# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION BROWNFIELD CLEANUP PROGRAM

ECL §27-1401 et seq.

In the Matter of a Remedial Program for

AMENDMENT TO BROWNFIELD SITE CLEANUP AGREEMENT Index No. C447044-08-10

#### **ALCO-Maxon Site - Parcel C**

DEC Site No: C447044

Located at: 301 Nott Street, Schenectady, Schenectady County, NY 12305

Hereinafter referred to as "Site"

by:

Airline Boulevard Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Airline Drive Development, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

ALCO Hotel, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

ALCO Re Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Cohoes Avenue Associates, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Cohoes Avenue Development, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Erie Way Associates, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Erie Way Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Locomotive Lane Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Maxon ALCO Holdings, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Maxon ALCO Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Maxon Hotel, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Mohawk Property Company LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Mohawk Property Company Holdings LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Mohawk Restoration, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Prestige Parkway Associates, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Prestige Parkway Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Sitterly Street Enterprises, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Westcott Road Associates, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Westcott Road Development, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

West Yard Associates, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

West Yard Properties, LLC

220 Harborside Drive, Suite 300, c/o General Counsel, Schenectady, NY 12305

Hereinafter referred to as "Applicant"

\_\_\_\_\_\_

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

**WHEREAS**, the Department and the Applicant seek to amend the existing BCP Agreement for the Site, based on the 2015 changes to the BCP.

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

#### I. Tax Credit Status & Deadline for receipt of Certificate of Completion (COC)

Based on the fact that the Site did not receive a COC by December 31, 2019, it is hereby subject to the terms of the BCP in effect as of July 1, 2015, including, but not limited to, the tax credit structure and the deadline of March 31, 2026.

With respect to eligible costs incurred under the BCP, this Amendment shall not change the effective date of the Agreement, and otherwise eligible costs incurred from the original effective date of the agreement will still be eligible costs for tax credit purposes.

#### II. <u>Miscellaneous</u>

- A. Except for the modifications set forth herein, the original Agreement shall remain in full force and effect and the terms thereof and the obligations therein are incorporated herein and shall apply with the same force and effect to the provisions of this Amendment. The terms of the original Agreement, including all exhibits, appendices and subsequent modifications, are not otherwise modified or expanded in any way.
- B. The terms herein shall constitute this complete and entire Amendment of the Agreement. No term, condition, understanding or agreement purporting to modify the terms of the Agreement shall be binding unless subscribed to by both parties in accordance with the terms of the Agreement.
- C. The effective date of this Amendment is the date it is signed by the Commissioner or the Commissioner's designee.
  - D. This Amendment may be signed in counterparts.

DATED:

June 8, 2020

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

By:

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

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Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

to be bound by this Amendment.	_
	Airline Boulevard Properties, LLC
	Ву:
	Title: Authorized Representative
·	Date: Mouch 19, 2020
STATE OF NEW YORK )	
COUNTY OF Schenedard) ss:	1
individual(s) whose name is (are) subscto me that he/she/they executed the	d NOW (1 M. BUT (20), e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf
Lauruth	
Signature and Office of individual	,
taking acknowledgment	
LAURENE A SMITH	

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

to be bound by this Amendment.	
	Airline Drive Development, LLC
	Ву:
	Title: Authorized Representative
	Date: March 19, 2020
STATE OF NEW YORK )	
COUNTY OF Schenected) ss:	
individual(s) whose name is (are) subs to me that he/she/they executed the	ne on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ment, the individual(s), or the person upon behal
taking/acknowledgment	
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 2022	

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees  ALCO Hotel, LC  By:  Title: Authorized Representative  Date: June 3, 2020
STATE OF NEW YORK )	
COUNTY OF Schenectaly ss:	
individual(s) whose name is (are) subscto me that he/she/they executed the	e on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by the individual(s), or the person upon behalf

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
	ALCO Re Properties, LLC
	By:
	Title: Authorized Representative
	Date:
STATE OF NEW YORK )	,
county of Schenectucy	
individual(s) whose name is (are) subsc to me that he/she/they executed the s	e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf
Signature and Office of individual taking acknowledgment	
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 2020	

Applicant hereby consents to the issuing and entering of this Agreement

to be bound by this Amendment.	a hearing herein as provided by law, and agrees
	Cohoes Avenue Associates, LLC
·	Ву:
	Title: Authorized Representativ
	Date: March 19, 2020
STATE OF NEW YORK )	
county of Schenedar) ss:	
personally known to me or proved to me individual(s) whose name is (are) subscto me that he/she/they executed the state of	e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf

Signature and Office of individual taking acknowledgment

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
	Cohoes Avenue Development, LLC
	By:
	Title: Authorized Representative
	Date: March 19, 2020
STATE OF NEW YORK )	
COUNTY OF Schenedus (ss:	
individual(s) whose name is (are) subsc to me that he/she/they executed the s	d <u></u>
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Signature and Office of individual taking acknowledgment	
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	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
•	Erie Way Associates, LLC
	By:
	Title: Authorized Representative
	Date: March 19, 2020
STATE OF NEW YORK )	
COUNTY OF SCHENECTION SS:	
individual(s) whose name is (are) subscto me that he/she/they executed the	d <u>\( \) \( </u>
Signature and Office of individual taking acknowledgment	·
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 20_22	

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
	Erie Way Properties, LLC
	Ву:
	Title: Authorized Representative
	Date: March 19, 7020
STATE OF NEW YORK )	
COUNTY OF Schenectures:	
individual(s) whose name is (are) subscto me that he/she/they executed the	e on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by tent, the individual(s), or the person upon behalf

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

to be bound by this Amendment.	a nearing herein as provided by law, and agrees
·	Locomotive Lane Properties, LLC
	By:
	Title: David M. Buicko, Auth. Rep
	Date: March 19, 2020
STATE OF NEW YORK )	
) ss: COUNTY OF Schenectary	
individual(s) whose name is (are) subscto me that he/she/they executed the	e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf
Laures A.D.	
Signature and Office of individual	

LAURENE A. SMITH
Notary Public, State of New York
Qualified in Rensselaer County
No. 01SM4826017
Commission Expires June 30, 20

taking/acknowledgment

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to be bound by this Amendment.	
	Maxon ALCO Holdings, LLC
	By:
	Title: Authorized Representative
	Date: March 16, 2020
STATE OF NEW YORK )	
COUNTY OF Schenected ss:	
individual(s) whose name is (are) subs to me that he/she/they executed the	ne on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ment, the individual(s), or the person upon behalf
Laurene AS	
Signature and Office of individual	

• •	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
	Maxon ALCO Properties, LLC
	By:
	Title: Authorized Representative
	Date: M Orch 19, 2020
STATE OF NEW YORK )	
COUNTY OF Shenectary) ss:	
individual(s) whose name is (are) subsc to me that he/she/they executed the s	e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf
Signature/and Office of individual taking acknowledgment	·
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 20	

Applicant hereby consents to the issuing and entering of this Agreemen Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.
Maxon Hotel, LLC
By:
Title: Authorized Representative
Date: March 19, 2020
STATE OF NEW YORK )
county of Schenectar) ss:
On the $19$ day of $19$ day of $19$ in the year $19$ , before me, the undersigned, personally appeared $19$ 0 N. BU/CO
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their capacity(ies), and that by
his/her/their signature(s) on the instrument, the individual(s), or the person upon behal of which the individual(s) acted, executed the instrument.
DameA
Signature and Office of individual taking/acknowledgment

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Mohawk Property Company LLC

By:

Title: Authorized Representative

Date: Morch 19, 2020

STATE OF NEW YORK ) ss COUNTY OF Schene day

Signature and Office of individual taking acknowledgment

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
•	Mahasak Bassas Alakis a 110
	Mohawk Property Company Holdings LLC
	Ву:
	Title: Authorized Representative
	Date: March 19, 2020
STATE OF NEW YORK )	
COUNTY OF Scheneduch) ss:	
individual(s) whose name is (are) subscto me that he/she/they executed the	cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by nent, the individual(s), or the person upon behalf
Signature and Office of individual taking acknowledgment	
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 2023	

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Mohawk Restoration, LLC

By:

title: Authoni

Date: MOUN 19, 2020

STATE OF NEW YORK

COUNTY OF Schenectury

On the day of many in the year 2020, before me, the undersigned, personally appeared my me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual

tak/ing acknowledgment

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.

Prestige Parkway Associates, LLC
By:
Title: Authorize a Roresentative
Date: March 19, 2020
Date. The second

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undersigned,	personally	appeared	in the	uicho		1
personally know	vn to me or pro	oved to me or	n the basis of sat	isfactory evi	dence to be	e the
individual(s) wh	ose name is (a	are) subscribe	d to the within in	strument and	d acknowled	dged
to me that he/	she/they exec	uted the sam	e in his/her/thei	r capacity(ie	s), and tha	at by
his/her/their sig	nature(s) on th	ne instrument,	the individual(s)	, or the pers	son upon b	ehalt
of which the inc	lividual(s) acte	d, executed th	e instrument.			

Signature and Office of individual taking/acknowledgment

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to be bound by this Amendment.	
	Prestige Parkway Properties, LLC
	Ву:
	Title: <u>AUTHONIZED REDVESENTATIVE</u>
	Date: MOVCh 19, 2020
STATE OF NEW YORK )	
COUNTY OF Schenedies ss:	
individual(s) whose name is (are) subst to me that he/she/they executed the	ne on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by nent, the individual(s), or the person upon behalf
Signature and Office of individual	······
taking acknowledgment	
LAURENE A. SMITH Notary Public, State of New York Ouglified in Representative Country	•

No. 01SM4826017 Commission Expires June 30, 20

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to be bound by this Amendment.	a noaning notoni as provided by law, and agrees
	Sitterly Street Enterprises, LLC
	By: Z Title: Authorized Representative Date: March 19, 2020
STATE OF NEW YORK )	,,
county of Schenecture)	
individual(s) whose name is (are) subscto me that he/she/they executed the	d <u>MMC M. BULC</u> , e on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by tent, the individual(s), or the person upon behalf
Signature and Office of individual taking acknowledgment	

LAURENE A. SMITH
Notary Public, State of New York
Qualified in Rensselaer County

No. 01SM4826017 Commission Expires June 30, 20

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Amendment.
Westcott Road Associates, LLC
By:
Title: AULhorized Representative
Date: March 19, 2020
STATE OF NEW YORK )
COUNTY OF Schene day) ss:
On the day of more appeared makes in the year 20 day, before me, the undersigned, personally appeared makes of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual taking acknowledgment

Applicant hereby consents to the issuing and entering of this Agreement Amendment, waives Applicant's right to a hearing herein as provided by law, and agrees

to be bound by this Amendment.	
	Westcott Road Development, LLC
	Ву:
	Title: Authorized Rpresentative
	Date: MCVCh 19, 2020
STATE OF NEW YORK )	
county of Schene (1) ss:	
personally known to me or proved to n individual(s) whose name is (are) substo me that he/she/they executed the	ne on the basis of satisfactory evidence to be the cribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by nent, the individual(s), or the person upon behalf
Signature and Office of individual	
taking acknowledgment	

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West Yard Associates, LLC

By:

Title: AUTHONIZED Representative

Date: MCVCh 19, 2020

STATE OF NEW YORK )

SS:

COUNTY OF S CHENCERO SI

On the day of more in the year 200, before me, the undersigned, personally appeared which in the year 200, before me, the personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual taking acknowledgment

	the issuing and entering of this Agreement a hearing herein as provided by law, and agrees
	West Yard Properties, LLC
	Ву:
	Title: Authorized Representative
	Date: March 19, 2020
STATE OF NEW YORK )	
COUNTY OF Schenedia) ss:	
individual(s) whose name is (are) subscto me that he/she/they executed the s	e on the basis of satisfactory evidence to be the ribed to the within instrument and acknowledged same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf
Single of individual	
Signature and Office of individual taking acknowledgment	•
LAURENE A. SMITH Notary Public, State of New York Qualified in Rensselaer County No. 01SM4826017 Commission Expires June 30, 20	