

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director

625 Broadway, 12th Floor, Albany, New York 12233-7011

P: (518) 402-9706 | F: (518) 402-9020

[www.dec.ny.gov](http://www.dec.ny.gov)

December 23, 2020

Ralph Toussie  
BOP 2401 Third Avenue LLC  
c/o Brookfield Properties  
250 Vesey Street, 15<sup>th</sup> Floor  
New York, NY 10281

Re: Certificate of Completion  
Former Mugler Shoring Inc  
Bronx, Bronx County  
Site No. C203052

Dear Mr. Toussie:

Congratulations on having satisfactorily completed the remedial program at the Former Mulger Shoring Inc site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record the Notice of Certificate of Completion in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:

Mandy Yau  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
47-40 21<sup>st</sup> Street  
Long Island City, NY 11101

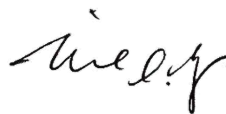


Department of  
Environmental  
Conservation

- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2022.

If you have any questions regarding any of these items, please contact Mandy Yau at 718-482-4897.

Sincerely,



Michael J. Ryan, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

C. Vooris – NYSDOH ([Christine.Vooris@health.ny.gov](mailto:Christine.Vooris@health.ny.gov))  
 S. McLaughlin – NYSDOH ([scarlett.mclaughlin@health.ny.gov](mailto:scarlett.mclaughlin@health.ny.gov))  
 S. Berninger – NYSDOH ([steven.berninger@health.ny.gov](mailto:steven.berninger@health.ny.gov))  
 Matt Gokey ([matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov))  
 Paul Takac ([paul.takac@tax.ny.gov](mailto:paul.takac@tax.ny.gov))  
 David Yudelson ([dyudelson@sprlaw.com](mailto:dyudelson@sprlaw.com))  
 Noelle Clarke ([nclarke@rouxinc.com](mailto:nclarke@rouxinc.com))  
 Frank Cherena ([fcherena@rouxinc.com](mailto:fcherena@rouxinc.com))  
 Lauren Dolginko ([ldolginko@rouxinc.com](mailto:ldolginko@rouxinc.com))

ec w/o enc.:

G. Burke  
 J. O'Connell  
 J. Andalaro  
 M. Yau  
 K. Lewandowski  
 H. Leibowitz

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

BOP 2401 Third Avenue LLC

**Address**

C/O Brookfield Properties, 250 Vesey Street,  
15<sup>th</sup> Floor, New York, NY 10281

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 6/29/15 **Agreement Execution:** 9/9/15

**Agreement Index No.:** C203052-06-15

**Application Approval Amendment:** 5/25/18

**Agreement Execution Amendment:** 5/25/18

**Application Approval Amendment:** 11/6/18

**Agreement Execution Amendment:** 11/6/18

**SITE INFORMATION:**

**Site No.:** C203052 **Site Name:** Former Mugler Shoring Inc.

**Site Owner:** BOP 2401 Third Avenue LLC

**Street Address:** 2401 Third Avenue

**Municipality:** Bronx **County:** Bronx **DEC Region:** 2

**Site Size:** 1.378 Acres

**Tax Map Identification Number(s):** p/o 2319-2

**Percentage of site located in an EnZone:** 100 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Restricted-Residential, Commercial, and Industrial

**Cleanup Track:** Track 4: Restricted use with site-specific soil cleanup objectives

**Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Tangible Property Credit Component Rate is 20 %.

**Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Tangible Property Credit Component Rate is 18 %.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Bronx County as 2020000283090.

### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos  
Commissioner  
New York State Department of Environmental Conservation

By:  Date: 12/23/2020

Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

**Former Mugler Shoring Inc., Site ID No. C203052**  
**2401 Third Ave, Bronx, NY 10451**  
**Bronx, Bronx County, Tax Map Identification Number: p/o 2319-2**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to BOP 2401 Third Avenue LLC for a parcel approximately 1.378 acres located at 2401 Third Ave in Bronx County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☒ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Bronx County as 2020000283090.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**Former Mugler Shoring Inc., C203052, 2401 Third Avenue, Bronx, NY 10451**

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC's Region 2 Office located at 47-40 21<sup>st</sup> Street, Long Island City, NY 11101 by contacting the Regional Environmental Remediation Engineer or at <https://www.dec.ny.gov/data/DecDocs/C203052>.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

BOP 2401 Third Avenue LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK        ) SS:  
COUNTY OF                )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
Ralph Toussie  
BOP 2401 Third Avenue LLC  
c/o Brookfield Properties  
250 Vesey Street, 15<sup>th</sup> Floor  
New York, NY 10281

## **Exhibit A**

### **Site Description**



## ENVIRONMENTAL EASEMENT

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Bronx, City and State of New York, bounded and described as follows:

Environmental Easement situated in Block 2319 as shown on Bronx Borough Tax Map as part of Lot 2;

BEGINNING at a point on the westerly side of Third Avenue, 380.21' southwesterly from the corner formed by the Intersection of the Westerly side of Third Avenue and the southerly side of East 134th. Street;

RUNNING THENCE Northwesterly N 44°42'41" W a distance of 119.76'to a point;

THENCE S 45°17'19" W a distance of 6.00'to a point;

THENCE N 44°42'41" W a distance of 10.00'to a point;

THENCE N 45°17'19" E a distance of 6.00'to a point;

THENCE N 44°42'41" W a distance of 58.17'to a point;

THENCE N 45°11'14" E a distance of 129.02'to a point;

THENCE N 44°45'56" W a distance of 107.35'to a point;

THENCE N 45°14'04" E a distance of 0.35'to a point;

THENCE N 45°00'06" W a distance of 101.17'to the southerly side of Mott Haven Canal;

THENCE S 44°50'33" W a distance of 124.04'to a point on the northerly side of bulkhead;

THENCE following the westerly side of bulkhead, the following 16 courses;

THENCE S 04°28'38" E a distance of 15.41'to a point;

THENCE S 41°49'33" W a distance of 19.15'to a point;

THENCE S 04°08'34" E a distance of 29.47'to a point;

THENCE S 24°59'40" E a distance of 26.96'to a point;

THENCE S 25°09'42" E a distance of 5.80'to a point;

THENCE S 22°31'05" E a distance of 22.68'to a point;

THENCE S 21°48'40" E a distance of 32.06'to a point;

THENCE S 27°24'38" E a distance of 17.38'to a point;





THENCE S 25°35'36" E a distance of 34.61'to a point;

THENCE S 24°29'26" E a distance of 20.38'to a point;

THENCE N 64°41'20" E a distance of 0.25'to a point;

THENCE N 63°58'50" E a distance of 12.11'to a point;

THENCE S 26°14'19" E a distance of 107.27'to a point;

THENCE S 26°14'19" E a distance of 58.71'to a point;

THENCE N 64°40'00" E a distance of 12.11'to a point;

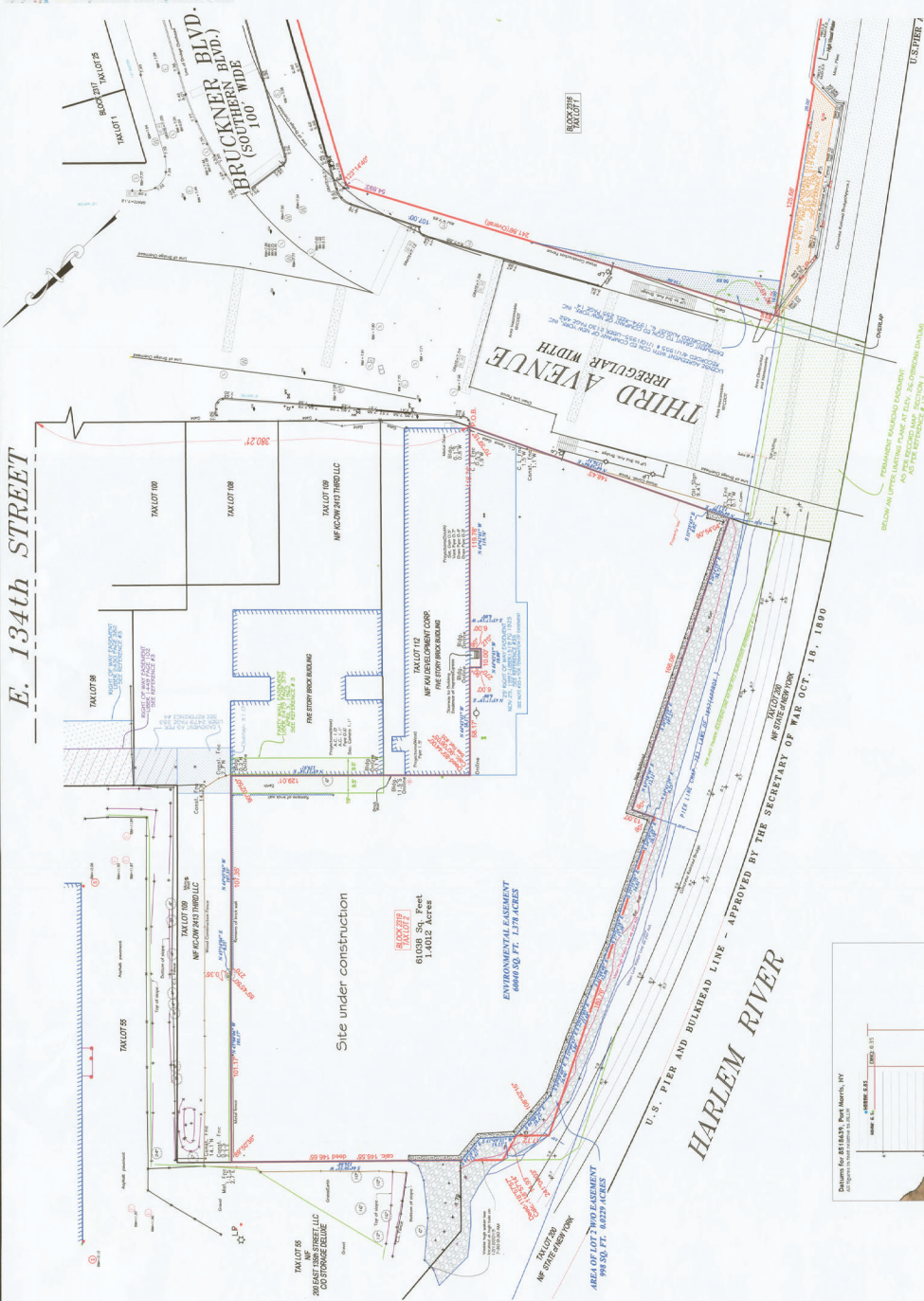
THENCE S 31°25'43" E a distance of 0.02'to a point at the end of southerly side of bulkhead and the North side of Third Avenue;

THENCE N 64°38'04" E a distance of 136.31'to the point or place of BEGINNING;

Above described parcel having an area of 60039.5 square feet, 1.378 acres.

## **Exhibit B**

### **Site Survey**



TEST EQUIPMENT	TEST POINTS	TEST PROCEDURE
WIRE	①	WIRE
WIRE	②	WIRE
WIRE	③	WIRE
WIRE	④	WIRE
WIRE	⑤	WIRE
WIRE	⑥	WIRE
WIRE	⑦	WIRE
WIRE	⑧	WIRE
WIRE	⑨	WIRE
WIRE	⑩	WIRE
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JOSEPH G. PIKE, LS



Hirani Group

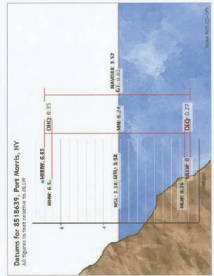
HIRANI ENGINEERING &  
LAND SURVEYING, P.C.

120 WEST JOHN STREET  
HICKSVILLE, NEW YORK 11801  
T (516) 248-1010 F (516) 248-9018

G:\Projects\18-0344 AND 0345-2401 THIRD AVE AND 101 LINCOLN AVE-BROOKFIELD PROPERTIES\Land Surveying\Drawings\Drawings\Construction drawings\2401 THIRD AVE-ENVIRONMENTAL EASEMENT.dwg

## ENVIRONMENTAL EASEMENT SURVEY

2401 THIRD AVENUE  
BRONX, NEW YORK

[illegible]

## GENERAL NOTES

- [illegible]

LAND SITUATED IN THE  
COUNTY OF BRONX

COUNTY OF BRONX  
CITY OF NEW YORK  
STATE OF NEW YORK

AS  
BLOCK 2319 LOT 2

1111



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
9/4/2020



**SITE DESCRIPTION**

**SITE NO.** C203052

**SITE NAME** Former Mugler Shoring Inc.

**SITE ADDRESS:** 2401 Third Avenue **ZIP CODE:** 10451

**CITY/TOWN:** Bronx

**COUNTY:** Bronx

**ALLOWABLE USE:** Restricted-Residential, Commercial, and Industrial

**SITE MANAGEMENT DESCRIPTION**

**SITE MANAGEMENT PLAN INCLUDES:** YES NO

IC/EC Certification Plan



Monitoring Plan



Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2022

**Description of Institutional Control**

**BOP 2401 THIRD AVENUE LLC**

250 VESEY STREET, 15TH FLOOR

**2401 Third Avenue**

Environmental Easement

Block: 2319

Lot: 2

Sublot:

Section:

Subsection:

S\_B\_L Image: p/o 2319-2

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Site Management Plan

Soil Management Plan

**Description of Engineering Control**

**BOP 2401 THIRD AVENUE LLC**

250 VESEY STREET, 15TH FLOOR

**2401 Third Avenue**

Environmental Easement

Block: 2319

Lot: 2

Sublot:

Section:

Subsection:

S\_B\_L Image: p/o 2319-2

Cover System