



Department of
Environmental
Conservation

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

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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:

The BCA Site is currently located at 2910 West 15th St - Block 7063, Lot 12. Additional investigation has been performed on two Surf Avenue Lots - Block 7063, Lots 32 and 33, which do not have formal street addresses; 2933 West 16th St - Block 7063, Lot 38; 2929 West 16th St - Block 7063, Lot 39; 2927 West 16th St - Block 7063, Lot 40; and 2925 West 16th St - Block 7063, Lot 41), Brooklyn, New York 11224. The additional investigation has identified contamination sufficient to add all of these lots to the BCP Site boundary pursuant to this BCA Amendment.

In addition, in preparing this BCP Amendment, the survey of the Site was updated to summarize the accurate acreage of all of the lots, and it was determined that the acreage in the BCA for Lot 12 was incorrect. The correct acreage for the current BCP Site is 1.2644-acre and the new BCP Site, including all of the aforementioned lots, is 1.521-acres. The acreage for each lot is described in this Amendment.

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

Section I. Existing Agreement Information

BCP SITE NAME: Surf Avenue Railroad Cleaners Site

BCP SITE NUMBER: C224310

NAME OF CURRENT APPLICANT(S): Surf Avenue L/CAL LLC

INDEX NUMBER OF EXISTING AGREEMENT: C224310-07-² DATE OF EXISTING AGREEMENT: 8/10/20**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME Surf Avenue L/CAL LLC c/o LCOR, Attn: Anthony Tortora

ADDRESS One Penn Plaza, Suite 1801

CITY/TOWN New York, NY

ZIP CODE 10119

PHONE (646) 356-0760

FAX NA

E-MAIL atortora@lcor.com

Is the requestor authorized to conduct business in New York State (NYS)?



Yes



No

- 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?



Yes



No

Describe Requestor's Relationship to Existing Applicant:

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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) Sirena Realty Corp. Attn: Michael Russo

ADDRESS 2911 West 15th Street

CITY/TOWN Brooklyn, NY

ZIP CODE 11224

PHONE (718) 266-4891

FAX NA

E-MAIL

OPERATOR'S NAME (if different from requestor or owner) Same as above. Used for a parking lot by 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:

☐ 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 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.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☐ Current Owner ☐ Potential /Future Purchaser ☒ Other Ground Lessee

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 2910 West 15th Street

CITY/TOWN Brooklyn, NY

ZIP CODE 11224

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
2910 West 15th Street			7063	12	1.06
NOTE THIS ACREAGE IS INCORRECT -					
Correct Acreage for Lot 12 is 1.2644 acres per attached survey				corrected	1.2644

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: 0.2566

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Two Surf Avenue Lots which do not have formal street addresses;			7063	32&33	.0723&.0686
2933 West 16th St - Block 7063, Lot 38; 2929 West 16th St - Block 7063, Lot 39;			7063	38&39	.0414&.0278
2927 West 16th St - Block 7063, Lot 40 2925 West 16th St - Block 7063, Lot 41			7063	40&41	.0232&.0233



Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"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.</p>	
3. Is the project an affordable housing project as defined below?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Surf Avenue Railroad Cleaners Site	BCP SITE NUMBER: C224310
NAME OF CURRENT APPLICANT(S): Surf Avenue L/CAL LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C224310-07-20	
EFFECTIVE DATE OF EXISTING AGREEMENT: 8/10/20	

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 Surf Avenue L/CAL 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: 10/8/2020 Signature: 

Print Name: Anthony Tortora, Senior Vice President

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: August 10, 2020

Signature by the Department:

DATED: 11/2/20

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

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

SUBMITTAL INFORMATION:

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

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

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____



October 9, 2020

VIA ELECTRONIC MAIL &
FEDERAL EXPRESS

Kelly A. Lewandowski, P.E.
Chief Site Control Section
New York State Division of Environmental
Conservation
Site Control Section
625 Broadway,
Albany, NY 12233-7020

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**RE: Surf Avenue Railroad Cleaners Site BCP Site #C224310
2910 West 15th St., 2925 -2933 West 16th St. & Unnumbered Surf Ave lots
Brooklyn, New York
BCA Amendment**

Dear Kelly:

Attached please find an executed BCA Amendment for the aforementioned BCP Site to add additional lots to the BCP Site since additional contamination has been found as depicted in the attached updated spider maps in Exhibit A. In addition, during the preparation of this BCA Amendment application, it was discovered when the survey was updated to document the exact size of each lot, that the size of the current BCP Site, which currently only consists of Lot 12, was incorrect. The revised acreage for Lot 12 is 1.2644 acreage compared to 1.06 acres as stated in the BCA. The updated survey map is contained in Exhibit B. A summary of the revised acreage is shown below:

LOT	ACRES	% of Total
12 – Current BCP Site	1.2644 (updated from the BCA which incorrectly indicated that this lot was only 1.06 acres)	83.12%
32	0.0723	4.75%
33	0.0686	4.52%
38	0.0414	2.73%
39	0.0278	1.82%
40	0.0232	1.53%
41	0.0233	1.53%
Total	1.521000	100%

In further support of the application, attached hereto is a copy of the executed Site Access Agreement in Exhibit C, which allows the Volunteer to access all lots that make up the revised BCP Site, and a copy of the original Written Consent in Exhibit D, which remains valid.



Kelly Lewandowski
October 8, 2020
Page 2

Please do not hesitate to contact me if you have any questions.

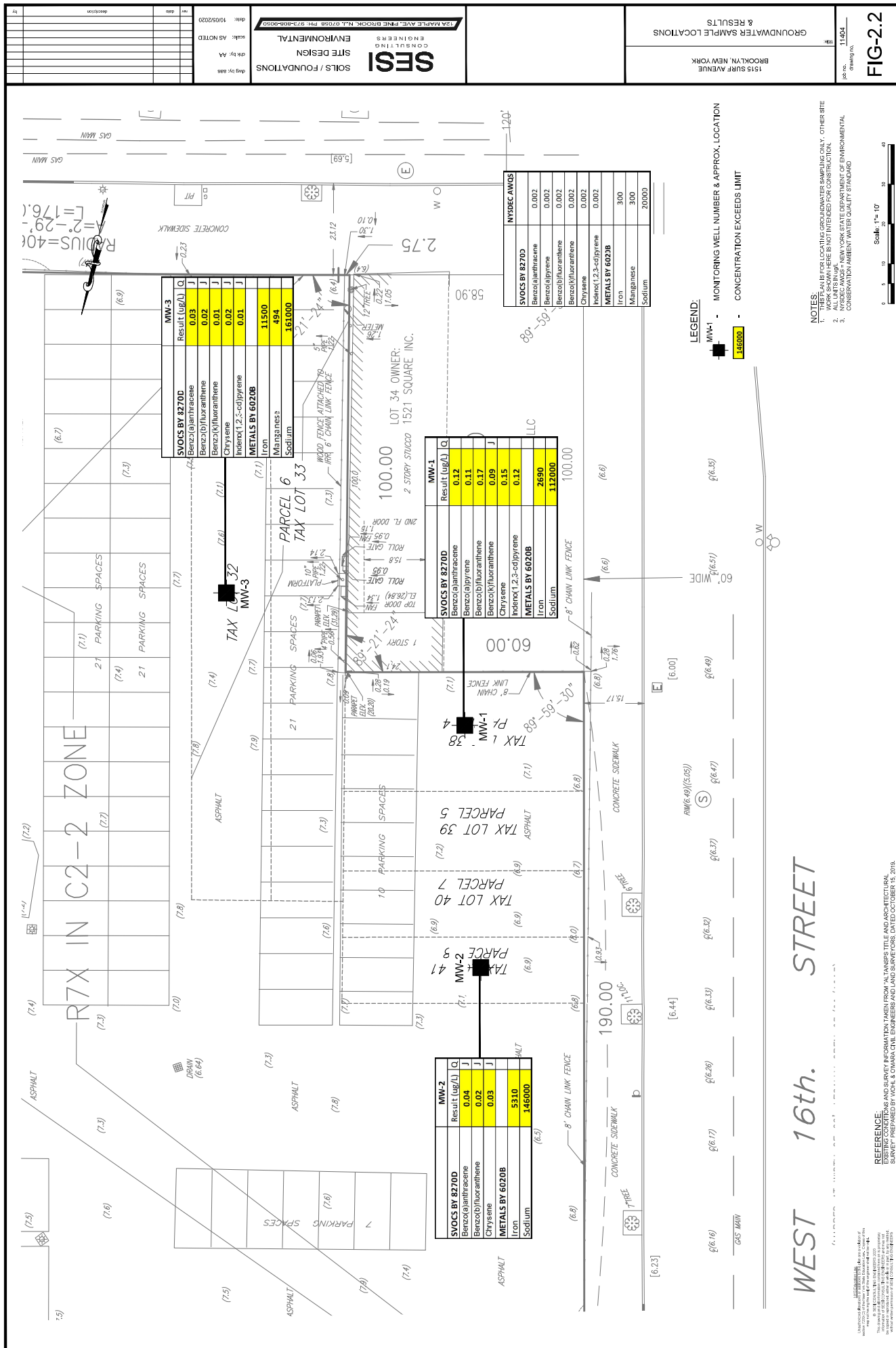
Sincerely,

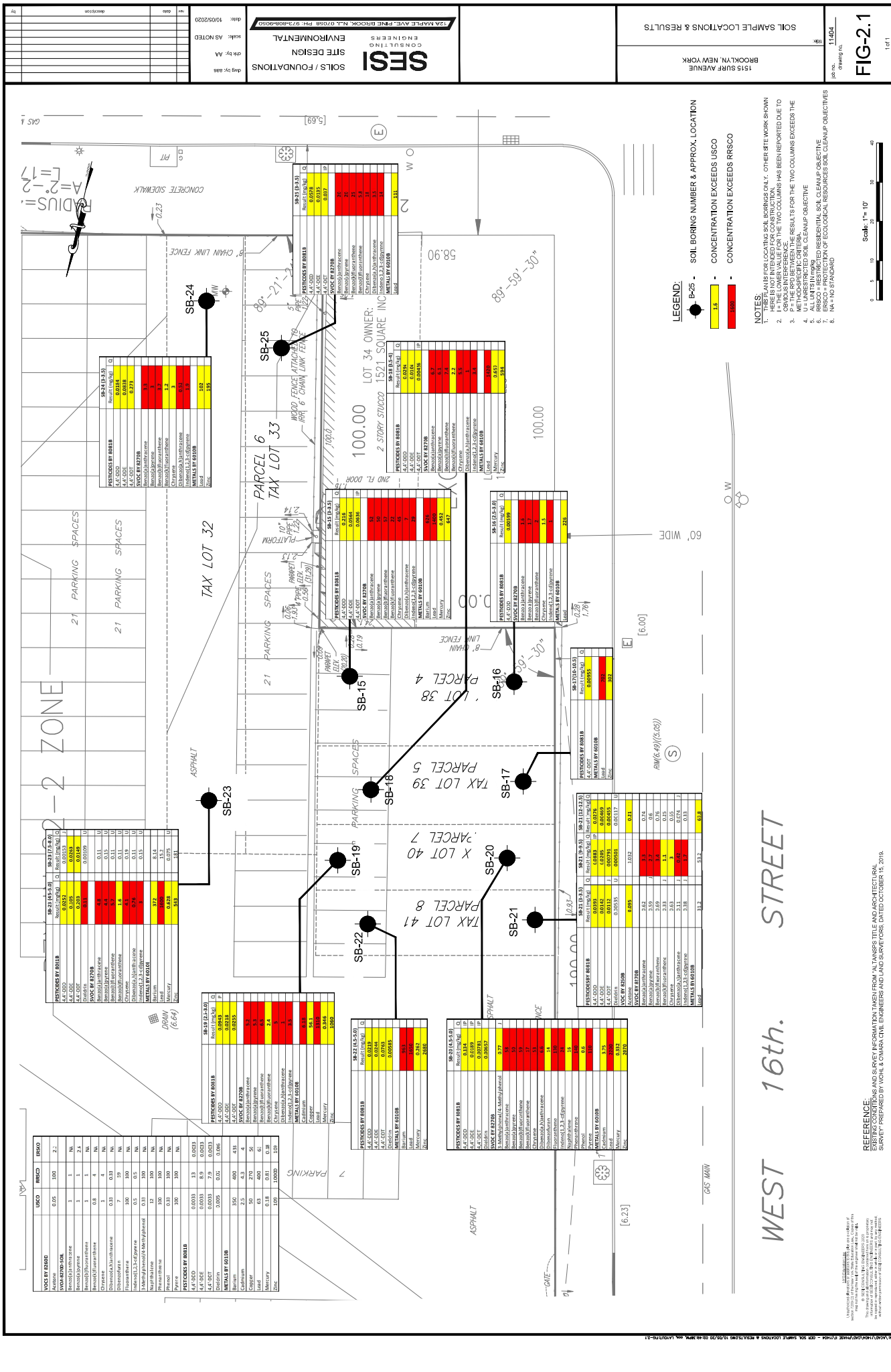
KNAUF SHAW LLP

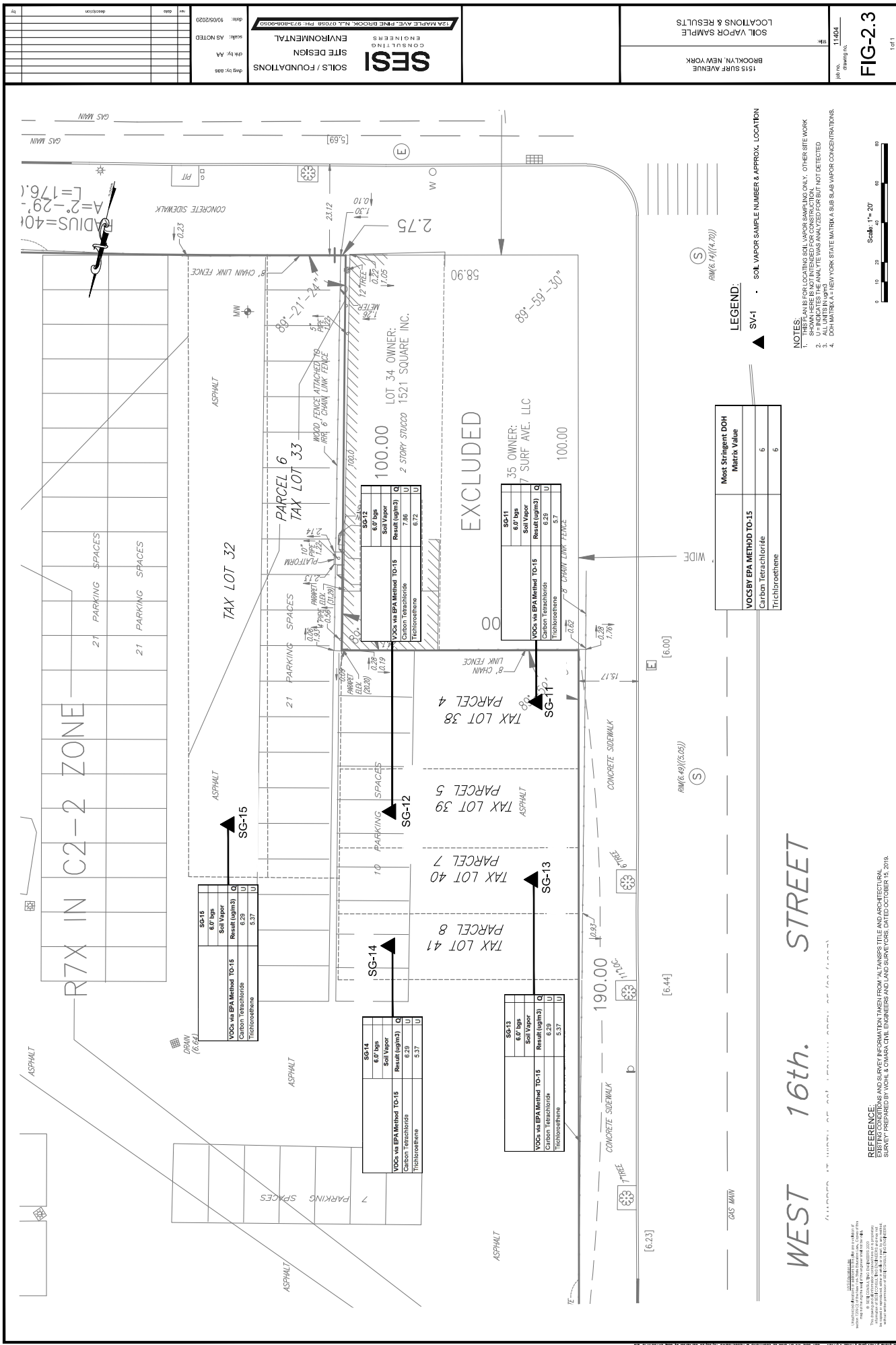
A handwritten signature in black ink that reads "Linda R. Shaw". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

LINDA R. SHAW

cc: Anthony Tortora







REFERENCE:
EXISTING CONDITIONS AND SURVEY INFORMATION TAKEN FROM ALTAMPS'S TITLE AND ARCHITECTURAL
SURVEY PREPARED BY MOHL & O'NEAR CIVIL ENGINEERS AND LAND SURVEYORS DATED OCTOBER 15, 2013.

DATE: 10/05/2020
SCALE: AS NOTED
DRAWN BY: [signature]
CHECKED BY: [signature]

1515 SURF AVENUE
BROOKLYN, NEW YORK
SOIL VAPOR SAMPLE
LOCATIONS & RESULTS

SEESI
ENGINEERS
CONSULTING
ENVIRONMENTAL
SITES / FOUNDATIONS

10/05/2020
AS NOTED
AA
[signature]

11404
11404

FIG-2.3
1 of 1

NOTES:
1. THESE ARE FOR LOCATING SOIL VAPOR SAMPLING ONLY. OTHER SITE WORK
SHOWN HERE IS NOT INTENDED FOR CONSTRUCTION.
2. ALL UNITS IN INCHES.
3. ALL UNITS IN FEET.
4. DOH MATRIX A = NEW YORK STATE MATRIX A SUB SLAB VAPOR CONCENTRATIONS.

LEGEND:
SV-1 SOIL VAPOR SAMPLE NUMBER & APPROX. LOCATION

Most Stringent DOH Matrix Value
VOCs by EPA Method TO-15
Carbon Tetrachloride
Trichloroethene

6
6

SURF AVENUE L/CAL LLC

One Penn Plaza, Suite 1801
New York, NY 10119

Sirena Realty Corp.
Attention: Michael Russo
2911 West 15th Street
Brooklyn, NY 11224

Re: Site Access to Perform Brownfield Cleanup Program Work
Surf Avenue Lots Block 7063, Lots 32 and 33; 2933 West 16th St - Block 7063, Lot 38; 2929 West 16th St - Block 7063, Lot 39; 2927 West 16th St - Block 7063, Lot 40 2925 West 16th St - Block 7063, Lot 41; 2910 West 15th St - Block 7063, Lot 12 ("Collectively Surf Avenue Project Site")

Dear Mike:

Pursuant to ¶48(h) in our Agreement of Lease dated December 13, 2019 ("Lease"), Surf Avenue L/CAL LLC c/o LCOR has elected to submit a Brownfield Cleanup Program ("BCP") Application to the New York State Department of Environmental Conservation (the "DEC") to voluntarily investigate and remediate the Surf Avenue Project Site defined above by address and tax block and lot number (the "Site"). As you know, Sirena Realty owns the Site and has agreed in Lease ¶48(h) to provide us with access to the Site for the purpose of performing environmental investigation and remediation work (among other things) pursuant to all terms in the Lease.

In addition, pursuant to Lease ¶6(g), you agreed to execute an environmental easement for the benefit of the DEC substantially similar to the DEC model form of easement attached to the Lease as Schedule G-1 (the "Environmental Easement") if required by the DEC after the remediation of the Site is complete.

Sincerely,



Surf Avenue L/CAL LLC

By: Anthony Tortora
Senior Vice President

As Vice President of the Site owner, I hereby confirm that the Lease grants access rights to allow Surf Avenue L/CAL LLC c/o LCOR and its agents to enter my property to perform the BCP Investigation and/or remediation work required and requires the Site Owner, Sirena Realty Corp., to execute an Environmental Easement if required.



Sirena Realty Corp.

By: Michael Russo
Vice President

WRITTEN CONSENT

The undersigned, being a Member of Surf Avenue L/CAL LLC, does hereby certify as follows:

1. Surf Avenue L/CAL LLC is the ground lessee and prospective Brownfield Cleanup Program volunteer for the Surf Avenue Railroad Cleaners Site located at Surf Avenue Lots Block 7063, Lots 32 and 33; 2933 West 16th St - Block 7063, Lot 38; 2929 West 16th St - Block 7063, Lot 39; 2927 West 16th St - Block 7063, Lot 40 2925 West 16th St - Block 7063, Lot 41; 2910 West 15th St - Block 7063, Lot 12 (the "Site").

2. The following person, Anthony A. Tortora, an authorized signatory of Surf Avenue L/CAL LLC, has been authorized to execute any documents required by the New York State Department of Environmental Conservation on behalf of Brownfield Site Volunteer Surf Avenue L/CAL LLC.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on this 16th day of March , 2020.



Surf Avenue L/CAL LLC

By: Seth Landau

Title: General Counsel, Authorized Signatory