

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS** is made as of the [ 9 ] day of [ July ], 20[ 19 ], by BELLA GROUP REALTY LLC (the "Owner"), a limited liability company having an address at 8 Cypress Avenue, Great Neck, NY 11024.

**WITNESSETH**

**WHEREAS**, the Owner is the current owner of a parcel of real property located at 217-21 Merrick Boulevard in Queens County, State of New York, and comprised of Block 12956, Lot 29, on the Borough Tax Assessor's Map (the "Property"); and

**WHEREAS**, the Owner performed a remedial action under the New York City Office of Environmental Remediation (the "Office") E-Designation Program; and

**WHEREAS**, the Office approved a Soil/Materials Management Plan ("Plan") for the Property, dated April 2019, which required submission of a Site Management Plan ("SMP"); and

**WHEREAS**, the Owner has implemented the Plan and agreed to record this Declaration of Covenants and Restrictions (this "Declaration") requiring its ongoing compliance with the SMP.

**NOW, THEREFORE**, the Owner, for itself and its successors and assigns, covenants that:

1. The Property is hereby made subject to this Declaration.
2. The Property is subject to engineering and institutional controls defined in the SMP, which is attached hereto as Exhibit A.
  - a. An active sub-slab depressurization system, must be operated and maintained as specified in the SMP and may not be discontinued or modified without an amendment of the SMP or the termination of this Declaration approved by the Office, or if the Office shall no longer exist or no longer have jurisdiction with respect to the enforcement of this Declaration, by any New York City agency or agencies whose purpose shall be to protect the public health and environment of the city (the "Relevant Agency").
  - b. All inspections and certifications pertinent to site management for the Property must be reported at the frequency and in a manner specified in the SMP.

3. This Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property.
4. Any deed conveying all or a portion of the Property shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that the said conveyance is subject to this Declaration and the SMP.
5. It shall be a condition of this Declaration that any owner of the Property may, upon not less than thirty days written notice to each of the owners of record of the Property, petition the Relevant Agency to modify or terminate this Declaration, provided that human health and the environment will continue to be protected notwithstanding such modification or termination, and such party certifies that written notice was provided to each owner of record.

*[Signature Follows]*



**Exhibit A**

Site Management Plan

# **217-21 MERRICK BLVD**

**QUEENS, NEW YORK**

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## **Site Management Plan**

**NYC OER Project Number 11EH-N075Q**

**E-Designation Project Number E-219**

**Prepared For:**

Ramin Somekh

8 Cypress Ave. Great Neck, NY 11024

Raminsomekh@aol.com

**Prepared By:**

James R. Holzmacher

J.R. Holzmacher P.E., LLC

3555 Veterans Memorial Highway Suite A Ronkonkoma, NY 11779

(631)234-2220

aj@holzmacher.com

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**JULY 2019**

## CERTIFICATION

I, James R. Holzmacher, am currently a Professional Engineer licensed in the State of New York. I performed professional engineering services and had primary direct responsibility for designing the remedial program for the 217-21 Merrick Boulevard Site (OER Project # 11EH-N075Q). I certify to the following:

- I have reviewed this document to which my signature and seal are affixed.
- Engineering Controls developed for this remedial action were designed by me or a person under my direct supervision and designed to achieve the goals established in this Soils and Materials Management Plan for this site.
- The Engineering Controls to be constructed during this remedial action are accurately reflected in the text and drawings of the Soils and Materials Management Plan and are of sufficient detail to enable proper construction.
- This Soils and Materials Management Plan has a plan for handling, transport and disposal of soil, fill, fluids and other materials removed from the property in accordance with applicable City, State and Federal laws and regulations. Importation of all soil, fill and other material from off-Site will be in accordance with all applicable City, State and Federal laws and requirements. This Soils and Materials Management Plan has provisions to control nuisances during the remediation and all invasive work, including dust and odor suppression.

I, A.J. Scheff am a Qualified Environmental Professional. I had the primary direct responsibility for the implementation of the remedial program for the 217-21 Merrick Boulevard Site (OER Project # 11EH-N075Q). I certify to the following:

- This Soils and Materials Management Plan had a plan for handling, transport and disposal of soil, fill, fluids and other materials removed from the property in accordance with applicable City, State and Federal laws and regulations. Importation of soil, fill and other material from off-Site was in accordance with applicable City, State and Federal laws and requirements. This Soils and Materials Management Plan had provisions to control nuisances during invasive work, including dust suppression.

James R. Holzmacher, P.E.

Name

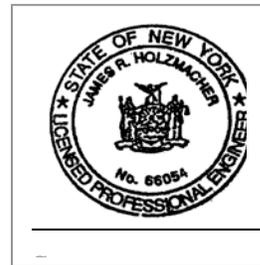
66054

NYS PE License Number

  
Signature

07-09-2019

Date



Arthur J. Scheff

QEP Name

  
QEP Signature

07-09-2019

Date

## **1. SITE MANAGEMENT PLAN**

Site Management is the last phase of remediation and begins with the approval of the certified closure letter and issuance of the Notice of Satisfaction (NOS). The Site Management Plan (SMP) describes appropriate methods and procedures to ensure implementation of all ECs and ICs that are required by this SMMP. The Site Management Plan is submitted as part of the certified closure letter but will be written in a manner that allows its use as an independent document. Site Management continues until terminated in writing by OER. The property owner is responsible to ensure that all Site Management responsibilities defined in the Site Management Plan are implemented.

The SMP will provide a detailed description of the procedures required to manage residual soil/fill left in place following completion of the remedial action. This includes a plan for: (1) implementation of EC's and ICs; (2) operation and maintenance of EC's; (3) inspection and certification of IC's and EC's.

Site management activities and EC/IC certification will be scheduled by OER on a periodic basis to be established in the certified closure letter and the SMP and will be subject to review and modification by OER. The Site Management Plan will be based on a calendar year and certification reports will be due for submission to OER by July 31 of the year following the reporting period.

## **ENGINEERING CONTROLS**

Engineering Controls were employed in the remedial action to address residual materials remaining at the site. The Site has two Engineering Control Systems. Engineering Controls for this property are:

- (1) Composite Cover System
- (2) Active Sub-Slab Depressurization System

### **Operation and Maintenance of Composite Cover System**

Engineering Controls describes the Composite Cover System utilized in this Site Management Plan and provides as-built design details and the location of each cover type. The Composite Cover System is a permanent Engineering Control for the Site. The system will be inspected and its performance certified at specified intervals defined in this SMP. A Soil/Materials Management Plan is included in this Site Management Plan and outlines the procedures to be followed in the event that the composite cover system and underlying residual soil/material must be disturbed after the Remedial Action is complete.

The Composite Cover System does not require any special operation or maintenance activities. If the system is breached during future construction activities [or "normal wear and tear"], the system will be rebuilt by reconstructing the system according to the original design and tying newly constructed cover layers into existing cover layers to form a continuous layer(s).

### **Operation and Maintenance of Active Sub-Slab Depressurization System**

Engineering Controls describes the Active Sub-Slab Depressurization System utilized in this Site Management Plan and provides as-built design details and the system location. The SSDS is a permanent Engineering Control for the Site. The system will be inspected and its performance certified at specified intervals defined in this SMP.

The Active SSDS will be operated and maintained as prescribed below.

Two sub slab depressurization systems were installed on April 10, 2019 as shown in the as built drawing. A total of 5 suction points (SP) were installed and all conveyance piping is 3-inch cast iron. The mitigation blowers are mounted on the roof of the building and the exhausts terminate above the roofline in accordance with state guidance.

The system is equipped with a vacuum gauge and audible/visual alarm for each system. The alarm and gauge for system #1 are located in a central utility closet and the alarm and gauge for system #2 are located in the utility room of the vacant space. A red light will illuminate, a buzzer will sound, and the vacuum gauge will read 0 in the event of a system failure.

Refer to Appendix 1 for the Vapor Intrusion Mitigation System Post Mitigation Report provided by Obar Systems, Inc.

### **INSTITUTIONAL CONTROLS**

A series of Institutional Controls are required under this Remedial Action to assure permanent protection of public health by elimination of exposure to residual materials. These ICs define the program to operate, maintain, inspect and certify the performance of Engineering Controls and Institutional Controls on this property. These Institutional Controls will be implemented in accordance with the Site Management Plan included in this RAR.

Institutional Controls are also designed to prevent future exposure to residual soil/materials by controlling disturbances in the subsurface, restricting higher uses of the property than those addressed by the Remedial Action and establishing restrictions on activities and site usage. Institutional Controls for this property are:

- Continued registration of the E-Designation for the property. This SMMP includes a description of all ECs and ICs and summarizes the requirements of the Site Management Plan (SMP) which will note that the property owner and property owner's successors and assigns must comply with the approved SMP;
- Recording of an OER-approved Declaration of Covenant and Restrictions (DCR) with the City Register or county clerk, as appropriate. The DCR will document the installation, and continued

operation, of the active SSDS, will summarize the requirements of the SMP, and will note that the property owner and property owner's successors and assigns must comply with the approved SMP. The recorded DCR will be submitted in the certified closure letter. The DCR will be recorded prior to OER issuance of the Notice of Satisfaction;

- Vegetable gardens and farming on the Site are prohibited in contact with residual soil materials;
- Use of groundwater underlying the Site is prohibited without treatment rendering it safe for its intended use;
- All future activities on the Site that will disturb residual material must be conducted pursuant to the soil management provisions in an approved SMP;
- The Site will be used for commercial use and will not be used for a higher level of use without prior approval by OER.

## **INSPECTIONS**

Engineering Controls and Institutional Controls will be inspected on a periodic basis at a frequency established in this plan. The inspections will evaluate the following:

- If Engineering Controls or Institutional Controls employed at the Site continue to perform as designed and continue to be protective of human health and the environment;
- If anything has occurred that impairs the ability of the Engineering Controls or Institutional Controls to protect public health and the environment;
- If changes are needed to the remedial systems or controls;
- If compliance with this SMP has been maintained;
- If site records are complete and up to date; and
- General Site conditions at the time of inspection.

In addition, if an emergency occurs, such as a natural disaster, or if an unforeseen failure of any of the Engineering Controls occurs, an inspection of the Site will be performed within 30 days to evaluate the Engineering Controls, and a letter report of findings will be submitted to OER.

**Inspection of Composite Cover System**

Inspections will include visual evaluation of all accessible system components. Evidence of active invasive activity through the cover system, or past invasive activity, such as patches and repairs, will be evaluated. Photographs will be taken and presented in the Report to document findings.

**Inspection of Active Sub-Slab Depressurization System**

The Vapor Intrusion Mitigation System should be checked monthly by the owner /superintend/ tenant and yearly by the QEP/PE. The following metrics shall be inspected and recorded:

- A Visual Inspection
- Measure Applied Vacuum
- Record Sub-Slab Vacuum at Test Ports (by QEP/PE)
- Record Riser Vacuum

In the event of a blower malfunction the system can be manually restarted by deenergizing the blower (via the circuit breaker or the fan switch) for approximately 1 minute and then restarting the blower. If a manual restart does not work, the blower motor may require replacement.

The following tables display the systems' commissioning values. The data presented represents measurements taken after the fan was tuned for optimal efficiency

System #	Fan Type	Vacuum ("w.c.)
System #1	GBR76-UD	-19.2
System #2	GBR89	-9.0

Suction Point #	Vacuum ("w.c.)	Ball Valve Position (% open)
SP1-1	-18.5	100
SP1-2	-19.0	100
SP2-1	-8.3	100
SP2-2	-8.4	100
SP2-3	-8.4	100

Test Port #	Vacuum ("w.c.)
TP-1	-0.006
TP-2	-0.018
TP-3	-0.035
TP-4	-0.029
TP-5	-0.021
TP-6	-0.016

Refer to Appendix 1 for the Vapor Intrusion Mitigation System Post Mitigation Report provided by Obar Systems, Inc.

The SSDS will be inspected by the buildings tenant on a monthly basis, using the checklist provided by JRH. The attached checklist will include visual inspections of the risers and clamps securing them, and gauges along with their readings (to ensure the system is creating negative pressure). Once a year the SSDS will be inspected by a QEP from JRH. Along with conducting a regular monthly inspection, the blowers on the roof will be inspected during this time, as will the alarms. JRH will collect all the monthly reports and include them in the yearly report. This report will be submitted to the OER.

### **Site Use Prohibitions**

Inspections to evaluate the status of site use prohibitions will include an evaluation of all of the ICs listed above, including:

- whether there is vegetable gardening or farming in residual soil/fill;
- whether groundwater underlying the site has been used without treatment rendering it safe for its intended use;
- whether activities that have disturbed site soil/fill have been conducted pursuant to the Soil/Material Management provisions of the SMP, or otherwise approved by OER; and
- whether the site has been used for a higher level of use other than the restricted residential, commercial or industrial use addressed by the Remedial Action.

### **INSPECTION AND CERTIFICATION LETTER REPORT**

Results of inspections performed during a reporting period and certification of performance of all Engineering Controls and Institutional Controls will be included in an Inspection and Certification Letter Report. Inspections will be performed monthly by the owner of the building / tenant and yearly by the QEP/PE. Monthly reports will be collected and included in the yearly inspection report by the QEP/PE. Yearly inspection report to be submitted to OER. Inspection and Certification Reports will cover all calendar years since the prior reporting period. Inspection and Certification Letter Reports will be submitted to OER in digital format. The letter report will utilize a form established by OER. This form includes, at a minimum:

- Date of inspections;
- Personnel conducting inspections;
- Description of the inspection activities performed;
- Observations, conclusions, or recommendations;
- Copy of any monthly inspection forms;
- Photographs; and

- Certification of the performance of Engineering Controls and Institutional Controls executed by the P.E. or QEP responsible for this Inspection and Certification Letter Report, as discussed below.

The certification of the performance of ECs and ICs will establish:

- If Engineering Controls and Institutional Controls employed at the Site continue to be in place, perform as designed and continue to be protective of human health and the environment;
- If anything has occurred that impairs the ability of Engineering Controls or Institutional Controls to protect public health and the environment;
- If changes are needed to the remedial systems or controls;
- If compliance with this Site Management Plan has been maintained;
- If vegetable gardening and farming in residual soils has been prevented;
- If groundwater underlying the Site is being utilized without treatment rendering it safe for the intended purpose has been prevented;
- If activities on the Site that have disturbed residual soil/fill material have been in accordance with the Soil/Materials Management Plan in this SMP;
- If the Site has been used for a higher level of use other than the restricted residential, commercial or industrial use addressed by the Remedial Action;
- If site records are complete and up to date;
- If the Site continues to be registered as an E-Designated property by the NYC Department of Buildings.

**OER may enter the Site upon notice for the purpose of evaluating the performance of ECs and ICs.**

## **NOTIFICATIONS**

Notifications will be submitted by the property owner to OER as described below:

- 60-day advance notice of any proposed changes in Site use, such as an upgrade from existing use to commercial use that was not contemplated in the SMMP.
- Notice within 30 days of any emergency, such as a fire, flood, or earthquake that has the potential to reduce the effectiveness of Engineering Controls in place at the Site.

**Appendix 1**

**Vapor Intrusion Mitigation System Post Mitigation Report, Obar Systems, Inc.**



# **Vapor Intrusion Mitigation System**

## **Post Mitigation Report**

### **Site Address:**

217-21 Merrick Blvd. Laurelton, New York

### **Prepared for:**

Mr. Ramin Somekh

Partner

Bello Group Realty LLC

8 Cypress Ave

Great Neck NY 11024

### **Prepared by:**

Mr. Daniel Nuzzetti

Project Engineer / Vapor Intrusion Specialist

OBAR Systems, Inc.

2969 Route 23

Newfoundland, NJ 07435

**April 12, 2019**

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## Attachments

Attachment 1 – As Built Drawing

Attachment 2- Blower O&M

## 1. Background

OBAR Systems was retained to install a Vapor Intrusion Mitigation System in accordance with the March 21, 2019 Obar Systems Sub-Slab Depressurization System Design. The subject property is located at 217-21 Merrick Blvd in Laurelton, New York; the system installation was completed on April 10, 2019.

## 2. General System Information

Two sub slab depressurization systems were installed as shown in the as built drawing. A total of 5 suction points (SP) were installed and all conveyance piping is 3 inch cast iron. The mitigation blowers are mounted on the roof of the building and the exhausts terminate above the roofline in accordance with state guidance.

## 3. Commissioning Data

The following tables display the systems' commissioning values. The data presented represents measurements taken after the fan was tuned for optimal efficiency. Commissioning was performed on April 10, 2019.

System #	Fan Type	Vacuum ("w.c.)
System #1	GBR76-UD	-19.2
System #2	GBR89	-9.0

Suction Point #	Vacuum ("w.c.)	Ball Valve Position (% open)
SP1-1	-18.5	100
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SP2-1	-8.3	100
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Test Port #	Vacuum ("w.c.)
TP-1	-0.006
TP-2	-0.018
TP-3	-0.035
TP-4	-0.029
TP-5	-0.021
TP-6	-0.016

## 4. Alarm Panel

The system is equipped with a vacuum gauge and audible/visual alarm for each system. The alarm and gauge for system #1 are located in a central utility closet and the alarm and gauge for system

#2 are located in the utility room of the vacant space. A red light will illuminate, a buzzer will sound, and the vacuum gauge will read 0 in the event of a system failure.

## 5. Operations and Maintenance

Vapor Intrusion Mitigation Systems should be checked semi-annually for the first year and annually thereafter. The following metrics shall be inspected and recorded.

- Visual Inspection
- Measure Applied Vacuum
- Record Sub Slab Vacuum at Test Ports
- Record Riser Vacuum

In the event of a blower malfunction the system can be manually restarted by deenergizing the blower (via the circuit breaker or the fan switch) for approximately 1 minute and then restarting the blower. If a manual restart does not work, the blower motor may require replacement.

## 6. Photos



System Alarm and Vacuum Gauge



Sub Slab test Port



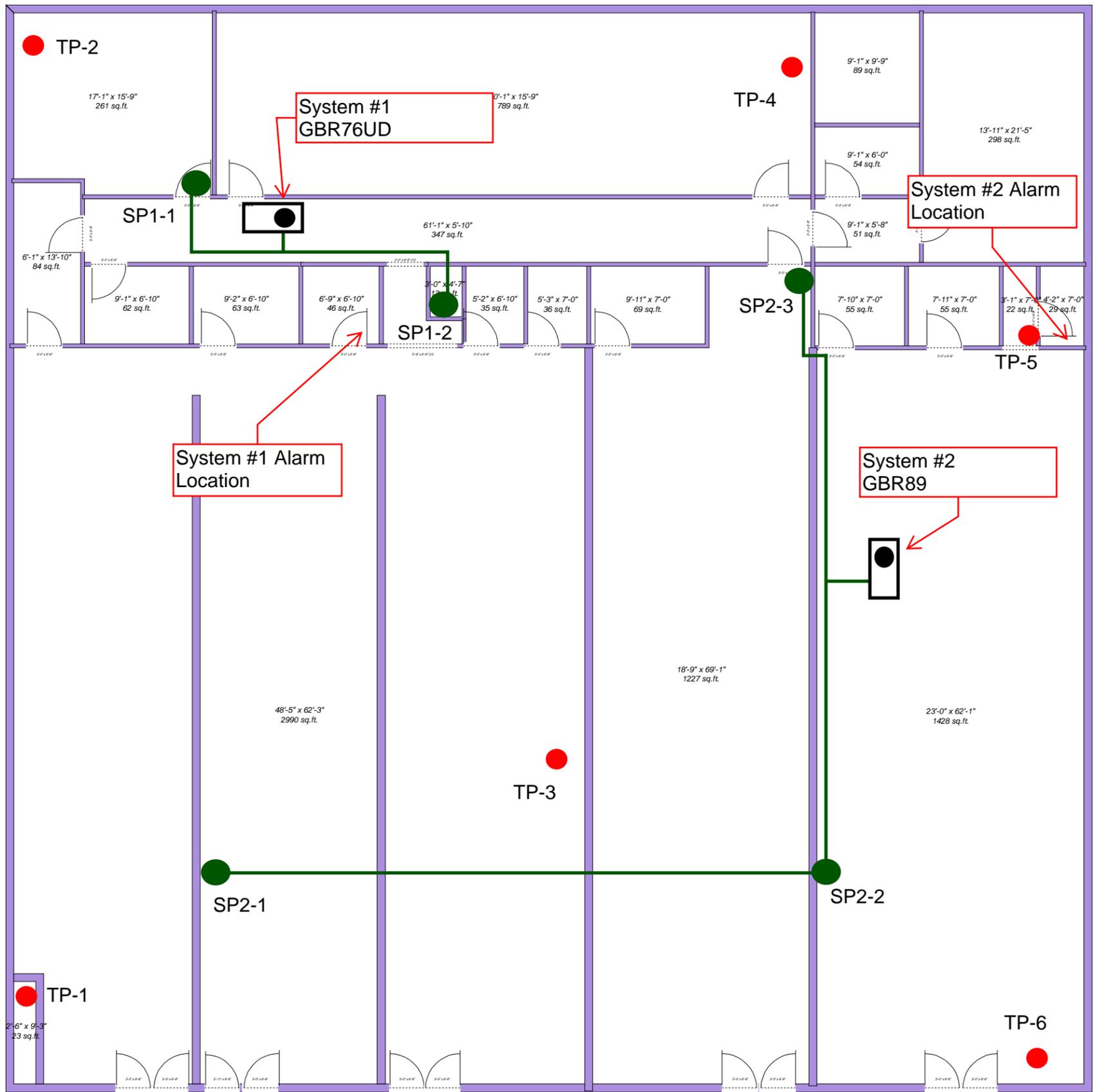
System Ball Valve, Overhead Pipe  
and Wall Penetration



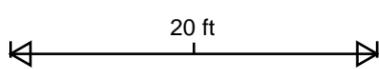
Labeled Circuit Breakers

## 7. Conclusion

The Vapor Intrusion Mitigation System is meeting the defining criteria for a successful mitigation system, all sub slab pressure differentials throughout the building are above the original design target of  $-0.004$ "w.c. The system should be routinely inspected in accordance with the O&M section of this report, in order to ensure compliance. Temporary roof flashing was performed at the time of installation, the owner has agreed to have a certified roofing professional perform the final roof flashing at a later date.



- Suction Point / Riser
- Overhead Conveyance Pipe
- Mitigation Fan
- Sub Slab Test Port



SHEET NAME: Vapor Intrusion Mitigation System As Built	DRAWING NO: 1 of 1
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OBAR Systems Inc. 2696 Rt. 23 South Newfoundland, NJ 07435 	Mitigation Specialist Gunnar Barr NJDEP MIS 10056	SITE ADDRESS: 217 Merrick Blvd. Laurelton, NY 11413	DATE: 4/11/2019
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2969 Route 23 South  
Newfoundland, New Jersey 07435  
800-949-OBAR  
[www.obarsystems.com](http://www.obarsystems.com)

## **Operation and Maintenance for GBR Compact Radial Blowers** **76SOE, 76UD and 89HA**

The GBR Series of compact radial blowers do not require any periodic maintenance or service under normal operation.

Information regarding built in protections that will automatically shut down blower operation:

- 1) **Thermal Overload Protection**: Extreme temperatures due to climate or over-speed operation may cause the blower to shut down to protect internal components. This will happen when internal temperatures exceed 60 degrees Celsius (140 F). Allow the blower time to cool and perform a manual restart (see below). If possible the blower should be tuned to a lower speed to reduce the running temperatures.
- 2) **Voltage Protection**: In the event of a voltage spike or drop, unit will shut down to protect internal components. The building's electric service should be checked to ensure it is within the blower's operating range. Additionally, a voltage conditioner can be installed to ensure clean, constant voltage to the unit. In this case, a manual restart must be performed (see below).
- 3) **Optical/Obstruction Sensor**: If blower experiences a shutdown event due to a power loss and ice is allowed to form on impellers, the optical sensor will prevent a restart. Before attempting a restart (see below) ensure the impeller is free.
- 4) **NOTE**: It is necessary for the blower enclosure to maintain a water-tight seal. If unit has been serviced or disassembled for any reason, ensure both intake and discharge couplings have been resealed using Teflon tape and a bead of clear, waterproof silicone is reapplied where the discharge coupling meets the enclosure. Moisture in the housing can cause blower failure or shutdown due to a fogged optical sensor.

**Manual Restart Procedure:** Disconnect power supply to the blower for at least 30 seconds to allow internal components to reset. Check voltage to ensure it is within blower's operating range. Check all electrical components to ensure proper connection is being made. Reconnect power supply to the blower unit.

It is recommended that these units be monitored by a pressure switch alarm adjusted to indicate a system failure at a vacuum specified by the installer. Alarms and remote monitoring solutions are available from Obar Systems.

**Sub-slab Depressurization System Monthly Inspection/Monitoring  
 Checklist Site No. 11EH-N075Q  
 217-21 Merrick Blvd Queens, NY 11413**

Sub-Slab Depressurization System Component	Condition	No	Yes	Describe Deficiency	If Yes: perform smoke or pressure test, describe any other Corrective Action
Discharge location of vent pipe	Any open windows or air intakes near vent?				
Building Floor Slab	Holes, cracks or other physical deficiencies?				
Riser Pipes	Holes, cracks or other physical deficiencies?				
Riser Clamps	Secured?				
Fans/Blowers	Operational?				

Date	Pressure Readings (inches of water)	
	System #1	System #2

Adesa Boja, Project Manager  
 NYC Mayor's Office of Environmental Remediation  
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 3555 Veterans Memorial Highway, Suite A  
 Ronkonkoma, NY 11779  
 aj@holzmacher.com

\_\_\_\_\_  
 Name of Inspector

\_\_\_\_\_  
 Signature of Inspector

\_\_\_\_\_  
 Date of Inspection