OFFICE OF ENVIRONMENTAL REMEDIATION
100 Gold Street – 2nd Floor
New York, New York 10038

Shaminder Chawla
Acting Director
Tel: (212) 788-8841

REVISED – NOTICE TO PROCEED
DOB Job Number B00670629-I1

May 20, 2024

Re: 778-790 Liberty Avenue, 88-94 Berriman Street
Brooklyn Block 3989, Lots 14, 16, and part of Lot 18
Hazardous Materials, Air Quality, and Noise "E" Designation
E-366: East New York - CEQR 15DCP102K - 4/20/2016
OER Project Number 22EHAN065K

Dear Brooklyn Borough Commissioner:

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 Subchapter 7 of Chapter 14 of Title 43 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 Plan, Hazardous Materials Remedial Action Stipulation List, revised Noise Remedial Action Plan, and a revised 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 §43-1474 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 Quinones at 212-788-2773.

Sincerely,

Maurizio Bertini, Ph.D.
Assistant Director

cc: David Goldberger, Liberty Apartments LLC – duvidgb@gmail.com
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DECISION DOCUMENT
E-Designation Remedial Action Work Plan Approval

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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 May 2022, with revised Stipulation Letter dated March 28, 2024, and the revised Remedial Action Plan for Air Quality and Noise dated May 2024, for the above-referenced project.

These Plans were submitted to OER under the E-Designation Program.

Project Description
The Site will be redeveloped with a new 8-story residential apartment building with a partial cellar. A covered surface level parking area will be constructed across the western portion of the 1st floor of the new building and will extend into the rear yard and a small portion of the rear of adjacent Lot 18 (approximately 950 SF).

The 3,517 SF cellar will be constructed solely on Lot 16 and will consist of a 1,062 SF recreation room, a 412 SF bike room, a laundry room, refuse/storage compactor room, and mechanical rooms. The 1st floor will consist of the residential entrance and four studio apartments on the east half of the building and covered parking for 8 cars and an attendant's booth on the west half of the building. A small 120 SF landscaped area will be constructed in front new building along the Liberty Avenue sidewalk. The rear courtyard behind the building will be concrete capped and consist of additional parking. The 2nd through 8th floors will consist of residential apartments.

Excavation of Lot 16 was previously performed under an OER approved Remedial Action Plan (David R. Bracket, Jr., May 2022) in June and July 2022, and consisted of excavation to approximately 10 ft below sidewalk grade on the east half of Lot 16, and 2 to 4 ft below sidewalk grade on the west half of Lot 16. The top of the cellar slab will be constructed at two separate elevations. The cellar slab for the eastern portion of the cellar which will consist of two mechanical spaces, a hallway, and a stairwell will be constructed at elevation 25.65'. The sidewalk elevation in that area is approximately 33.5'. Therefore, excavation to a depth of at least 8.5 ft below sidewalk grade will be required for the cellar on the eastern end of the Site, with additional deeper excavation to 10 ft for footings and grade beams. Excavation of this portion of the Site was previously performed to approximately 10 ft. Therefore, minimal excavation (if any) will be required.

The cellar slab for the western portion of the cellar which will consist of a recreation room, laundry room, bike room, storage room, compactor room, and stairwell will be constructed at elevation 24.0'. Since the sidewalk elevation is approximately 32.5', excavation to a depth of at least 8.5 ft below sidewalk grade will be required with additional deeper excavation to 10 ft for footings/grade beams. additional excavation to 15 ft below grade for the elevator pit. Excavation of this portion of the Site was previously performed to approximately 2 to 4 ft below grade with a slope down to the eastern portion of the Site.

Excavation to a depth of approximately 2 ft below grade will be required across the slab-on grade area to be

constructed along the west side of the building (Lot 14) with additional excavation from 4 to 6 ft below sidewalk grade for footings/grade beams. Limited excavation (top 0.5 to 1 ft) will be required for the rear parking area located in the rear of Lot 14. Remedial excavation consisting of a 10 ft by 10 ft wide excavation to a depth of 7 ft below grade will be performed to remove the S-7 (barium) and S-8 (barium and lead) hot-spots identified during the Remedial Investigation performed by BEC on Lot 14 in February 2024. The total amount of soil anticipated for removal is approximately 800 cubic yards (1,200 tons).

Statement of Purpose and Basis

This document presents the remedial action for the E-Designation Program project known as "790 Liberty Avenue" pursuant to the Zoning Resolution and §73 - 1474 of the Rules of the City of New York.

Description of Selected Remedy for Hazardous Materials

The remedial action selected for the 790 Liberty Avenue site is protective of public health and the environment. The contents of this list are added to the RAWP and will supersede the content in the RAWP where there is a conflict in purpose or intent. The additional requirements/procedures include the following stipulation list below:

1. The Site Location and Current Usage sections of the May 2022 Remedial Action Plan have been revised to the following:

    - The Site consists of two adjacent lots with the street addresses 778 Liberty Avenue and 790 Liberty Avenue, Brooklyn, New York 11208. The Site is identified as Block 3989, Lots 14 and 16 on the New York City Tax Map. The two adjacent lots are located on the southwest corner of the intersection of Berriman Street and Liberty Avenue. A description of both lots comprising the Site is provided below:
        - Lot 16 consists of 100 feet of street frontage along Liberty Avenue and 40 ft of street frontage along Berriman Street for a total lot area of 4,000 SF. Prior to partial excavation for a new building, the lot consisted of a storage yard utilized for storage of vehicles for an auto repair facility located on the north side of Liberty Avenue. The vehicles were removed in 2019, and partial excavation and installation of foundation elements for a new building were performed in June and July of 2022.
        - Lot 14 consists of 25 ft of street frontage along Liberty Avenue and a lot depth of 90 ft for a total of 2,250 SF. The lot is currently utilized as a storage yard for vehicles for an auto repair facility located on the north side of Liberty Avenue.
        - A small portion of the rear of adjacent Lot 18 will be capped with concrete and utilized for parking in-conjunction with the covered surface level parking area that will occupy the western portion of the 1st floor of the Site and will extend into the rear yard of the Site.

    The Site is bounded by a used car lot to the west (772 Liberty Avenue), Liberty Avenue to the north and both residential properties and an auto repair facility on the north side of Liberty Avenue, Berriman Street to the east followed Public School 345 on the east side of Berriman Street, and two 2-story residential buildings (94 Berriman Street and 339 Shepherd Avenue) to the south.

2. The redevelopment plans detailed within the Remedial Action Plan (dated May 2022) prepared by David R. Bracket Jr. have been revised. Therefore, Section 1.2 Redevelopment Plan and the section titled "Summary of Redevelopment Plan" within the Executive Summary of the RAP have been revised to the following:

    The Site will be redeveloped with a new 8-story residential apartment building with a partial cellar. A covered surface level parking area will be constructed across the western portion of the 1st floor of the new building and will extend into the rear yard and a small portion of the rear of adjacent Lot 18 (approximately 950 SF).

    The 3,517 SF cellar will be constructed solely on Lot 16 and will consist of a 1,062 SF recreation room, a 412 SF bike room, a laundry room, refuse/storage compactor room, and mechanical rooms. The 1st floor will consist of the residential entrance and four studio apartments on the east half of the building and covered parking for 8 cars and an attendant's booth on the west half of the building. A small 120 SF

landscaped area will be constructed in front new building along the Liberty Avenue sidewalk. The rear courtyard behind the building will be concrete capped and consist of additional parking. The 2nd through 8th floors will consist of residential apartments.

Excavation of Lot 16 was previously performed under an OER approved Remedial Action Plan (David R. Bracket, Jr., May 2022) in June and July 2022, and consisted of excavation to approximately 10 ft below sidewalk grade on the east half of Lot 16, and 2 to 4 ft below sidewalk grade on the west half of Lot 16.

The top of the cellar slab will be constructed at two separate elevations. The cellar slab for the eastern portion of the cellar which will consist of two mechanical spaces, a hallway, and a stairwell will be constructed at elevation 25.65'. The sidewalk elevation in that area is approximately 33.5'. Therefore, excavation to a depth of at least 8.5 ft below sidewalk grade will be required for the cellar on the eastern end of the Site, with additional deeper excavation to 10 ft for footings and grade beams. Excavation of this portion of the Site was previously performed to approximately 10 ft. Therefore, minimal excavation (if any) will be required.

The cellar slab for the western portion of the cellar which will consist of a recreation room, laundry room, bike room, storage room, compactor room, and stairwell will be constructed at elevation 24.0'. Since the sidewalk elevation is approximately 32.5', excavation to a depth of at least 8.5 ft below sidewalk grade will be required with additional deeper excavation to 10 ft for footings/grade beams. additional excavation to 15 ft below grade for the elevator pit. Excavation of this portion of the Site was previously performed to approximately 2 to 4 ft below grade with a slope down to the eastern portion of the Site.

Excavation to a depth of approximately 2 ft below grade will be required across the slab-on grade area to be constructed along the west side of the building (Lot 14) with additional excavation from 4 to 6 ft below sidewalk grade for footings/grade beams. Limited excavation (top 0.5 to 1 ft) will be required for the rear parking area located in the rear of Lot 14. Remedial excavation consisting of a 10 ft by 10 ft wide excavation to a depth of 7 ft below grade will be performed to remove the S-7 (barium) and S-8 (barium and lead) hot-spots identified during the Remedial Investigation performed by BEC on Lot 14 in February 2024. The total amount of soil anticipated for removal is approximately 800 cubic yards (1,200 tons).

The water table was encountered at a depth of approximately 23 ft below sidewalk grade and therefore will not be encountered during excavation and will not require dewatering. The current zoning designation is residential (R6A) with a commercial overlay (C2-4). The proposed usmn6e of the new building is consistent with existing zoning for the property.

3. Due to the change in the redevelopment plan, the engineered composite cover system has been revised to the following:
    - Cellar Slab - The cellar area will be capped with a 6-inch concrete slab underlain with 20-mil Stego-Wrap vapor barrier (or OER-approved equivalent system); and
    - At-grade 1st Floor Building Slabs - The at-grade 1st floor building areas will be capped with a 6-inch concrete slab underlain with 20-mil Stego-Wrap vapor barrier (or OER-approved equivalent system); and
    - Rear Parking Slab - The rear parking area will be capped with a 6-inch concrete slab over residual soil; and
    - Landscaped / Planting Area - The landscaped area along Liberty Avenue will be capped with a minimum 2 ft layer of clean soil over a demarcation barrier.

4. A vapor barrier system will be installed below/around the elevator pit, behind all cellar walls to grade, below footings/grade beams, and below the entire cellar and at-grade building slabs to mitigate against soil vapor migration into the building. The vapor barrier system will consist of Stego Industries, LLC 20-mil Stego Wrap (or OER approved equivalent system). 20-mil Stego Wrap is manufactured using prime, virgin, polyolefin resins to produce a water vapor permeance rating of 0.0071 perms. All welds, seams and penetrations will be properly sealed to prevent preferential pathways for vapor migration. The vapor barrier system is an Engineering Control for the Remedial Action. The remedial engineer will certify in

the RAR that the vapor barrier system was designed and properly installed to mitigate soil vapor migration into the building.

5. Endpoint soil samples were previously collected by RCAG, LLC in 2022, on Lot 16 as detailed below:
    i. Grid 1 S-1 Endpoint (12.5 ft): collected on July 8, 2022, and analyzed for VOCs, SVOCs, pesticides, PCBs and metals. No VOCs, SVOCs, pesticides/PCBs or metals detected above UUSCOs with the exception of nickel;
    ii. Grid 2 S-1 Endpoint (12.5 ft): collected on July 8, 2022, and analyzed for VOCs, SVOCs, pesticides, PCBs and metals. No VOCs, SVOCs, pesticides/PCBs or metals detected above UUSCOs with the exception of nickel;
    iii. S-1 Lead Confirmatory Endpoint Sample (14.5 ft): collected on July 15, 2022, and analyzed for lead and TCLP lead. Lead was detected below the UUSCOs and TCLP lead was below the 5 mg/L standard;
    iv. Grid Number 4 Endpoint (EP4): collected on July 29, 2022, and analyzed for VOCs, SVOCs, pesticides, PCBs and total metals. No VOCs, SVOCs, pesticides/PCBs or metals detected above UUSCOs.

6. A total of six site wide endpoint samples (EP-3 through EP-9) are to be collected from the bottom of the excavation for laboratory analysis to evaluate the performance of the remedy with respect to attainment of Track 4 SCOs. Samples will be analyzed for contaminants of concern including volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and the metals barium, lead and mercury to determine if Track 4 Site-Specific SCOs can be achieved. If Track 1 Unrestricted Use or Track 2 Restricted Residential SCOs are proposed following completion of excavation, then the endpoint samples would be analyzed for VOCs, SVOCs, pesticides/polychlorinated biphenyls (PCBs), and metals. The following Site-Specific SCOs have been established for the project:

Contaminant	Site Specific SCO
SVOCs	100 ppm
Barium	800 ppm
Lead	1,000 ppm
Mercury	2.0 ppm

7. Collection and analysis of endpoint soil samples from the sidewalls and base of the excavations performed to remove the S-7 and S-8 hot-spots identified during the Remedial Investigation performed by BEC on Lot 14 in February 2024. The S-7 hot-spot constituents of concern includes the metal barium. The S-8 hotspot constituents of concern includes the metals lead and barium. The endpoint soil samples collected from the S-7 and S-8 hotspot excavations will be analyzed for SCO trigger parameters.

8. All petroleum spills will be reported to the NYSDEC hotline as required by applicable laws and regulations. This contingency plan is designed for heating oil tanks and other small or moderately sized storage vessels. If larger tanks, such as gasoline storage tanks are identified, OER will be notified before this criterion is utilized.

9. A pre-construction meeting is required prior to start of remedial excavation work at the site. A pre-construction meeting will be held at the site and will be attended by OER, the developer or developer representative, the consultant, excavation/general contractor, and if applicable, the soil broker.

10. A Historic Fill Transfer and Disposal Notification Form to each disposal facility and a pre-approval letter from all disposal facilities will be provided to OER prior to any soil/fill material removal from the site. Documentation specified in the RAWP - Appendix 3 - Section 1.6 “Materials Disposal Off-Site” will be provided to OER. If a different disposal facility for the soil/fill material is selected, OER will be notified immediately.

11. Monthly reports are required on the project’s status and schedule to the OER project manager after RAWP/RAP is approved/NTP issued until Remedial Action Report/Remedial Closure Report is received.

This is your (Environmental Consultant's) responsibility to provide this report. If you (environmental consultant) are no longer retained for continuation of project, you are required to notify OER about this. After excavation work is completed, monthly reports are still required and will be provided by the consultant or owner/developer for the duration of the construction period.

12. Daily reports will be provided during active excavation work. If no work is performed for extended time period, daily report frequency will be reduced to weekly basis.

13. Trucking log sheets will be utilized as trucks are transported from sites, and completed logs should be attached to the Remedial Action Report (RAR) as an appendix. The goal of this log is to clearly document the destination of material leaving the site, the parties responsible for its transfer, and other pertinent details.

14. Dewatering if needed, will be performed in full compliance with applicable laws, rules and regulations. Dewatering permit will be obtained from NYCDEP/NYSDEC prior to construction activities.

15. Truck routing to the project site shall only occur according with the approved RAWP. The applicant, applicant's consultant and contractors are responsible for maintaining proper traffic in the vicinity of the site during all field operations, truck loading/unloading, etc.

16. Stabilized construction entrance and decontamination area will be constructed. All vehicles will be cleaned on-site to avoid any tracked materials (e.g., soils) spilling on roadways. Also, erosion controls must be installed, if necessary. Prior to import of the tracking pad material, the consultant will submit source facility name and location and a sieve analysis for the proposed material.

17. Applicant, Applicant's consultant and contractors and contractors are responsible for obtaining all permits necessary for the performance of the work, as well as, paying all associated fees (e.g., demolition, temporary water connection, dewatering, temporary electric connection, etc.).

18. Applicants and Applicant's consultant shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Copy of the Health and Safety Plan (HASP) must be provided to the subcontractor(s). Copy of the HASP should be available at the site at all times. BEC personnel responsible for implementing this Health and Safety Plan are:

Name	**Title**	**Address**	**Contact Number**
Kevin Brussee	BEC – Principal	14 Evans Lane Miller Place, NY 11764	631.338.1749
Thomas Gallo	Health and Safety Officer	14 Evans Lane Miller Place, NY 11764	516.972.5354

19. If the project is delayed for any reason after RAWP approval, the project consultant/ developer/ contractor will inform OER of the reasons for delay and expected start date. Monthly reporting will continue as described above.

20. Estimated project start date from RAWP Stipulation List approval is 1 to 2 weeks.

21. BEC/AMC on behalf of will be implementing the OER approved Remedial Action Plan (dated May 2022) and Remedial Action Plan (RAP) Stipulation List (dated June 6, 2022) prepared by David R. Bracket Jr., with project changes above. I, Ariel Czemerinski, P.E., am the remedial engineer of record going forward for this project and I am certifying that I am familiar with all requirements of the approved RAP and the final Remedial Action Report will be certified by me.

Description of Selected Remedy for Air Quality

The elements of the remedial action selected for Air Quality for the 790 Liberty Avenue site are as follows:
In order to satisfy the requirements of E-366, electric will be used for HVAC systems and natural gas will be used for domestic hot water systems.

Each apartment will be provided with hot water from a central hot water plant with four tankless gas-fired hot water heaters, Navien Model # NPE-240S2 and hot water storage tank, A.O. Smith Model #TJV-140A, which will be installed in the roof MER.

The HVAC system for each apartment will be comprised of packaged terminal heat pumps (PTAC), which provide cooling and heating (electric heating as secondary heating) to all residential dwelling units of the building. The cooling capacities of packaged terminal heat pumps vary from 7.6 MBH to 14.7 MBH and depend on the cooling load of particular space inside the apartments. The heating capacities vary from 6.8 MBH to 13.6 MBH and depend on the heating load of particular space. The PTAC will consist of Amana Model No.: PTH073G35, PTH093G35, PTH123G35, and PTH153G35.

Description of Selected Remedy for Noise

The elements of the remedial action selected for Noise for the 790 Liberty Avenue site are as follows:

The following windows and doors will be installed:

Window/Door Types	**OITC Rating**	**OITC Certification**	**Manufacturer and Model**	**Glazing**
Operable Residential Windows Purple All Facades 1st – 8th Floors	**31** 28 Required	See ASTM E90 Sound Transmission Loss Test Report Report No. L1561.01-113-11-R0 Report Date: 08/27/20 Data File No. L1561.01B for dual action tilt-turn window in Appendix E.	Zephyr Windows, Inc. Series/Model uPVC Super 82 tilt/turn window	26 mm IG (4 mm annealed exterior, 16 mm argon, 6 mm annealed interior)
Fixed Residential Windows Orange All Facades 1st – 8th Floors	**29** 28 Required	See ASTM E90 Sound Transmission Loss Test Report Report No. P6860.01-113-11-R0 Report Date: 08/08/23 Data File No. P6860.01A1 for dual action tilt-turn window in Appendix E.	Zephyr Windows, Inc. Series/Model Class B uPVC Super 82 fixed window	1” IG (5/32” annealed exterior, 19/32” argon, ¼” annealed interior)

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. **Trickle Vents**: Alternate means of ventilation (AMV) will be provided by installing SF Xtra 464 V25 ventilators manufactured by Titon in each bedroom and living room at a minimum rate of one SF Xtra 464 V25 ventilator per room. Fresh air will be provided to all bedrooms and living rooms by the SF Xtra 464 V25 ventilators. Floor plans and elevation drawings showing the installation location of the SF Xtra 464 V25 ventilators are included within Appendix A. Specifications for the SF Xtra 464 V25 ventilators are provided in Appendix I. Cooling and heating will be comprised of packaged terminal heat pumps (PTAC) to all residential dwelling units of the building. The PTAC will consist of Amana Model No.: PTH073G35, PTH093G35, PTH123G35, and PTH153G35.

2. **Compliance with 2014 NYC Mechanical Code**: Providing outside air to residential common areas such as the lobbies and corridors in accordance with the 2014 NYC Mechanical Code. The commercial space in the cellar & 1st floor will be provided with cooling and heating by future tenant fit out constructor with condensers installed on 2nd floor roof with 1700 fresh air intake, provided via ductwork from rear yard.

The remedies for Hazardous Materials, Air Quality, Noise E Designation 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.

05/20/2024

Date

William Quinones
Project Manager

05/20/2024

Date

Maurizio Bertini, Ph.D.
Assistant Director

cc: David Goldberger, Liberty Apartments LLC – duvidgb@gmail.com
Hershy Silberstein, Liberty Apartments LLC - hershy@blueskybuilder.net
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