



**OFFICE OF ENVIRONMENTAL REMEDIATION**

100 Gold Street – 2<sup>nd</sup> Floor  
New York, New York 10038

**Daniel Walsh, Ph.D.**  
**Director**

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**AMENDED NOTICE TO PROCEED**  
**DOB Job Number: NB – 122182333 & A3 - 122698893**

April 4, 2017

Martin Rebholz, R.A.  
Manhattan Borough Commissioner  
NYC Department of Buildings  
280 Broadway, 3<sup>rd</sup> Floor  
New York, NY10007

Re: **438-440 Washington Street – Hazardous Materials and Noise “E” Designations**  
**31 Desbrosses Street**  
**E-162 & R-76: Block 223, Lots 13 & 15, Manhattan, CD 1**  
**Tribeca North Rezoning- CEQR # 06DCP067M**  
**OER Project # 15RH-N495M/ NYC VCP Site #16CVCP003M**

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 and Noise Remedial Action Plan that is 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 William Wong at 212-341-0659.

Sincerely,

  
Shaminder Chawla  
Deputy Director

cc: Vincent J Ponte, 270 West Street, LLC - [vj.ponteequities@gmail.com](mailto:vj.ponteequities@gmail.com)  
Brian Gochenaur, Langan - [bgochenaur@Langan.com](mailto:bgochenaur@Langan.com)  
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Daniel Walsh, Maurizio Bertini, Zach Schreiber, William Wong, PMA-OER



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**AMENDED DECISION DOCUMENT**  
**NYC VCP Remedial Action Work Plan Approval**

April 4, 2017

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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 November 2015 with Stipulation Letter dated November, 2015 for the above-referenced project. These Plans were submitted to OER under the NYC Voluntary Cleanup Program and E-Designation Program.

The RAWP was released for public comment for 30 days as required by program rule. That comment period ended on October 31, 2015. There were no public comments.

**Project Description**

The proposed development project consists of an 11-story mixed-use commercial and residential building with a partial cellar, ground level parking, and restaurant space. The northern portion of the site will be excavated to a depth of about 12 feet below ground surface (bgs) to accommodate the proposed basement, with some deeper excavation required for the elevator pit and foundation elements. The slab-on-grade (southern) portion of the site will be excavated to a depth of about 5 feet bgs with some deeper excavation for foundation elements and removal of the lead and copper hotspots. The ground floor will contain a parking lot for eight cars, a lobby, and a restaurant. The remaining floors will be used for residential apartments, with a community room on the 10<sup>th</sup> floor. The 11<sup>th</sup> floor will consist of a roof bulkhead. Excavation of about 2,600 cubic yards (cy) of soil, accompanied by dewatering, is anticipated to facilitate construction.

**Statement of Purpose and Basis**

This document presents the remedial action for the NYC Voluntary Cleanup Program and E-Designation Program project known as “440 Washington Street” 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 “440 Washington Street” 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 implementation of a Citizen Participation Plan
2. Performance of a Community Air Monitoring Program for particulates and volatile organic carbon compounds
3. Establishment of Site Specific Track 4 soil cleanup objectives (SCO) - Collection and analysis of documentation samples to determine the performance of the remedy with respect to attainment of Track 4 SCOs
4. Site mobilization involving site security setup, equipment mobilization, utility mark outs and marking

- & staking excavation areas
5. Completion of a Waste Characterization Study prior to excavation activities - Waste characterization soil samples will be collected at a frequency dictated by disposal facilities.
  6. Excavation and removal of soil and fill exceeding Track 4 SCOs - The northern portion of the site will be excavated to a depth of about 12 feet bgs to accommodate the proposed basement, with some deeper excavation required for the elevator pit and foundation elements. The slab-on-grade (southern) portion of the site will be excavated to a depth of about 5 feet bgs with some deeper excavation for foundation elements and removal of the lead and copper hotspots. Approximately, 3,900 tons of soils 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 photoionization detector (PID), and appropriate segregation of excavated media on-site
  8. Dewatering in compliance with city, state, and federal laws and regulations - Extracted groundwater will either be containerized for off-site licensed or permitted disposal or will be treated under a permit from New York City Department of Environmental Protection (NYCDEP) to meet pretreatment requirements prior to discharge to the sewer system.
  9. 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
  10. Removal of any USTs identified during development and closure of any petroleum spills discovered in compliance with applicable local, State and Federal laws and regulations
  11. Transportation and off-site disposal of soil/fill material at licensed or 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 and appropriate segregation of excavated media on-site
  12. Installation of a waterproofing membrane/vapor barrier system beneath the building slab and outside foundation sidewalls below grade, and beneath the slab-on-grade parts of the building that are not mechanically ventilated or open to outside air. The waterproofing membrane/vapor barrier will consist of Grace Preprufe 300R for horizontal installations, and Grace Preprufe 160R or Bituthene 4000 for vertical installations, or an alternative OER-approved vapor barrier product that would provide similar vapor mitigation and waterproofing protection. Grace Preprufe 300R is a 45-mil thick high-density polyethylene (HDPE) film, and Preprufe 160R is a 30-mil thick HDPE film. Bituthene is a 60-mil thick self-adhesive HDPE film. In the slab-on-grade areas of the building that are not mechanically vented or open to outside air, Grace Florprufe 120 will be used, or an alternative OER-approved vapor barrier product that would provide similar vapor mitigation protection. Grace Florprufe 120 is a 20-mil thick polyolefin film. All welds, seams and penetrations will be properly sealed to prevent preferential pathways for vapor migration. The waterproofing membrane/vapor barrier system is an engineering control (EC) for the remedial action. The remedial engineer will certify in the Remedial Action Report (RAR) that the vapor barrier system was designed and properly installed to mitigate soil vapor migration into the building.
  13. Construction and maintenance of an engineered composite cover consisting of concrete and asphalt pavement and a concrete building to prevent human exposure to residual soil/fill remaining under the site
  14. Construction and operation of an at-grade-level parking garage with high volume air exchange in conformance with NYC Building Code
  15. Import of materials to be used for backfill and cover in compliance with this plan and in accordance with applicable laws and regulations
  16. Implementation of stormwater pollution prevention measures in compliance with applicable laws and regulations
  17. Performance of all activities required for the remedial action, including permitting requirements and pretreatment requirements, in compliance with applicable laws and regulations
  18. Submission of an 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, and describes all ECs and institutional controls (IC) to be implemented at the site

19. 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 ECs and ICs and reporting at a specified frequency
20. The property will continue to be registered with an E-Designation by the NYC Buildings Department (NYCDOB) - Establishment of ECs and ICs in this RAWP and a requirement that management of these controls must be in compliance with an approved 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 OER approval.

**Description of Selected Remedy for Noise**

The elements of the remedial action selected for Noise for the 440 Washington Street site are as follows:

<b>Façade Floor Range</b>	<b>OITC Rating</b>	<b>OITC Certification</b>	<b>Manufacturer and Model</b>	<b>Glazing</b>
All Façades Floors 2-10 Residential	38	See ASTM E-90 acoustical report for the exact window and glazing in Appendix D of the Noise RAP	2500-A3 awning window manufactured by St. Cloud Window	1/4" – 1/2" air space – 1/4" laminated, 1-1/4" glass-to-glass air space, 3/8" laminated
Eastern Façade Floors 2-9 Residential	36	See ASTM E-90 acoustical report for the exact window and glazing in Appendix E	2500-A3 fixed window manufactured by St. Cloud Window	1/4" – 7/16" air space – 1/4" laminated, 1-3/8" glass-to-glass air space, 3/8" laminated
All Façades Floors 1, 2 & 9-11 Commercial and Residential	33	See ASTM E-90 acoustical report for the exact window and glazing in Appendix F	2500TD terrace door manufactured by St. Cloud Window	1/4" tempered – 1/2" argon – 1/4" laminated
Northern Façade Floor 10 Residential	32*	See ASTM E-90 acoustical report for the exact window and glazing in Appendix G	4200SGD sliding door manufactured by St. Cloud Window	1/4" – 7/16" air space – 1/4" laminated

\*A composite calculation for window/wall attenuation in the vicinity of the sliding glass door (i.e., 4200SGD manufactured by St. Cloud Window) on Floor 10 of the northern façade resulted in an OITC rating of 36 dB(A), which exceeds the required rating of 33 dB(A).

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:

1. **Fresh Air Inlet:** Installing Airlet™ TL98 fresh air inlets manufactured by Aldes in most of the bedrooms and living rooms on Floors 2 through 10 will provide fresh air.
2. **Trickle Vent:** Installing Variglaze® trickle vents manufactured by Titon Inc. in those bedrooms and living rooms on Floors 2 through 10 where fresh air inlets are not feasible due to size constraints. Trickle vents will provide fresh air to these bedrooms and living rooms.
3. **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.

Heating and cooling for the building will be provided via water source heat pumps.

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

April 4, 2017

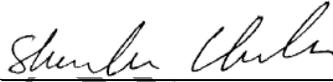
Date



William Wong  
Project Manager

April 4, 2017

Date



Shaminder Chawla

April 4, 2017

Date



Maurizio Bertini  
Assistant Director

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