

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Technical Support
625 Broadway, 11th Floor, Albany, NY 12233-7020
P: (518) 402-9543 | F: (518) 402-9547
www.dec.ny.gov



MEMORANDUM

TO: Michael Ryan, P.E., Director, Division of Environmental Remediation
FROM: Lexy Servis, Site Control Section
THRU: Kelly Lewandowski, Chief, Site Control Section
SUBJECT: Brownfield Cleanup Program Amendment Application
Hope Street Project, #C224281
DATE: September 20, 2019

OK to sign
[Signature]
Kelly Lewandowski

The attached original Brownfield Application to Amend and Amendment for the subject site has been forwarded to you for your signature once all sign-offs have been obtained on the issuance request memo.

This BCP Amendment Application was deemed complete by Site Control on September 20 and has been uploaded to DECDocs.

According to the current BCA amendment procedures, the DER Project Manager (PM) must consult with the Program Attorney to determine whether the modification is minor. If the modification is minor, the DER PM prepares and routes an 'issuance request memo' found at <http://internal.dec.state.ny.us/der/der1104.html>

Once all sign-offs have been obtained and the Amendment has been fully executed, the Amendment is to be sent to the Office of General Counsel. The project manager then makes the change(s) associated with the Amendment in UIS.

Attachment

ec: (w/ pdf application):

- M. MacCabe, Project Manager
- J. Simpson, Project Attorney, NYSDEC – OGC, Region 2
- C. Vooris, NYSDOH – DEHI, Bureau of Environmental Exposure Investigation
- J. Deming, NYSDOH Regional Chief
- P. Holloway, NY Environmental Protection and Spill Compensation Fund, NYSOSC
- J. O'Connell, RHWRE Region 2
- G. Burke, Director, Remedial Bureau B
- J. Andaloro, NYSDEC – OGC, Remediation Bureau
- K. Diligent, Bureau of Program Management
- J. Hathaway, NYSDEC, DER Division Director's Office
- K. Lewandowski, Chief, Site Control Section
- A. Servis, Site Control Section



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

RECEIVED

SEP 20 2019

BUR. OF TECH. SUPPORT

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 BCA amendment application is being submitted to document the following changes:

- The merger of former Lots 7, 12, and 14 into Lot 7; and
- The change in address from 118, 120, 130, and 138 Hope Street; and 429 Keap Street to 134 Hope Street.

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

Section I. Existing Agreement Information

BCP SITE NAME: Hope Street Project

BCP SITE NUMBER: C224281

NAME OF CURRENT APPLICANT(S): **Hope Keap LLC**

INDEX NUMBER OF EXISTING AGREEMENT: C224281-12-19

DATE OF EXISTING AGREEMENT: 1/17/19

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

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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:

RECEIVED

SEP 20 2019

BUR. OF TECH. SUPPORT

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.

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 118, 120, 130, and 138 Hope Street; and 429 Keap Street

CITY/TOWN Brooklyn

ZIP CODE 11211

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
118 Hope Street (120 Hope Street)			2386	7	0.23
130 Hope Street			2386	12	0.12
138 Hope Street/429 Keap Street			2386	14	0.11

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: _____

FORMER LOTS 7, 12, AND 14 MERGED INTO LOT 7. THE APPLICATION FOR MERGER IS INCLUDED AS ATTACHMENT A.

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
134 Hope Street			2386	7	0.46

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: Hope Street Project	BCP SITE NUMBER: C224281
NAME OF CURRENT APPLICANT(S): Hope Keap LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224281-12-19	
EFFECTIVE DATE OF EXISTING AGREEMENT: 01/17/2019	

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)
<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 _____) of (entity _____); 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>_____ 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>

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 an authorized rep (title) of Hope Keep 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. Ron Walker signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/13/19 Signature: *Ronald Walker*

Print Name: Ronald Walker

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: 1/17/19

Signature by the Department:

DATED: 10/22/19

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

Michael J. Ryan

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: _____

ATTACHMENT A



APPLICATION FOR APPORTIONMENTS OR MERGERS

Instructions: Please complete this application and *submit in person* to: **Department of Finance, Property Division - Tax Map Office, 66 John Street, 2nd floor, New York, NY 10038.** Please read the instructions for further details before completing this form. Print clearly.

SECTION A: PROPERTY INFORMATION

Borough: BROOKLYN Block: 2386 Present Lot(s): 7, 12, 14

Merger Apportionment Number of Lots Requested 1

Air Subterranean

Lot(s) Usage: (check one) Residential Building Gross Sq/Ft: 104,829.1 Commercial Building Gross Sq/Ft: _____ Mix (Residential & Commercial) Building Gross Sq/Ft: _____

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY
Lot Number: 7

1. Property Owner's Name (as per Deed): HOPE KEAP LLC

OR
Company Name: _____

2. Property Address: 118 HOPE STREET, BROOKLYN, NY 11211

3. Filing Representative (if applicable): _____

SECTION B: CERTIFICATION

1. Architect/Engineer/Applicant's Name: HILL, L. STEPHEN

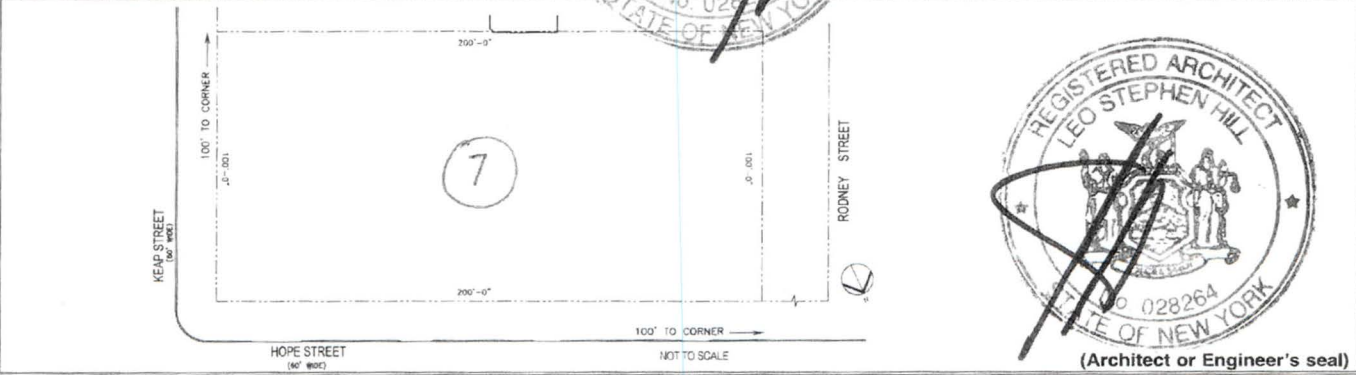
2. Address: 11 BROADWAY, 17TH FLOOR NEW YORK NY 10004

3. Telephone Number: 212-213-8007 4. Email Address: LSILL@HILLWEST.COM

The applicant hereby certifies that, in making this application for merger/apportionment, s/he is the owner, or acting under the direction of the owner.

Signature of Architect/ Engineer/Applicant: _____ Date: 06 / 13 / 2018

TAX MAP CHANGE WILL NOT BE MADE UNTIL PRESENTATION OF REQUIRED DOCUMENTS (see reverse for the required documents)
DRAW SKETCH TO SCALE 1" = 50', IF POSSIBLE INDICATE NORTH ARROW



Tentative Lot(s) issued: _____
Customer Service Representative: J. Shanks Date: 06/21/2018 New Lot(s): _____ Lot(s) Affected: 7 Lot(s) Dropped: 12, 14

Please note: Map changes will not be made until presentation of all required documents is reviewed and approved by the Specialist.
Lots are tentative until final approval is received from the Tax Map Office.

Map Updated: _____
Tax Map Specialist: _____ Date: 1 / 1