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

December 20, 2022

Donald Capoccia
Coney Island Associates Phase 2 LLC
Coney Island Associates 2 Moderate LLC
Coney Island Phase 2 Housing Development
Fund Corporation
150 Myrtle Avenue, Suite 2
Brooklyn, NY 11201
dac@bfcnyc.com

Re: Certificate of Completion 1607 Surf Avenue Brooklyn, Kings County C224313

Dear Donald Capoccia:

Congratulations on having satisfactorily completed the remedial program at the 1607 Surf Avenue 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:

Meghan Medwid New York State Department of Environmental Conservation Division of Environmental Remediation



625 Broadway Albany, NY 12233

- 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 2024.

If you have any questions, please do not hesitate to contact Meghan Medwid, the Department's project manager, at (518) 402-8610.

Sincerely,

Andrew Guglielmi Division Director

Andrew Guglielmi

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

Christine Vooris, christine.vooris@health.ny.gov
Scarlett McLaughlin, scarlett.mclaughlin@health.ny.gov
Renata Ockerby, renata.ockerby@health.ny.gov
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ec w/o enc.:

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Kelly Lewandowski, kelly.lewandowski@dec.ny.gov
Jen Andaloro, jennifer.andaloro@dec.ny.gov
Meghan Medwid, meghan.medwid@dec.ny.gov

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP) CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name Address

Coney Island Associates Phase 2 LLC 150 Myrtle Avenue, Suite 2, Brooklyn, NY 11201

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 10/14/20 **Agreement Execution:** 11/12/20

Agreement Index No.:C224313-10-20

Application Amendment Approval: 3/14/22 Agreement Amendment Execution: 3/14/22

Application Amendment Approval: 9/30/22 **Agreement Amendment Execution:** 9/18/22

Application Amendment Approval: 9/18/22 Agreement Amendment Execution: 11/16/2022

SITE INFORMATION:

Site No.: C224313 Site Name: 1607 Surf Avenue

Site Owner: Coney Island Phase 2 Housing Development Fund Corporation

Coney Island Associates 2 Moderate LLC Coney Island Associates Phase 2 LLC

Street Address: 1607 Surf Avenue

Municipality: Brooklyn County: Kings DEC Region: 2

Site Size: 1.360 Acres

Tax Map Identification Number(s): 7062-28 **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: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

Cleanup Track: Conditional Track 1: Unrestricted use, provided that the remedial goals for soil vapor intrusion are achieved within five years of the date of the Certificate. If those goals are not achieved within five years, this Certificate shall be modified to a Track 2 Residential cleanup. Unrestricted use, provided that the remedial goals for groundwater are achieved within five years of the date of the Certificate. If these goals are not achieved within five years, this Certificate shall be modified to a Track 2 Residential cleanup.

Tax Credit Provisions: Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50 %. Eligibility for Tangible Property Credit is available through: EnZone.

Tangible Property Credit Component Rate is 20%. Comprised of 10% Base, 5 % EnZone, 5% Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24 %.

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 2022000437884.

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; or
 - (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

Andrew Guglielmi Date: 12/20/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A Site Description

<u>Legal Description of Environmental Easement Area:</u> 1607 Surf Avenue - C224313

BOROUGH OF BROOKLYN, BLOCK: 7062, LOT: 28:

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 easterly side of West 17th Street and the northerly side of Surf Avenue;

RUNNING THENCE northerly along said easterly side of West 17th Street 250 feet to a point distance 140 feet southerly from the corner formed by the intersection of said easterly side of West 17th Street and the southerly side of Mermaid Avenue;

THENCE easterly parallel with Mermaid Avenue 237 feet 7 1/2 inches to a point on the westerly side of West 16th Street being distant 140 feet south from the corner formed by the intersection of said westerly side of West 16th Street and the southerly side of Mermaid Avenue;

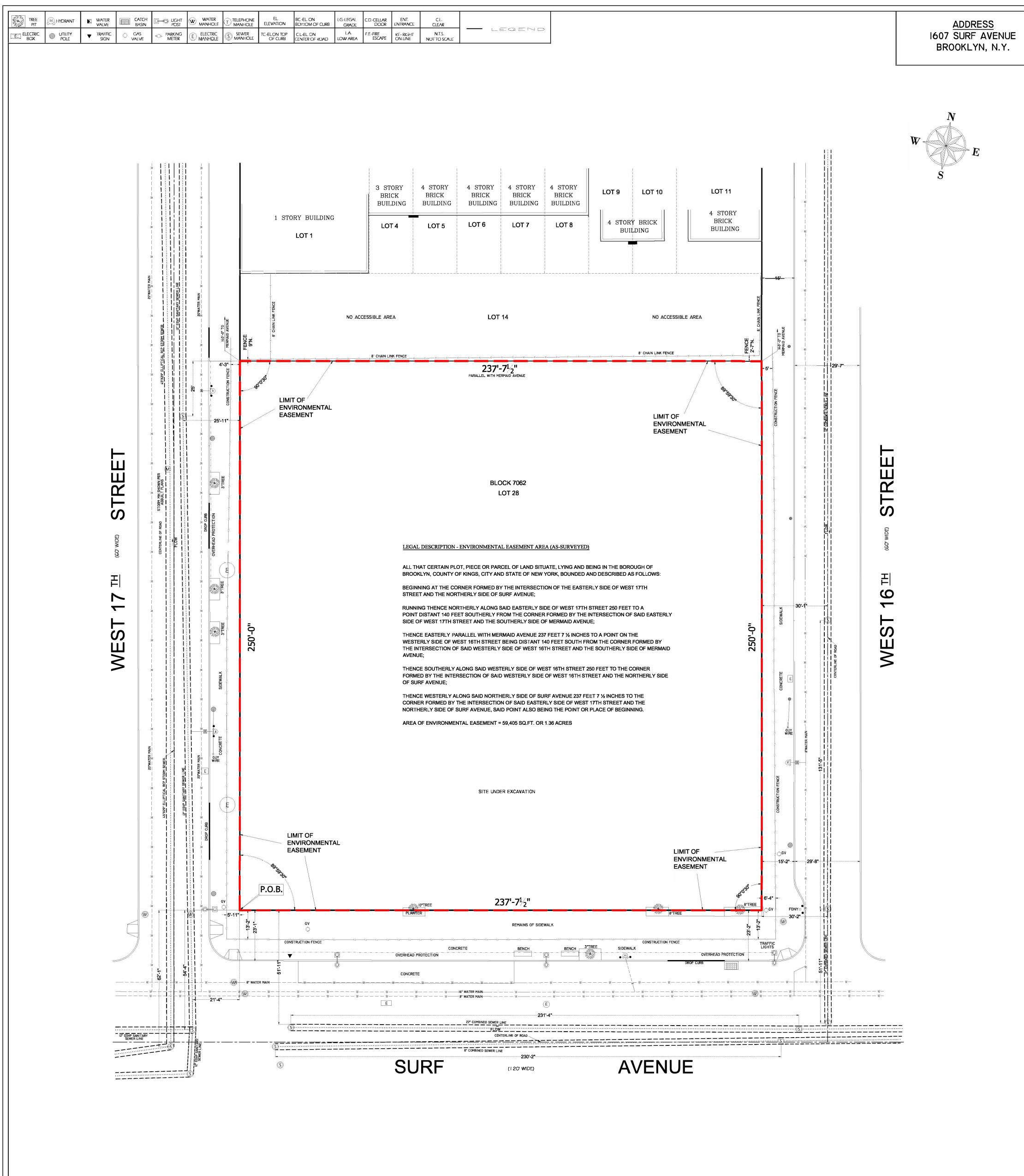
THENCE southerly along said westerly side of West 16th Street 250 feet to the corner formed by the intersection of said westerly side of West 16th Street and the northerly side of Surf Avenue;

THENCE westerly along said northerly side of Surf Avenue 237 feet 7 1/2 inches to the corner formed by the intersection of said easterly side of West 17th Street and the northerly side of Surf Avenue, said point also being the point or place of beginning.

Area of Environmental Easement = 59,405 sq. ft. or 1.36 acres.

Exhibit B

Site Survey



LEGAL DESCRIPTION

BLOCK 7062 LOT 28

DATE

COUNTY

DWG BY_

CHKD BY_

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 EASTERLY SIDE OF WEST 17TH STREET AND THE NORTHERLY SIDE OF SURF AVENUE;

RUNNING THENCE NORTHERLY ALONG SAID EASTERLY SIDE OF WEST 17TH STREET 250 FEET TO A

SIDE OF WEST 17TH STREET AND THE SOUTHERLY SIDE OF MERMAID AVENUE;

THENCE EASTERLY PARALLEL WITH MERMAID AVENUE 237 FEET 7 ½ INCHES TO A POINT ON THE WESTERLY SIDE OF WEST 16TH STREET BEING DISTANT 140 FEET SOUTH FROM THE CORNER FORMED BY THE INTERSECTION OF SAID WESTERLY SIDE OF WEST 16TH STREET AND THE SOUTHERLY SIDE OF MERMAID

POINT DISTANT 140 FEET SOUTHERLY FROM THE CORNER FORMED BY THE INTERSECTION OF SAID EASTERLY

THENCE SOUTHERLY ALONG SAID WESTERLY SIDE OF WEST 16TH STREET 250 FEET TO THE CORNER FORMED BY THE INTERSECTION OF SAID WESTERLY SIDE OF WEST 16TH STREET AND THE NORTHERLY SIDE OF SUIDE AVENUE.

DESCRIPTION

KINGS

A.G.

J.A.

THENCE WESTERLY ALONG SAID NORTHERLY SIDE OF SURF AVENUE 237 FEET 7 ½ INCHES TO THE CORNER FORMED BY THE INTERSECTION OF SAID EASTERLY SIDE OF WEST 17TH STREET AND THE NORTHERLY SIDE OF SURF AVENUE, SAID POINT ALSO BEING THE POINT OR PLACE OF BEGINNING.

AREA OF LOT 28 = 59,405 SQ.FT. OR 1.36 ACRES

This property is subject to an environmental easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the New York Environmental Conservation Law. The engineering and institutional controls for this Easement are set forth in the Site Management Plan(SMP). A copy of SMP must be obtained by any party with an interest in the property. The SMP can be obtained from NYS Department of Environmental Conservation, Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, NY 12233 or at derweb@dec.ny.gov.

MAY 26 , 2022	ENVIRONMENTAL EASEMENT SURVEY
BLOCK	7062
SECTION	21

Unauthorized alterations or additions to this survey is a violation of section 7209 of the New York State education law. Copies of this survey map not bearing the land surveyor's inked seal or embossed seal shall not be considered to be a valid true copy. Guarantees or certifications indicated hereon shall run only to the person for whom the survey is prepared, and on his behalf to the title company, governmental agency and lending institution listed hereon, and to the assignees of the lending institution. Guarantees or certification are not transferable to additional institutions or subsequent owners.

CAUTION:

1) Before performing any digging or drilling on this site, it is required that subsurface services, including the underground mains be marked and identified by the utility involved in compliance with industrial code 53 of New York

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, 11	10°	20'		40.
D '	10°	20'	30'	FEET





TEL. 516-787-3299

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

1607 Surf Avenue, Site ID No. C224313 1607 Surf Avenue, Brooklyn, NY 11224 Brooklyn, Kings County, Tax Map Identification Numbers: Block 7062 Lot 28

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 Coney Island Associates Phase 2 LLC for a parcel approximately 1.360 acres located at 1607 Surf Avenue 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
- 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, 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 2022000437884.

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.

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, by contacting the Regional Environmental Remediation Engineer, or at https://www.dec.ny.gov/data/DecDocs/C224313/.

	Coney Island Phase 2 Housing Development Fund Corporation
	By:
	Title:
	Date:
personally appeared satisfactory evidence to be the individual acknowledged to me that he/she/they exe	, in the year 20, before me, the undersigned,, personally known to me or proved to me on the basis of l(s) whose name is (are) subscribed to the within instrument and ecuted the same in his/her/their capacity(ies), and that by ent, the individual(s), or the person upon behalf of which the nent.
Signature and Office of individual taking acknowledgment	Please record and return to: Coney Island Associates Phase 2 LLC 150 Myrtle Avenue, Suite 2 Brooklyn, NY

	Fund Corporation
	By:
	Title:
	Date:
personally appeared, personally appeared	, in the year 20, before me, the undersigned, ersonally known to me or proved to me on the basis of whose name is (are) subscribed to the within instrument and ted the same in his/her/their capacity(ies), and that by the individual(s), or the person upon behalf of which the t.
Signature and Office of individual taking acknowledgment	

	Coney Island Associates 2 Moderate LLC
	By:
	Title:
	Date:
personally appeared, personally appeared	, in the year 20, before me, the undersigned, onally known to me or proved to me on the basis of cose name is (are) subscribed to the within instrument and the same in his/her/their capacity(ies), and that by individual(s), or the person upon behalf of which the
Signature and Office of individual taking acknowledgment	-

	Coney Island Associates Phase 2 LLC
	By:
	Title:
	Date:
personally appeared, per satisfactory evidence to be the individual(s) vacknowledged to me that he/she/they execute	, in the year 20, before me, the undersigned, rsonally known to me or proved to me on the basis of whose name is (are) subscribed to the within instrument and d the same in his/her/their capacity(ies), and that by he individual(s), or the person upon behalf of which the
Signature and Office of individual taking acknowledgment	Please record and return to: Coney Island Associates Phase 2 LLC 150 Myrtle Avenue, Suite 2 Brooklyn, NY



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION Site Management Form

12/1/2022

SITE DESCRIPTION

SITE NO. C224313

SITE NAME1607 Surf Avenue

SITE ADDRESS: 1607 Surf Avenue ZIP CODE: 11224

CITY/TOWN: Brooklyn

COUNTY: Kings

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

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES:		SNO
IC/EC Certification Plan	•	
Monitoring Plan		•
Operation and Maintenance (O&M) Plan		
Periodic Review Frequency: once a year		

IC/EC Plan

Description of Institutional Control

Coney Island Associates 2 Moderate LLC

Periodic Review Report Submitted Date: 04/30/2024

150 Myrtle Avenue Suite 2
1607 Surf Avenue
Environmental Easement
Block: 7062
Lot: 28
Sublot:
Section:
Subsection:
S_B_L Image: 7062-28

Description of Engineering Control