

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. C224053-07-14**

470 Kent Avenue

DEC Site Nos: C224053

Located at: 470 Kent Avenue, Brooklyn, Kings County, NY 21249
Hereinafter referred to as "Site"

by:

470 Kent Ave Associates LLC
One New York Plaza, c/o Frank, Harris, Shriver & Jacobson LLC,
New York, NY 10004

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.

The Site is located in a City having a population of one million or more and the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental

zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category. For sites seeking eligibility for tangible property tax credits under the underutilized category, the Applicant will apply for an additional amendment to the Agreement within sixty (60) days of the effective date of this Amendment. Should the Applicant fail to submit an amendment application for a determination that the site is eligible for tangible property tax credits under the underutilized category within sixty (60) days, the Applicant will not be able to receive tangible property tax credits under this category.

II. Miscellaneous

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.

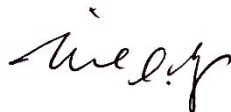
D. This Amendment may be signed in counterparts.

DATED:

June 10, 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

CONSENT BY APPLICANT

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.

470 Kent Ave Associates LLC

By: *Michael Witek*

Title: E.V.P. Construction

Date: 6/9/2020

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

On the 9th day of June in the year 2020, before me, the undersigned, personally appeared Michael Witek, 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.

Lorraine Bonilla
Signature and Office of individual
taking acknowledgment



**RESOLUTION ADOPTED BY
470 Kent Ave Associates LLC**

The undersigned David Hochfelder hereby certifies that he is a duly appointed Secretary of 470 Kent Ave Associates LLC, a Delaware limited liability company (the "Company"), and further certifies as follows:

WHEREAS, the property located at 470 Kent Avenue, Brooklyn, New York is participating in the New York State Brownfield Cleanup Program ("BCP") as Site No. C224053 (the "Site"); and

WHEREAS, the Company deems it advisable and in the best interests of the Company to authorize, approve and ratify the submission of documents necessary to fulfill the requirements of the Brownfield Cleanup Agreement ("BCA") for the Site, including any amendments to the BCA;

NOW, THEREFORE, BE IT RESOLVED, that Michael Witek of Naftali Group is authorized to sign the documents as may be required for the Company to fulfill the requirements of the BCA and to complete the investigation and remediation required under the BCP; and it is further

RESOLVED, that a facsimile copy of a signature shall be deemed an original signature under this Consent.

IN WITNESS WHEREOF, the undersigned has executed this written Resolution in the capacity noted below as of this 2nd day of June 2020.

470 Kent Ave Associates LLC.

By:



Name: David Hochfelder

Title: Secretary