COMPANY shall be deemed an insured for purposes of the Title Policy and entitled to all proceeds of title insurance recoverable pursuant to same.

6. The COMPANY and the HDFC on behalf of themselves, and their respective successors and assigns, who are recognized as "third party beneficiaries" hereunder, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

a. So long as the HDFC shall hold legal title in the Commercial Project, the COMPANY shall have complete and exclusive possession and control of the Commercial Project and the HDFC shall not have any right to possess or control the Commercial Project;

b. The COMPANY is the "owner", as that term is defined in Section 2 of the New York Lien Law, of the Premises and the HDFC is not in any respects an "owner" of the Commercial Project for federal tax purposes under the New York Lien Law and the COMPANY is the "owner" of the Premises for federal tax purposes;

c. The HDFC has received and reviewed the documents executed in connect with the Financing (the "Loan Documents"), and acknowledges that any and all rights, title, interests and/or benefits the HDFC has under this Agreement are absolutely and completely subject and subordinate to any and all rights, benefits, terms, conditions and provisions contained in and/or created by the Loan Documents;

d. The HDFC shall have no power, right and/or authority to transfer, encumber, lien, and/or create or grant any rights and/or interests in or to all or any portion of the Commercial Project, the allocable portion of Improvements and/or any part or parts thereof without the written consent of the COMPANY and any transfer, encumbrance, lien, right and/or interest purported to be created, granted, permitted and/or resulting from any action or inaction of the HDFC in connection with the Commercial Project, the allocable portion of Improvements and/or any part or parts thereof, without said consent, shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon the COMPANY;

e. Upon the written demand of the COMPANY, the HDFC shall immediately execute and record in the appropriate land records a bargain and sale deed of the Commercial Project and Improvements to the COMPANY or to any other person or entity designated by the COMPANY and in connection with the execution and recordation of any such bargain and sale deed, the HDFC hereby unconditionally and unequivocally constitutes and appoints the COMPANY to be its lawful and true agent and attorney-in-fact, with full power of substitution to either separately or jointly execute and record any such bargain and sale deed on behalf of the HDFC, in the name, place and stead of the HDFC with the same force and effect as if such deed was executed and recorded by the HDFC, provided, however, that any consents required pursuant to any and all city, state or federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments (collectively, the "Government Financing Documents") shall have been obtained. The HDFC authorizes any third party to rely on the aforesaid power of attorney granted in the previous sentence and hereby waives and releases any claim or claims the HDFC may have against such third party in so relying on such power of attorney;

f. The HDFC shall have no rights, powers and/or authority over, with respect to and/or in connection with the Commercial Project, the allocable Improvements and/or any part or parts thereof in any bankruptcy or other proceeding in which the COMPANY may hereafter be a party, and no shareholder, officer, trustee, receiver, administrator, legal representative, regulator or creditor of the HDFC shall have any right, power and/or authority over, with respect to and/or in connection with the Commercial Project, the allocable Improvements and/or any part or parts thereof;

g. The COMPANY and the HDFC each have full power and authority to enter into this Agreement and to comply with all of the terms, provisions and conditions contained in this Agreement;

h. Neither the execution, delivery or recording of this Agreement, nor the fulfillment of or compliance with the terms, conditions or provisions of this Agreement conflicts with, violates or results in a breach of the terms, conditions or provisions of any agreement, instrument, law, rule or regulation of which the COMPANY and/or the HDFC is now a party or by which either or both may be bound or affected or results in the creation of any lien, charge or encumbrance upon the Commercial Project, the allocable Improvements and/or any part or parts thereof;

i. Any and all notices, demands and other communication made by either the COMPANY or the HDFC to the other party shall be in writing and sent to the addresses as set forth above, and to HDC, HPD and Citibank at the addresses below, by hand, by mail (registered, certified, return receipt requested) or by nationally recognized overnight courier:

New York City Housing Development Corporation
110 William Street
New York, New York 10038
Attn: SVP for Development

New York City Department of Housing Preservation and Development
100 Gold Street
New York, New York 10038

Citibank, N.A.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Account Specialist
Deal ID # 26022

7. The COMPANY shall have the beneficial ownership of the Commercial Project for all purposes (including, federal income tax purposes) and shall have all rights related thereto including, but not limited to, the right to claim depreciation deductions with respect to any depreciable property comprising a part of the Commercial Project, the right to amortize capital costs and to claim any other federal or state tax benefits attributable to the Commercial Project, the right to receive all proceeds from the Commercial Project, including from rents and other moneys from mortgages, pledges, sales, or other dispositions of the Commercial Project, and to all tax benefits, including depreciation and the low income housing tax credits. In addition thereto, it shall be in the sole and absolute discretion of the COMPANY to develop, operate, manage, assign, encumber, transfer or sell the Commercial Project or any portion thereof or interest therein or any right or indicia of ownership in connection therewith, and at the request of the COMPANY, the HDFC shall cooperate with the COMPANY and execute any and all documents required by the COMPANY in connection with the development, operation,

management, assignment, encumbrance, transfer or sale of the Commercial Project or any portion thereof or interest therein, or any right or indicia of ownership in connection therewith. In furtherance of the foregoing, and without limitation, the HDFC shall transfer and convey the Commercial Project, by bargain and sale deed, subject only to the Permitted Encumbrances and Regulatory Agreements, in connection with the transfer or sale of the Commercial Project or any portion thereof or any interest therein to any party designated by the COMPANY.

8. The COMPANY shall have all management authority and control over the Commercial Project, with respect to, but not by way of limitation, construction and development of the Commercial Project, performance and enforcement of all leases, agreements with regard to the sale of the Commercial Project or otherwise, and any covenants concerning the Commercial Project.

9. The HDFC covenants and agrees to perform all acts reasonably requested by the COMPANY in regard to or arising from the ownership, management and operation of the Commercial Project.

10. This Agreement may not be amended or revoked except by written instrument duly executed by each of the parties hereto.

11. This Agreement shall be construed in accordance with the laws of the State of New York.

12. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. All communications given pursuant to this Agreement shall be in writing and sent by hand or by certified or registered mail, return receipt requested, or by reputable overnight courier, and addressed to the parties at their addresses set forth above.

14. This Agreement may be executed in one or more counterparts, and by different signatories hereto in separate counterparts, each of which when so executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

15. This Agreement may not be amended or revoked except by written instrument duly executed by each of the parties hereto.

16. The COMPANY and the HDFC hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal court sitting in The City of New York over any suit, action or proceeding arising out of or relating to this Agreement and/or the Loan Documents, and the COMPANY and the HDFC hereby agree and consent that, in addition to any methods of service of process provided for under applicable law, all of service of process in any such suit, action or proceeding in any New York State or Federal court sitting in the City of New York may be made by certified or registered mail, return receipt requested, directed to the

COMPANY and the HDFC at the address indicated in the captioned agreement, and service so made shall become complete five (5) days after the same shall have been so mailed.

17. Both the COMPANY and the HDFC both hereby, knowingly, voluntarily, intentionally, **expressly and unconditionally waive**, in connection with any suit, action or proceeding, arising out of, under or in connection with this Agreement, any and every right either or both of them may have to **A TRIAL BY JURY**.

18. Notwithstanding anything contained herein to the contrary, if there is an event of default under any Government Financing Document, the HDFC shall have the right to enter the Property to cure the default as agent for and on behalf of the COMPANY, provided that COMPANY is not diligently acting to cure such default.

[signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

OWNER:

FRV PHASE 2 COMMERCIAL LLC, a New York
limited liability company

By: Phipps Houses, its sole member

By: _____

Name: Matthew Kelly

Title: Vice President

HDFC:

**ROCKAWAY VILLAGE II HOUSING
DEVELOPMENT FUND CORPORATION**

By: _____

Name: Matthew Kelly

Title: Vice President

STATE OF NEW YORK)

) SS:

COUNTY OF NEW YORK)

On the 13 day of December, 2019, before me, the undersigned, a Notary Public in and or said State, personally appeared MATTHEW KELLY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instruments.

Notary Public

FRANIA B. GRIELEN
Notary Public, State of New York
Reg. No. 01GR4878542
Qualified in New York County
Commission Expires November 24, 2028

EXHIBIT A

Metes and Bounds of Land Under Replacement Lease

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

BEGINNING at a point on the northerly side of Mott Avenue (irregular width) distant 292.90 feet easterly from the corner formed by the intersection of the easterly side of Redfern Avenue (60 feet wide) with the northerly side of Mott Avenue (60 feet wide);

THENCE easterly continuing along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 507.52 feet, an arc length of 90.01 feet to a point of compound curvature;

THENCE easterly and northeasterly along the northerly side of Mott Avenue, along a curve bearing to the left having a radius of 95.00 feet, an arc length of 114.57 feet to a point of tangency;

Thence North 07 degrees 54 minutes 11.4 seconds East along the westerly side of Central Avenue (irregular width) 0.04 feet to a point;

THENCE North 17 degrees 54 minutes 26 seconds West 52.12 feet to a point;

THENCE South 82 degrees 07 minutes 22 seconds West 176.87 feet to a point;

THENCE South 14 degrees 05 minutes 50 seconds East 120.92 feet to a point on the Northerly line of Mott Avenue to the point or place of BEGINNING.