



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:

Application for a reduction of 0.32 acres to the BCP Site area from the current lot size (the entirety of Block 2316, Lot 1, 2.93 acres) to 2.61 acres, as shown on the attached Survey and Metes and Bounds Description. This change is requested because the 0.32 acres is lands under water.

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

Section I. Existing Agreement Information			
BCP SITE NAME: Former Bronx Freight Terminal		BCP SITE NUMBER: C203082	
NAME OF CURRENT APPLICANT(S): BOP 101 Lincoln Avenue LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C203082-10-16 DATE OF EXISTING AGREEMENT: 06/09/17			
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)? <input 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			
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? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<p>Describe Requestor's Relationship to Existing Applicant:</p> <p style="font-size: 2em; margin: 0;">RECEIVED</p> <p style="font-size: 1.2em; margin: 0;">AUG 12 2019</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:

<input 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.	<input type="checkbox"/> 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.
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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 101 Lincoln Avenue

CITY/TOWN Bronx, New York

ZIP CODE 10451

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
101 Lincoln Avenue, Bronx, NY			2316	1	2.930

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: 0.32 acres See attached Survey and Metes and Bounds Description.

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
A PORTION OF 101 Lincoln Avenue, Bronx, NY			2316	1	0.32

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.

☐ Yes ☐ No

Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.

☐ Yes ☐ 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.

☐ Yes ☐ No

2. Is the property upside down as defined below?

☐ Yes ☐ 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?

☐ Yes ☐ 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: Former Bronx Freight Terminal	BCP SITE NUMBER: C203082
NAME OF CURRENT APPLICANT(S): BOP 101 Lincoln Avenue LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C203082-10-16	
EFFECTIVE DATE OF EXISTING AGREEMENT: 06/09/17	

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: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am authorized signatory (title) of BOP 101 Lincoln Avenue 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. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 7/26/19 Signature: By: [Signature]

Print Name: Ralph Toussie, Authorized Signatory

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:

Signature by the Department:

DATED:

SEP 20 2019

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

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



Hirani Engineering and Land Surveying, P.C.

Engineers ■ Land Surveyors ■ Construction Managers

LEGAL DESCRIPTION of
BROWNFIELD CLEANUP PROGRAM PARCEL
A PORTION of LOT 1, BLOCK 2316

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:

BEGINNING at the intersection of the South side of Bruckner Blvd. and the Westerly side of Lincoln Avenue,

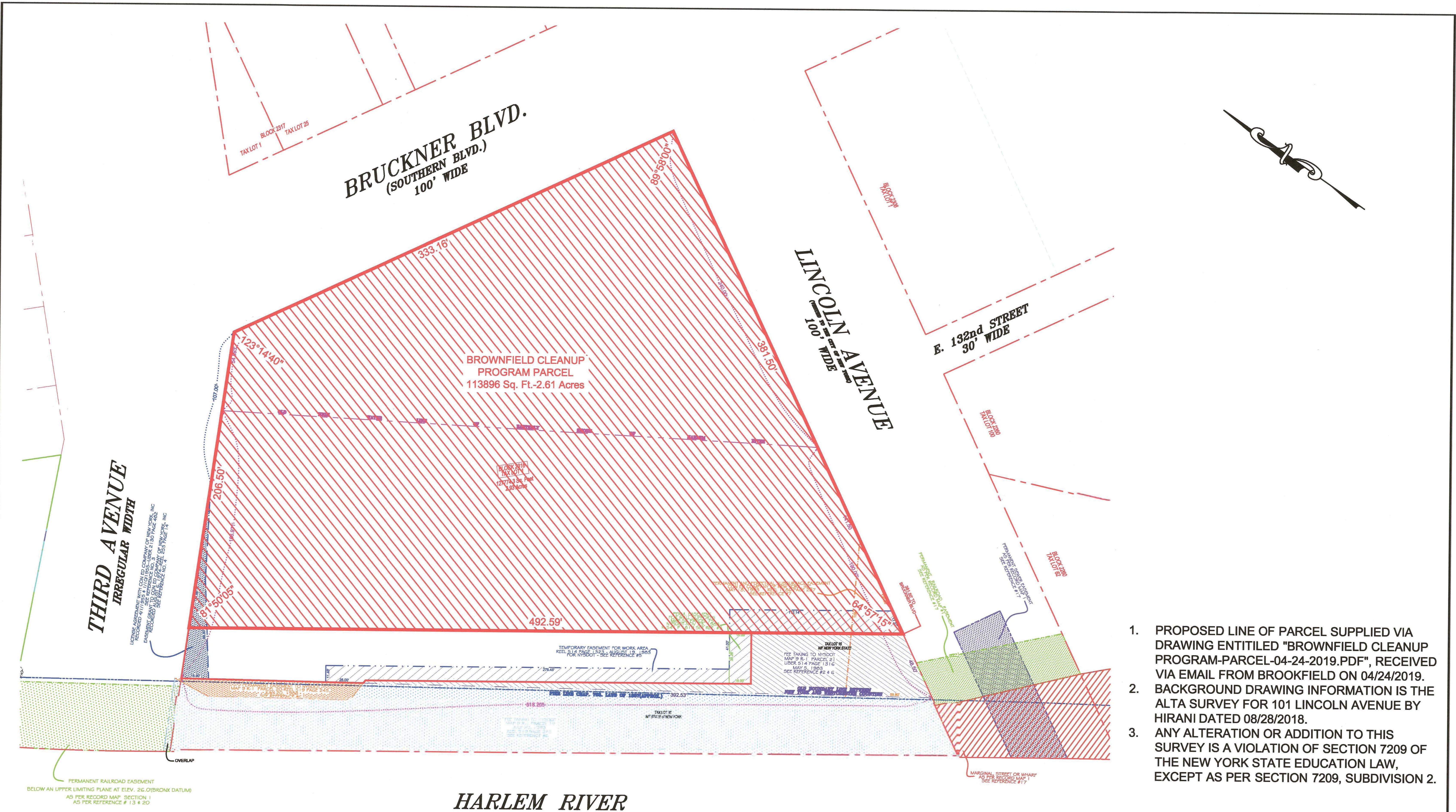
RUNNING THENCE Southerly along the west side of Lincoln Avenue 381.50 feet to a point,

RUNNING THENCE Westerly and making an interior angle with the last course $64^{\circ} 57' 15''$ a distance of 492.59 feet to a point on the East side of Third Avenue,

RUNNING THENCE Northerly along the East side of Third Avenue and making an interior angle with the last course $81^{\circ} 50' 05''$ a distance of 206.50 feet to a point on the South side of Bruckner Blvd.,

RUNNING THENCE Easterly along the South side of Bruckner Blvd. (Formerly Southern Blvd.) and making an interior angle with the last course $123^{\circ} 14' 40''$ a distance of 333.16 feet to the POINT or PLACE of BEGINNING.

SAID parcel is a portion of LOT 1 of BLOCK 2316 on the tax maps for the Borough and County of Bronx, City and State of New York, containing an approximate area of 113,896 Square Feet or 2.61 acres.



1. PROPOSED LINE OF PARCEL SUPPLIED VIA DRAWING ENTITLED "BROWNFIELD CLEANUP PROGRAM-PARCEL-04-24-2019.PDF", RECEIVED VIA EMAIL FROM BROOKFIELD ON 04/24/2019.
2. BACKGROUND DRAWING INFORMATION IS THE ALTA SURVEY FOR 101 LINCOLN AVENUE BY HIRANI DATED 08/28/2018.
3. ANY ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW, EXCEPT AS PER SECTION 7209, SUBDIVISION 2.

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				DRAWN BY: G.R.S. 4/24/2019
				CHECKED BY: J.G.P. 4/25/2019
				SCALE : 1"= N.T.S.
				SURVEYED DATE: N/A
				JOB # : 18-0345
				SHEET NO: 1 OF 1
NO.	DATE	DESCRIPTION	APPR'D.	
		REVISIONS		

BROWNFIELD CLEANUP PROGRAM PARCEL
FOR
101 LINCOLN AVENUE, BRONX, NEW YORK

HIRANI ENGINEERING &
LAND SURVEYING, P.C.
30 JERICHO EXECUTIVE PLAZA, SUITE 200C
JERICHO, NEW YORK 11753
T (516) 248-1010 F (516) 248-9018



I HEREBY DECLARE THAT THIS SURVEY HAS BEEN PREPARED
UNDER MY RESPONSIBLE CHARGE AND TO THE BEST OF MY
KNOWLEDGE AND BELIEF, ALL DIMENSIONS AND INFORMATION
ARE CORRECT AS TO THE DETAIL SHOWN
JOSEPH G. PIKE, LS
Joseph G. Pike
N.Y.S. PROFESSIONAL LAND SURVEYOR, LIC. No. 050580

