



Department of
Environmental
Conservation

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]

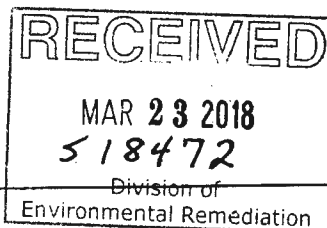
☐ Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [Complete Section I and V below and Part II]

☐ **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 amendment seeks to add the prospective purchaser to the BCA.



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

Section I. Existing Application Information:

BCP SITE NAME: KRISTAL AUTO MALL

BCP SITE NUMBER: C224140

NAME OF CURRENT APPLICANT(S): IRMA C. POLLACK LLC

INDEX NUMBER OF EXISTING AGREEMENT: C224140-02 DATE OF EXISTING AGREEMENT: 05/01/20

Section II. New Requestor Information (If no change to Current Applicant, skip to Section V)

NAME PTMA 5200 KINGS HIGHWAY LLC

ADDRESS c/o BRIDGES DEVELOPMENT GROUP, 150 E. 58TH ST., 15TH FLOOR

CITY/TOWN NEW YORK, NY

ZIP CODE 10155

PHONE (212) 750-1918

FAX

E-MAIL MBERFIELD@BRIDGESDEV.COM

Is the requestor authorized to conduct business in New York State (NYS)?



Yes



No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE Michael Berfield

ADDRESS (As Above)

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Craig Werle, P.G.

ADDRESS Roux Associates, Inc., 209 Shafter St.

CITY/TOWN Islandia, New York

ZIP CODE 11749

PHONE (631)-232-2600

FAX

E-MAIL cwerle@rouxinc.com

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Jon Schuyler Brooks

ADDRESS Michelman & Robinson, LLP, 800 Third Avenue, 24th Floor

CITY/TOWN New York, NY

ZIP CODE 10022

PHONE (212) 659-2559

FAX

E-MAIL jbrooks@mrlp.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?



Yes



No

Describe Requestor's Relationship to Existing Applicant:

Requestor is the Contract Vendee

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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) IRMA C. POLLACK LLC		
ADDRESS 205 E. 69th Street		
CITY/TOWN New York, NY		ZIP CODE 10021
PHONE (917) 299-0990	FAX	E-MAIL annpeter@pipeline.com
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.

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

CITY/TOWN

ZIP CODE

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

Check appropriate boxes below:

☐ Changes to metes and bounds description or TBL correction

☐ 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

☐ 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 <u>DEC's website</u> 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: KRISTAL AUTO MALL	BCP SITE NUMBER: C224140
NAME OF CURRENT APPLICANT(S): IRMA C. POLLACK LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224140-02-12	
EFFECTIVE DATE OF EXISTING AGREEMENT: 05/01/2012	

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)
<p>(Individual)</p> <p>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.</p> <p>Date: _____ Signature: _____</p> <p>Print Name: _____</p>
<p>(Entity)</p> <p>I hereby affirm that I am (title <u>Manager</u>) of (entity <u>PTMA 5200 Kings Highway LLC</u>); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.</p> <p><u>My</u> signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.</p> <p>Date: <u>2/15/18</u> Signature: <u>[Signature]</u></p> <p>Print Name: <u>Michael Berfield</u></p>

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 Manager (title) of Irma C. Pollack, LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. my signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 2/15/12 Signature: Peter Pollack

Print Name: Peter Pollack

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: 5/1/12

Signature by the Department:

DATED: 3/23/18

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

Robert W. Schick

Robert W. Schick, 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: _____

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through February 14, 2018.

Selected Entity Name: PTMA 5200 KINGS HIGHWAY LLC

Selected Entity Status Information

Current Entity Name: PTMA 5200 KINGS HIGHWAY LLC

DOS ID #: 5261448

Initial DOS Filing Date: JANUARY 05, 2018

County: NEW YORK

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

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

C/O THE LIMITED LIABILITY COMPANY

1412 BROADWAY, 3RD FLOOR

NEW YORK, NEW YORK, 10018

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
JAN 05, 2018	Actual	PTMA 5200 KINGS HIGHWAY 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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RESOLUTION OF LIMITED LIABILITY COMPANY

The undersigned, being a Member and the Manager of PTMA 5200 Kings Highway, a New York limited liability company (the "Company"), does hereby resolve that:

1. Michael Berfield is an officer of the Company and has the full power and authority on behalf of the Company to:
 - (a) Execute documents in connection with the application of the Company for participation in the New York State Brownfield Cleanup Program (the "BCP");
 - (b) Enter into agreements with the New York State Department of Environmental Protection (the "DEC") in connection with the Company's participation in the BCP;
 - (c) Execute any and all documents in connection with the Company's participation in the BCP, including but not limited to applications, agreements, and tax returns;
 - (d) Take any action necessary to the furtherance of the Company's participation in the BCP, including but not limited to conducting negotiations on behalf of the Company.
2. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the passage of this unanimous consent are hereby approved and ratified. The authority hereby conferred is in addition to that conferred by any other consent heretofore or hereafter delivered to the DEC and shall continue in full force and effect until the DEC shall have received notice in writing, certified by the sole member of this company, of the revocation hereof by a resolution duly adopted by the sole member of this company. Any such revocation shall be effective only as to actions taken by this company subsequent to DEC's receipt of such notice.
3. The undersigned hereby represents and warrants that (i) the undersigned is a Member and the Manager of the Company; and (ii) the consent of any member and manager is sufficient to authorize the Company to take the aforementioned actions.


MICHAEL BERFIELD

Dated: Brooklyn, New York
February 15, 2018

Irma C. Pollack, LLC
205 E. 69th Street
New York, NY 10021

February 15, 2018

Mr. Michael Berfield
Manager
PTMA 5200 Kings Highway LLC
c/o Bridges Development Group
150 E. 58th Street, 15th Floor
New York, NY 10155

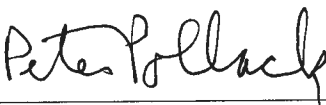
RE: 5200 Kings Highway – Right of Access

Dear Mr. Berfield:

This letter confirms that Irma C. Pollack, LLC (“Pollack”), owner of the real property known as 5200 Kings Highway, Brooklyn, NY (the “Property”), hereby grants to it Contract Vendee, PTMA 5200 Kings Highway LLC (“PTMA”), its principals, officers, and agents, a right of limited access to the Property for the purpose of completing the remediation required by the New York State Department of Environmental Conservation pursuant to the New York State Brownfield Cleanup Program. PTMA may exercise this right only in a commercially-reasonable fashion, with reasonable notice to Pollack, as may be further required in the Contract of Sale. The right granted hereby is a license, and creates no other relationship between Pollack and PTMA, and creates no rights in or benefits for any third parties. This license shall expire upon the consummation of the purchase and sale of the Property contemplated by Pollack and PTMA, or terminate prior thereto upon any cancelation or termination of the Contract of Sale. This license is subject to confirmation that PTMA has obtained and maintained usual insurances associated with such access for said purposes.

Very truly yours,

IRMA C. POLLACK, LLC

By: 
Peter Pollack, Manager