

LICENSE AGREEMENT

31st

This License Agreement made this _____ day of May 2002 by and between the CITY OF NEW YORK (hereinafter called "the City"/Licensee), acting by and through the Department of Environmental Protection of the City of New York (hereinafter called "DEP"), with an office at 59-17 Junction Boulevard, Corona, New York 11368-5107 and Century Realty Inc. ("Landowner/Licensor") the owner of the premises at 177 BROADWAY (the "Premises").

WHEREAS, the facades, roofs and setbacks ("exterior areas") of many structures in close proximity to the site of the former World Trade Center have been found to contain debris, refuse and other deposits ("the foreign material") of unknown origin;

WHEREAS, the owners of said structures are desirous of having the foreign material removed;

WHEREAS, the City believes that it is in the interest of the public to undertake a clean up of these exterior areas;

WHEREAS, the City's willingness to undertake such a cleanup should not in any way be construed as an acknowledgment or admission that the City is in any way responsible for any condition, environmental or otherwise, that may exist in or on the exterior areas or that the foreign material is a risk to the public health or safety;

NOW THEREFORE, it is hereby agreed by and between the parties to this agreement, for and in consideration of One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged,

1. **Permission to Perform Cleaning Work.** Subject to the terms and conditions hereof, Licensor hereby grants permission to Licensee and its authorized contractor(s) to perform the cleaning work on the exterior areas of the structure(s) located on the Premises, as described in the Scope of Work attached hereto as Exhibit A and made a part hereof (the "Cleaning Work").

2. **Grant of Access.** Subject to the terms and conditions hereof, Licensee and its agents, contractors and employees shall have the right, at all times while this License Agreement is in effect, to enter in and on the Premises, and to cross the Premises, with personnel, material and equipment, for the purpose of performing the Cleaning Work. It is expressly understood that the right granted under this Section 2 includes:

(a) the right to access all portions of the Premises deemed necessary by Licensee or its contractor(s) in order to properly perform the Cleaning Work, including (without limitation) roofs, parapets, window ledges, and other building exterior surfaces; and

(b) the right to temporarily occupy portions of the ground outside of the building located on the Premises, with personnel, material and equipment, in order to perform the Cleaning Work; and

(c) the right to erect, maintain, and store temporary scaffolding on the Premises, and to utilize such scaffolding for the purpose of performing the Cleaning Work.

3. **Limitations And Conditions:**

- a) In no event shall the Licensee, its agents, contractors, or subcontractors enter the Licensor's property for the purposes of performing the Cleaning Work other than between the hours of 8:00 a.m. and 8:00 p.m.
- b) Licensee shall provide the Licensor with written notification of its intention to begin the Cleaning Work at least two (2) days prior to the commencement of such Work.
- c) Licensee shall pay the entire cost of all work, labor, and material in connection with the Cleaning Work undertaken by it hereunder except that the Licensor shall supply and pay for all power and water usage in connection with the Cleaning Work.
- d) Licensee, its agents, contractors, and employees, shall perform all Cleaning Work promptly and in a workmanlike manner with a minimum of disturbances to the Licensor's property.
- e) Licensee shall maintain such flags, lights, barricades and enclosures as required for the safety of persons, property and traffic flow.
- f) All Cleaning Work shall be performed by qualified contractors in accordance with applicable federal, state and local rules and regulations;
- g) Any contractor or subcontractors performing the Cleaning Work on behalf of the Licensee shall obtain, prior to the commencement of any Cleaning Work, insurance in the amounts and types as set forth herein in Exhibit B;
- h) All City employees, and any contractor or subcontractor performing any activities on the City's behalf, shall, at all times, wear proper identification which, at a minimum shall include, an identification card with the name and photograph of the person.

4. **Reimbursement.** Licensor shall reimburse Licensee for the removal of the foreign material provided for in this license from any compensation it receives from any source for the

cleaning of debris accumulations from the exterior surfaces of the structure(s) located on the Premises. Such sources shall include, but are not limited to, the Small Business Administration, private insurance, or any other local, state or federal assistance program. Licensor shall make claim for any applicable insurance coverage for these premises and shall report to Licensee any insurance settlements or other source of funding for the Cleaning Work that has been performed at Licensee's expense.

5. **Termination.** This license shall be terminable by the Licensor or Licensee on ten days written notice to the address set forth below by fax or certified mail. In the event of a default by either party, the license may be terminated immediately, without any prior notice.

6. **Waiver of Claims.** Licensor agrees that no claims or cause of action for damages shall accrue by reason of revocation or termination of this License.

7. **Term.** This license shall commence as of the latest date appearing at the end of the signature page and remain effect for a period of ninety (90) days unless or until terminated or revoked as hereinabove provided.

8. **Cleaning Work Not An Admission of Liability.** It is expressly understood and agreed by Licensor and Licensee that Licensee's performance of the Cleaning Work hereunder is not, and shall not be construed as,

(I) an admission or agreement by the Licensee that it is liable for the deposit of any dust, debris or other material in or on the Premises as a result of the events of September 11, 2001, at the World Trade Center complex, or the subsequent debris removal activity related thereto; or

(II) an admission or agreement by the Licensee that it is liable for any condition, environmental or otherwise, that may exist in or on the Premises as of the date hereof.

9. **Landmarks.** If the Premises are a designated landmark, Landowner gives its permission for DEP to file the "Application Form for Work On Designated Properties" with the New York City Landmarks Preservation Commission on Landowner's behalf.

10. **Notices:** Notices and correspondence regarding this License shall be directed by Certified Mail, Return Receipt Requested to the Licensor, at the following address:

140 Fulton St. - 5th Floor

New York, N.Y. 10038

and notices to the Licensee shall be addressed to R. Radhakrishnan, P.E., NYCDEP-ACP, 59-17 Junction Boulevard, 8th Floor, Corona, NY 11368-5643, with a copy to General Counsel, NYCDEP, 59-17 Junction Boulevard, 19th floor, Corona, New York 11368-5643.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be executed and acknowledged on the day and year which first appears above.

CENTURY REALTY INC. KENNETH DU BOIS
Licensor
By: 

Dated: 5-24-02

DEPUTY COMMISSIONER, DEP
Licensee
By: 
Robert C. Avaltroni

Dated: 5/31/02

Approved as to Form

Acting Corporation Counsel

DATED: _____

STATE OF NEW YORK)
)s.:
COUNTY OF *New York*)

On this *24th* day of *May* 2002, before me personally came the individual described in and who executed the foregoing instrument and acknowledged to me that he/she resides at *140 Fulton St. N.Y.C. 10038* and that he/she executed the foregoing instrument as the owner/licensor of the property.



NOTARY PUBLIC
STATE OF NEW YORK

YOLANDA R. WILLIAMS
Notary Public, State of New York
No. 01W16043169
Qualified in New York County
Commission Expires June 12, 200*2*

STATE OF NEW YORK)
)s.:
COUNTY OF QUEENS)

On this 31st day of May 2002, before me personally came Robert C. Avaltroni and acknowledged to me that he/she is the Deputy Commissioner of the New York City Department of Environmental Protection, and that he/she authorized to executed the foregoing instrument and that he/she did so on behalf of the City of New York pursuant to authority of law duly delegated.

Francis S. Schiano
NOTARY PUBLIC
STATE OF NEW YORK

FRANCIS S. SCHIANO
NOTARY PUBLIC, State of New York
No. 028C4741070
Qualified in Richmond County
Commission Expires October 31, 2005



The City of New York
Department of Environmental Protection

59-17 Junction Boulevard
 Flushing, New York
 11373-5108

Christopher O. Ward
Commissioner

Robert C. Avaltroni
Deputy Commissioner

Bureau of Environmental Compliance

May 3, 2002

Century Realty Inc.
 140 Fulton Street
 New York, NY 10038-2500

Subject: 177 BROADWAY

Dear Sir/Madam:

The New York City Department of Environmental Protection (DEP) in cooperation with the United States Environmental Protection Agency (USEPA) and the New York State Department of Labor (NYSDOL) has performed a series of exterior building surveys on various buildings in the vicinity of the World Trade Center (WTC). The surveys included the examination of building exteriors including building roofs, facades, setbacks, and other exterior surfaces. These surveys identified locations where debris from the collapse of the WTC was still visible. Our records indicate that visible debris accumulations were observed at the above referenced building (the "Building").

In our previous correspondence, the Department requested an assessment and appropriate clean up of visible debris accumulations. The Department has either not received information regarding your actions to address the debris accumulations or has re-inspected your building and found that visible debris was present.

The USEPA and DEP are continuing their ongoing efforts to improve air quality in lower Manhattan. In this regard, DEP is initiating a program (the "Cleaning Program") to clean the exteriors of certain buildings in the downtown Manhattan area.

Based on visual surveys and analyses of other properties in the area, we are assuming that the debris accumulations noted on the exterior of the Building may include some amount of asbestos-containing material (ACM). DEP would like to include the Building in the Cleaning Program, and clean the facades, roofs, and other exterior surfaces so as to remove such accumulations. The work would be performed by NYSDOL licensed asbestos contractors with DEP and NYSDOL certified workers. The fees and expenses of the asbestos contractor in performing the work will be paid for by the DEP.

The work will be monitored by DEP personnel. An independent third-party air monitoring firm will also be engaged to take air samples at designated points around the perimeter of the working area. The U.S. Occupational Safety and Health Administration (OSHA) will provide oversight for worker safety. The fees and expenses of DEP personnel in monitoring the work and the fees and expenses of the third-party air monitoring firm in taking and analyzing air samples will be paid for by DEP.



(718) DEP-HELP

In order to proceed with this cleaning, we will need your cooperation and assistance in (a) arranging a schedule to have the work performed, (b) designating a contact person at the Building to address any issues that may arise during the course of the work, and (c) securing legal consent from the owner of the Building so that DEP and contractor personnel have appropriate access to the property.

A License Agreement is attached to this letter. The License Agreement is intended to document permission from the Building owner for the work to be performed, and to grant appropriate access to DEP and contractor personnel. Please arrange for this License Agreement to be signed by an authorized representative of the Building owner and returned to R. Radhakrishnan, P.E., NYCDEP, 59-17 Junction Boulevard, 8th Floor, Corona, NY 11368. In order that the work may be performed as expeditiously as possible, please return the signed License Agreement within five working days of receipt. Also, please remember to fill in the address to which notices should be directed in item 10 of the License Agreement.

Within five working days of returning the License Agreement to DEP, please call (718) 595-3682 to arrange for a work schedule and to designate a liaison, who should be an individual at the building who is available between 8 am and 8 pm, seven days a week. The cleaning work will require a source of electrical power and water at the Building, and may entail the erection of temporary scaffolding for workers to access the affected surfaces. Please be prepared to discuss these and any other considerations you are aware of which may affect the cleaning.

If you have any questions concerning the foregoing, please do not hesitate to contact DEP at the above-specified number. We appreciate your courtesy and attention to this matter.

Sincerely,



R. Radhakrishnan, P.E.

Director

Asbestos Control Program