



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:

Marcus James Holdings LLC was recently assigned 100% membership interest in LB-UBS-2007-C6-Southside Station LLC ("Existing Applicant"). Following the assignment of Existing Applicant, Existing Applicant's name was changed from "LB-UBS-2007-C6-Southside Station LLC" to "Southside Station LLC."

Marcus James Holdings LLC is the sole member and manager of Southside Station LLC. Rabbi Shlomo Noble will be the new contact for the Site.

Because Existing Applicant, and not the Property itself, has been acquired, there has not been a transfer of title.

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

Section I. Existing Agreement Information		
BCP SITE NAME: Southside Plaza		BCP SITE NUMBER: C907043
NAME OF CURRENT APPLICANT(S): LB-UBS 2007 - C6 - Southside Station LLC		
INDEX NUMBER OF EXISTING AGREEMENT: C907043-03-20 DATE OF EXISTING AGREEMENT: 04/08/20		
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)		
NAME Southside Station LLC		
ADDRESS 1013 Centre Road, Suite 403-B		
CITY/TOWN Wilmington, DE		ZIP CODE 19805
PHONE 585-330-7269	FAX	E-MAIL rabbinoable@gmail.com
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. 		
NAME OF NEW REQUESTOR'S REPRESENTATIVE Shlomo Noble		
ADDRESS 31 Sylvan Road		
CITY/TOWN Rochester		ZIP CODE 14618
PHONE 585-330-7269	FAX	E-MAIL rabbinoable@gmail.com
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) Brian Kilcoyne, EBI Consulting		
ADDRESS 21 B Street		
CITY/TOWN Burlington, MA		ZIP CODE 01803
PHONE 781-418-2349	FAX	E-MAIL bkilcoyne@ebiconsulting.com
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Andrew J. Perel, Troutman Pepper		
ADDRESS 875 Third Avenue		
CITY/TOWN New York, NY		ZIP CODE 10022
PHONE 212-704-6202	FAX	E-MAIL andrew.perel@troutman.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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Describe Requestor's Relationship to Existing Applicant:		
<p>Marcus James Holdings LLC was recently assigned 100% membership interest in LB-UBS-2007-C6-Southside Station LLC ("Existing Applicant"). Following the assignment of Existing Applicant, Existing Applicant's name was changed from "LB-UBS-2007-C6-Southside Station LLC" to "Southside Station LLC."</p> <p>Marcus James Holdings LLC is the sole member and manager of Southside Station LLC. Rabbi Shlomo Noble will be the new contact for the Site.</p> <p>Because Existing Applicant, and not the Property itself, has been acquired, there has not been a transfer of title.</p>		

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

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 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
From ECL 27-1405(31):	
"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.	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
From 6 NYCRR 375- 3.2(a) as of August 12, 2016:	
(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.	
(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.	
(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.	
(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.	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Southside Plaza	BCP SITE NUMBER: C907043
NAME OF CURRENT APPLICANT(S): LB-UBS 2007 - C6 - Southside Station LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C907043-03-20	
EFFECTIVE DATE OF EXISTING AGREEMENT: 04/08/20	

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 _____) 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. _____ 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: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

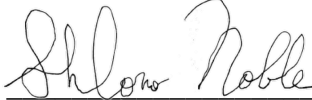
I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: Jan 5, 2021 Signature: 

Print Name: _____

(Entity)

I hereby affirm that I am _____ (title) of _____ (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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: Jan 5, 2021 Signature: 

Print Name: _____

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<p><input checked="" type="checkbox"/> 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.</p>	<p>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.</p>
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Effective Date of the Original Agreement: April 8, 2020

Signature by the Department:

DATED: May 6, 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: _____

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through March 1, 2021.

Selected Entity Name: SOUTHSIDE STATION LLC

Selected Entity Status Information

Current Entity Name: SOUTHSIDE STATION LLC

DOS ID #: 4817884

Initial DOS Filing Date: SEPTEMBER 10, 2015

County: CHAUTAUQUA

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 T CORPORATION SYSTEM
28 LIBERTY ST.
NEW YORK, NEW YORK, 10005

Registered Agent

C T CORPORATION SYSTEM
28 LIBERTY ST.
NEW YORK, NEW YORK, 10005

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
SEP 25, 2020	Actual	SOUTHSIDE STATION LLC
SEP 10, 2015	Actual	LB-UBS 2007 - C6 - SOUTHSIDE STATION 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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**AMENDED AND RESTATED
CERTIFICATE OF FORMATION
OF
LB-UBS 2007 - C6 – SOUTHSIDE STATION LLC**

The undersigned, being the Member of LB-UBS 2007 - C6 – SOUTHSIDE STATION LLC, a Delaware limited liability company (the "**Company**"), does hereby certify:

- A. The Certificate of Formation of the Company was filed with the Secretary of State of the State of Delaware on December 8, 2014.
- B. This Amended and Restated Certificate of Formation of the Company has been duly executed by the Company in accordance with Section 18-208 of the Limited Liability Company Act of the State of Delaware.
- C. The Certificate of Formation of the Company is hereby amended and restated in its entirety to read as follows:
 - 1. The name of the limited liability company is: **SOUTHSIDE STATION LLC.**
 - 2. The address of its registered office in the State of Delaware is: 1013 Centre Road, Suite 403-B in the City of Wilmington, Delaware 19805, in the County of New Castle. The name of its registered agent at such address is Vcorp Services, LLC

IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Certificate of Formation of the Company as of August ~~21~~, 2020.

MARCUS JAMES HOLDINGS LLC

By: 

Shlomo Noble, Manager

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "SOUTHSIDE STATION LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-FIFTH DAY OF SEPTEMBER, A.D. 2020.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "SOUTHSIDE STATION LLC" WAS FORMED ON THE EIGHTH DAY OF DECEMBER, A.D. 2014.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.




Jeffrey W. Bullock, Secretary of State

5652599 8300

SR# 20207494759

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 203738320

Date: 09-25-20

**State of New York
Department of State } ss:**

I hereby certify, that SOUTHSIDE STATION LLC a DELAWARE Limited Liability Company filed an Application for Authority pursuant to the Limited Liability Company Law on 09/10/2015. I further certify that so far as shown by the records of this Department, such Limited Liability Company is still authorized to do business in the State of New York. I further certify the following:

A Certificate of Publication of LB-UBS 2007 - C6 - SOUTHSIDE STATION LLC was filed on 11/24/2015.

A Certificate of Change was filed on 01/28/2019.

A Certificate of Change was filed on 01/28/2019.

A Biennial Statement was filed 09/04/2019.

A certificate changing name to SOUTHSIDE STATION LLC was filed on 09/25/2020.

I further certify, that no other documents have been filed by such Limited Liability Company.



*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 25th day of September
two thousand and twenty.*

Brendan C. Hughes

Brendan C. Hughes
Executive Deputy Secretary of State

**AMENDED AND RESTATED OPERATING AGREEMENT OF
SOUTHSIDE STATION LLC**

This Amended and Restated Operating Agreement (this “**Agreement**”) of **SOUTHSIDE STATION LLC** (the “**Company**”), is entered into as of the 28th day of August, 2020, by **Marcus James Holdings LLC**, a New York limited liability company (the “**Member**”) and **Shlomo Noble** (the “**Manager**”).

Pursuant to and in accordance with the Delaware Limited Liability Company Act, as amended from time to time (the “**Act**”), the Members hereby state as follows:

1. **Definitions.** The following terms, as used in this Agreement, shall have the following meanings (unless otherwise expressly provided herein):

“**Available Cash**”. Cash funds of the Company, excluding cash proceeds from a Capital Transaction, if any, and after provision for (i) payment of all outstanding and unpaid current obligations, expenses and charges of the Company as of such time (including, without limitation, all amounts of any principal or interest payable with respect to any Third Party Financing obtained by the Company), and (ii) Reserves.

“**Capital Transaction**”. A Capital Transaction is either an Interim Capital Transaction or a Terminating Capital Transaction.

“**Interim Capital Transaction**”. (i) any sale, exchange, abandonment or other disposition of a portion (which is less than substantially all) of the assets of the Company (including, without limitation, any of the foregoing with respect to the Property, resulting in distributions received by the Company), (ii) any insurance recovery (other than insurance proceeds attributable to the loss of income), or condemnation award (other than temporary condemnation awards) (including, without limitation, any of the foregoing with respect to the Property, resulting in distributions received by the Company), (iii) any financing or refinancing relating to any assets of the Company (including, without limitation, any financing or refinancing with respect to the Property, resulting in distributions received by the Company), and (iv) any other transaction which, in accordance with generally accepted accounting principles, would be treated as a capital event (including, without limitation, any of the foregoing with respect to the, resulting in distributions received by the Company); in each case, other than a Terminating Capital Transaction.

“**Net Proceeds of a Capital Transaction**”. The proceeds received by the Company in connection with a Capital Transaction, after payment of all costs and expenses incurred by the Company in connection with such Capital Transaction, including, without limitation, brokers’ commissions, loan fees, loan payments, other closing costs, payment of any Company indebtedness intended to be repaid if the Capital Transaction is a financing or refinancing, and

further reduced by any Reserves deemed necessary or appropriate by the Member, and by any amounts reinvested or held for reinvestment by the Member for the Company's purpose.

"Person" means any natural person, corporation (stock or nonstock), limited liability company, limited partnership, general partnership, joint stock company, joint venture, association (profit or nonprofit), company, estate, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any government agency or political subdivision thereof

"Property". That certain real property known as Southside Station Plaza and located at 704-744 Foote Avenue, City of Jamestown, County of Chautaugua, New York 14701.

"Reserves". Reserves shall mean, with respect to any fiscal period, funds set aside during such period which shall be maintained in amounts deemed sufficient by the Manager for working capital, to pay taxes, insurance, debt service, legal expenses, replacements, capital improvements or repairs, contingent liabilities, or other costs and expenses, incident to ownership of the Property.

"Terminating Capital Transaction". A sale, condemnation, exchange or other disposition, whether by foreclosure, abandonment or otherwise, of all or substantially all of the then remaining assets of the Company (including, without limitation, any of the foregoing with respect to the Property or any other assets of Fee Owner, resulting in distributions received by the Company), or a transaction that will result in a dissolution of the Company.

"Third Party Financing". Any and all loans or other financings obtained by the Company from a third party lender (other than the Member) from time to time in connection with the Company's purpose.

2. **Name**. The name of the limited liability company shall be Southside Station LLC. The Company's Amended and Restated Certificate of Formation, dated August 28, 2020, as filed with the Delaware Department of State in accordance with the Act (the "**Certificate**"), is hereby ratified by the Member.
3. **Office**. The principal office of the Company shall be at the principal office of the Manager.
4. **Term**. The term of the Company shall commence as of the date of filing of the Certificate of the Company with the Delaware Department of State and the Company shall be dissolved and its affairs wound up as may be provided in the Certificate, in this Agreement, as otherwise provided in the Act.
5. **Purpose**. The business of the Company shall be solely to acquire, own, hold, manage, develop, operate, lease, sell and otherwise deal with the Property.

6. **Intentionally Omitted.**
7. **Member.** The name and the mailing address of the Member is as set forth on Schedule A annexed hereto.
8. **Management; Powers.** The business and affairs of the Company shall be managed by (and solely by) the Manager. The Manager is authorized to cause or permit the Company to take any action or do anything consistent with, and to execute any and all documents on behalf of the Company necessary or appropriate in connection with, the purposes of the Company as set forth in Section 5 above.
9. **Capital Contributions; Membership Interests.** The initial Membership Interests and capital contribution of the Members to the Company is set forth on Schedule A annexed hereto.
10. **Additional Contributions.** From time to time from the date hereof, if the Manager determines that any sums of money in excess of the amount of any Third Party Financing obtained by the Company and/or gross revenue of the Company are required for any Company purpose (collectively, “**Required Funds**”), then the Member shall make an additional Capital Contribution to the Company equal to the amount of the Required Funds.
11. **Allocation of Profits and Losses.** The profits and losses of the Company shall be determined each fiscal year in accordance with the accounting method followed by the Company for federal income tax purposes and shall be allocated 100% to the Members and credited (or charged) to their capital accounts.
12. **Distributions of Available Cash.** Available Cash shall be distributed not less than quarterly to the Member.
13. **Distributions of Net Proceeds of a Capital Transaction.** Net Proceeds of a Capital Transaction which is an Interim Capital Transaction shall be distributed promptly to the Member. Net Proceeds of a Capital Transaction which is a Terminating Capital Transaction shall be applied first to the payment of just debts and liabilities of the Company (including, without limitation, all amounts of any principal or interest payable with respect to any Third Party Financing), in the order of priority as provided by applicable law, and then shall be distributed promptly to the Member.

14. **Assignments.** The Member may not assign, convey, sell, gift, encumber, pledge, hypothecate or otherwise transfer or dispose of its interest in the Company, in whole or in part, without the prior written consent of the Manager.
15. **Intentionally Omitted.**
16. **Admission of Additional Members.** The Manager may cause or permit the Company to admit additional members to the Company and/or create different classes of members. As a condition to the admission to the Company of any additional member, such additional member shall execute and acknowledge such instruments, in form and substance reasonably satisfactory to the Manager, as the Manager may deem necessary or desirable to effectuate such admission and to confirm the agreement of the additional member to be admitted to the Company and to be bound by all of the covenants, terms and conditions of this Agreement, as the same may have been amended.
17. **Liability of Member.** The Member shall have no liability for any of the debts, obligations or liabilities of the Company, whether arising in tort, contract or otherwise, except as may be: (a) expressly agreed by the Company and the Member in writing; or (b) expressly required by the Act. The Member shall not be liable to the Company for any breach of duty in such capacity, unless otherwise provided by law and the Company shall, to the extent of the assets of the Company, and to the fullest extent permitted under the Act, defend, indemnify and save harmless the Member from and against any and all loss, claim, damage, liability, cost or expense (including, without limitation, reasonable counsel fees and disbursements) incurred by it in connection with its activities with respect to, or otherwise in furtherance of the business of, the Company including, without limitation, any liabilities for breach of duty in any capacity.
18. **Indemnification.** Every Person who was or is a party, or who is threatened to be made a party, to any pending, completed or impending action, suit or proceeding of any kind, whether civil, criminal, administrative, arbitral or investigative (whether or not by or in the right of the Company) by reason of (a) being or having been a Manager or Member of the Company, (b) being or having been a member, Manager, partner, officer or director of any other entity at the request of the Company, or (c) serving or having served in a representative capacity for the Company in connection with any partnership, joint venture, committee, trust, employee benefit plan or other enterprise, shall be indemnified by the Company against all expenses (including reasonable attorneys' fees and expenses), judgments, fines, penalties, awards, costs, amounts paid in settlement and liabilities of all kinds, actually incurred by such Person incidental to or resulting from such action, suit or proceeding to the fullest extent permitted under the Act, without limiting any other indemnification rights to which such Person otherwise


may be entitled. The Company may, but shall not be required to, purchase insurance on behalf of such Person against liability asserted against or incurred by such Person in its capacity as a the Manager of the Company, or arising from such Person's status as the Manager or Member, whether or not the Company would have authority to indemnify such Person against the same liability under the provisions of this Section 18 or the Act.

19. **Books and Records.** The Company shall maintain proper and complete records and books of account in which shall be entered all transactions relating to the Company's business. Subject to the provisions hereof, such books shall be kept on such method of accounting as the Manager shall determine.
20. **Bank Accounts.** All funds and income of the Company shall (a) be deposited in the name of the Company in a segregated bank account or accounts as shall be designated by the Member, which account or accounts shall be kept separate and apart from the funds of any other person or entity, and (b) be invested in such investments, including, without limitation, overnight investments in United States Treasury obligations, as the Manager shall determine.
21. **Fiscal Year.** The fiscal year of the Company shall be the calendar year unless the Member shall otherwise determine.
22. **Intentionally Omitted.**
23. **Intentionally Omitted.**
24. **Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of Delaware, all rights and remedies being governed by said laws.
25. **Interpretation.** Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions hereof are determined to be invalid or unenforceable, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, and this Agreement shall remain in full force and effect and shall be construed and enforced in all respects as if such invalid provision or provisions had been omitted.
26. **Counterparts.** This Agreement may be executed in counterparts and each counterpart so executed shall constitute an original, all of which when taken together shall constitute one Agreement, notwithstanding that all the parties are not signatories to the same counterpart. Facsimile and pdf signatures shall be deemed to be and shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement.

MEMBER:

MARCUS JAMES HOLDINGS LLC,
a New York limited liability company

By: 
Name: Shlomo Noble
Title: Manager

MANAGER:


SHLOMO NOBLE

SCHEDULE A

<u>Member Name and Address</u>	<u>Initial Capital Contribution</u>	<u>Membership Interest</u>
MARCUS JAMES HOLDINGS LLC 31 Sylvan Road Rochester, New York 14618	<u>\$3,500,000</u>	<u>100%</u>

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Agreement**") is made and entered into as of August 28, 2020 (the "**Effective Date**") by **LB-UBS 2007 - C6 - PECO PORTFOLIO LLC**, a Delaware limited liability company ("**Assignor**"), whose address is c/o LNR Partners, Inc., 1601 Washington Avenue, Suite 700, Miami Beach, Florida 33139, and **MARCUS JAMES HOLDINGS LLC**, a New York limited liability company ("**Assignee**"), whose address is 31 Sylvan Road, Rochester, New York 14618.

RECITALS:

A. Assignor is the owner of one hundred percent (100%) of the membership interests in **LB-UBS 2007 - C6 – SOUTHSIDE STATION LLC**, a Delaware limited liability company (the "**Owner**"), as evidenced by the Certificate of Formation dated Jun4 4, 2014, filed with the Secretary of State, State of Delaware (the "**Certificate**").

B. Pursuant to the terms of the Agreement for Sale and Purchase of Membership Interest between Assignor and Assignee, by assignment, dated July 29, 2020 (the "**Purchase Agreement**"), Assignor is to sell and convey to Assignee all of Assignor's right, title and interest in and to the membership interests in Owner in conformity with the terms and provisions set forth below in this Assignment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The foregoing Recitals, including all terms defined therein, are hereby incorporated into Assignment.

2. Assignor hereby sells, transfers, conveys, sets over, and assigns to Assignee its entire one hundred percent (100%) membership interest in Owner (the "**Membership Interest**"), including, without limitation, all Assignor's economic interest in Owner and in the capital, profits, losses and distributions of Owner.

3. Assignor hereby represents and warrants to Assignee that: (a) Assignor is the sole member of Owner and the owner of all of the membership interests being assigned to Assignee pursuant to the provisions of this Assignment; (b) Assignor has full authority to convey its membership interests to Assignor; (c) Assignor holds all of the legal, beneficial and equitable right, title and interest in and to all of the membership interests, free of any claims, liens, encumbrances, security interests, and options and Assignor has assigned, transferred and conveyed to Assignee its entire ownership interests in Owner such that, following this Assignment, Assignee shall own all interests in Owner and Assignor shall no longer own any interests in Owner.

4. Assignee hereby accepts the foregoing assignment, conveyance and transfer and agrees to be substituted for Assignor as the sole member of Owner and to perform all the obligations of Assignor to be performed from and after the Effective Date with respect to the sole membership interest in Owner. Assignee shall defend, indemnify and hold harmless Assignor from and against any and all Claims asserted against or incurred by Assignor as a result of any acts or omissions, from and after the Effective Date, in connection with the Membership Interest. "Claims" means any and all claims, demands, causes of action, whether administrative or judicial, losses, costs (including any and all reasonable attorneys' fees, court costs, and reasonable costs of investigation, litigation, and settlement), expenses, sanctions, orders, curtailments, interest, liabilities, penalties, fines, expenses, liens, judgments, compensation, fees, loss of profits, injuries, death, response costs and/or damages, of any kind whatsoever, whether direct or indirect, known or unknown, fixed or contingent, joint or several, criminal or civil, or in law or in equity.

5. Assignor hereby withdraws from Owner, and Assignor agrees that Assignee is hereby admitted to Owner as Owner's sole member owning a one hundred percent (100%) interest in Owner.

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Assignor and Assignee have executed this Assignment as their free act and deed for the uses and purposes herein contained as of the Effective Date.

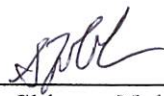
Witnesses:

ASSIGNEE:

MARCUS JAMES HOLDINGS LLC, a New York limited liability company

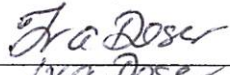
Signature: 

Print Name: Kyle Spachos

By: 

Name: Shlomo Noble

Title: Manager

Signature: 

Print Name: Iva Doser

UNIFORM FORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

State of New York)

County of Monroe) ss.:

On the 20th day of August, in the year 2020 before me, the undersigned, personally appeared **SHLOMO NOBLE**, 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 capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Signature and Office of individual
taking acknowledgment

MATTHEW JAMES ALEXANDER
Notary Public, State of New York
Monroe County Reg. #01AL6223157
Commission Expires 06/07/2022