



OFFICE OF ENVIRONMENTAL REMEDIATION

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NOTICE TO PROCEED
DOB Job Number NB 121187143

July 21, 2015

Martin Rebholz, R.A.
Manhattan Borough Commissioner
NYC Department of Buildings
280 Broadway, 3rd Floor
New York, NY 10007

Re: **401-405 Ninth Avenue Manhattan West, Northeast Tower—Hazardous Materials and Noise “E” Designation**
E-137: Block 729, Lot 60, Brooklyn, CD 4
Hudson Yards Rezoning 01/19/2005 - CEQR # 03DCP031M
OER Project # 15EHAN319M

Dear Commissioner Rebholz:

The New York City Office of Environmental Remediation (OER) hereby issues a Notice to Proceed for the above-referenced Department of Buildings Job Number. This correspondence is provided pursuant to OER's responsibilities as established in Chapter 24 of Title 15 of the Rules of the City of New York and Section 11-15 of the Zoning Resolution of the City of New York. The Applicant has filed a Hazardous Materials remedial action work plan, Noise remedial action plan, Air Quality remedial action plan that are acceptable to this Office and has prepared a Construction Health and Safety Plan for implementation on this project. OER's Decision Document that defines the remedial actions required for this project has been prepared and filed and is available on request.

At the conclusion of remedial activities required under this action, the Zoning Resolution and §24-07 of the Rules of the City of New York requires that OER issue a Notice of Satisfaction signifying that all remedial action requirements established for this project have been satisfied prior to issuance of the Certificate of Occupancy or Temporary Certificate of Occupancy by Department of Buildings.

If you have any questions or comments, please feel free to contact Katherine Glass at 212-676-4925.

Sincerely,

Maurizio Bertini, Ph.D.
Assistant Director

cc: S. Chawla, M. Bertini, K. Glass, PMA-OER
Wes Lindemuth, WCD – windemuth@wcdgroup.com
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DECISION DOCUMENT

NYC VCP and E-Designation Remedial Action Work Plan Approval

July 21, 2015

Re: **401-405 Ninth Avenue –Hazardous Materials and Noise “E” Designation**
E-137: Block 729, Lot 60, Brooklyn, CD 4
Hudson Yards Rezoning 01/19/2005 - CEQR # 03DCP031M
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The New York City Office of Environmental Remediation (OER) has completed its review of the Remedial Action Work Plan (RAWP) dated March 2015 with Stipulation Letter dated May 2015 and the Remedial Action Plan for Air Quality and Noise dated May 2015 for the above-referenced project. These plans were submitted to OER under the E-Designation Program.

The RAWP for the area of the site enrolled in the VCP was released for public comment for 30 days as required by program rule. That comment period ended in April 2015. There were no public comments.

Project Description

The proposed future use of the Site will consist of full build-out of the Site to construct a new 69-story commercial tower totaling approximately 2,000,000 gross square feet. The primary use is commercial office space with first floor commercial retail space. The building will have two (2) basement levels occupied by stormwater tanks, irrigation pumps, maintenance and storage rooms, elevator banks and a service corridor. The current zoning designation is C6-4 “Commercial District” in a Specialty District identified as Hudson Yards Rezoning. The proposed use is consistent with existing zoning for the property.

The proposed building will occupy an approximately 26,500 square foot footprint. The foundation excavation is anticipated to extend approximately 22 feet below street grade into bedrock to accommodate cellar space for the new buildings mechanical equipment. Based on available geotechnical and environmental data the water table is expected to be located within bedrock from approximately 27 to 60 feet below street grade.

Statement of Purpose and Basis

This document presents the remedial action for the NYC Voluntary Cleanup Program and E-Designation Program project known as “Manhattan West Northeast Tower” pursuant to Title 43 of the Rules of the City of New York Chapter 14, Subchapter 1 and the Zoning Resolution and §24-07 of the Rules of the City of New York.

Description of Selected Remedy for Hazmat

The remedial action selected for the Manhattan West, Northeast Tower site is protective of public health and the environment. The elements of the selected remedy are as follows:

1. Preparation of a Community Protection Statement and performance of all required NYC VCP Citizen Participation activities according to an approved Citizen Participation Plan;
2. Perform a Community Air Monitoring Program for particulates and volatile organic carbon compounds;
3. Selection of NYSDEC 6NYCRR Part 375 Unrestricted Use (Track 1) Soil Cleanup Objectives (SCOs);
4. Site mobilization involving Site security setup, equipment mobilization, utility mark outs and marking & staking excavation areas;

5. Completion of additional Waste Characterization Study prior to excavation activities if needed. Waste characterization soil samples will be collected at a frequency specified by disposal facility;
6. Excavation and removal of soil/fill exceeding Unrestricted Use (Track 1) SCOs. For development purposes, the entire property will be excavated to a depth of 22 feet below grade into bedrock for construction of the new subgrade parking garage. Approximately 10,000 tons of soil and bedrock will be excavated and removed from this Site;
7. Screening of excavated soil/fill during intrusive work for indications of contamination by visual means, odor, and monitoring with a PID. Appropriate segregation of excavated media on-Site;
8. Management of excavated materials including temporarily stockpiling and segregating in accordance with defined material types and to prevent co-mingling of contaminated material and non-contaminated materials;
9. Removal of underground storage tanks (if encountered) and closure of petroleum spills (if evidence of a spill/leak is encountered during Site excavation) in compliance with applicable local, State and Federal laws and regulations;
10. Transportation and off-Site disposal of all soil/fill material at permitted facilities in accordance with applicable laws and regulations for handling, transport, and disposal, and this plan. Sampling and analysis of excavated media as required by disposal facilities;
11. End point samples are not required in bedrock. If any soil remains at bottom of excavation, two end-point samples will be obtained to determine the performance of the remedy with respect to attainment of SCOs;
12. Import of materials to be used for backfill and cover in compliance with this plan and in accordance with applicable laws and regulations;
13. Implementation of storm-water pollution prevention measures in compliance with applicable laws and regulations;
14. Performance of all activities required for the remedial action, including permitting requirements and pretreatment requirements, in compliance with applicable laws and regulations;
15. Submission of a Remedial Action Report (RAR) that describes the remedial activities, certifies that the remedial requirements have been achieved, defines the Site boundaries, lists any changes from this RAWP;

If Track 1 Unrestricted Use SCOs are not achieved, the following construction elements implemented as part of new development will constitute Engineering Controls:

16. Construction and maintenance of an engineered composite cover consisting of concrete building slab and concrete sidewalks to prevent human exposure to bedrock remaining under the Site. The slab will be 6-inches thick;
17. Installation of a vapor barrier system beneath the building slab and outside foundation sidewalls below grade. The vapor barrier will consist of a GRACE Preprufe 300R (or similar product) vapor/moisture barrier system (47 mil thick) will be installed beneath entire building basement concrete slab and a GRACE Preprufe 160 (or similar product) vapor/moisture barrier system (31 mil thick) will be installed along foundation sidewalls;
18. As part of new development, construction and operation of a subgrade ventilated parking garage as per NYC Building Department's codes and requirements;
19. If Track 1 SCOs are not achieved, submission of an approved Site Management Plan (SMP) in the RAR for long-term management of residual contamination, including plans for operation, maintenance, monitoring, inspection and certification of Engineering and Institutional Controls and reporting at a specified frequency; and
20. If Track 1 SCOs are not achieved, the property will continue to be registered with an E-Designation by the NYCDOB. Establishment of ECs and ICs in this RAWP and a requirement that management of these controls must be in compliance with an approved Site Management Plan (SMP). ICs will include prohibition of the following: (1) vegetable gardening and farming; (2) use of groundwater without treatment rendering it safe for the intended use; (3) disturbance of residual contaminated material unless it is conducted in accordance with the SMP; and, (4) higher level of land usage without New York City Office of Environmental Remediation (NYC OER) approval.

Description of Selected Remedy for Air Quality

The elements of the remedial action selected for Air Quality for the Manhattan West, Northeast Tower site are as follows:

In order to satisfy the requirements of the E-designation, ConEd supplied steam will be used for hot water and heat in the building. The tenant spaces will also contain electric water heaters for domestic hot water. A co-generation plant located on the 68th Floor will be fueled by natural gas.

Description of Selected Remedy for Noise

The elements of the remedial action selected for Noise for the Manhattan West, Northeast Tower site are as follows:

In order to meet the requirements of the E-Designation, the following window/wall attenuation(s) will be achieved at the locations described below:

1. 30 dBA in the commercial spaces on the east façade (facing 9th Avenue) between an elevation of 0 to 100 feet above street-level based on an allowed reduction of 5 dBA from the attenuation requirement outlined in the E-Designation;
2. 28 dBA in the commercial spaces on the north, west, and south façades (not facing 9th Avenue) between an elevation of 0 to 100 feet above street-level based on an allowed reduction of 5 dBA from the attenuation requirement outlined in the E-Designation;
3. 28 dBA in the commercial spaces on the east façade (facing 9th Avenue) for windows from 101 - 200 feet above street level based on a reduction of 3 dBA from the projected street-level L₁₀ value of 80 to 77 and an allowed reduction of 5 dBA for commercial spaces; as approved by OER (see above), this reduction also applies to the 6th floor, as it is 117 feet from 9th Avenue.
4. 26 dBA in the commercial spaces on the north, west, and south façades (not facing 9th Avenue) for windows from 101 - 200 feet above street level based on a reduction of 3 dBA from the projected street-level L₁₀ value of 77.5 to 74.5 and an allowed reduction of 5 dBA for commercial spaces;
5. 26 dBA in the commercial spaces on the east façade (facing 9th Avenue) for windows from 201 - 400 feet above street level based on a reduction of 6 dBA from the projected street-level L₁₀ value of 80 to 74 and an allowed reduction of 5 dBA for commercial spaces;
6. 23 dBA in the commercial spaces on the north, west, and south façades (not facing 9th Avenue) for windows from 201 - 400 feet above street level based on a reduction of 6 dBA from the projected street-level L₁₀ value of 77.5 to 71.5 and an allowed reduction of 5 dBA for commercial spaces;
7. 23 dBA in the commercial spaces on the east façade (facing 9th Avenue) for windows from 401 - 800 feet above street level based on a reduction of 9 dBA from the projected street-level L₁₀ value of 80 to 71 and an allowed reduction of 5 dBA for commercial spaces;
8. 23 dBA in the commercial spaces on the north, west, and south façades (not facing 9th Avenue) for windows from 401 - 800 feet above street level based on a reduction of 9 dBA from the projected street-level L₁₀ value of 77.5 to 68.5 and an allowed reduction of 5 dBA for commercial spaces;

The following window will be installed:

Façade Floor Range	OITC Rating	OITC Certification	Manufacturer and Model	Glazing
All Façades	32 (glass only)	ASTM E-90 acoustical report for glazing in Appendix C. An ASTM-90 test report for the proposed windows will be provided to OER prior to purchase and installation.	Viracon	3/8" – 1/2" Air Space – 3/8"

An ASTM-90 test report for the proposed windows will be provided to OER prior to purchase and installation. The acoustical reports described above are representative of the acoustical performance of all proposed windows/curtain walls.

In order to satisfy the requirements of the E-Designation, Alternate Means of Ventilation (AMV) will be installed in order to maintain a closed window condition. AMV for this project will be achieved by:

Compliance with Mechanical Code: Providing outside air to commercial spaces and common areas such as lobbies and corridors in accordance with the NYC Mechanical Code.

The remedies for Hazardous Materials, Air Quality, and Noise described above conform to the promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration OER guidance, as appropriate.

December 2, 2014

Date



Katherine Glass
Project Manager

December 2, 2014

Date



Shaminder Chawla
Deputy Director

December 2, 2014

Date



Maurizio Bertini, Ph.D.
Assistant Director

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