### 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

DEC 24 2019

Lipa Friedman M & H Realty Developers a/k/a M & H Realty LLC 420 9th Avenue New York, NY 10001

Yoel Sabel West Development A LLC West Development B LLC West Development C LLC West Development D LLC 177 N 11th Street Brooklyn, NY 11211

> Re: Certificate of Completion Former Consolidated Freightways Truck Terminal Site No.: C224191 29 West Street, Brooklyn, Kings County

Dear Messrs. Friedman and Sabel:

Congratulations on having satisfactorily completed the remedial program at the Former Consolidated Freightways Truck Terminal 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 abovereferenced site.

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

 If you are the site owner, you must record a notice of the COC 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 a notice of the COC within 30 days of the date that you acquire the site. A copy of the recorded notice should be provided to the Department's project manager. If you are a non-owner, you must work with the owner to assure the



notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter. Please return the proof of recording to:

Chief, Site Control Section New York State Department of Environmental Conservation Division of Environmental Remediation 625 Broadway Albany, NY 12233-7020

- Provide the notice of the COC 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 2021.

If you have any questions regarding any of these items, please contact Manfred Magloire at (718) 482-4078.

Sincerely,

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

ec w/ enclosure:

- C. Vooris (christine.vooris@health.ny.gov)
- J. Nealon (jacquelyn.nealon@health.ny.gov)
- J. Deming (justin.deming@health.ny.gov)

S. McLaughlin (scarlett.mclaughlin@health.ny.gov)

M. Gokey (matthew.gokey@tax.ny.gov)

P. Takac (paul.takac@tax.ny.gov)

K. Brussee (kbrussee@ebcincny.com)

A. Czemerinski (ariel@amc-engineering.com)

ec w/o enc.:

- G. Heitzman
- G. Burke
- J. O'Connell
- M. Magloire
- G. Nam
- K. Lewandowski

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# NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP) CERTIFICATE OF COMPLETION

# **CERTIFICATE HOLDER(S):**

#### Name

# Address

West Development A LLC	177 N 11th Street, Brooklyn, NY 11211
West Development B LLC	177 N 11th Street, Brooklyn, NY 11211
West Development C LLC	177 N 11th Street, Brooklyn, NY 11211
West Development D LLC	177 N 11th Street, Brooklyn, NY 11211
M & H Realty Developers a/k/a M & H Realty LLC	420 9th Avenue, New York, NY 10001

### **BROWNFIELD CLEANUP AGREEMENT:**

Application Approval: 7/10/14 Agreement Execution: 8/20/14 Agreement Index No.: C224191-07-14

Application Approval Amendment: 7/18/18

**Application Approval Amendment:** 7/17/19

**Application Approval Amendment:** 12/6/19

Agreement Execution Amendment: 7/18/18 Agreement Execution Amendment: 7/17/19 **Agreement Execution Amendment:** 12/6/19

### SITE INFORMATION:

Site No.: C224191 Site Name: Former Consolidated Freightways Truck Terminal

Site Owner: M & H Realty Developers a/k/a M & H Realty LLC

Street Address: 29 WEST STREET

Municipality: BROOKLYN County: Kings DEC Region: 2

Site Size: 6.948 Acres

Tax Map Identification Number(s): p/o 2570-1, 2570-10, 2570-20, 2570-30, 2570-40, 2570-50 Percentage of site located in an EnZone: 0 - 49 %

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 12 %.

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 10 %.

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 Kings County as 2019000332630.

#### 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 Date: 12 By:

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 Consolidated Freightways Truck Terminal Site ID No.: C224191 29 West Street, Brooklyn, NY 11222 Brooklyn, Kings County, Tax Map Identification Numbers: p/o 2570-1, 2570-10, 2570-20, 2570-30, 2570-40 and 2570-50

**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 M & H Realty Developers a/k/a M & H Realty LLC, West Development A LLC, West Development B LLC, West Development C LLC, and West Development D LLC for a parcel approximately 6.948 acres located at 29 West Street in Brooklyn, Kings 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
- $\square$  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 Kings County as 2019000332630.

**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

# Former Consolidated Freightways Truck Terminal, C224191, 29 West Street, Brooklyn, NY 11222

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.

**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 21st Street, Long Island City, NY 11101, by contacting the Regional Environmental Remediation Engineer.

WHEREFORE, the undersigned has signed this Notice of Certificate

M & H Realty Developers a/k/a M & H Realty 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: Lipa Friedman M & H Realty Developers a/k/a M & H Realty LLC 420 9th Avenue New York, NY 10001 Exhibit A

Site Description

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County: Kings Site No: C224191 Brownfield Cleanup Agreement Index : C224191-07-14 as amended July 17, 2019

#### SCHEDULE "A" PROPERTY DESCRIPTION

# LEGAL DESCRIPTION FOR ENVIRONMENTAL EASEMENT

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF BROOKLYN, COUNTY OF KINGS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF QUAY STREET WITH THE WESTERLY SIDE OF WEST STREET;

RUNNING THENCE WESTERLY ALONG THE NORTHERLY SIDE OF QUAY STREET, 760.32 FEET, (760 FEET 3 7/8 INCHES);

THENCE NORTHERLY WITH INTERIOR ANGLE 100 DEGREES 32 MINUTES 29 SECONDS WITH NORTHERLY SIDE OF QUAY STREET, 23.60 FEET, (23 FEET 7 ¼ INCHES);

THENCE NOTHERLY WITH INTERIOR ANGLE 173 DEGREES 34 MINUTES 05 SECONDS WITH THE LAST MENTIONED COURSE, 36.85 FEET, (36 FEET 10 1/8 INCHES);

THENCE NORTHERLY WITH INTERIOR ANGLE 170 DEGREES 14 MINUTES 55. SECONDS WITH THE LAST MENTIONED COURSE, 14.01 FEET, (14 FEET 0 1/8 INCHES);

THENCE NORTHERLY WITH INTERIOR ANGLE 176 DEGREES 18 MINUTES 12 SECONDS WITH THE LAST MENTIONED COURSE, 77.37 FEET, (77 FEET 4 ½ INCHES);

THENCE WESTERLY WITH EXTERIOR ANGLE 90 DEGREES 08 MINUTES 20 SECONDS WITH THE LAST MENTIONED COURSE, 4.46 FEET, (4 FEET 5 ½ INCHES);

THENCE NORTHERLY WITH INTERIOR ANGLE 90 DEGREES 06 MINUTES 10 SECONDS WITH THE LAST MENTIONED COURSE, 22.95 FEET, (22 FEEET 11 3/8 INCHES);

THENCE NORTHEASTERLY ALONG ARC WITH RADIUS 67.35 FEET, 40.91 FEET, (40 FEET 10 7/8 INCHES);

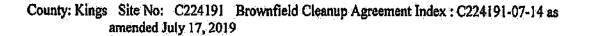
THENCE NORTHWESTERLY 46.71 FEET, (46 FEET 8 5/8 INCHES);

THENCE EASTERLY WITH INTERIOR ANGLE 90 DEGREES 00 MINUTES 03 SECONDS WITH THE LAST MENTIONED COURSE, 15.00 FEET;

THENCE NORTHEASTERLY WITH EXTERIOR RANGLE 138 DEGRESS 22 MINUTES 47 SECONDS WITH THE LAST MENTIONED COURSE, 70.79 FEET, (70 FEET 9 3/8 INCHES);

THENCE NORTHERLY WITH EXTERIOR ANGLE 144 DEGREES 23 MINUTES 58 SECONDS WITH THE LAST MENTIONED COURSE, 42.02 FEET, (42 FEET 0 ½ INCHES);

**Environmental Easement Page 10** 



THENCE EASTERLY WITH INTERIOR ANGLE 89 DEGREES 59 MINUTES 32 SECONDS WITH THE LAST MENTIONED COUSE, 327.32 FEET, (327 FEET 3 7/8 INCHES);

THENCE NORTHERLY PARALLEL WITH WEST STREET, 101.50 FEET, (101 FEET 6 INCHES);

THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF OAK STREET, 364.00 FEET;

THENCE SOUTHERLY ALONG THE WESTERLY SIDE OF WEST STREET, 460.000 FEET TO THE SOUTHERLY SIDE OF OAK STREET, TO THE POINT OR PLACE OF BEGINNING.

TOTAL AREA 302,659.47 SQ FT = 6.9481 ACRE

Exhibit **B** 

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Site Survey

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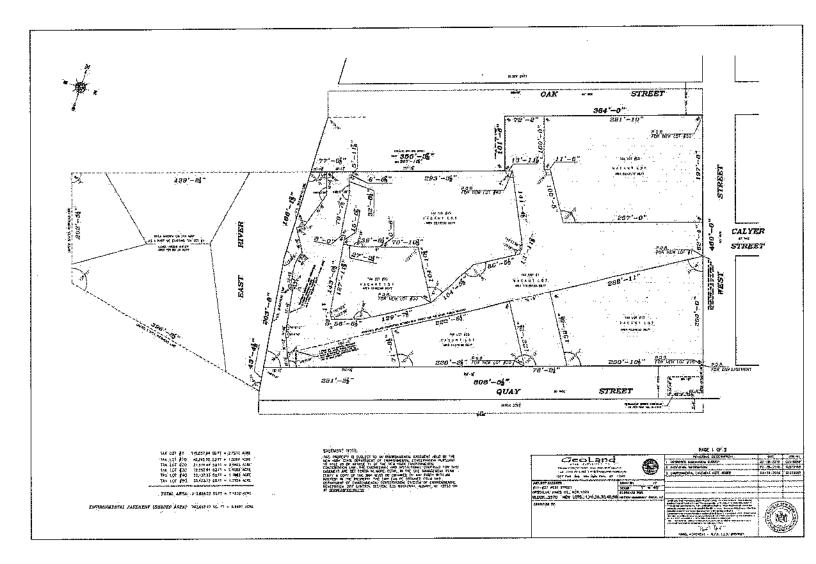
#### LEGAL DESCRIPTION FOR LOTS: 1, 10, 20, 30, 40, 50

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	Site Manage		MENTAL CONSERVATION 1.	9
	SITE DES	CRIPTION		
SITE NO. C224191				
SITE NAME Former Consolidat	ed Freightways True	ck Terminal		
SITE ADDRESS: 29 WEST STR	REET ZIP CODE:	11222		
CITY/TOWN: Brooklyn				
COUNTY: Kings				
ALLOWABLE USE: Restricted-I	Residential. Commer	cial, and Indu	ustrial	
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	SITE MANAGEME	NT DESCRI	IPTION	
SITE MANAGEMENT PLAN INC	LUDES:	YES	NO	
IC/EC Certification Plan		88 26	<b>D</b> .	
Monitoring Plan Operation and Maintenance	(O&M) Plan			
Periodic Review Frequency: once				
	- · .	1		
Periodic Review Report Submitte	d Dale: 04/50/2021	I		
	Description of ir	stitutional	Control	
//&H Realty Developers a/k/a M (	•		<b></b>	
420 9th Avenue				
29 West Street and 37 West St Environmental Easement	reet			
Block: 2570				
Lot: 50				
Lot: 50 Sublot: Section:				
Lot: 50 Sublot: Section: Subsection				
Lot: 50 Sublot: Section: Subsection	n: _L Image: 2570-50 Ground Water Use F	Restriction		
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Lot: 50 Sublot: Section: Subsection	L Image: 2570-50 Ground Water Use F	Restriction		
Lot: 50 Sublot: Section: Subsection	L Image: 2570-50 Ground Water Use F IC/EC Plan Landuse Restriction Monitoring Plan	Restriction		
Lot: 50 Sublot: Section: Subsection	L Image: 2570-50 Ground Water Use F IC/EC Plan Landuse Restriction			

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N/A West Street **Environmental Easement** Block: 2570 Lot: 1 Sublot: Section: Subsection: S\_B\_L Image: p/o 2570-1 Ground Water Use Restriction IC/EC Plan Landuse Restriction Monitoring Plan O&M Plan Site Management Plan Soil Management Plan 65 Private Drive Environmental Easement Block: 2570 Lot: 40 Sublot: Section: Subsection: S\_B\_L Image: 2570-40 Ground Water Use Restriction IC/EC Plan Landuse Restriction Monitoring Plan O&M Plan Site Management Plan Soil Management Plan N/A Quay Street **Environmental Easement** Block: 2570 Lot: 20 Sublot: Section: Subsection: S\_B\_L Image: 2570-20 Ground Water Use Restriction IC/EC Plan Landuse Restriction Monitoring Plan O&M Plan Site Management Plan Soil Management Plan N/A West Street

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Environmental Easement	······································	
Block: 2570		
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	S_B_L Image: 2570-10	
	Ground Water Use Restriction	
	IC/EC Plan	
	Landuse Restriction	
	Monitoring Plan	
	O&M Plan	
	Site Management Plan	
	Soil Management Plan	
Lot: 30 Sublot:		
Section		
Subs	ection:	
	S_B_L Image: 2570-30 Ground Water Use Restriction	
	IC/EC Plan	
	Landuse Restriction	
	Monitoring Plan	
	O&M Plan	
	Site Management Plan	
	Soil Management Plan	
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	Description of Engineering Control	
M&H Realty Developers a/k/	/a M & H Realty	
420 9th Avenue		
29 West Street and 37 We		
Environmental Easemer	nt	
Block: 2570 Lot: 50		
Sublot:		
Section:		
	ection:	
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N/A West Street		
Environmental Easemen Block: 2570	nt	
Lot: 1		
Sublot:		
Section:	<u>,</u>	
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	S_B_L Image: p/o 2570-1 Cover System	
65 Private Drive		

Environmental Easement Block: 2570 Lot: 40 Sublot: Section: Subsection: S\_B\_L Image: 2570-40 Cover System N/A Quay Street Environmental Easement Block: 2570 Lot: 20 Sublot: Section: Subsection: S\_B\_L Image: 2570-20 Cover System N/A West Street Environmental Easement Block: 2570 Lot: 10 Sublot: Section: Subsection: S\_B\_L Image: 2570-10 Cover System Lot: 30 Sublot: Section: Subsection: S\_B\_L Image: 2570-30 Cover System

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