

DECISION DOCUMENT

73 - 99 Empire Boulevard
Brownfield Cleanup Program
Brooklyn, Kings County
Site No. C224343
June 2026



**Department of
Environmental
Conservation**

Prepared by
Division of Environmental Remediation
New York State Department of Environmental Conservation

DECLARATION STATEMENT - DECISION DOCUMENT

73 - 99 Empire Boulevard
Brownfield Cleanup Program
Brooklyn, Kings County
Site No. C224343
June 2026

Statement of Purpose and Basis

This document presents the remedy for the 73 - 99 Empire Boulevard brownfield cleanup site. The remedial program was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (NYSDEC) for the 73 - 99 Empire Boulevard site and the public's input to the proposed remedy presented by NYSDEC.

Description of Selected Remedy

The elements of the selected remedy are as follows:

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals;
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development; and
- Additionally, to incorporate green remediation principles and techniques to the extent feasible in the future development at this site, any future on-site buildings shall be

constructed, at a minimum, to meet the 2020 Energy Conservation Construction Code of New York (or most recent edition) to improve energy efficiency as an element of construction.

As part of the remedial design program, to evaluate the remedy with respect to green and sustainable remediation principles, an environmental footprint analysis will be completed. The environmental footprint analysis will be completed using an accepted environmental footprint analysis calculator such as SEFA (Spreadsheets for Environmental Footprint Analysis, USEPA), SiteWise™ (available in the Sustainable Remediation Forum [SURF] library) or similar NYSDEC accepted tool. Water consumption, greenhouse gas emissions, renewable and non-renewable energy use, waste reduction and material use will be estimated, and goals for the project related to these green and sustainable remediation metrics, as well as for minimizing community impacts, protecting habitats and natural and cultural resources, and promoting environmental justice, will be incorporated into the remedial design program, as appropriate. The project design specifications will include detailed requirements to achieve the green and sustainable remediation goals. Further, progress with respect to green and sustainable remediation metrics will be tracked during implementation of the remedial action and reported in the Final Engineering Report (FER), including a comparison to the goals established during the remedial design program.

Additionally, the remedial design program will include a climate change vulnerability assessment, to evaluate the impact of climate change on the project site and the proposed remedy. Potential vulnerabilities associated with extreme weather events (e.g., hurricanes, lightning, heat stress and drought), flooding, and sea level rise will be identified, and the remedial design program will incorporate measures to minimize the impact of climate change on potential identified vulnerabilities.

2. Excavation

Excavation and off-site disposal of all on-site soils which exceed unrestricted soil cleanup objectives (SCOs), as defined by 6 NYCRR Part 375-6.8 to depths ranging from 3 to 14 feet below grade surface (bgs). Approximately 13,450 cubic yards of contaminated soil will be removed from the site.

Collection and analysis of confirmation samples at the remedial excavation depth will be used to verify that SCOs for the site have been achieved. If confirmation sampling indicates that SCOs were not achieved at the stated remedial depth, the Applicant must notify NYSDEC, submit the sample results and, in consultation with NYSDEC, determine if further remedial excavation is necessary. Further excavation for development will proceed after confirmation samples demonstrate that SCOs for the site have been achieved.

To ensure proper handling and disposal of excavated material, waste characterization sampling will be completed for all identified contaminated site material. Waste characterization sampling will be performed exclusively for the purposes of off-site disposal in a manner suitable to receiving facilities and in conformance with applicable federal, state and local laws, rules, and regulations and facility-specific permits.

3. Backfill

Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to establish the designed grades at the site.

4. Vapor Intrusion Evaluation

As part of the Track 1 remedy, a soil vapor intrusion evaluation will be completed. The evaluation will include a provision for implementing actions recommended to address exposures related to soil vapor intrusion.

5. Local Institutional Controls

If no Environmental Easement (EE) or Site Management Plan (SMP) is needed to achieve soil, groundwater, or soil vapor remedial action objectives, then the following local use restriction will be relied upon to prevent ingestion of groundwater: Article 141 of the NYCDOHMH code, which prohibits potable use of groundwater without prior approval.

Contingent Track 2 Remedy

The intent of the remedy is to achieve Track 1 unrestricted use; therefore, no Environmental Easement (EE) or Site Management Plan (SMP) is anticipated. If the soil vapor intrusion evaluation is not completed prior to completion of the Final Engineering Report, then an EE and an SMP will be required to address the SVI evaluation and implement actions as needed. In the event that Track 1 unrestricted use is not achieved, the following contingent remedial elements will be required, and the remedy will achieve a Track 2 restricted residential cleanup.

6. Institutional Controls

Imposition of an institutional control in the form of an environmental easement for the controlled property that:

- requires the remedial party or site owner to complete and submit to NYSDEC a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3)
- allows the use and development of the controlled property for restricted residential use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or NYCDOHMH; and
- requires compliance with the NYSDEC approved Site Management Plan.

7. Site Management Plan

A Site Management Plan is required, which includes the following:

- a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:
 - Institutional Controls: The Environmental Easement discussed in Remedy Element 6.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future

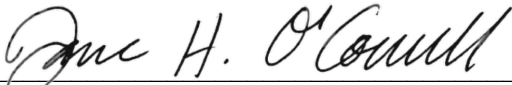
- excavations in areas of remaining contamination;
 - descriptions of the provisions of the environmental easement including any land use and groundwater use restrictions;
 - a provision for evaluation of the potential for soil vapor intrusion for any occupied buildings on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
 - provisions for the management and inspection of the identified engineering controls;
 - maintaining site access controls and NYSDEC notification; and
 - the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- b. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
- a schedule of monitoring and frequency of submittals to the NYSDEC; and
 - monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.

Declaration

The remedy conforms with promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration Department guidance, as appropriate. The remedy is protective of public health and the environment.

June 22, 2026

Date



Jane H. O'Connell, P.G.
Remedial Remediation Engineer, Region 2

DECISION DOCUMENT

73 - 99 Empire Boulevard
Brooklyn, Kings County
Site No. C224343
June 2026

SECTION 1: SUMMARY AND PURPOSE

The New York State Department of Environmental Conservation (NYSDEC), in consultation with the New York State Department of Health (NYSDOH), has selected a remedy for the above referenced site. The disposal of contaminants at the site has resulted in threats to public health and the environment that would be addressed by the remedy. The disposal or release of contaminants at this site, as more fully described in this document, has contaminated various environmental media. Contaminants include hazardous waste and/or petroleum.

The New York State Brownfield Cleanup Program (BCP) is a voluntary program. The goal of the BCP is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is real property, where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance, based on the reasonably anticipated use of the property.

NYSDEC has issued this document in accordance with the requirements of New York State Environmental Conservation Law and 6 NYCRR Part 375. This document is a summary of the information that can be found in the site-related reports and documents.

SECTION 2: CITIZEN PARTICIPATION

NYSDEC seeks input from the community on all remedies. A public comment period was held, during which the public was encouraged to submit comment on the proposed remedy. All comments on the remedy received during the comment period were considered by NYSDEC in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repositories:

DECInfo Locator - Web Application
<https://gisservices.dec.ny.gov/gis/dil/index.html?rs=C224343>

Brooklyn Public Library - Crown Heights Branch
560 New York Avenue
Brooklyn, NY 11225
Phone: (718) 773-1180

NYC Brooklyn Community Board 9
890 Nostrand Avenue
Brooklyn, NY 11225
Phone: (718) 778-9179

Receive Site Citizen Participation Information By Email

Please note that NYSDEC's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>

SECTION 3: SITE DESCRIPTION AND HISTORY

The site is located at 73 - 99 Empire Boulevard in an urban area in the Crown Heights neighborhood of Brooklyn. The site is approximately 0.87-acre (38,000 square feet) and is denoted on New York City tax maps as Block 1306, Lot 28. The site is bounded to the north by Sullivan Place, to the east by commercial buildings followed by Bedford Avenue, to the south by Empire Boulevard, and to the west by McKeever Place. The site is approximately 500 feet east of Prospect Park.

Site Features:

The site is currently vacant and surrounded by a construction fence with only a former foundation slab left in place.

Current Zoning and Land Use:

The site is currently inactive and is zoned as a C4-4D Contextual General Commercial District, which allows for mixed commercial/residential use. The surrounding parcels are currently zoned for service/retail commercial and medium-density residential use. The site is located in a Disadvantaged Community and an Environmental Justice Area.

Past Use of the Site:

The site was first developed in 1925 with an approximately 27,000 sq-ft 1-story warehouse that was used as an auto service garage and included a gasoline tank along the southern portion of the property. An approximately 7,500 sq-ft auxiliary building was constructed to the east around 1930 as a parts storage facility for the auto service business. The northwestern corner of the site was developed with a mixed-used building in 1932 and demolished sometime prior to 1951. By the mid-1940s, both of the main buildings were occupied by an auto, truck, and equipment manufacturer. By 1951 the site was used as an auto parts and service station until it was left vacant in 1994. By 2014, the eastern auxiliary building was converted into a laundromat that was in operation until late 2024. Both buildings were demolished in 2025.

Site Geology and Hydrogeology:

Based on the remedial investigations, the site is underlain with urban fill mostly consisting of sand, gravel, silt, brick, concrete, cobbles, asphalt, and wood to a minimum depth of 5 feet below grade surface (ft bgs) and to a maximum depth of 14 ft bgs across the site. Beneath the fill, apparent native soil is comprised of fine to coarse sand, silt, some gravel, and clay. Bedrock was not encountered during any of the investigations conducted at the site and is estimated to be approximately 250 ft bgs according to U.S. Geological Survey data. Groundwater was encountered approximately 61 feet below grade and flows to the south.

A site location map is attached as Figure 1.

SECTION 4: LAND USE AND PHYSICAL SETTING

NYSDEC may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. For this site, an alternative which allows for restricted residential use (which allows for commercial use and industrial use) as described in Part 375-1.8(g) were evaluated in addition to an alternative which would allow for unrestricted use of the site.

A comparison of the results of the Remedial Investigation (RI) against the appropriate standards, criteria, and guidance values (SCGs) for the identified land use and the unrestricted use SCGs for the site contaminants is available in the RI Report.

SECTION 5: ENFORCEMENT STATUS

The Applicant under the Brownfield Cleanup Agreement is a Volunteer. The Applicant does not have an obligation to address off-site contamination. However, NYSDEC has determined that this site does not pose a significant threat to public health or the environment; accordingly, no enforcement actions are necessary.

SECTION 6: SITE CONTAMINATION

6.1: Summary of the Remedial Investigation

A remedial investigation (RI) serves as the mechanism for collecting data to:

- characterize site conditions;
- determine the nature of the contamination; and
- assess risk to human health and the environment.

The RI is intended to identify the nature (or type) of contamination which may be present at a site and the extent of that contamination in the environment on the site, or leaving the site. The RI reports on data gathered to determine if the soil, groundwater, soil vapor, indoor air, surface water or sediments may have been contaminated. Monitoring wells are installed to assess groundwater and soil borings or test pits are installed to sample soil and/or waste(s) identified. If other natural resources are present, such as surface water bodies or wetlands, the water and

sediment may be sampled as well. Based on the presence of contaminants in soil and groundwater, soil vapor will also be sampled for the presence of contamination. Data collected in the RI influence the development of remedial alternatives. The RI report is available for review in the site document repository and the results are summarized in section 6.3.

The analytical data collected on this site includes data for:

- groundwater
- soil
- soil vapor
- indoor air
- sub-slab vapor

6.1.1: Standards, Criteria, and Guidance (SCGs)

The remedy must conform to promulgated standards and criteria that are directly applicable or that are relevant and appropriate. The selection of a remedy must also take into consideration guidance, as appropriate. Standards, Criteria and Guidance are hereafter called SCGs.

To determine whether the contaminants identified in various media are present at levels of concern, the data from the RI were compared to media-specific SCGs. NYSDEC has developed SCGs for groundwater, surface water, sediments, and soil. The NYSDOH has developed SCGs for drinking water and soil vapor intrusion. For a full listing of all SCGs see: <http://www.dec.ny.gov/regulations/61794.html>

6.1.2: RI Results

The data have identified contaminants of concern. A "contaminant of concern" is a contaminant that is sufficiently present in frequency and concentration in the environment to require evaluation for remedial action. Not all contaminants identified on the property are contaminants of concern. The nature and extent of contamination and environmental media requiring action are summarized below. Additionally, the RI Report contains a full discussion of the data. The contaminants of concern identified at this site is/are:

benzo(a)anthracene	nitrobenzene
benzo(a)pyrene	hexavalent chromium
benzo(b)fluoranthene	lead
chrysene	mercury
dibenz[a,h]anthracene	toluene
indeno(1,2,3-cd)pyrene	1,4-dioxane

The contaminants of concern exceed the applicable SCGs for:

- groundwater
- soil

6.2: Interim Remedial Measures

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Decision Document.

There were no IRMs performed at this site during the RI.

6.3: Summary of Environmental Assessment

This section summarizes the assessment of existing and potential future environmental impacts presented by the site. Environmental impacts may include existing and potential future exposure pathways to fish and wildlife receptors, wetlands, groundwater resources, and surface water. The RI report presents a detailed discussion of any existing and potential impacts from the site to fish and wildlife receptors.

Soil and groundwater were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), metals, polychlorinated biphenyls (PCBs), per- and polyfluoroalkyl substances (PFAS), and pesticides. Soil vapor samples were analyzed for VOCs. Based upon investigations conducted to date, the primary contaminants of concern for the site include SVOCs and metals in soil, SVOCs in groundwater, and VOCs in soil vapor.

Soil – Soil analytical data was compared against the unrestricted use soil cleanup objectives (UUSCOs). Four VOCs were found at concentrations exceeding the applicable UUSCOs including benzene at a maximum concentration of 0.24 ppm (UUSCO is 0.06 ppm), ethylbenzene at 1.3 ppm (UUSCO is 1 ppm), toluene at 0.8 ppm (UUSCO is .07 ppm) and xylenes at 7.7 ppm (UUSCO is 0.26 ppm). These contaminants were detected in the southern portion of the site at depths ranging from 9 to 11 ft bgs. Several SVOCs were detected in exceedance of the applicable unrestricted use soil cleanup objectives (UUSCOs) in shallow soil, including maximum concentrations of benz(a)anthracene at 4.5 parts per million, or ppm (UUSCO is 1 ppm), benzo(a)pyrene at 3.4 ppm (UUSCO is 1 ppm), benzo(b)fluoranthene at 4.8 ppm (UUSCO is 1 ppm), chrysene at 3.9 ppm (UUSCO is 1 ppm), dibenz[a,h]anthracene at 0.6 ppm (UUSCO is 0.33 ppm), and indeno(1,2,3-c,d)pyrene at 2.2 ppm (UUSCO is 0.5 ppm). Metals detected include maximum concentrations of hexavalent chromium at 2.07 ppm (UUSCO is 1 ppm), lead at 964 ppm (UUSCO is 63 ppm), and mercury at 2.46 ppm (UUSCO is 0.18 ppm). All these exceedances were detected within the on-site urban fill layer, which extends to depths of 3 to 14 ft bgs. Two pesticides were detected at shallow depths between grade and 5 ft bgs above the UUSCOs, including maximum concentrations of 4,4'-DDE at 0.00722 ppm (UUSCO is 0.0033 ppm) and 4,4'-DDT at 0.0138 ppm (UUSCO is 0.0033 ppm). Perfluorooctanoic acid (PFOA) was detected at a maximum concentration of 1.28 parts per billion or ppb (unrestricted use guidance value is 0.66 ppb).

Data does not indicate any off-site impacts in soil related to the site.

Groundwater - One VOC, chloroform, was detected in groundwater at a maximum concentration of 22 ppb compared to the Ambient Water Quality Standard and Guidance Value (AWQSGV) of 7 ppb. Several SVOCs were detected, including maximum concentrations of 1,4-dioxane at

0.359 ppb (AWQSGV is 0.35 ppb), 2,6-dinitrotoluene at 22 ppb (AWQSGV is 5 ppb), benzo(a)anthracene at 0.43 ppb (AWQSGV is 0.002 ppb), benzo(b)fluoranthene at 0.71 ppb (AWQSGV is 0.002 ppb), nitrobenzene at 49 ppb (AWQSGV is 0.4 ppb), and phenol at 11 ppb (AWQSGV is 1 ppb). Dissolved metals detected in exceedance of the AWQSGVs included magnesium and sodium, which are naturally occurring minerals and are not contaminants of concern for this site. Perfluorooctanesulfonic acid (PFOS) was found at a maximum of 3.94 parts per trillion (ppt) (AWQSGV is 2.7 ppt), and PFOA was found at 43.5 ppt (AWQSGV is 6.7 ppt). No PCBs or pesticides were detected exceeding AWQSGVs.

Data does not indicate any off-site impacts in groundwater related to the site.

Soil vapor, sub slab soil vapor and indoor air - Chlorinated VOCs were detected in soil vapor samples across the site including maximum concentrations of tetrachloroethylene (PCE) at 23.6 micrograms per cubic meter (ug/m³), 1,1,1-trichloroethane (1,1,1-TCA) at 1.31 ug/m³, and carbon tetrachloride at 3.23 ug/m³. Petroleum VOCs were also detected across the site, including toluene at 153 ug/m³, m,p-xylene at 15.1 ug/m³, and o-xylene at 6.17 ug/m³. In indoor air, PCE was detected at a maximum concentration of 0.468 ug/m³ and toluene at 3.38 ug/m³. PCE was detected in sub-slab vapor samples at a maximum concentration of 19 ug/m³ and toluene at 52 ug/m³.

Data does not indicate any off-site impacts in soil vapor related to this site.

6.4: Summary of Human Exposure Pathways

This human exposure assessment identifies ways in which people may be exposed to site-related contaminants. Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*.

The site is vacant therefore, people are not expected to come into contact with site related soil and groundwater contamination unless they dig below the surface. Contaminated groundwater at the site is not used for drinking or other purposes and the area is served by public water supply that obtains water from a different source not affected by this contamination. Volatile organic compounds in soil vapor (air spaces within the soil) may move into buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. Because the site is vacant, the potential for people to inhale site-related contaminants due to soil vapor intrusion does not represent a current concern, however it is a potential concern for any future development and occupancy. Furthermore, environmental sampling indicates that soil vapor intrusion from site contaminants is not a concern for off-site buildings.

6.5: Summary of the Remediation Objectives

The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the

contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

Soil Vapor

RAOs for Public Health Protection

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

SECTION 7: ELEMENTS OF THE SELECTED REMEDY

The alternatives developed for the site and the evaluation of the remedial criteria are presented in the Alternative Analysis. The remedy is selected pursuant to the remedy selection criteria set forth in DER-10, Technical Guidance for Site Investigation and Remediation and 6 NYCRR Part 375.

The selected remedy is a Track 1: Unrestricted use remedy.

The selected remedy is referred to as the Excavation and Vapor Intrusion Evaluation remedy.

The elements of the selected remedy, as shown in Figure 2, are as follows:

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;

- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals;
- Integrating the remedy with the end use where possible and encouraging green and sustainable re-development; and
- Additionally, to incorporate green remediation principles and techniques to the extent feasible in the future development at this site, any future on-site buildings shall be constructed, at a minimum, to meet the 2020 Energy Conservation Construction Code of New York (or most recent edition) to improve energy efficiency as an element of construction.

As part of the remedial design program, to evaluate the remedy with respect to green and sustainable remediation principles, an environmental footprint analysis will be completed. The environmental footprint analysis will be completed using an accepted environmental footprint analysis calculator such as SEFA (Spreadsheets for Environmental Footprint Analysis, USEPA), SiteWise™ (available in the Sustainable Remediation Forum [SURF] library) or similar NYSDEC accepted tool. Water consumption, greenhouse gas emissions, renewable and non-renewable energy use, waste reduction and material use will be estimated, and goals for the project related to these green and sustainable remediation metrics, as well as for minimizing community impacts, protecting habitats and natural and cultural resources, and promoting environmental justice, will be incorporated into the remedial design program, as appropriate. The project design specifications will include detailed requirements to achieve the green and sustainable remediation goals. Further, progress with respect to green and sustainable remediation metrics will be tracked during implementation of the remedial action and reported in the Final Engineering Report (FER), including a comparison to the goals established during the remedial design program.

Additionally, the remedial design program will include a climate change vulnerability assessment, to evaluate the impact of climate change on the project site and the proposed remedy. Potential vulnerabilities associated with extreme weather events (e.g., hurricanes, lightning, heat stress and drought), flooding, and sea level rise will be identified, and the remedial design program will incorporate measures to minimize the impact of climate change on potential identified vulnerabilities.

2. Excavation

Excavation and off-site disposal of all on-site soils which exceed unrestricted soil cleanup objectives (SCOs), as defined by 6 NYCRR Part 375-6.8 to depths ranging from 3 to 14 feet below grade surface (bgs). Approximately 13,450 cubic yards of contaminated soil will be removed from the site.

Collection and analysis of confirmation samples at the remedial excavation depth will be used to

verify that SCOs for the site have been achieved. If confirmation sampling indicates that SCOs were not achieved at the stated remedial depth, the Applicant must notify NYSDEC, submit the sample results and, and in consultation with NYSDEC, determine if further remedial excavation is necessary. Further excavation for development will proceed after confirmation samples demonstrate that SCOs for the site have been achieved.

To ensure proper handling and disposal of excavated material, waste characterization sampling will be completed for all identified contaminated site material. Waste characterization sampling will be performed exclusively for the purposes of off-site disposal in a manner suitable to receiving facilities and in conformance with applicable federal, state and local laws, rules, and regulations and facility-specific permits.

3. Backfill

Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to establish the designed grades at the site.

4. Vapor Intrusion Evaluation

As part of the Track 1 remedy, a soil vapor intrusion evaluation will be completed. The evaluation will include a provision for implementing actions recommended to address exposures related to soil vapor intrusion.

5. Local Institutional Controls

If no Environmental Easement (EE) or Site Management Plan (SMP) is needed to achieve soil, groundwater, or soil vapor remedial action objectives, then the following local use restriction will be relied upon to prevent ingestion of groundwater: Article 141 of the NYCDOHMH code, which prohibits potable use of groundwater without prior approval.

Contingent Track 2 Remedy

The intent of the remedy is to achieve Track 1 unrestricted use; therefore, no Environmental Easement (EE) or Site Management Plan (SMP) is anticipated. If the soil vapor intrusion evaluation is not completed prior to completion of the Final Engineering Report, then an EE and an SMP will be required to address the SVI evaluation and implement actions as needed. In the event that Track 1 unrestricted use is not achieved, the following contingent remedial elements will be required, and the remedy will achieve a Track 2 restricted residential cleanup.

6. Institutional Controls

Imposition of an institutional control in the form of an environmental easement for the controlled property that:

- requires the remedial party or site owner to complete and submit to NYSDEC a periodic certification of institutional and engineering controls in accordance with Part 375-1.8(h)(3)
- allows the use and development of the controlled property for restricted residential use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or NYCDOHMH; and

- requires compliance with the NYSDEC approved Site Management Plan.

7. **Site Management Plan**

A Site Management Plan is required, which includes the following:


- a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:
 - Institutional Controls: The Environmental Easement discussed in Remedy Element 6.

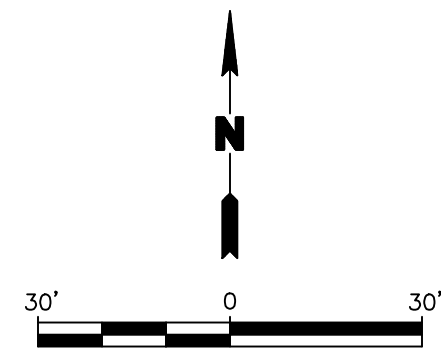
This plan includes, but may not be limited to:


- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
 - descriptions of the provisions of the environmental easement including any land use and groundwater use restrictions;
 - a provision for evaluation of the potential for soil vapor intrusion for any occupied buildings on the site, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
 - provisions for the management and inspection of the identified engineering controls;
 - maintaining site access controls and NYSDEC notification; and
 - the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- b. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
 - a schedule of monitoring and frequency of submittals to the NYSDEC; and
 - monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.



LEGEND

 BCP SITE BOUNDARY

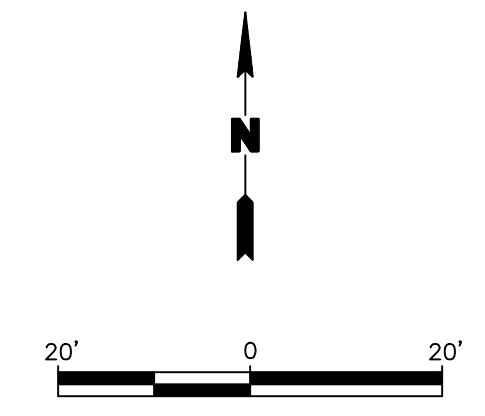


Title:			
SITE PLAN			
73-99 EMPIRE BOULEVARD BROOKLYN, NEW YORK			
Prepared for:			
EMPIRE MCKEEVER HEIGHTS LLC			
	Compiled by: W.S.	Date: 12DEC25	FIGURE 1
	Prepared by: G.M.	Scale: AS SHOWN	
	Project Mgr: W.S.	Project: 2861.0003Y000	
	File: 2861.0003Y143.02.DWG		



LEGEND

- BCP SITE BOUNDARY
- 3** PROPOSED TRACK 1 REMEDIAL EXCAVATION DEPTH TO 3 FT BLS
- 7** PROPOSED TRACK 1 REMEDIAL EXCAVATION DEPTH TO 7 FT BLS
- 9** PROPOSED TRACK 1 REMEDIAL EXCAVATION DEPTH TO 9 FT BLS
- 12** PROPOSED TRACK 1 REMEDIAL EXCAVATION DEPTH TO 12 FT BLS
- 14** PROPOSED TRACK 1 REMEDIAL EXCAVATION DEPTH TO 14 FT BLS
- SUPPORT OF EXCAVATION
- A** GRID AREA
- BCS-01 PROPOSED LOCATION OF TRACK 1 BOTTOM CONFIRMATION SAMPLE
- SCS-01 PROPOSED LOCATION OF TRACK 1 SIDEWALL CONFIRMATION SAMPLE



REMEDIAL ALTERNATIVE 1 TRACK 1 UNRESTRICTED USE CLEANUP		
73-99 EMPIRE BOULEVARD BROOKLYN, NEW YORK		
Prepared for: EMPIRE MCKEEVER HEIGHTS LLC		
Compiled by: W.S.	Date: 2JAN26	FIGURE
Prepared by: G.M.	Scale: AS SHOWN	2
Project Mgr: W.S.	Project: 2861.0003Y000	
File: 2861.0003Y143.09.DWG		

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APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

**73-99 Empire Boulevard
Brownfield Cleanup Program
Brooklyn, Kings County, New York
Site No. C224343**

The draft Remedial Action Workplan (RAWP) for the 73-99 Empire Boulevard site was prepared by Empire Boulevard Holdings LLC (the Applicant) with oversight by the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH) and was issued to the document repositories on March 12, 2026. The draft RAWP outlined the remedial measure proposed for the contaminated soil and soil vapor at the 73-99 Empire Boulevard site.

The release of the draft RAWP was announced by sending a notice to the site contact list, informing the public of the opportunity to comment on the proposed remedy.

The public comment period for the draft RAWP ended on April 26, 2026.

This responsiveness summary responds to all questions and comments raised during the public comment period. The following are the comments received with NYSDEC's responses:

Sandy Rayburn of "Preserve Our Brooklyn Neighborhoods" submitted an email dated April 17, 2026, which included the following comments:

Comment 1: First, the absence of a clearly defined Health and Safety Plan incorporating mandatory HAZWOPER training is unacceptable. Workers engaged in hazardous waste handling and emergency response must be properly trained under OSHA standards (29 CFR 1910.120). Without such training, workers cannot adequately protect themselves, the site, or the surrounding residential community. A full accounting of trained personnel and public posting of certifications must be required.

Response 1: A site-specific health and safety plan (HASP) is discussed in Section 11.2.8 and included in its entirety in Appendix I of the RAWP; it includes site and worker safety requirements mandated by the Federal Occupational Safety and Health Administration (OSHA). The HASP was prepared in general accordance with the requirements of the OSHA standards promulgated at 29 CFR 1910.120 and 29 CFR 1926.65, both commonly referred to as the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard. In accordance with the HAZWOPER Standard, the site-specific HASP addresses the safety and health hazards associated with the planned remedial actions and provides procedures for the protection of on-site personnel. All personnel performing intrusive work on the site are required to receive appropriate HAZWOPER training under 29 CFR 1910.120. Daily safety briefings and hazard communication procedures will be enforced by an on-site Health and Safety Officer to ensure worker and site visitor protection during all phases of remediation.

Comment 2: The RAWP fails to specify how contaminated water from vehicle and equipment decontamination will be collected and disposed of. Simply stating that a decontamination area will exist is insufficient. All runoffs must be captured—whether in frac tanks, drums, or equivalent systems—and properly manifested for disposal. Additionally, there is no meaningful protocol for worker decontamination, including the use and disposal of PPE, creating an unacceptable pathway for off-site exposure.

Response 2: The RAWP includes procedures for equipment decontamination and wastewater management. Decontamination water generated from truck washing and equipment cleaning will either be collected in designated containment tanks and properly characterized for off-site disposal or will be treated using an on-site treatment system before either being discharged to the New York City sewer system under or allowed to percolate back into the ground within the boundaries of the site. The truck decontamination area/construction entrance will be sized to accommodate the largest construction vehicle used and located within the site before the stabilized construction entrance.

Comment 3: The plan inadequately addresses the potential presence of underground fuel storage tanks. The prior reliance on PID-based detection is fundamentally flawed, as such methods may fail to identify sealed tanks. Given the site’s history as a truck garage with fuel storage, further investigation is not optional—it is essential to prevent groundwater contamination and catastrophic environmental release.

Response 3: NYSDEC acknowledges the concern regarding potential underground storage tanks (USTs). The RAWP includes a Contingency Plan in Section 12.5.11 requiring that discovery of underground storage tanks be handled in accordance with NYSDEC DER-10, Section 5.5. NYSDEC will be promptly notified of any tanks encountered. If found, the tank(s) will be opened, cleaned out, and removed in accordance with NYSDEC regulations. The soil surrounding the tank will be sampled to determine if any contamination has been released, and appropriate cleanup will be completed under NYSDEC oversight.

Comment 4: There has been a failure to provide verifiable documentation for imported “clean fill” used to construct perimeter berms. The absence of proper bills of lading, combined with volume discrepancies, raises serious concern that contaminated on-site soil was used. Full documentation, including source verification and weight/volume records, must be produced, along with independent split-sample testing of berm materials using a rigorous grid methodology.

Response 4: Approximately 320 cubic yards (19 truckloads) of clean soil were imported to the site as a requirement of the NYC Department of Buildings to construct a berm to support the foundation sidewalls after building demolition. The importation occurred on August 5 through 7, 2025, and the contractor provided copies of the delivery tickets for the trucks. This material was sampled and tested in accordance with applicable NYSDEC regulations and guidance, and all results have been provided to and reviewed by NYSDEC. All results are well below the applicable residential soil cleanup objectives (SCOs), and most results were below the unrestricted use SCOs. These are stringent standards that ensure protection of public health. The volume of imported

material matches the calculations for soil placed in the berms and the small basement area that was filled with the imported soil. The associated field chain of custody records and laboratory analytical results were provided to DEC and are available on DECinfo Locator (<https://www.dec.ny.gov/data/DecDocs/C224343>). In addition, these test results and associated records are required to be submitted in the Final Engineering Report (FER), which documents all remedial work completed on-site.

The initial soil samples were collected on July 14, 2025, at the source facility, Hunters Point Recycling, by Dr. James Cervino of Restoration LLC and were submitted to an independent laboratory for analysis. The laboratory performs analytical testing under established quality assurance and quality control (QA/QC) procedures. The results were provided to Roux by the demolition contractor, and Roux then submitted the results to NYSDEC on behalf of the Applicant.

On February 11, 2025, NYSDEC requested Roux to collect additional samples of the imported material, and the samples were submitted to an independent laboratory for analysis. The results of the February 11, 2025, samples are consistent with the results of the original July 14, 2025, samples and indicate the imported material is clean.

Comment 6: There is no enforceable requirement for transparent and continuous accounting of waste removal. The community must be provided with weekly reports documenting all waste streams - solid and liquid - along with corresponding hazardous waste manifests and final Treatment, Storage, and Disposal Facility (TSDF) destinations. These records must also be incorporated into the Final Engineering Report submitted to NYSDEC.

Response 6: Section 12.5 of the RAWP discusses how soil/fill excavated as part of the remediation will be managed, characterized, and disposed of at properly licensed facilities. All waste generated from the site must be transported using appropriately permitted waste haulers. Quantities of waste removed from the site as well as its destination will be documented in daily reports as required by Section 11.4.1 of the RAWP. The FER will include an accounting of the destination of all material removed from the site during the remedial action. This includes excavated soil and urban fill, nonregulated material, and fluids. Documentation associated with disposal of all material will include records and approvals for receipt of the material. This information will also be presented in a tabular form in the FER (see Section 14 of the RAWP).

Comment 7: In the event of severe storms, the site must identify waste streams associated with storm events. For example, stormwater runoff collected must be identified along with cost of disposal. This is especially significant since the developers during the lawsuit the community had brought stated they were going to perform the City's Stormwater Pollution Protection Plan SWPPP and not obtain a Stormwater Construction Permit.

Response 7: A copy of the approved SWPPP is included as Appendix O of the RAWP which details the erosion and sediment controls to be employed. The SWPPP conforms with the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-25-001) requirements.

Comment 8: The RAWP does not clearly define how dewatering events - whether caused by tidal, seasonal, or unforeseen conditions - will be monitored, reported, and managed. Any such event must trigger mandatory hazard identification, containment, documentation, and response protocols, all conducted by HAZWOPER-trained personnel.

Response 8: Section 12.5.11.1 of the RAWP outlines how the Applicant will implement site preparedness measures prior to extreme storm events and the response actions to be taken following the events. Any emergency response involving hazardous materials will be conducted by HAZWOPER-trained personnel with NYSDEC oversight.

Comment 9: Finally, basic transparency measures remain inadequate. The requirement that perimeter fencing includes open, unobstructed viewing panels must be strictly enforced. The community has a right to observe activities at a site known to contain hazardous materials, and any obstruction of those panels must be treated as a violation subject to enforcement.

Response 9: Site security fencing is required to protect public safety. Fence permits are issued by the New York City Department of Buildings (DOB), which is the agency responsible for dictating the type of fence, visual access corridors, etc. and ensuring that fences are properly installed and inspected in accordance with applicable codes and requirements.

An email dated April 17, 2026 containing scanned copies of nearly identical comment letters signed by eight local residents included the following comments:

Comment 10: We are being told the site does not pose a significant threat. We have heard that before – and history has proven those statements can be dangerously wrong. After the September 11 attacks, residents were told the air was safe, and years later many suffered serious illness and death from exposure. Crown Heights is already dealing with high rates of asthma, bronchitis, and other respiratory conditions. Any additional exposure is unacceptable.

Response 10: NYSDEC and NYSDOH have carefully reviewed all the soil, groundwater, and soil vapor data collected at the site. This data is contained in the Remedial Investigation Report (RIR). The data are compared against the NYSDEC and NYSDOH standards and guidance values to determine what, if any, exposures exist at the site. The soil data identified contaminants such as semi-volatile organic compounds (SVOCs) and metals at concentrations and distribution that are attributed to urban fill. There is an existing concrete and asphalt cover on the site which prevents exposure to soil, and the contaminated soil will be removed as part of the RAWP implementation. All ground intrusive activities will be conducted under an approved community air monitoring plan (CAMP). For groundwater, there are some contaminants that exceed drinking water standards; however, the contaminants in groundwater are not site related. Furthermore, groundwater is over 50 feet below grade and is not used as a source of drinking water. Finally, soil vapor intrusion testing was completed within the only occupied on-site building (the former laundromat) in 2023, and the results indicated that there was no existing soil vapor intrusion

concern.

Comment 11: We demand full disclosure of all contaminants at this site.

Response 11: All contaminants in soil, groundwater, and soil vapor have been delineated. The data is included in the RIR, which can be accessed via the NYSDEC DECinfo Locator (<https://www.dec.ny.gov/data/DecDocs/C224343>). All documentation regarding the removal of contaminants will be included in the Final Engineering Report which will also be available on DECinfo Locator.

Comment 12: We demand independent oversight of all cleanup activities.

Response 12: As a requirement of the BCP, the Applicant must retain professional consultants and qualified environmental professionals to prepare and certify work plans to investigate and remediate site contamination, and to prepare and certify reports that analyze the findings and document the site cleanup. The workplans and reports must comply with applicable regulations, standards, and guidance documents and best practices and must be approved by NYSDEC and NYSDOH. The remedial work is performed by contractors engaged by the BCP Applicant, and in accordance with the NYSDEC approved workplans. The work performed in the field to investigate and clean up the site is directed and certified by a New York State licensed professional engineer who is hired directly by the BCP Applicant. NYSDEC and NYSDOH oversee all work performed by the Applicant's consultant to ensure that applicable regulations, standards, and guidance are adhered to.

Comment 13: We demand real-time air monitoring accessible to the public.

Response 13: Continuous air monitoring will be performed during all ground intrusive activities outlined in the RAWP. The Community Air Monitoring Plan is included as Appendix J of the RAWP. Results of the air monitoring will be submitted to NYSDEC and NYSDOH daily and will be uploaded to DECinfo Locator periodically. All findings, including daily reports, monthly reports, monitoring data, work plans and reports, will be made publicly available through the NYSDEC DECinfo Locator (<https://www.dec.ny.gov/data/DecDocs/C224343>), and will be documented in the Final Engineering Report which will also be available on DECinfo Locator. Physical copies will be made publicly available at the document repositories in accordance with the Citizen Participation Plan (CPP) and RAWP requirements.

Comment 14: We demand immediate action if unsafe conditions are detected.

Response 14: The CAMP outlines specific action levels for particulates (PM-10) and organic vapors, as well as the specific actions to be taken if an action level is exceeded.

Comment 15: We demand stronger remediation measures, not the minimum required.

Response 15: Every remedy selected under the BCP is required to be protective of public health and the environment. This site will be remediated to unrestricted use standards, which is the most

stringent cleanup level.

An email dated April 17, 2026 containing scanned copies of identical comment letters signed by four local residents included the following comment:

Comment 16: Please take extra precautions and truly consider the health of the Crown Heights community before moving forward.

Response 16: The BCP has successfully cleaned up hundreds of contaminated sites all over New York State, many of which are in New York City. NYSDEC and NYSDOH will continue to ensure that remediation of BCP sites is performed in a manner that is protective of the surrounding community.

An email dated April 20, 2026 containing scanned copies of identical comment letters signed by 5 local residents included the following comments:

Comment 17: A temporary halt to construction, excavation, or soil disturbance activity pending review.

Response 17: All remedial work activities will be conducted only after NYSDEC and NYSDOH approval of the RAWP.

Comment 18: Conduct precautionary air monitoring

Response 18: Continuous air monitoring will be conducted in accordance with a site-specific CAMP included as Appendix J of the RAWP. The CAMP will be implemented during all ground-intrusive activities to monitor vapors and dust to ensure protection of public health.

Comment 19: Ensure dust suppression and safe soil handling practices

Response 19: Dust suppression and safe soil handling procedures are detailed in Section 12.5 of the RAWP, which outlines methods to prevent the spread of contamination, including engineering controls, decontamination procedures, worker protection measures, and emergency response protocols. Specific dust suppression techniques will include applying sufficient water, limiting the areas of excavation, decontamination of trucks prior to them leaving the site, and using gravel on entrance/exits. All trucks transporting excavated soil/fill from the site will be secured with tight fitting covers before leaving the site.

Comment 20: Publicly disclose all findings

Response 20: All findings, including daily reports, monthly reports, monitoring data, work plans and reports, will be made publicly available through the NYSDEC DECinfo Locator (<https://www.dec.ny.gov/data/DecDocs/C224343>), and will be documented in the Final Engineering Report which will also be available on DECinfo Locator. Physical copies will be

made publicly available at the document repositories in accordance with the Citizen Participation Plan (CPP) and RAWP requirements.

Comment 21: Prioritize community health over construction schedules

Response 21: All remedial activities will be conducted under NYSDEC and NYSDOH oversight in accordance with the approved RAWP, which is specifically designed to protect public health and the environment. Work will not proceed unless it meets these standards, ensuring that community health remains the primary priority over construction schedules. Work will be required to stop if any of these standards are not met and will not be allowed to proceed until the contractors demonstrate they can meet regulatory standards.

Comment 22: Immediate independent soil and air quality testing

Response 22: Regarding the immediate independent soil and air quality testing, all samples will be sent to an independent, certified laboratory, and the results will be provided to and reviewed by NYSDEC and NYSDOH. The laboratory will perform analytical testing under established quality assurance and quality control (QA/QC) procedures.

Comment 23: Public disclosure of all environmental reports, remediation records, and monitoring data

Response 23: All findings, including daily reports, monthly reports, monitoring data, work plans and reports, will be made publicly available through the NYSDEC DECinfo Locator (<https://www.dec.ny.gov/data/DecDocs/C224343>), and will be documented in the Final Engineering Report which will also be available on DECinfo Locator. Physical copies will be made publicly available at the document repositories in accordance with the Citizen Participation Plan (CPP) and RAWP requirements.

Martina Vitoria submitted a comment email on April 25, 2026 which included the following comment:

Comment 24: There is contaminated soil blown by wind and just a block away from many of us who are breathing this air. Trucks are removing the soil off the property and into the streets- so contamination is being placed right into the streets.

Response: Remedial action on the site has not started yet. No contaminated soil from this site has been excavated or removed. The RAWP includes procedures to safely remove all contaminated soil from the site and dispose of it at a properly licensed facility. No soil will be placed in the streets, and the RAWP includes all applicable NYSDEC and NYSDOH standards, regulations, and guidance.

