

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

In the Matter of the:

Development and Implementation of a Remedial Program
under the Inactive Hazardous Waste Disposal Site Remedial
Program, pursuant to Article 27, Title 13, and, Article 71 of the
Environmental Conservation Law for the Former Thypin Steel
Plant Site,

By

MBA – Manor Haven, LLC,

Respondent.

**Amendment to
Order on Consent and
Administrative Settlement
Index No. CO 3-20170612-108**

Site #130119

Operable Unit 1 and
Operable Unit 2

WHEREAS,

1. MBA – Manor Haven, LLC ("Respondent") consented to the issuance of Order on Consent and Administrative Settlement Index No. CO 3-20170612-108 (the "Order"), which was signed by a representative of the New York State Department of Environmental Conservation ("Department") on May 03, 2018.
2. The Order was entered into for the purpose of ensuring the completion of Respondent's investigation and implementation of a remedial program, as necessary, for contamination at the site or portions of site identified in Section I ("Real Property") and Exhibit "A" of the Order. The site that is included in the Order was previously being addressed under the Department's Voluntary Cleanup Program as VCP Site number V00366. The Voluntary Cleanup Program ended statewide in 2018.
3. During the course of this Amendment process, it was discovered that the Respondent's name in the caption of the Order was misspelled: it was written as "MBA – Manohaven, LLC". The correct spelling is "MBA – Manor Haven, LLC". Respondent's name was correctly identified in the remainder of the Consent Order, including the signature.
4. MBA – Manor Haven, LLC is contemplating a real estate transaction and redevelopment of the Site, the specifics of which are not compatible with the financial assurance as written in the Order. Certain triggering requirements in the Order are not compatible with the timeline for the potential contract for sale.
5. The Department and Respondent desire to amend the Order to modify the language related to the financial assurance requirements in the Order to accommodate a potential real property transaction and redevelopment of the Site. The Department and Respondent

also wish to correct the spelling of Respondent's name in the caption by this Amendment.

6. Respondent consents to the issuance of this Amendment without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, agreement, regulation, permit, order (including without limitation the Order), requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from any site; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from any site constitutes a significant threat to the public health or environment.

7. Solely with regard to the matters set forth below, Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Amendment and agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Amendment, and agrees not to contest the validity of this Amendment or its terms or the validity of data submitted to the Department by Respondent pursuant to this Amendment.

8. All capitalized terms in this Amendment shall have the same meaning as defined in the Order, unless specified otherwise in this Amendment.

NOW, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

- I. The Order shall be amended as indicated herein on the date this Amendment is signed by the Commissioner of the Department of Environmental Conservation or his designee.
- II. Respondent's name in the caption of the Order is hereby corrected to read "MBA – Manor Haven, LLC". Respondent's name in the caption of this Amendment is correct. All other aspects of the caption of the Order and this Amendment are correct and remain the same.
- III. Financial Assurance

The language in Subsection "B. 1." in Section V "Financial Assurance" of the Order will be replaced with the following language (all footnotes in the original order remain unchanged and are provided here for ease of reference):

B. 1. Respondent shall deliver to the Department no later than 10 days after either: entering into a contract for the sale of the Site, or the closing on the sale of the site to a purchaser (with notice to be provided to the Department at least 30 days prior to the scheduled date of such closing and with notice to be provided to the Department no later than 10 days after such closing), or filing of a condominium offering plan with the Office of the New York State Attorney General, whichever is later, an irrevocable, unconditional evergreen letter of credit¹ in favor of the Department in the total amount of \$1,509,620.00 (the "Installation Letter of Credit"). The total amount of the Installation Letter of Credit is estimated to be sufficient to cover the following costs:

(i) installation of the cover system (in areas not covered by building foundations or roads), currently estimated to be a one-time cost of \$795,000.00,

¹ The letter of credit must be issued by a New York State branch of an institution which has the authority to issue letter of credit, whose letter of credit operations are regulated and examined by the Federal Reserve System, and whose total assets are not less than \$1 billion.

(ii) the installation and startup of the sub slab depressurization systems under all buildings constructed on the Site, currently estimated to be a one-time cost of \$625,620.00,

(iii) decommissioning of existing monitoring² wells and air sparge wells to accommodate Site redevelopment, currently estimated to be \$40,000.00, and

(iv) installation of OU2 groundwater monitoring wells, currently estimated to be \$49,00.00).

III. All other provisions of the Order remain unchanged, in full force and effect and shall be binding on Respondent.

BASIL SEGGOS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Date: May 22, 2023

By: Andrew Guglielmi
Andrew Guglielmi
Division Director
Division of Environmental
Remediation

² The current estimate is based on retaining MW-2, MW-21, MW-26S, MW-26I, MW-30S, and MW-30I and preserving these monitoring wells during Site development.

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Consent Order, waives Respondent's right to a hearing herein as provided by law; and agrees to be bound by this Consent Order.

MBA - Manor Haven, LLC

By: _____
Title: Manager
Date: 3/31/2023

STATE OF NJ)
COUNTY OF Mercer) ss:

On the 31st day of March in the year 2023, before me, the undersigned, personally appeared Richard Thypin (full name) 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

S.B. Patel

Notary Public

