



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

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☒ Amendment to [check one or more boxes below]

- ☐ Add
- ☒ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☒ Yes ☐ No

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)

Please provide a brief narrative on the nature of the amendment:

This application seeks to amend the Brownfield Cleanup Agreement for Site C241230 to substitute the current Applicant Animal Care and Control of NYC, Inc. (ACC) to new Requestor 1906 Flushing LLC, a limited liability company of which ACC is the sole member. The amendment also seeks to update the Brownfield Cleanup Agreement to reflect that title was transferred from ACC to 1906 Flushing LLC (see Exhibit E). This amendment further seeks to update the property description to reflect a change in zoning whereby former Lots 1 and 7 were merged into a single Lot referred to as Lot 1 (see Exhibit D).

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Agreement Information			
BCP SITE NAME: Queens Animal Shelter and Care Center BCP SITE NUMBER: C24130			
NAME OF CURRENT APPLICANT(S): Animal Care & Control of NYC, Inc.			
INDEX NUMBER OF EXISTING AGREEMENT: C24130-03-19 DATE OF EXISTING AGREEMENT: 4/8/19			
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME 1906 Flushing LLC			
ADDRESS 11 Park Place			
CITY/TOWN New York			ZIP CODE 10007
PHONE (212) 676-8558	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> 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. See Exhibit A, attached 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE Jennifer Piibe			
ADDRESS 11 Park Place			
CITY/TOWN New York			ZIP CODE 10007
PHONE (212) 676-8558	FAX	E-MAIL JPiibe@nycacc.org	
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) Michael Bogin (Sive, Paget & Riesel P.C.)			
ADDRESS 560 Lexington Avenue, 15th Floor			
CITY/TOWN New York			ZIP CODE 10022
PHONE (212) 421-2150	FAX	E-MAIL mbogin@sprlaw.com	
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? See Exhibit B, attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant: The Requestor, 1906 Flushing LLC, is a limited liability company of which the current Applicant, Animal Care & Control of NYC, Inc., is the sole Member.			

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☒ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☒ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☒ No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☒ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

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

☒ VOLUNTEER

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

See Exhibit C, attached

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.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

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)

ADDRESS 151 Woodward Avenue

CITY/TOWN Queens

ZIP CODE 11385

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1902 Flushing Avenue	1	4	3376	1	0.324
151 Woodward Avenue	2	4	3376	7	0.662

Check appropriate boxes below:

☒

Changes to metes and bounds description or TBL correction See Exhibit D, attached

☐

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

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
151 Woodward Avenue	1	4	3376	1	0.986

☐

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	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.

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

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Queens Animal Shelter and Care Center	BCP SITE NUMBER: C241230
NAME OF CURRENT APPLICANT(S): Animal Care and Control of New York City, Inc.	
INDEX NUMBER OF EXISTING AGREEMENT: C241230-03-19	
EFFECTIVE DATE OF EXISTING AGREEMENT: 04/08/2019	

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 Authorized Signatory) of (entity 1906 Flushing 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.

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

Date: 08-18-2020 Signature: Jennifer Piibe

Print Name: Jennifer Piibe

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 Animal Care & Control of NYC, Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 08-18-2020 Signature: Jennifer Piibe

Print Name: Jennifer Piibe

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

PARTICIPANT

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

☒

VOLUNTEER

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

Effective Date of the Original Agreement: April 8, 2019

Signature by the Department:

DATED: January 22, 2021

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:



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 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

FOR DEPARTMENT USE ONLY

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

PROJECT MANAGER:_____

Exhibit A

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 27, 2020.

Selected Entity Name: 1906 FLUSHING LLC

Selected Entity Status Information

Current Entity Name: 1906 FLUSHING LLC

DOS ID #: 5563262

Initial DOS Filing Date: JUNE 03, 2019

County: NEW YORK

Jurisdiction: DELAWARE

Entity Type: FOREIGN 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 ANIMAL CARE AND CONTROL OF NEW YORK CITY, INC.

11 PARK PLACE

SUITE 805

NEW YORK, NEW YORK, 10007

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

JUN 03, 2019 Actual 1906 FLUSHING 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 B

LIMITED LIABILITY COMPANY AGREEMENT
OF
1906 FLUSHING LLC

This Limited Liability Company Agreement (together with the schedules attached hereto, this "Agreement") of 1906 Flushing LLC (the "Company"), is entered into by Animal Care and Control of New York City, Inc., as the sole equity member (the "Member"), Miranda L. Brewer, as the Independent Manager (as defined on Schedule A hereto). Capitalized terms used and not otherwise defined herein have the meanings set forth on Schedule A hereto.

The Member, by execution of this Agreement, hereby forms the Company as a limited liability company pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del. C. § 18-101 et seq.), as amended from time to time (the "Act"), and this Agreement, and the Member and the Independent Manager hereby agree as follows:

Section 1. Name.

The name of the Delaware limited liability company formed hereby is 1906 Flushing LLC.

Section 2. Principal Business Office.

The principal business office of the Company shall be located at 11 Park Place, New York, NY 10007 or such other location as may hereafter be determined by the Member.

Section 3. Registered Office.

The address of the registered office of the Company in the State of Delaware is c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

Section 4. Registered Agent.

The name and address of the registered agent of the Company for service of process on the Company in the State of Delaware are Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

Section 5. Members.

(a) The mailing address of the Member is set forth on Schedule B attached hereto. The Member was admitted to the Company as a member of the Company upon its execution of a counterpart signature page to this Agreement.

(b) Subject to Section 9(d), the Member may act by written consent.

(c) Upon the occurrence of any event that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to Sections 21 and 23, or (ii) the resignation of the

Member and the admission of an additional member of the Company pursuant to Sections 22 and 23), the Person acting as an Independent Manager pursuant to Section 10 shall, without any action of any Person and simultaneously with the Member ceasing to be a member of the Company, automatically be admitted to the Company as a Special Member and shall continue the Company without dissolution. No Special Member may resign from the Company or transfer its rights as Special Member unless (i) a successor Special Member has been admitted to the Company as Special Member by executing a counterpart to this Agreement, and (ii) such successor has also accepted its appointment as Independent Manager pursuant to Section 10; provided, however, the Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute Member. The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any distributions of Company assets. Pursuant to Section 18-301 of the Act, a Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company. A Special Member, in its capacity as Special Member, may not bind the Company. Except as required by any mandatory provision of the Act, the Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including, without limitation, the merger, consolidation or conversion of the Company. In order to implement the admission to the Company of the Special Member, the Person acting as an Independent Manager pursuant to Section 10 shall execute a counterpart to this Agreement. Prior to its admission to the Company as Special Member, the Person acting as an Independent Manager pursuant to Section 10 shall not be a member of the Company.

Section 6. Certificates.

Jennifer Piibe is hereby designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation with the Secretary of State of the State of Delaware, her powers as an "authorized person" ceased, and the Member thereupon became the designated "authorized person" and shall continue as the designated "authorized person" within the meaning of the Act. The Member or an Officer shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in New York and in any other jurisdiction in which the Company may wish to conduct business.

The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

Section 7. Purpose. The purpose to be conducted or promoted by the Company is to engage in the following activities:

- (i) to act as the fee owner of real property located at 151 Woodward Avenue and 1902 Flushing Avenue, Ridgewood, New York, designated as Block 3376 Lots 1 and 7 on the Tax Map of the City of New York, Queens County (the "Property");
- (ii) to develop, finance, construct, rehabilitate, own, maintain, operate, lease and sell or otherwise dispose of the Property for a charitable purpose pursuant to 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), including but not limited to developing an animal shelter on the Property; and
- (iii) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of Delaware that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above-mentioned purposes.

(b) The Company shall not carry on activities not permitted to be carried on by a corporation exempt from Federal Income tax under the IRC or corresponding provisions of any subsequent tax laws,

(c) The Company is not organized for pecuniary profit or financial gain. All income and earnings of the Company shall be used exclusively for the stated purposes of the Company and no part of the net income or net earnings of the Company shall inure to the benefit or profit of any director, trustee, officer or employee of the Company,

(d) The Company shall not carry on propaganda or otherwise attempt to influence legislation, or to participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office or to undertake or carry on any of the activities in Section 404 of the Not-For-Profit Corporation Law,

(e) The Company is hereby authorized to execute, deliver and perform, and the Member or any Officer on behalf of the Company is hereby authorized to execute and deliver, the Basic Documents and all documents, agreements, certificates, or financing statements contemplated thereby or related thereto, all without any further act, vote or approval of any other Person notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. The foregoing authorization shall not be deemed a restriction on the powers of the Member or any Officer to enter into other agreements on behalf of the Company.

Section 8. Powers.

Subject to Section 9(d), the Company, and the Member and the Officers on behalf of the Company, (i) shall have and exercise all powers necessary, convenient or incidental to

accomplish its purposes as set forth in Section 7 and (ii) shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Act.

Section 9. Management.

(a) Subject to Section 9(d), the business and affairs of the Company shall be managed by or under the direction of the Member. Subject to Section 10, the Member may determine at any time in its sole and absolute discretion the number of Independent Managers. The initial number of Independent Managers shall be one. The initial Independent Manager designated by the Member is Miranda L. Brewer.

(b) Powers. Subject to Section 9(d), the Member shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise. Subject to Sections 7 and 9, the Member has the authority to bind the Company.

(c) Member as Agent. To the extent of its powers set forth in this Agreement and subject to Section 9(d), the Member is an agent of the Company for the purpose of the Company's business, and the actions of the Member taken in accordance with such powers set forth in this Agreement shall bind the Company.

(d) Limitations on the Company's Activities.

- (i) This Section 9(d) is being adopted in order to comply with certain provisions required in order to qualify the Company as a "special purpose" entity.
- (ii) The Member shall not, so long as any Obligation is outstanding, amend, alter, change or repeal the definition of "Independent Manager" or Sections 5(c), 7, 8, 9, 10, 16, 20, 21, 22, 23, 24, 25, 26 or 31 or Schedule A of this Agreement without the written consent of the Independent Manager. Subject to this Section 9(d), the Member reserves the right to amend, alter, change or repeal any provisions contained in this Agreement in accordance with Section 31.
- (iii) Notwithstanding any other provision of this Agreement and any provision of law that otherwise so empowers the Company, the Member or any Officer or any other Person, so long as any Obligation is outstanding, neither the Member nor any Officer nor any other Person shall be authorized or empowered, nor shall they permit the Company, without the prior unanimous written consent of the Member and the Independent Manager, to take any Material Action, provided, however, that, so long as any Obligation is outstanding, the Member may not authorize the taking of any Material Action, unless there is at least one Independent Manager then serving in such capacity.
- (iv) The Member shall cause the Company to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights

(charter and statutory) and franchises. The Member also shall cause the Company to:

- (A) maintain its own separate books and records and bank accounts;
- (B) at all times hold itself out to the public as a legal entity separate from the Member and any other Person;
- (C) file its own tax returns, if any, as may be required under applicable law, to the extent (1) not part of a consolidated group filing a consolidated return or returns or (2) not treated as a division for tax purposes of another taxpayer, and pay any taxes so required to be paid under applicable law;
- (D) except as contemplated by the Basic Documents, not commingle its assets with assets of any other Person;
- (E) conduct its business in its own name and strictly comply with all organizational formalities to maintain its separate existence;
- (F) maintain separate financial statements;
- (G) pay its own liabilities only out of its own funds, provided, however, the foregoing shall not require the Member to make any additional capital contributions to the Company;
- (H) maintain an arm's length relationship with its Affiliates and the Member;
- (I) pay the salaries of its own employees, if any, provided, however, the foregoing shall not require the Member to make any additional capital contributions to the Company;
- (J) not hold out its credit or assets as being available to satisfy the obligations of others;
- (K) allocate fairly and reasonably any overhead for shared office space;
- (L) use separate stationery, invoices and checks;
- (M) except as contemplated by the Basic Documents, not pledge its assets for the benefit of any other Person;
- (N) correct any known misunderstanding regarding its separate identity; and
- (O) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities, provided, however, the

foregoing shall not require the Member to make any additional capital contributions to the Company.

Failure of the Company, or the Member on behalf of the Company, to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of the Company as a separate legal entity or the limited liability of the Member.

- (v) So long as any Obligation is outstanding, the Member shall not cause or permit the Company to:
 - (A) except as contemplated by the Basic Documents, guarantee any obligation of any Person, including any Affiliate;
 - (B) engage, directly or indirectly, in any business other than the actions required or permitted to be performed under Section 7, the Basic Documents or this Section 9(d);
 - (C) incur, create or assume any indebtedness other than as expressly permitted under the Basic Documents;
 - (D) make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any Person, except that the Company may invest in those investments permitted under the Basic Documents and may make any advance required or expressly permitted to be made pursuant to any provisions of the Basic Documents and permit the same to remain outstanding in accordance with such provisions;
 - (E) to the fullest extent permitted by law, engage in any dissolution, liquidation, consolidation, merger, division (whether pursuant to a plan of division or otherwise) asset sale or transfer of ownership interests other than such activities as are expressly permitted pursuant to any provision of the Basic Documents and subject to obtaining any approvals required under this Agreement; or
 - (F) except as contemplated or permitted by the Basic Documents, form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other).

Section 10. Independent Manager.

As long as any Obligation is outstanding, the Member shall cause the Company at all times to have at least one Independent Manager who will be appointed by the Member. To the fullest extent permitted by law, including Section 18-1101(c) of the Act, the Independent Manager shall consider only the interests of the Company, including its creditors, in acting or otherwise voting on the matters referred to in Section 9(d)(iii). Except for duties to the Company as set forth in the immediately preceding sentence (including duties to the Member and the Company's creditors solely to the extent of their respective economic interests in the Company

but excluding (i) all other interests of the Member, (ii) the interests of other Affiliates of the Company, and (iii) the interests of any group of Affiliates of which the Company is a part), the Independent Manager shall not have any fiduciary duties to the Member or any other Person bound by this Agreement; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. To the fullest extent permitted by law, including Section 18-1101(e) of the Act, an Independent Manager shall not be liable to the Company, the Member or any other Person bound by this Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Manager acted in bad faith or engaged in willful misconduct. No resignation or removal of an Independent Manager, and no appointment of a successor Independent Manager, shall be effective until such successor shall have accepted his or her appointment as an Independent Manager by executing a counterpart to this Agreement. In the event of a vacancy in the position of Independent Manager, the Member shall, as soon as practicable, appoint a successor Independent Manager. Notwithstanding anything to the contrary contained in this Agreement, no Independent Manager shall be removed or replaced unless the Company provides the Lender with no less than two (2) business days' prior written notice of (a) any proposed removal of such Independent Manager, and (b) the identity of the proposed replacement Independent Manager, together with a certification that such replacement satisfies the requirements for a Independent Manager set forth in this Agreement. All right, power and authority of the Independent Manager shall be limited to the extent necessary to exercise those rights and perform those duties specifically set forth in this Agreement and the Independent Manager shall otherwise have no authority to bind the Company. No Independent Manager shall at any time serve as trustee in bankruptcy for any Affiliate of the Company. An Independent Manager is hereby designated as a "manager" within the meaning of Section 18-101(10) of the Act.

Section 11. Officers.

The Member may, from time to time as it deems advisable, appoint officers of the Company (the "Officers") and assign in writing titles (including, without limitation, President, Vice President, Secretary, and Treasurer) to any such person. Unless the Member decides otherwise, if the title is one commonly used for officers of a business corporation formed under the Delaware General Corporation Law, the assignment of such title shall constitute the delegation to such person of the authorities and duties that are normally associated with that office. Any delegation pursuant to this Section 11 may be revoked at any time by the Member. The initial Officers are listed on Schedule C attached hereto. The Member may revise Schedule C in its sole discretion at any time.

Section 12. Limited Liability.

Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor the Special Member nor any Independent Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Manager of the Company.

Section 13. Capital Contributions.

The Member has contributed to the Company property of an agreed value as listed on Schedule B attached hereto. In accordance with Section 5(c), the Special Members shall not be required to make any capital contributions to the Company.

Section 14. Additional Contributions.

The Member is not required to make any additional capital contribution to the Company. However, the Member may make additional capital contributions to the Company at any time upon the written consent of such Member. To the extent that the Member makes an additional capital contribution to the Company, the Member shall revise Schedule B of this Agreement. The provisions of this Agreement, including this Section 14, are intended to benefit the Member and the Special Member and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (other than a Covered Person) (and no such creditor of the Company shall be a third-party beneficiary of this Agreement) and the Member and the Special Member shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

Section 15. Allocation of Profits and Losses.

The Company's profits and losses shall be allocated to the Member.

Section 16. Distributions.

Distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to the Member on account of its interest in the Company if such distribution would violate the Act or any other applicable law or any Basic Document.

Section 17. Books and Records.

The Member shall keep or cause to be kept complete and accurate books of account and records with respect to the Company's business. The Member and its duly authorized representatives shall have the right to examine the Company books, records and documents during normal business hours. The Company's books of account shall be kept using the method of accounting determined by the Member. The Company's independent auditor, if any, shall be an independent public accounting firm selected by the Member.

Section 18. Intentionally Omitted.

Section 19. Other Business.

Notwithstanding any duty otherwise existing at law or in equity, the Member, the Special Member and the Independent Manager and any Affiliate of the Member or the Special Member or the Independent Manager may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others.

The Company shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

Section 20. Exculpation and Indemnification.

(a) To the fullest extent permitted by applicable law, neither the Member nor the Special Member nor any Independent Manager nor any Officer nor any officer, director, employee, agent or Affiliate of the foregoing (collectively, the "Covered Persons") shall be liable to the Company or any other Person who is a party to or is otherwise bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence (or, in the case of the Independent Manager, bad faith) or willful misconduct.

(b) To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence (or, in the case of the Independent Manager, bad faith) or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 20 by the Company shall be provided out of and to the extent of Company assets only, and the Member, the Special Member and the Independent Manager shall not have personal liability on account thereof; and provided further, that so long as any Obligation is outstanding, no indemnity payment from funds of the Company (as distinct from funds from other sources, such as insurance) of any indemnity under this Section 20 shall be payable from amounts allocable to any other Person pursuant to the Basic Documents.

(c) To the fullest extent permitted by applicable law, expenses (including reasonable legal fees) incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 20.

(d) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, or any other facts pertinent to the existence and amount of assets from which distributions to the Member might properly be paid.

(e) The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of a Covered Person to the Company or its members otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Covered Person.

(f) The foregoing provisions of this Section 20 shall survive any termination of this Agreement.

Section 21. Assignments.

The Member may assign in whole or in part its limited liability company interest in the Company. Subject to Section 23, the transferee shall be admitted to the Company as a member of the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. If the Member transfers all of its limited liability company interest in the Company pursuant to this Section 21, such admission shall be deemed effective immediately prior to the transfer and, immediately following such admission, the transferor Member shall cease to be a member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger or consolidation in compliance with the Basic Documents shall, without further act, be the Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

Section 22. Resignation.

So long as any Obligation is outstanding, the Member may not resign, except as permitted under the Basic Documents and if the Rating Agency Condition is satisfied. If the Member is permitted to resign pursuant to this Section 22, an additional member of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

Section 23. Admission of Additional Members.

One or more additional Members of the Company may be admitted to the Company with the written consent of the Member; provided, however, that, notwithstanding the foregoing, so long as any Obligation remains outstanding, no additional Member may be admitted to the Company unless the Rating Agency Condition is satisfied.

Section 24. Dissolution.

(a) To the fullest extent permitted by law, for so long as the Obligations remain outstanding, the Company shall not be dissolved. Thereafter, the Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company

in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act or (ii) the entry of a decree of judicial dissolution under Section 18-802 of the Act. Upon the occurrence of any event that causes the last remaining member of the Company to cease to be a member of the Company or that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to Sections 21 and 23, or (ii) the resignation of the Member and the admission of an additional member of the Company pursuant to Sections 22 and 23), to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of such member in the Company.

(b) Notwithstanding any other provision of this Agreement, the Bankruptcy of the Member or a Special Member shall not cause the Member or Special Member, respectively, to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution.

(c) In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act.

(d) The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company shall have been distributed to the Member in the manner provided for in this Agreement and (ii) the Certificate of Formation shall have been canceled in the manner required by the Act.

Section 25. Waiver of Partition; Nature of Interest.

Except as otherwise expressly provided in this Agreement, to the fullest extent permitted by law, each of the Member and the Independent Managers hereby irrevocably waives any right or power that such Person might have to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company. The Member shall not have any interest in any specific assets of the Company, and the Member shall not have the status of a creditor with respect to any distribution pursuant to Section 16 hereof. The interest of the Member in the Company is personal property.

Section 26. Benefits of Agreement; No Third-Party Rights.

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or by any creditor of the Member or a Special Member. Nothing in this Agreement shall be deemed to create any right in any Person (other than Covered Persons) not a

party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any third Person (other than Covered Persons).

Section 27. Severability of Provisions.

Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

Section 28. Entire Agreement.

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

Section 29. Binding Agreement.

Notwithstanding any other provision of this Agreement, the Member agrees that this Agreement, including, without limitation, Sections 7, 8, 9, 10, 20, 21, 22, 23, 24, 26, 29 and 31, constitutes a legal, valid and binding agreement of the Member, and is enforceable against the Member by the Independent Manager, in accordance with its terms.

Section 30. Governing Law.

This Agreement shall be governed by and construed under the laws of the State of Delaware (without regard to conflict of laws principles), all rights and remedies being governed by said laws.

Section 31. Amendments.

Subject to Section 9(d), this Agreement may be modified, altered, supplemented or amended pursuant to a written agreement executed and delivered by the Member. Notwithstanding anything to the contrary in this Agreement, so long as any Obligation is outstanding, this Agreement may not be modified, altered, supplemented or amended unless the Rating Agency Condition is satisfied except: (i) to cure any ambiguity or (ii) to correct or supplement any provision in a manner consistent with the intent of this Agreement and the other Basic Documents.

Section 32. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

Section 33. Notices.

Any notices required to be delivered hereunder shall be in writing and personally delivered, mailed or sent by telecopy, electronic mail or other similar form of rapid transmission,

and shall be deemed to have been duly given upon receipt (a) in the case of the Company, to the Company at its address in Section 2, (b) in the case of the Member, to ~~the~~ Member at its address as listed on Schedule B attached hereto and (c) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.

Section 34. Effectiveness.


Pursuant to Section 18-201(d) of the Act, this Agreement shall be effective as of the date hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Limited Liability Company Agreement as of the 17th day of June, 2019.

MEMBER:

ANIMAL CARE AND CONTROL OF
NEW YORK CITY, INC.

By: 
Name: Jennifer Piibe
Title: Authorized Signatory

INDEPENDENT MANAGER:


Name: Miranda L. Brewer

SCHEDULE A

Definitions

A. Definitions

When used in this Agreement, the following terms not otherwise defined herein have the following meanings:

"Act" has the meaning set forth in the preamble to this Agreement.

"Affiliate" means, with respect to any Person, any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such Person.

"Agreement" means this Limited Liability Company Agreement of the Company, together with the schedules attached hereto, as amended, restated or supplemented or otherwise modified from time to time.

"Bankruptcy" means, with respect to any Person, if such Person (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial part of its properties, or (vii) if 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Basic Documents" means the documents listed on Schedule D attached hereto, and all documents and certificates contemplated thereby or delivered in connection therewith.

"Certificate of Formation" means the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware on May 3, 2019, as amended or amended and restated from time to time.

"Company" means 1906 Flushing LLC, a Delaware limited liability company.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting

securities or general partnership or managing member interests, by contract or otherwise. "Controlling" and "Controlled" shall have correlative meanings. Without limiting the generality of the foregoing, a Person shall be deemed to Control any other Person in which it owns, directly or indirectly, a majority of the ownership interests.

"Covered Persons" has the meaning set forth in Section 20(a).

"Independent Manager" shall mean an individual who has prior experience as an independent director, independent manager or independent member with at least three years of employment experience and who is provided by Corporation Service Company, CT Corporation, Lord Securities Corporation, National Registered Agents, Inc., Stewart Management Company, Wilmington Trust Company, or, if none of those companies is then providing professional independent managers, another nationally-recognized company reasonably approved by Lender, in each case that is not an Affiliate of the Company and that provides professional independent managers and other corporate services in the ordinary course of its business, and which individual is duly appointed as an Independent Manager and is not, and has never been, and will not while serving as Independent Manager be, any of the following:

- (i) a member, partner, equityholder, manager, director, officer or employee of the Company, the Member, or any of their respective equityholders or Affiliates (other than as an Independent Manager of the Company or an Affiliate of the Company that is not in the direct chain of ownership of the Company and that is required by a creditor to be a single purpose bankruptcy remote entity, provided that such Independent Manager is employed by a company that routinely provides professional independent directors in the ordinary course of its business);
- (ii) a creditor, supplier or service provider (including provider of professional services) to the Company, or any of its equityholders or Affiliates (other than a nationally-recognized company that routinely provides professional independent managers and other corporate services to the Company or any of its equityholders or Affiliates in the ordinary course of its business);
- (iii) a family member of any such member, partner, equityholder, manager, director, officer, employee, creditor, supplier or service provider; or
- (iv) a Person that controls (whether directly, indirectly or otherwise) any of (i), (ii) or (iii) above.

A natural person who otherwise satisfies the foregoing definition and satisfies subparagraph (i) by reason of being the Independent Manager of a "special purpose entity" affiliated with the Company shall be qualified to serve as an Independent Manager of the Company, provided that the fees that such individual earns from serving as Independent Manager of affiliates of the Company in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year. The same persons may not serve as Independent Managers of the Company and the Member.

"Lender" means Wells Fargo Trust Company, National Association, as trustee and/or Teachers Insurance and Annuity Association of America, and their respective successors and assigns.

"Material Action" means to consolidate or merge the Company with or into any Person, or sell all or substantially all of the assets of the Company, or divide the Company (whether pursuant to a plan of division or otherwise) or to institute proceedings to have the Company be adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company or file a petition seeking, or consent to, reorganization or relief with respect to the Company under any applicable federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or a substantial part of its property, or make any assignment for the benefit of creditors of the Company, or admit in writing the Company's inability to pay its debts generally as they become due, or take action in furtherance of any such action, or, to the fullest extent permitted by law, dissolve or liquidate the Company.

"Member" means Animal Care and Control of New York City, Inc., as the initial member of the Company, and includes any Person admitted as an additional member of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company; provided, however, the term "Member" shall not include the Special Member.

"Obligation" shall mean the indebtedness, liabilities and obligations of the Company under or in connection with the Basic Documents or any related document in effect as of any date of determination.

"Officer" means an officer of the Company as described in Section 11.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization, or other organization, whether or not a legal entity, and any governmental authority.

"Rating Agency" has the meaning assigned to that term in the Basic Documents.

"Rating Agency Condition" means (i) with respect to any action taken at any time before the loan evidenced and secured by the Basic Documents has been sold or assigned to a securitization trust, that the lender thereunder has consented in writing to such action, and (ii) with respect to any action taken at any time after such loan has been sold or assigned to a securitization trust, that each Rating Agency shall have been given ten days prior notice thereof and that each of the Rating Agencies shall have notified the Company in writing that such action will not result in a reduction or withdrawal of the then current rating by such Rating Agency of any of securities issued by such securitization trust.

"Special Member" means, upon such person's admission to the Company as a member of the Company pursuant to Section 5(c), a person acting as Independent Manager, in such person's capacity as a member of the Company. A Special Member shall only have the rights and duties expressly set forth in this Agreement.

B. Rules of Construction

Definitions in this Agreement apply equally to both the singular and plural forms of the defined terms. The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, paragraph or subdivision. The Section titles appear as a matter of convenience only and shall not affect the interpretation of this Agreement. All Section, paragraph, clause, Exhibit or Schedule references not attributed to a particular document shall be references to such parts of this Agreement.

SCHEDULE B

Member

<u>Name</u>	<u>Mailing Address</u>	<u>Agreed Value of Capital Contribution</u>	<u>Limited Liability Company Interest</u>
ANIMAL CARE AND CONTROL OF NEW YORK CITY, INC.	11 Park Place, New York, NY 10007	[\$_____]	100%

SCHEDULE C

Officers

Risa Weinstock

President

Jennifer Piibe

Vice President & Secretary

SCHEDULE D

1. The Construction Escrow Agreement (Building Loan), dated as of June __, 2019, entered into by the Company, Wells Fargo Trust Company, National Association (the "Lender"), and TIAA, FSB ("TIAA").
2. The Construction Escrow Agreement (Project Loan), dated as of June __, 2019, entered into by the Company, the Lender, and TIAA.
3. The Senior Secured Note (Acquisition Loan), dated June __, 2019, entered into by the Company to the Lender.
4. The Senior Secured Note (Building Loan), dated June __, 2019, entered into by the Company to the Lender.
5. The Senior Secured Note (Project Loan), dated June __, 2019, entered into by the Company to the Lender.
6. The Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Acquisition Loan), dated as of June __, 2019, entered into by the Company to the Lender.
7. The Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Building Loan), dated as of June __, 2019, entered into by the Company to the Lender.
8. The Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Project Loan), dated as of June __, 2019, entered into by the Company to the Lender.
9. The Note Purchase Agreement (Acquisition Loan), dated as of June __, 2019, entered into by the Company and the Lender.
10. The Note Purchase Agreement (Building Loan), dated as of June __, 2019, entered into by the Company and the Lender.
11. The Note Purchase Agreement (Project Loan), dated as of June __, 2019, entered into by the Company and the Lender.
12. The Assignment of Leases and Rents (Acquisition Loan), dated as of June __, 2019, entered into by the Company to the Lender.
13. The Assignment of Leases and Rents (Building Loan), dated as of June __, 2019, entered into by the Company to the Lender.
14. The Assignment of Leases and Rents (Project Loan), dated as of June __, 2019, entered into by the Company to the Lender.

15. The Subordination, Non-Disturbance and Attornment Agreement, dated as of June __, 2019, entered into by the Company, the Lender and Animal Care and Control of New York City, Inc.
16. The Cash Management Agreement, dated as of June __, 2019, entered into between the Lender and the Company.
17. The Hazardous Material Indemnity Agreement, dated as of June __, 2019, entered into by the Company and Animal Care and Control of New York City, Inc. to the Lender.
18. The Collateral Assignment of Contracts, Warranties, Plans and other Agreements Affecting Real Estate, dated as of June __, 2019, entered into by the Company to the Lender.
19. The Architect's Certificate, Consent and Acknowledgement, dated as of June __, 2019, entered into by Oaklander, Coogan & Vitto Architects, P.C. and accepted and agreed by the Company and the Lender.
20. The Contractor's Certificate, Consent and Acknowledgement, dated as of June __, 2019, entered into by Cheever Development Corporation and accepted and agreed by the Company and the Lender.
21. The Rent Direction Letter, dated as of June __, 2019, entered into by the Company and the Lender to the Tenant (as defined therein).
22. The Debt Service Payments Direction Letter, dated June __, 2019, entered into by the Company.
23. The City Estoppel, dated June __, 2019, entered into by the Company.
24. The Environmental Consultant's Certificate, Consent and Acknowledgment, dated June __, 2019, entered into by the Company.
25. The Funding Instruction Letter, dated June __, 2019, entered into by the Company to Teachers Insurance and Annuity Association of America.
26. The OFAC Certificate, dated June __, 2019, entered into by the Company.
27. The Operating Lease, dated June __, 2019, entered into by the Company.

Exhibit C

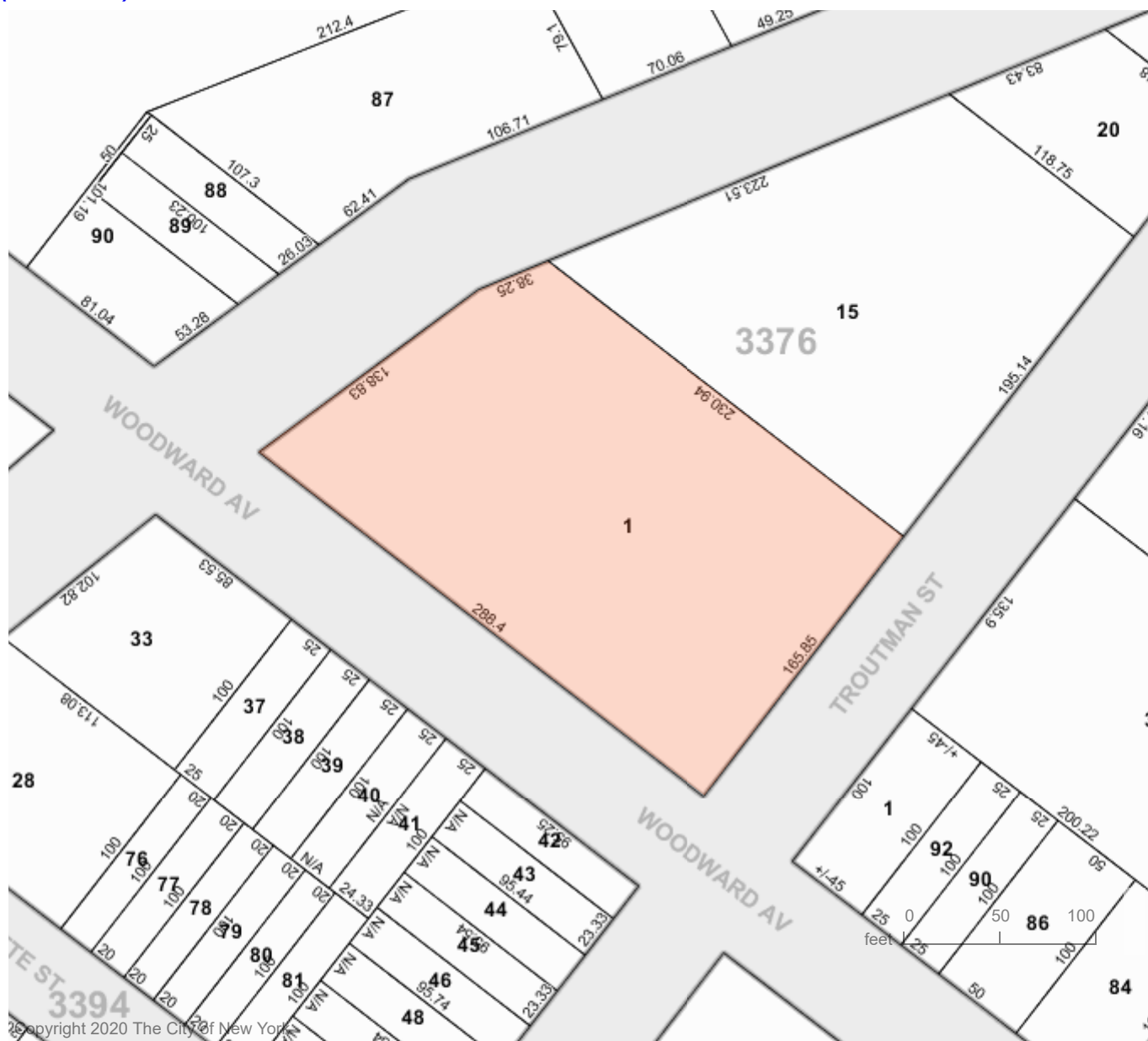
Volunteer Statement for 1906 Flushing LLC

The Requestor is a Volunteer in accordance with ECL § 27-1407 and 6 NYCRR § 375-3.2.

The Requestor is a limited liability company of which the current Applicant (who was admitted to the Program as a Volunteer) is the sole member. At the time of the current Applicant's entry into the New York State Brownfield Cleanup Program as a Volunteer, it was a prospective developer/owner of the Site with no prior ownership interest in the Site and no relationship to any past Site owner or operator. The current Applicant performed all appropriate inquiry prior to acquiring the Site, i.e., they retained a qualified environmental consultant to conduct a Subsurface (Phase II) Investigation and Supplemental Subsurface (Phase II) at the Site, and voluntarily applied for acceptance into the BCP to undertake all required investigation and remediation of the Site prior to and/or concurrent with its redevelopment. The current Applicant entered the BCP as a Volunteer on April 8, 2019 and, through the Requestor, took possession of the Site on July 3, 2019. The current Applicant has taken, and the Requestor will continue to take 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. For the foregoing reasons, the Requestor meets all statutory and regulatory requirements for entry into the BCP as a Volunteer.

Exhibit D

ACC New TBL (Lots 1 and 7 merged into Lot 1) - Digital Tax Map - New York City Dept. of Finance
(11/17/2020)

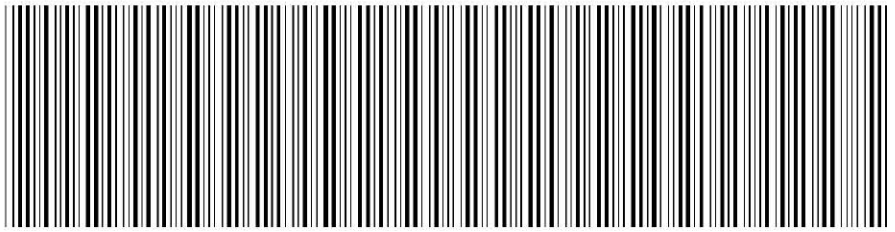


	Borough Boundary	C50	Condo Flag/Condo Number
	Tax Block Boundary	A50	Air Right Flag/Lot Number
50	Tax Block Number	S50	Subterranean Right Flag/Lot Number
	Tax Lot Boundary	R	REUC Flag
50	Tax Lot Number		Under Water Tax Lot Boundary
50	Condo FKA Tax Lot Number		Other Boundary
50.5	Tax Lot Dimension		Possession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

Exhibit E

**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 9

Document ID: 2019070100187001

Document Date: 06-21-2019

Preparation Date: 07-01-2019

Document Type: DEED

Document Page Count: 7

PRESENTER:

CHICAGO TITLE INSURANCE CO. (PICK-UP)
711 THIRD AVE, 5TH FLOOR
CT17-01141-Q CB
NEW YORK, NY 10017
212-880-1200
CTINYRECORDING@CTT.COM

RETURN TO:

OLIVER G CHASE ESQ
HIRSCHEN SINGER & EPSTEIN LLP
902 BROADWAY 13TH FLOOR
NEW YORK, NY 10010

PROPERTY DATA

Borough	Block	Lot	Unit	Address
QUEENS	3376	1	Entire Lot	1902 FLUSHING AVENUE

Property Type: NON-RESIDENTIAL VACANT LAND

Borough	Block	Lot	Unit	Address
QUEENS	3376	7	Entire Lot	151 WOODWARD AVENUE

Property Type: NON-RESIDENTIAL VACANT LAND

CROSS REFERENCE DATA

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

PARTIES

GRANTOR/SELLER:

59-15 HOLDING CORP.
4600 METROPOLITAN AVENUE
RIDGEWOOD, NY 11285

GRANTEE/BUYER:

1906 FLUSHING LLC
11 PARK PLACE, SUITE 805
NEW YORK, NY 10007

☒ Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 75.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 250.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 52,800.00

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

CITY OF NEW YORK

Recorded/Filed 07-03-2019 11:17

City Register File No.(CRFN):

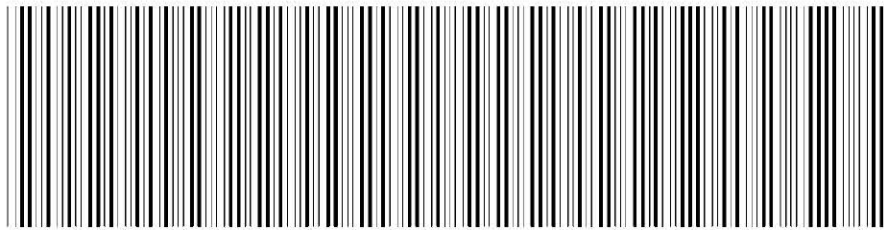
2019000209470



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 9

Document ID: 2019070100187001

Document Date: 06-21-2019

Preparation Date: 07-01-2019

Document Type: DEED

PARTIES

GRANTOR/SELLER:

35 REALTY HOLDING CORP.
4600 METROPOLITAN AVENUE
RIDGEWOOD, NY 11285

BARGAIN AND SALE DEED

THIS INDENTURE, made this 21st day of June, 2019

7/11

Between

59-15 HOLDING CORP., a New York business corporation, as to an undivided 20% interest, and **35 REALTY HOLDING CORP.**, a New York business corporation, as to an undivided 80% interest, both having an address at 4600 Metropolitan Avenue, Ridgewood, New York 11385 (collectively, the "**Grantor**"),

And

1906 FLUSHING LLC, a Delaware limited liability company, having an address at 11 Park Place, Suite 805, New York, New York 10007 (hereinafter referred to as "**Grantee**")

WITNESSETH, that the Grantor, in consideration of One Dollar (\$1) and other valuable consideration paid by the Grantee does hereby grant and release to Grantee, the heirs or successors and assigns of Grantee forever.

ALL that certain plot, piece of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of Queens, City and State of New York, known and designated on the Tax Map of the City of New York for Queens County as Block 3376, Lots 1 and 7, as bounded and described as set forth in Schedule "A", annexed hereto and made a part hereof (the "**Premises**"), being and intended to be the same premises as described in that certain deed from Lo Grande Family, LLC, dated September 12, 2007, and recorded September 24, 2007 in the office of the New York City Register, in the city and state of New York, CRFN#2007000488945.

TOGETHER with all right, title and interest, if any, of Grantor in and to any streets and roads abutting the above described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of Grantor in and to said premises;

TO HAVE AND TO HOLD the Premises herein granted to Grantee, the heirs or successors and assigns of Grantee forever with all right, title and interest, if any, of the Grantor in and to any streets and roads abutting the above described premises to the center lines thereof, subject to the restrictive covenants in Schedule "I" annexed hereto and made a part hereof.

AND the Grantor covenants that the Grantor has not done or suffered anything whereby the said property has been encumbered in any way whatsoever, except as aforesaid.

AND the Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will

apply the same first to the payment of the cost of the improvement before using any part of the same for any other purpose.

The word "party" shall be construed as if it read "parties", whenever the sense of this indenture so requires.

This deed may be signed in counterparts.

[Continued on Following Page]

IN WITNESS WHEREOF, the Grantor has duly executed this deed the day and year first above written.

Angelo Marino
WITNESS

GRANTOR:

59-15 HOLDING CORP., a New York business corporation

By: *Angelo Marino*
Name: Angelo Marino
Title: President

35 REALTY HOLDING CORP., a New York business corporation

By: *Angelo Marino*
Name: Angelo Marino
Title: President

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

On this 21st day of June, 2019, before me, the undersigned, personally appeared ANGELO MARINO, 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/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual(s) acted, executed the instrument.

Lynn P. Anderson
Notary Public

LYNN P. ANDERSON
Notary Public, State of New York
No. 01AN5015264
Qualified in Queens County
Commission Expires July 19, 2021

Deed

Title No. CT17-01141-Q

County or Town: Queens County, City and State of
New York

Block and Lot: Block 3376, Lots 1 and 7

59-15 HOLDING CORP., and 35
REALTY HOLDING CORP.

TO

1906 FLUSHING LLC

Return By Mail To:

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

Reserve This Space For Use Of Recording Office

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SCHEDULE "A"

DESCRIPTION OF PREMISES

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 the corner formed by the intersection of the northwesterly side of Troutman Street and the northeasterly side of Woodward Avenue;

RUNNING THENCE easterly along a line forming an interior angle of 90 degrees 08 minutes 09 seconds with the northeasterly side of Woodward Avenue, 165.85 feet along the northwesterly side of Troutman Street;

THENCE northerly at right angles to the northerly side of Troutman Street, 230.94 feet to the southerly side of Flushing Avenue;

THENCE westerly along the southerly side of Flushing Avenue, 38.25 feet to a point;

THENCE westerly along a line forming an interior angle of 165 degrees 51 minutes 52.4 seconds with the last mentioned course and continuing along the southerly side of Flushing Avenue, 138.83 feet to the northeasterly side of Woodward Avenue;

THENCE southerly along the northeasterly side of Woodward Avenue, 288.40 feet to the point or place of BEGINNING.

SCHEDULE "I"

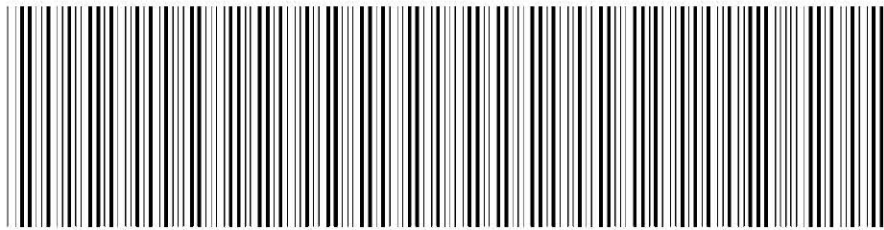
THE CITY OF NEW YORK – RESTRICTIVE COVENANTS

1. (a) **"Animal Care and Control Use"** means improvement of the Site to render it suitable for use for the purpose of improving the Site and using the Site, as improved, for the purpose of providing animal surveillance, seizure, control, and care shelter services to the local government, namely, The City of New York, acting by and through its Department of Health and Mental Hygiene, or the successor in interest to such entity;
- (b) **"Grantee"** means the grantee herein of the Lands and any successor in title to the Lands;
- (c) **"Subdivided"** means a division of the Lands by means of a plan of subdivision, plan of survey, agreement, deed or any instrument, including a caveat, transferring or creating an estate of or interest in part of the Lands;
- (d) **"Site"** means the land and its improvements as described in Schedule "A" annexed hereto, and
- (e) **"City of New York"** means the municipal Corporation that is The City of New York, acting by and through its Department of Health and Mental Hygiene or any successor agency; and any other successor municipal corporation, or governmental entity to which the City of New York, acting through its Department of Health and Mental Hygiene, or successor thereof, assigns its rights or privileges pursuant to these restrictive covenants.
2. The Site may be used for Animal Care and Control Use only.
3. Notwithstanding the restrictive nature of the foregoing, the Grantee agrees that the following restrictions shall run with the land and shall be binding upon the Grantee:
 - (a) No building or any other erected structure or improvements of any type whatsoever shall be constructed or placed on the underlying real property that are for any use other than Animal Care and Control use;
 - (b) The Site may not be used for any other purpose whatsoever other than Animal Care And Control;
 - (c) The Site shall not be Subdivided; and
 - (d) The Grantee acknowledges that use conformance to the Animal Care and Control Use is of paramount importance to the City of New York. In keeping with the importance of such use, no ancillary use shall be allowed without the written permission of the City of New York, acting through its Department of Health and Mental Hygiene.

THE GRANTEE HEREBY COVENANTS AND AGREES that, upon any and all subsequent sales of the Site, the Grantee, and future successor grantees of title, shall ensure that, prior to or at

the time of the conveyance of the Site and any improvements thereon to them that may exist at the time of such conveyance, such successor in title shall sign a covenant acknowledging the restrictive covenants herein and agreeing to be bound by, for themselves and any future successor in title, the restrictive covenants as set out herein.

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



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SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2019070100187001

Document Date: 06-21-2019

Preparation Date: 07-01-2019

Document Type: DEED

ASSOCIATED TAX FORM ID: 2019060400280

SUPPORTING DOCUMENTS SUBMITTED:

Page Count

RP - 5217 REAL PROPERTY TRANSFER REPORT

3

A.

FOR CITY USE ONLY

C1. County Code C2. Date Deed Recorded / /
Month Day Year
C3. Book OR C4. Page
C5. CRFN



REAL PROPERTY TRANSFER REPORT
STATE OF NEW YORK
STATE BOARD OF REAL PROPERTY SERVICES
RP - 5217NYC

PROPERTY INFORMATION

1. Property Location 1902 FLUSHING AVENUE QUEENS 11385
STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name 1906 FLUSHING LLC
LAST NAME / COMPANY FIRST NAME

LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)
LAST NAME / COMPANY FIRST NAME

STREET NUMBER AND STREET NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 2 # of Parcels OR ☐ Part of a Parcel

5. Deed Property Size FRONT FEET X DEPTH OR ACRES

6. Ownership Type is Condominium ☐
7. New Construction on Vacant Land ☐

8. Seller Name 59-15 HOLDING CORP.
LAST NAME / COMPANY FIRST NAME
 35 REALTY HOLDING CORP.
LAST NAME / COMPANY FIRST NAME

9. Check the box below which most accurately describes the use of the property at the time of sale:

A <input type="checkbox"/> One Family Residential	C <input type="checkbox"/> Residential Vacant Land	E <input checked="" type="checkbox"/> Commercial	G <input type="checkbox"/> Entertainment / Amusement	I <input type="checkbox"/> Industrial
B <input type="checkbox"/> 2 or 3 Family Residential	D <input type="checkbox"/> Non-Residential Vacant Land	F <input type="checkbox"/> Apartment	H <input type="checkbox"/> Community Service	J <input type="checkbox"/> Public Service

SALE INFORMATION

10. Sale Contract Date 4 / 5 / 2018
Month Day Year

11. Date of Sale / Transfer 6 / 21 / 2019
Month Day Year

12. Full Sale Price \$ 1 3 2 0 0 0 0 0
(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:

A <input type="checkbox"/> Sale Between Relatives or Former Relatives	G <input type="checkbox"/> Significant Change in Property Between Taxable Status and Sale Dates
B <input type="checkbox"/> Sale Between Related Companies or Partners in Business	H <input type="checkbox"/> Sale of Business is Included in Sale Price
C <input type="checkbox"/> One of the Buyers is also a Seller	I <input type="checkbox"/> Other Unusual Factors Affecting Sale Price (Specify Below)
D <input type="checkbox"/> Buyer or Seller is Government Agency or Lending Institution	J <input checked="" type="checkbox"/> None
E <input type="checkbox"/> Deed Type not Warranty or Bargain and Sale (Specify Below)	
F <input type="checkbox"/> Sale of Fractional or Less than Fee Interest (Specify Below)	

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill


15. Building Class G, 2 16. Total Assessed Value (of all parcels in transfer) 7 3 5 3 0 0

17. Borough, Block and Lot / Roll Identifier(s) (If more than three, attach sheet with additional identifier(s))
 QUEENS 3376 1 QUEENS 3376 7

201906040028020103

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

 BUYER SIGNATURE		6-17-2019 DATE		Chase LAST NAME		Oliver FIRST NAME	
11 PARK PLACE, SUITE 805				212		819-1130	
STREET NUMBER		STREET NAME (AFTER SALE)		AREA CODE		TELEPHONE NUMBER	
NEW YORK		NY		10007		SELLER	
CITY OR TOWN		STATE		ZIP CODE		SELLER SIGNATURE	
						Angelo Munno President 6/21/19 DATE	

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYERS

Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
Buyer Signature	Date
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Buyer Signature	Date

SELLERS

<i>Angelo Munoz Paschoa</i>	<i>6/21/19</i>
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
Seller Signature	Date
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