2021-2023 PERIODIC REVIEW REPORT

(Reporting Period: 28 December 2021 to 28 April 2023)

for

241 WEST 28TH STREET

New York, New York
NYSDEC BCP Site No. C231139

Prepared for:

241 West 28th Street Owner LLC
1250 Broadway, Suite 3502
New York, New York 10001

Prepared by:

Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C.
360 West 31st Street, 8th Floor
New York, New York 10001

May 2023
Langan Project No. 170017004

LANGAN

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1.0 INTRODUCTION

1.1 General

Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C. (Langan) prepared this Periodic Review Report (PRR) for the 241 West 28th Street Brownfield Cleanup Program (BCP) Site No. C231139 (the site). Langan prepared this PRR on behalf of 241 West 28th Street Owner LLC (the Volunteer) in accordance with the New York State Department of Environmental Conservation (NYSDEC)-approved December 15, 2021 Site Management Plan (SMP).

The December 28, 2021 Certificate of Completion (COC) and December 15, 2021 SMP require a periodic review of all institutional controls (IC) and engineering controls (EC) for fulfillment of the remedial action at the site. This PRR summarizes inspection conditions, monitoring results, compliance, and certifies that the site maintains a Track 4 remediation achieved under the BCP.

This PRR covers the reporting period from December 28, 2021 through April 28, 2023. The Volunteer began operation of the submembrane depressurization (SMD) system on 17 January 2023.

1.2 Site Description

The site is at 241 West 28th Street in New York, New York and is identified as Block 778, Lot 18 on the New York City Tax Map. The approximately 29,330-square-foot site is bound by West 29th Street to the north, a 13-story commercial office building (Block 778, Lot 57) and a 12-story commercial office building (Block 778, Lot 20) to the east, West 28th Street to the south, and a 5-story industrial manufacturing building (Block 778, Lot 7) and a 7-story public institutional[1] building (Block 778, Lot 70) to the west. A site location map and site plan are provided as Figure 1.

The site was redeveloped into two interconnected 22-story residential (affordable and market rate) towers with shared commercial space on the ground floor and a partial cellar. As of the date of this PRR, the buildings are partially occupied and interior construction is ongoing.

1.3 Site Background and Environmental History

The site was occupied by commercial and industrial facilities as early as 1890. Historical operations at the site included a lumber yard (1890), a fur processing and cleaning company (1927-1934), an auto repair facility (1934), garages with petroleum bulk storage (1930 to 2011), parking facilities with hydraulic lifts and suspected hydraulic underground storage tanks (UST)

[1] The institutional uses of the building occupying Block 778, Lot 70 include the NYC School of Drycleaning and the American Bartenders School (5th floor). The public institutional uses do not represent sensitive receptors.

(1920-2014), and two 550-gallon gasoline USTs (1930-2005) and one 550-gallon gasoline UST (1930-1950) identified on Sanborn maps.

The nature and extent of contamination is summarized in the December 23, 2014 Remedial Investigation Report, prepared by Langan. Conclusions of the RIR are summarized below:

- A variable site-wide fill layer was identified to between about 3 and 20 feet below sidewalk grade (bsg) and contained semivolatile organic compounds (SVOC) and metals at concentrations above the NYSDEC Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 375 Unrestricted Use (UU) Soil Cleanup Objectives (SCO).

- The geophysical survey revealed anomalies consistent with six suspected and one unknown UST, an oil-water separator (OWS) and associated piping, and several possible hydraulic fluid USTs.

- Volatile organic compounds (VOC), SVOCs, and dissolved metals were detected in groundwater above the NYSDEC 6 NYCRR Part 703.5 and the NYSDEC Technical and Operational Guidance Series 1.1.1 Ambient Water Quality Standards and Guidance Values (SGV) for Class GA Water.

- Chlorinated VOCs (tetrachloroethene [PCE], trichloroethene [TCE], and methylene chloride) were detected in soil vapor across the site.

1.4 Summary of Remedial Action

A Track 4 remedy was implemented in a manner that has rendered the site protective of public health and the environment, consistent with its use as a mixed-use commercial and residential building. The selected remedy was implemented in accordance with the NYSDEC-approved March 16, 2020 Remedial Action Work Plan and March 2020 Decision Document. A detailed account of the remedy is provided in the December 15, 2021 Final Engineering Report (FER), and is summarized as follows:

- Excavation to remove at least 3.5 feet of fill across the site with deeper, localized excavations up to 26.5 feet bsg to remove potential contaminant sources, former USTs, and petroleum- and SVOC-impacted soil.

- Localized dewatering and support of excavation (SOE) installation to accommodate remedial excavations and foundation construction.

- Removal and registration of ten USTs in the Petroleum Bulk Storage (PBS) database as closed and removed in accordance with applicable federal, state, and local regulations. Additionally, based on the UST removals and the analytical results of the UST confirmation endpoint sample, Spill No. 2009358 was closed with the NYSDEC on November 8, 2021.

- Removal of piping associated with a former OWS.

- Collection and analysis of documentation soil samples from the base of the excavation, in accordance with Division of Environmental Remediation (DER)-10

- Placement of a demarcation layer prior to import, backfill, and compaction of NYSDEC-approved imported backfill

The following controls were implemented to address remaining contamination following remediation:

Engineering Controls (EC):

- Composite cover system consisting of a concrete foundation slab with a vapor barrier/waterproofing membrane across the site footprint

- Installation and operation of an active submembrane depressurization (SMD) system beneath the vapor barrier/waterproofing membrane to mitigate potential soil vapor intrusion.

Institutional Controls (IC):

- Execution of an Environmental Easement
- Implement, maintain and monitor the ECs
- Prevent exposure to remaining soil contaminants by controlling any disturbance below the composite cover through an SMP
- Limit the use and development of the site to restricted-residential, commercial and industrial uses only

NYSDEC issued a COC on December 28, 2021 and the Office of the City Register for Manhattan recorded the Notice of COC on January 7, 2022

1.5 Effectiveness of the Remedial Program

The remedial program was designed to eliminate and mitigate environmental and potential human health exposure to adverse environmental conditions that were present in soil, groundwater and soil vapor underlying the site. The IC/ECs for the certification period achieved their remedial objectives.

1.6 Compliance with the Site Management Plan

During the SMD system commissioning events on January 4 and 17, 2023, two of the vacuum monitoring points (VMP), VMP02 and VMP08, could not be accessed. VMP02 was cleared of surrounding surficial concrete and was accessible during the subsequent annual inspection on April 25, 2023; however, VMP08 could not be located and continues to be inaccessible as of the

date of this report. Based on the vacuum readings obtained at the riser pipe sample port and all other accessible VMPs, the SMD system continues to be effective.

All ICs and ECs remain in place for the certification period and continue to be effective.

1.7 Recommendations

No changes to the SMP are recommended at this time.

2.0 IC/EC PLAN COMPLIANCE REPORT

Since remaining contaminated soil, groundwater, and soil vapor exists beneath the site, IC/ECs are required to protect human health and the environment. The IC/EC Plan included in the SMP describes the procedures for the implementation and management of the IC/ECs.

2.1 IC/EC Components

The following summarizes IC/ECs implemented at the site:

- Operation and maintenance of the SMD system to mitigate potential soil vapor intrusion into the building. An SMD layout plan is provided as Figure 2.
- Maintenance of a composite cover system to prevent human exposure to residual contaminated soil remaining under site structures. The location and components of the composite cover system are shown on Figure 3.
- The site may be used for restricted-residential use as described in 6 NYCRR Part 375-1.8(g)(2)(iii), commercial use as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and industrial use as described in 6 NYCRR Part 375-1.8(g)(2)(iv).
- All ECs must be operated, maintained, and inspected as specified in the SMP.
- The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the New York State Department of Health (NYSDOH) or the New York City Department of Health and Mental Hygiene to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the NYSDEC.
- All future activities on the property that will disturb residual contaminated material must be conducted in accordance with the SMP.
- Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP.
- Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP.
- Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to ensure compliance with the restrictions identified by the Environmental Easement (included as Appendix A).
- The site shall not be used for unrestricted or residential uses as defined in 6 NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of the Environmental Easement.

2.2 Goal Status and Corrective Measures

The SMD system was commissioned between January 4 and 17, 2023. During the SMD commissioning events, the following minor deficiencies were identified:

- Vacuum gauges were not installed within the three separate riser pipes; and
- VMP02 and VMP08 were not accessible.

Between the SMD commissioning and the site-wide annual inspection on April 25, 2023, vacuum gauges were installed within each of the riser pipes and VMP02 was cleared of surrounding surficial concrete and was accessible. However, VMP08 could not be located and continues to be inaccessible as of the date of this report. Langan was informed that the contractor suspects that the VMP was covered with a layer of self-leveling concrete during interior finishing work.

Vacuum readings were collected from each of the accessible vacuum monitoring points, the sample ports installed in each of the three riser pipes, and at the effluent of the blower using a Velocicalc. The vacuum readings obtained from the seven accessible vacuum monitoring points ranged from -0.017 inches water column (inH_2O) in VMP01 to -0.166 inH_2O in VMP05, and the vacuum readings obtained from the sample ports of the riser pipes ranged from -0.216 inH_2O in the western first floor-level system to -0.588 inH_2O in the cellar-level system. The measured vacuum readings all demonstrate adequate vacuum conveyance beneath the concrete building slab.

Based on the vacuum readings obtained at the riser pipe sample port and all accessible VMPs, the SMD system continues to be effective and functioning as designed. No further action regarding VMP08 is planned, as reinstallation would compromise the composite cover system and underlying vapor barrier membrane.

2.3 Conclusions and Recommendations

No changes to the SMP are recommended at this time.

3.0 MONITORING PLAN COMPLIANCE REPORT

3.1 Monitoring Plan Components

The components of the Monitoring Plan are as follows:

1. Annual inspection of the composite cover system;
2. Annual inspection of the SMD system; and
3. Annual site-wide inspection.

SMD system startup inspections were conducted on January 4 and 17, 2023. A site-wide annual inspection was then conducted on April 25, 2023 that included the three above-listed monitoring plan components. Site inspection photographs are provided in Appendix B. Findings of each inspection are presented in the following sections and the inspection forms provided in Appendices C and D.

3.2 Summary of Monitoring Completed

3.2.1 SMD System Start-up Inspection and Annual Inspection

Inspections of the SMD system were conducted on January 4 and 17, 2023 and April 25, 2023. The SMD system was inspected to determine whether the system installation and function is satisfactory and consistent with the manufacturer's specifications and the design criteria. During the SMD commissioning events on January 4 and 17, 2023, the following minor deficiencies were identified:

- Vacuum gauges were not installed within the three separate riser pipes; and
- VMP02 and VMP08 were not accessible.

Between the SMD commissioning and the site-wide annual inspection on April 25, 2023, vacuum gauges were installed within each of the riser pipes and VMP02 was cleared of surrounding surficial concrete and was accessible. However, VMP08 could not be located and continues to be inaccessible as of the date of this report. Langan was informed that the contractor suspects that the VMP was covered with a layer of self-leveling concrete during interior finishing work.

Vacuum readings were collected from each of the accessible vacuum monitoring points, the sample ports installed in each of the three riser pipes, and at the effluent of the blower using a Velocicalc. The vacuum readings obtained from the seven accessible vacuum monitoring points ranged from -0.017 inches water column (inH_2O) in VMP01 to -0.166 inH_2O in VMP05, and the vacuum readings obtained from the sample ports of the riser pipes ranged from -0.216 inH_2O in the western first floor-level system to -0.588 inH_2O in the cellar-level system. The measured vacuum readings all demonstrate adequate vacuum conveyance beneath the concrete building slab.

Based on the vacuum readings obtained at the riser pipe sample port and all accessible VMPs, the SMD system continues to be effective and functioning as designed.

The SMD inspection forms are included in Appendix C.

3.2.2 Composite Cover System Inspection

The composite cover system was inspected on April 25, 2023. Damages or breaches to the composite cover system were not identified during the annual inspection. No ground-intrusive work requiring breaching of the composite cover system was performed during the certification period.

3.2.3 Annual Site-wide Inspection

The annual site-wide inspection was completed on April 25, 2023. This consisted of inspections of all ECs and verification of ICs. One minor deficiency associated with VMP08 being inaccessible was noted, as described in Section 3.2.1. All IC/EC components inspected complied with the SMP. The completed site-wide inspection form is included as Appendix D.

3.3 Conclusions and Recommendations

Langan noted the inability to access VMP08 as a minor deficiency during the April 25, 2023 SMD system inspection. That minor deficiency remains unresolved; however, based on the vacuum readings obtained at the riser pipe sample port and all other accessible VMPs, the SMD system continues to be effective and functioning as designed. No changes to the SMP are recommended at this time.

4.0 OPERATION & MAINTENANCE PLAN COMPLIANCE REPORT

4.1 O&M Plan Purpose

The components of the Operations and Maintenance (O&M) Plan are as follows:

- Continuous operation and maintenance, as necessary, of the SMD system

4.2 SMD O&M Activities

The SMD system inspection for the 2021-2023 reporting period was performed on April 25, 2023 following initial startup and testing, which was completed between January 4 and 17, 2023. Inspections consisted of documenting the accessible, above-grade components of the SMD system, recording flow readings, and documenting the vacuum gauge readings.

4.2.1 Evaluation of SMD System

The primary objective of the SMD system is to create a negative pressure under the floor slab and draw soil vapor to the three vacuum blowers located on the 2nd level of the southern tower's mechanical bulkhead (24th floor), where the vapor is then discharged to the building roof to and diluted with the atmosphere. Based on the inspections, the SMD system is operational and functioning within the design criteria.

4.3 O&M Deficiencies

One minor deficiency noted during the April 25, 2023 SMD system inspection has not been resolved – VMP08 is not accessible (See Section 3.2.1). However, based on the vacuum readings obtained at the riser pipe sample port and all accessible VMPs, the SMD system continues to be effective and functioning within the design criteria.

4.4 Conclusions and Recommendations

No changes to the SMP are recommended at this time.

5.0 OVERALL CONCLUSIONS AND RECOMMENDATIONS

5.1 SMP Compliance

Each component of the SMP, including the IC/EC Plan, Monitoring Plan, and O&M Plan, was in compliance for the certification period.

5.2 Remedy Performance Evaluation

5.2.1 Composite Cover System

The condition of the site building slab was inspected for quality and integrity. The site-wide composite cover system was observed to be intact and continues to protect public health and the environment.

5.2.2 SMD System

Despite one of the vacuum monitoring points, VMP08, being inaccessible, the SMD system is operating as designed and is mitigating the potential exposure to contaminated soil vapor.

5.2.3 IC Components

All ICs were maintained during the certification period, and the Environmental Easement on the site remains in place.

5.3 Future Submittals

The following will be continued on an annual frequency, in accordance with the SMP:

- Inspection/monitoring of the composite cover system;
- Inspection/monitoring of the SMD system; and
- Preparation and submission of PRR to the NYSDEC.

Based on future analytical results and system performance, Langan may request reduction in inspection frequency with NYSDEC and NYSDOH approval.

6.0 CERTIFICATION OF IC/ECS

6.1 IC/EC Certification Form

The completed IC/EC Certification Form is provided as Appendix E.

6.2 Certification

For each IC or EC identified for the site, I certify that, to the best of my knowledge, all of the following statements are true:

- The inspection of the site to confirm the effectiveness of the ICs and ECs required by the remedial program was performed under my direction;
- The IC and/or EC employed at this site is unchanged from the date the control was put in place, or last approved by the Department;
- Nothing has occurred that would impair the ability of the control to protect the public health and environment;
- Nothing has occurred that would constitute a violation or failure to comply with any site management plan for this control;
- Access to the site will continue to be provided to the Department to evaluate the remedy, including access to evaluate the continued maintenance of this control;
- If a financial assurance mechanism is required under the oversight document for the site, the mechanism remains valid and sufficient for the intended purpose under the document;
- Use of the site is compliant with the EE;
- The EC systems are performing as designed and are effective;
- To the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program and generally accepted engineering practices; and
- The information presented in this report is accurate and complete.
- I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

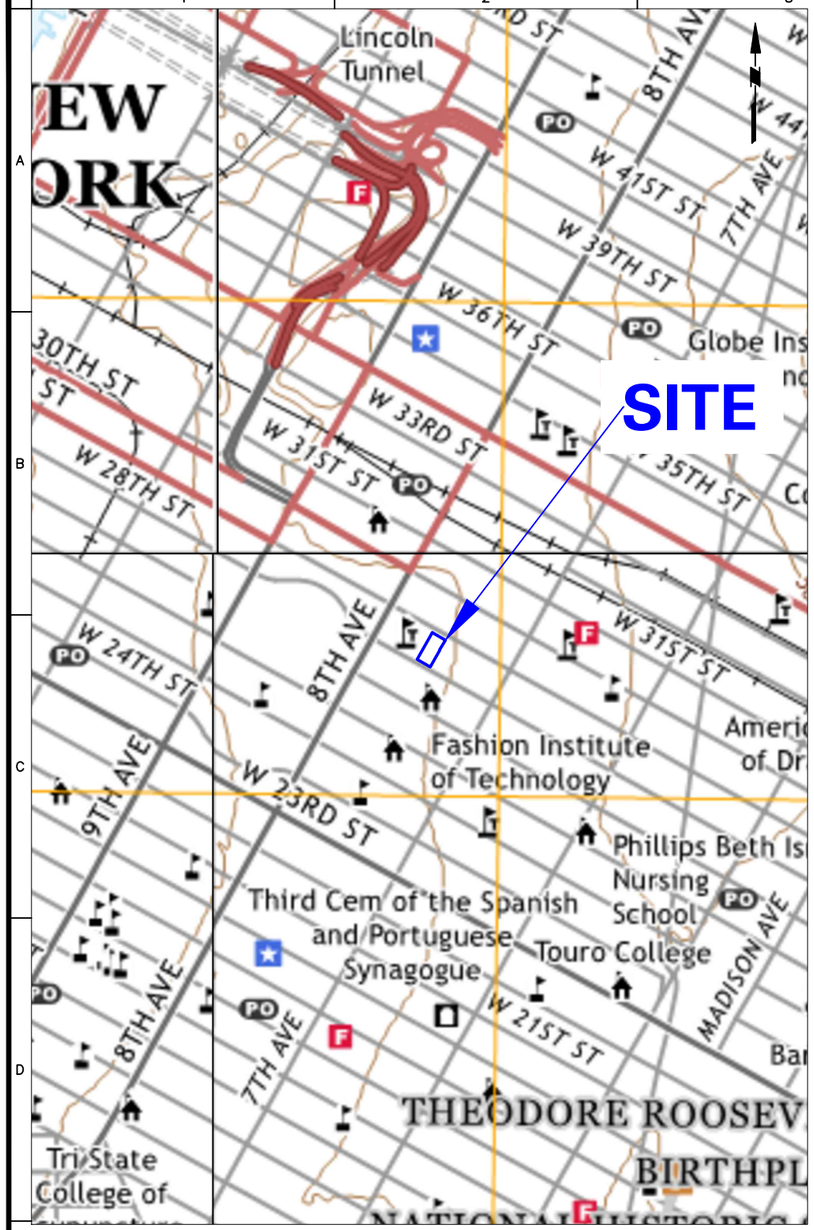
I, Jason Hayes, PE, of Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C., have been authorized and designated by all site owners/remedial parties to sign this certification for the site.

Jason Hayes
New York State Professional Engineer No. 089481

5/30/2023
Date

It is a violation of Article 130 of New York State Education Law for any person to alter this document in any way without the express written verification of adoption by any New York State licensed engineer in accordance with Section 7209(2), Article 130, New York State Education Law.

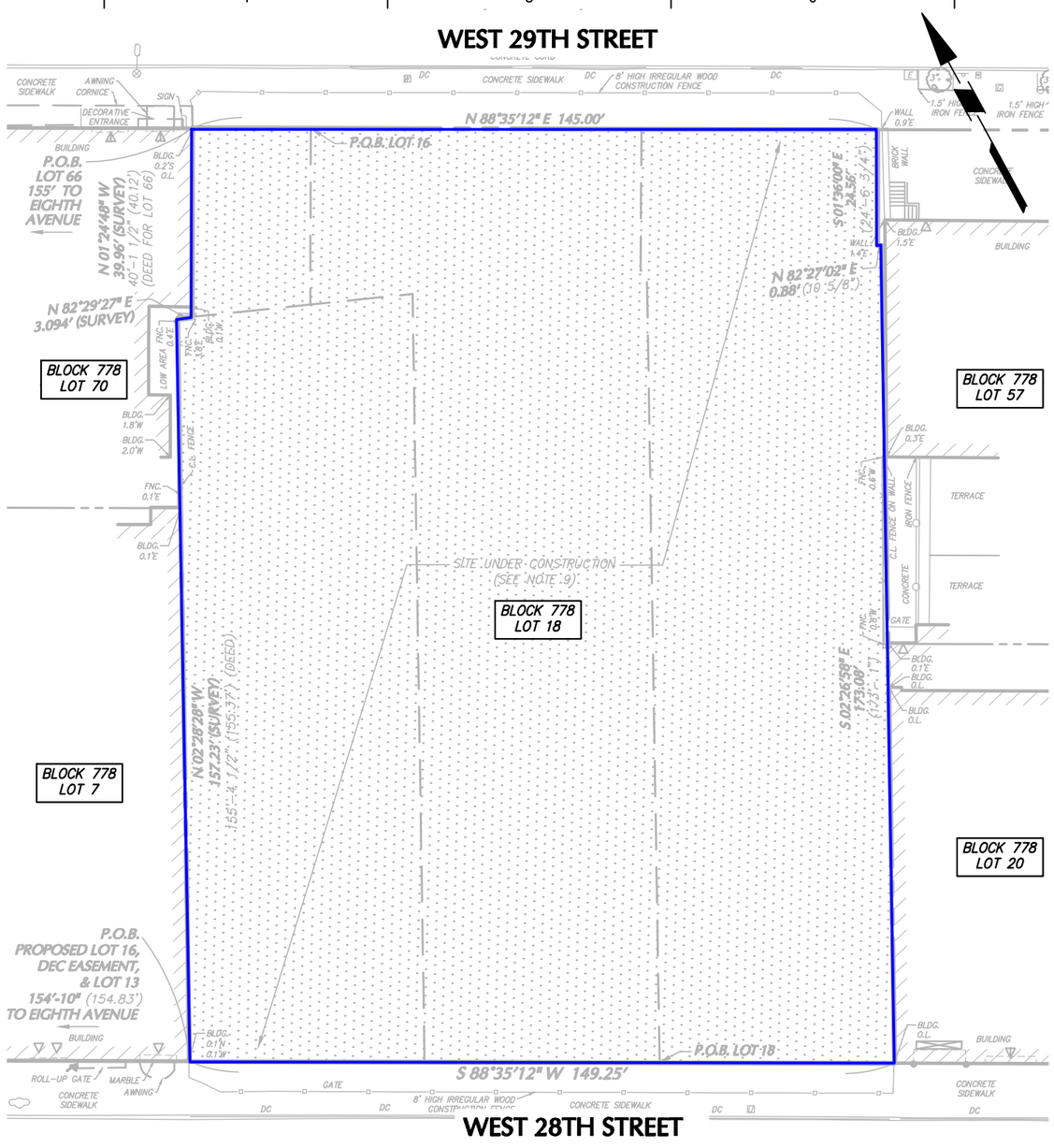
FIGURES



SITE LOCATION MAP

1000 0 500 1000

SCALE IN FEET



SITE PLAN

30 0 15 30

SCALE: 1 INCH = 30 FEET

LEGEND:

APPROXIMATE SITE BOUNDARY

NOTES:

1. BASE MAP FOR THE SITE LOCATION MAP IS REFERENCED FROM THE UNITED STATES GEOLOGICAL SURVEY (USGS) 7.5–MINUTE SERIES TOPOGRAPHICAL MAPS, JERSEY CITY, BROOKLYN, CENTRAL PARK, AND WEEHAWKEN QUADRANGLES, DATED 2019.
2. BASE MAP FOR THE SITE PLAN IS TAKEN FROM LANGAN'S DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) EASEMENT SURVEY, DATED MAY 26, 2021.
3. ELEVATIONS ON THIS FIGURE ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88), WHICH IS 1.1 FT ABOVE USG&CS DATUM (MEAN SEA LEVEL AT SANDY HOOK, NJ, 1929).

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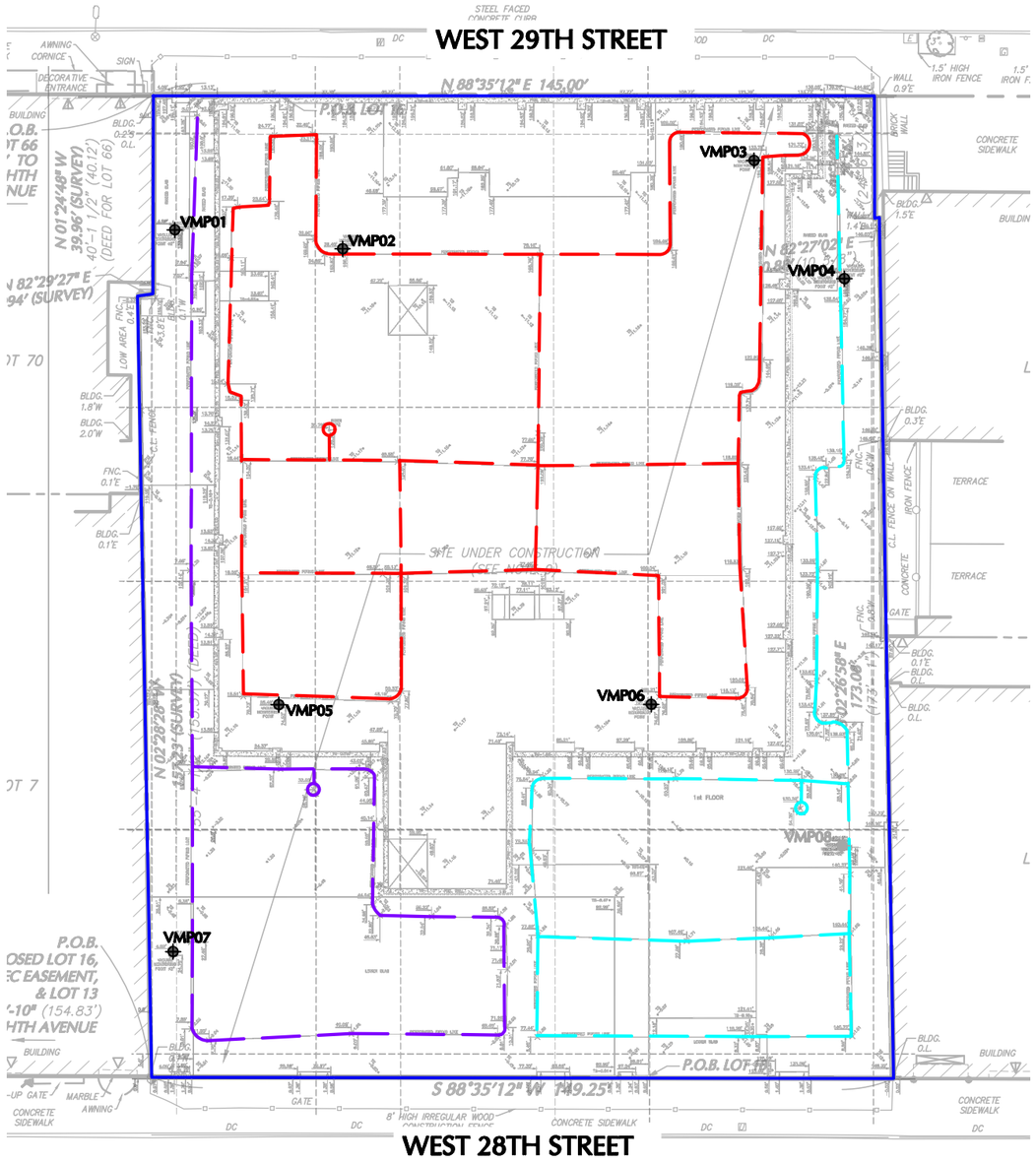
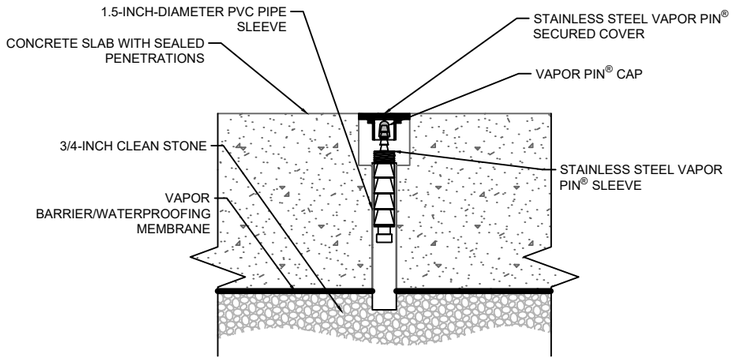
Project	241 WEST 28TH STREET
	BLOCK No. 778, LOT No. 18
	NEW YORK NEW YORK
Figure Title	SITE LOCATION MAP AND SITE PLAN
Project No.	170017004
Date	5/22/2023
Drawn By	AN
Checked By	ERA
Figure No.	1
Sheet	1 of 3

Filename: \\langan.com\data\NY\data0\170017001\Cadd Data - 170017001\SheetFiles\Environmental\BCP PRR\Figure 1 - Site Location Map and Site Plan.dwg Date: 5/24/2023 Time: 09:37 User: anesci Style Table: Langan.stb Layout: ANSIB-BL



LEGEND:

- APPROXIMATE SITE BOUNDARY
- LOCATION OF CELLAR–LEVEL SUB–SLAB VAPOR COLLECTION PERFORATED PIPE RUN
- LOCATION OF FIRST FLOOR–LEVEL SUB–SLAB VAPOR COLLECTION PERFORATED PIPE RUN (WESTERN BLOWER)
- LOCATION OF FIRST FLOOR–LEVEL SUB–SLAB VAPOR COLLECTION PERFORATED PIPE RUN (EASTERN BLOWER)
- LOCATION OF CELLAR–LEVEL SOLID METAL RISER PIPE
- LOCATION OF FIRST FLOOR–LEVEL SOLID METAL RISER PIPE (WESTERN BLOWER)
- LOCATION OF FIRST FLOOR–LEVEL SOLID METAL RISER PIPE (EASTERN BLOWER)
- VMP01 LOCATION OF VACUUM MONITORING POINT
- VMP08 INACCESSIBLE VACUUM MONITORING POINT



TYPICAL VACUUM MONITORING POINT (SECTION VIEW)
NOT TO SCALE

NOTES:

1. BASE MAP TAKEN FROM LANGAN'S DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) EASEMENT SURVEY, DATED MAY 26, 2021.
2. THE CELLAR–LEVEL SUB–SLAB VAPOR COLLECTION PERFORATED PIPE RUN, RISER, AND VACUUM MONITORING POINTS (VMP) WERE REFERENCED FROM THE JUNE 19, 2021 AS–BUILT SUBMEMBRANE DEPRESSURIZATION SYSTEM EXTENTS MAP – CELLAR, PREPARED BY NY LAND TECH.
3. THE FIRST FLOOR SUB–SLAB VAPOR COLLECTION PERFORATED PIPE RUN, RISERS, AND VMPs WERE REFERENCED FROM THE JULY 29, 2021 AS–BUILT SUBMEMBRANE DEPRESSURIZATION SYSTEM EXTENTS MAP – FIRST FLOOR, PREPARED BY NY LAND TECH.
4. ELEVATIONS ON THE AS–BUILT SUBMEMBRANE DEPRESSURIZATION SYSTEM EXTENTS MAP – CELLAR AND FIRST FLOOR DRAWINGS ARE RELATIVE TO BUILDING ELEVATION (0,0), WHICH IS EQUIVALENT TO EL 28.66 NAVD88.
5. PVC = POLYVINYL CHLORIDE

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SCALE: 1 INCH = 30 FEET

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NEW YORK NEW YORK

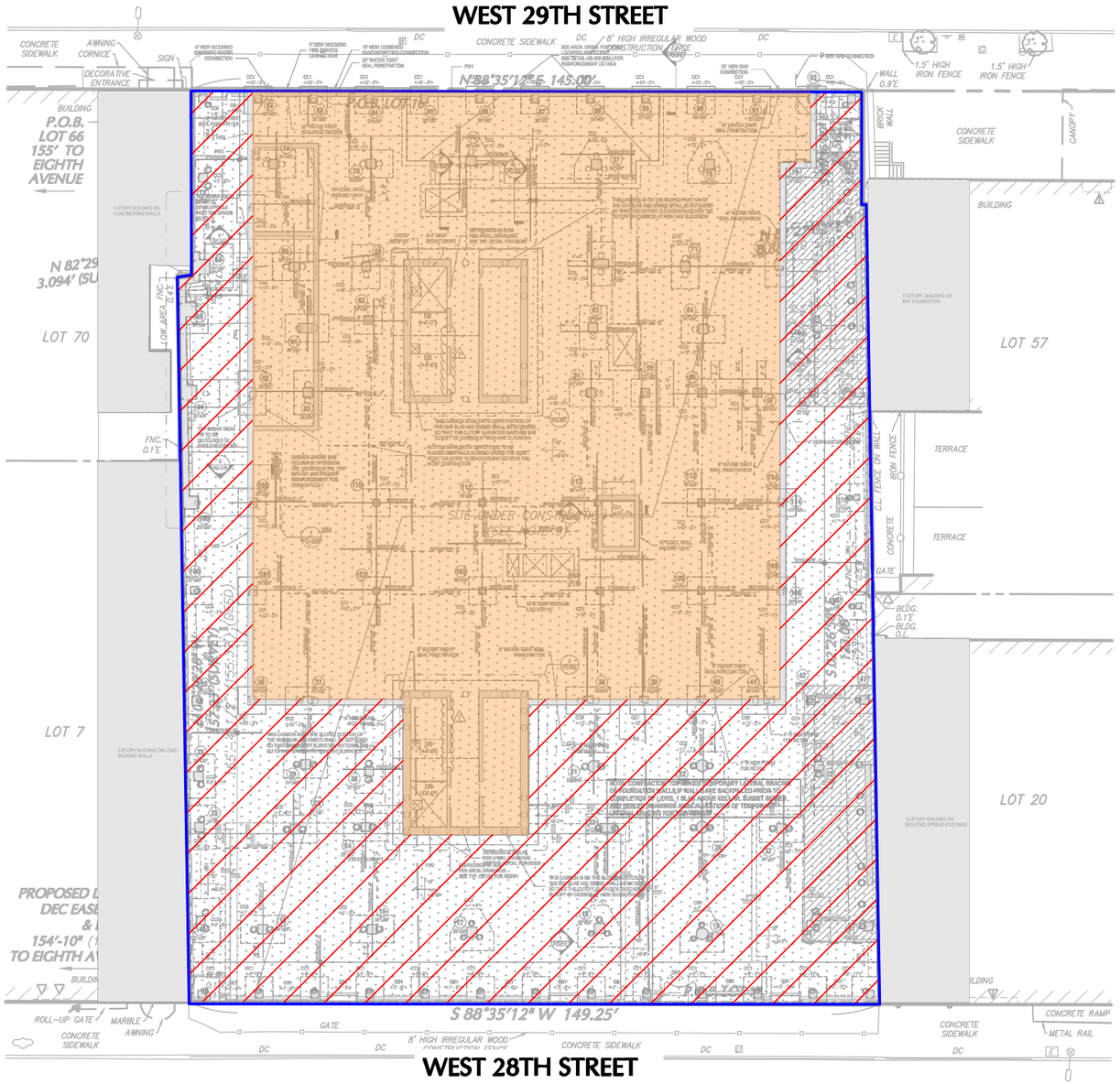
Project
241 WEST 28TH STREET
BLOCK No. 778, LOT No. 18

Figure Title
SUBMEMBRANE DEPRESSURIZATION SYSTEM LAYOUT PLAN

Project No.	170017004
Date	5/22/2023
Drawn By	AN
Checked By	ERA

Figure No. 2
Sheet 2 of 3

Filename: \\langan.com\data\NY\data0\170017001\Cadd Data - 170017001\SheetFiles\Environmental\BCP PRR\Figure 2 - SMD System Layout.dwg Date: 5/24/2023 Time: 09:45 User: anesci Style Table: Langan.stb Layout: ANSIB-BL



LEGEND:

- APPROXIMATE SITE BOUNDARY/EXTENT OF MINIMUM 12-INCH-THICK CONCRETE BUILDING SLAB
- APPROXIMATE EXTENT OF VAPOR BARRIER/WATERPROOFING MEMBRANE (PREPRUFE 300R+, BITUTHENE 4000)
- APPROXIMATE EXTENT OF VAPOR BARRIER MEMBRANE (STEGO 20 MIL AND STEGO TAPE)

NOTES:

1. BASE MAP TAKEN FROM LANGAN'S DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) EASEMENT SURVEY, DATED MAY 26, 2021 AND COOKFOX F-101 PLAN OF CELLAR AND F-102 PLAN OF LEVEL 01 DATED OCTOBER 30, 2020.
2. THE CELLAR-LEVEL VAPOR BARRIER/WATERPROOFING MEMBRANE CONSISTS OF PREPRUFE 300R PLUS AND/OR BITUTHENE 4000 BENEATH THE CELLAR SLAB AND ALONG THE EXTERIOR CELLAR WALLS. HYDRODUCT 220 DRAINAGE BOARD WAS INSTALLED ALONG THE EXTERIOR OF THE CELLAR AND FIRST FLOOR FOUNDATION WALLS. THE FIRST FLOOR VAPOR BARRIER MEMBRANE CONSISTS OF STEGO 20-MIL VAPOR BARRIER AND STEGO TAPE.

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Project	241 WEST 28TH STREET
	BLOCK No. 778, LOT No. 18
	NEW YORK NEW YORK
Figure Title	COMPOSITE COVER SYSTEM LOCATION MAP
Project No.	170017004
Date	5/22/2023
Drawn By	AN
Checked By	ERA
Figure No.	3
Sheet	3 of 3

Filename: \\langan.com\data\NY\data0\170017001\Cadd Data - 170017001\SheetFiles\Environmental\BCP PRR\Figure 3 - Composite Cover System Location Map.dwg Date: 5/24/2023 Time: 09:53 User: anesci Style Table: Langan.stb Layout: ANSIB-BL

APPENDIX A

Environmental Easement

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument.The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.

2021111700683001004E8779

RECORDING AND ENDORSEMENT COVER PAGE **PAGE 1 OF 12**

Document ID: 2021111700683001 Document Date: 11-02-2021 Preparation Date: 12-08-2021
Document Type: EASEMENT
Document Page Count: 11

PRESENTER:
LT SERVICE/PICKUP/ELTON (LT14818)
521 FIFTH AVENUE, 23RD FLOOR
NEW YORK, NY 10175
212-599-1300
NYCID@LEXTERRAE.COM

RETURN TO:
NATOYA DUNCAN
SIVE PAGET & RIESEL
560 LEXINNGTON AVENUE
NEW YORKK, NY 10022

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	778	18	Entire Lot	241 WEST 28TH STREET

Property Type: OTHER Easement

CROSS REFERENCE DATA

CRFN_____ *or* DocumentID_____ *or* _____ Year_____ Reel____ Page_____ *or* File Number_____

PARTIES

GRANTOR/SELLER:
249 W 28TH STREET PROPERTIES, LP
110 EDISON PL STE 300
NEWARK, NJ 07102-4908

GRANTEE/BUYER:
PEOPLE OF NEW YORK BY DEPT. ENVIRONMENTAL CONSERVA
625 BROADWAY
ALBANY, NY 12233

FEES AND TAXES

Mortgage :		
Mortgage Amount:	$	0.00
Taxable Mortgage Amount:	$	0.00
Exemption:		
TAXES: County (Basic):	$	0.00
City (Additional):	$	0.00
Spec (Additional):	$	0.00
TASF:	$	0.00
MTA:	$	0.00
NYCTA:	$	0.00
Additional MRT:	$	0.00
TOTAL:	$	0.00
Recording Fee:	$	92.00
Affidavit Fee:	$	0.00

Filing Fee:	
$	100.00
NYC Real Property Transfer Tax:	
$	0.00
NYS Real Estate Transfer Tax:	
$	0.00

RECORDED OR FILED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK
Recorded/Filed 12-13-2021 14:18
City Register File No.(CRFN): **2021000488505**

City Register Official Signature

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 2nd day of November, 20 21, between Owner(s), 249 W 28th Street Properties, LP as successor-in-interest to 249 W 28th Street Properties, LLC (the "Grantor Fee Owner") having an office at 110 Edison Place, Suite 300, Newark, New Jersey 07102, and 241 West 28th Street Owner LLC, (the "Grantor Leaseholder"), having an office at c/o MAG Partners, 41 Flatbush Avenue 1st and 2nd Floors, Brooklyn, NY 11217, (collectively, the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor Fee Owner, is the owner of real property located at the address of 241 West 28th Street in the City of New York, County of New York and State of New York, known and designated on the tax map of the New York City Department of Finance as tax map parcel number: Block 778 Lot 18 (f/k/a Lots 13, 16, 18 and 66), being the same as that property conveyed to Grantor Fee Owner by the following deeds:

1) Deed dated November 18, 2010 and recorded in the City Register of the City of New York as CRFN # 2010000398414.
2) Deed dated July 30, 2020 and recorded in the City Register of the City of New York as CRFN # 2020000217453.
3) Deed dated February 27, 1998 and recorded in the City Register of the City of New York in Reel 2720, Page 2166.

WHEREAS, the property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.670 +/- acres, and is hereinafter more fully described in the Land Title Survey dated May 26, 2021 and last revised October 1, 2021 prepared by Paul Fisher, L.L.S. of Langan Engineering, which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, Grantor Leaseholder, is the long-term tenant by way of a 99-year lease as stated in that Memorandum of Lease dated December 13, 2018 and recorded in the City Register of the City of New York as CRFN # 2018000418672; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C231139-11-19, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the New York City Department of Health and Mental Hygiene to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property,

including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Site Number: C231139
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, Grantor Fee Owner has caused this instrument to be signed in its name.

249 W 28th Street Properties, LP:
By: Edison Parking Corporation, General Partner

By: _____

Print Name: JON DARIO

Title: EVP Date: 10/25/2021

Grantor's Acknowledgment

STATE OF NEW ~~YORK~~ JERSEY)
) ss:
COUNTY OF ESSEX)

On the 25th day of October, in the year 2021, before me, the undersigned, personally appeared JON DARIO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public - State of New ~~York~~ JERSEY

VALERIE KLEIN
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50070271
My Commission Expires 10/18/2022

IN WITNESS WHEREOF, Grantor Leaseholder has caused this instrument to be signed in its name.

241 West 28th Street Owner LLC:

By: _____

Print Name: Susi Yu

Title: Authorized Person Date: 10/26/21

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF NY)

On the 26th day of October in the year 2021, before me, the undersigned, personally appeared Susi Yu, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public - State of New York

DANIELLE R WEST
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WE6390255
Qualified in Kings County
My Commission Expires 04-15-2023

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Michael J. Ryan, Director
Division of Environmental Remediation

Grantee's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the 2nd day of November in the year 2021 before me, the undersigned, personally appeared Michael J. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

SCHEDULE "A" PROPERTY DESCRIPTION

Environmental Easement Legal Description

241 West 28th Street, Lot 18 (f/k/a Lots 13, 16, 18, and 66)

All that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County, and State of New York, bounded and described as follows:

Beginning at a point on the northerly side of West 28th Street (60 feet wide) distant 154.83 feet easterly from the intersection formed by said northerly side of West 28th Street with the easterly side of Eighth Avenue and running thence;

North 02 degrees 28 minutes 28 seconds West, a distance of 157.23 feet to a point; thence

North 82 degrees 29 minutes 27 seconds East, a distance of 3.094 feet to a point; thence

North 01 degree 24 minutes 48 seconds West, a distance of 39.96 feet to a point on the southerly side of West 29th Street (60 feet wide), said point being distant 155.00 feet easterly from the intersection formed by said southerly side of West 29th Street with said easterly side of Eighth Avenue; thence

Along said southerly side of West 29th Street, North 88 degrees 35 minutes 12 seconds East a distance of 145.00 feet to a point; thence

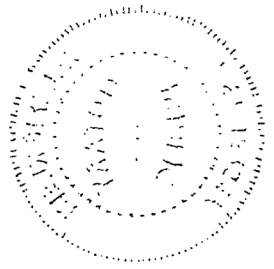
South 01 degree 36 minutes 00 seconds East, a distance of 24.56 feet to a point; thence

North 82 degrees 27 minutes 02 seconds East, a distance of 0.88 feet to a point; thence

South 02 degrees 26 minutes 58 seconds East, a distance of 173.08 feet to a point on said northerly side of West 28th Street; thence

Along said northerly side of West 28th Street, south 88 degrees 35 minutes 12 seconds West, a distance of 149.25 feet to the point or place of beginning.

Encompassing an area of 0.670 acres, more or less.



APPENDIX B

Site Inspection Photographs

Photo 1, 01/04/2023: View of submembrane depressurization (SMD) system blowers being installed

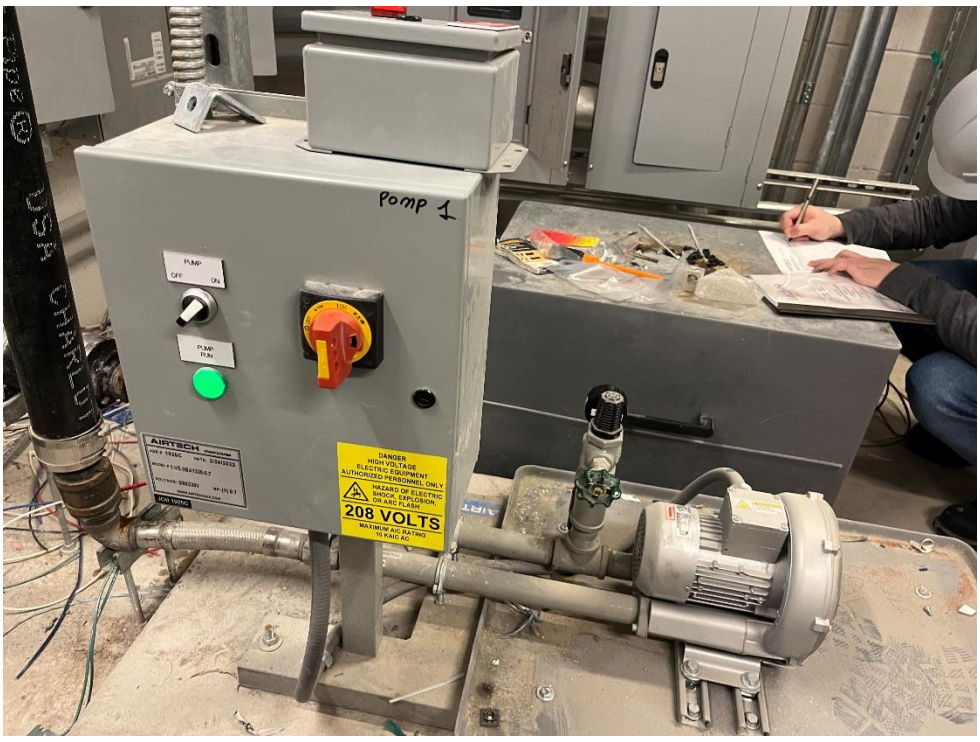


Photo 2, 01/04/2023: View of SMD system blower pump being calibrated (facing east)

Photo 3, 01/17/2023: View of SMD blowers installed on the 2nd level of the southern tower's mechanical bulkhead (24th floor) (facing northwest)

Photo 4, 01/17/2023: View of SMD system alarm panels (facing west)

Photo 5, 01/17/2023: View of SMD system effluent vent pipes leading to the building roof (facing northwest)

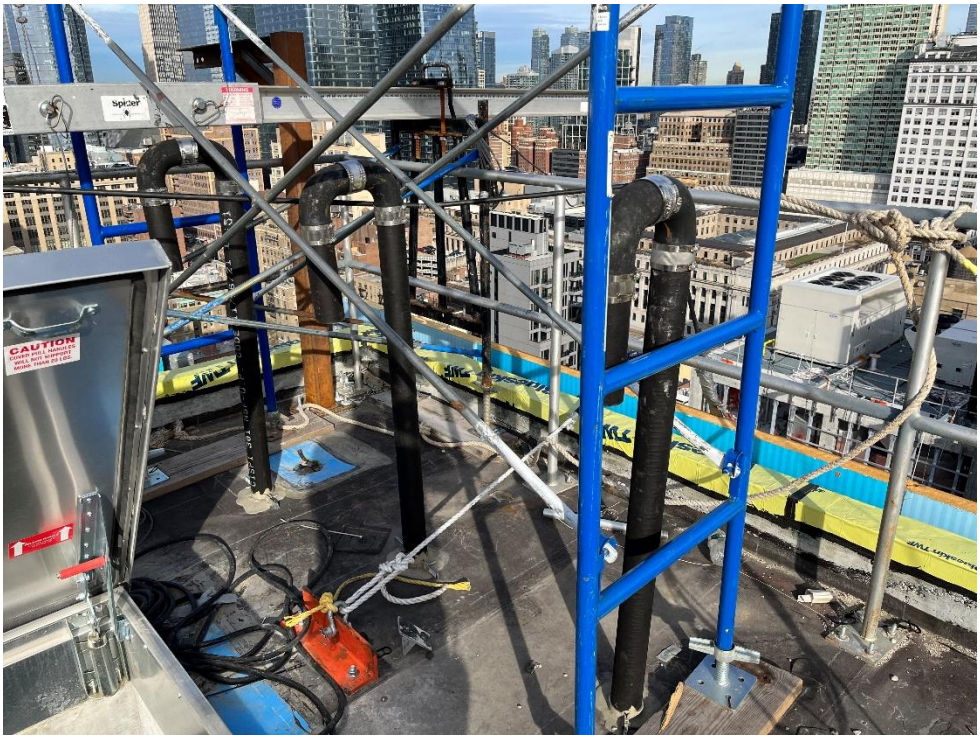


Photo 6, 01/17/2023: View of SMD exhaust pipes on the southern tower building roof (facing northwest)

Photo 7, 01/17/2023: View of SMD system blower filter

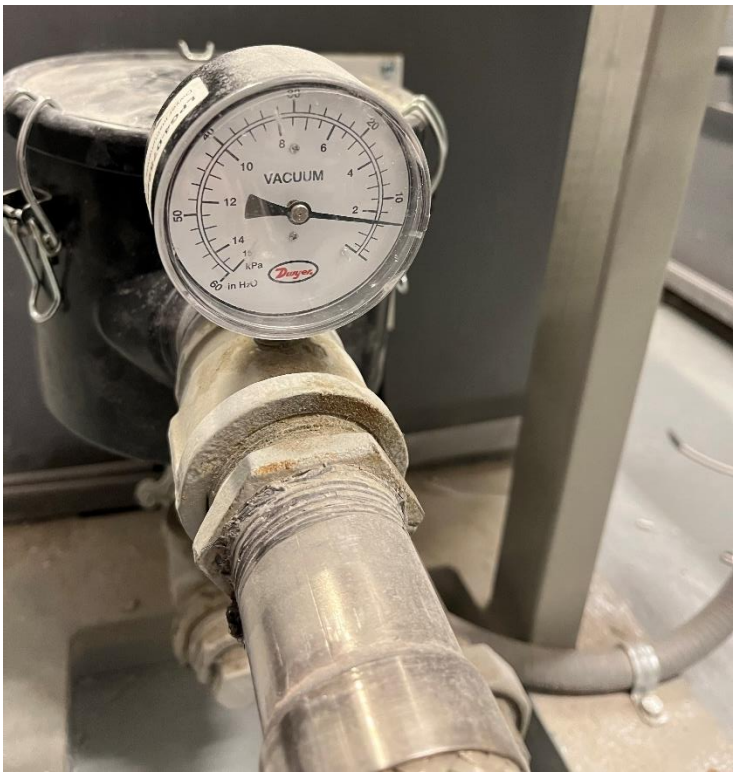


Photo 8, 01/17/2023: Vacuum gauge attached to SMD system blower (facing southwest)

Photo 9, 01/04/2023: View of the cellar-level riser pipe connection exiting the cellar-level slab (facing north)

Photo 10, 01/17/2023: View of completed cellar-level riser pipe connection exiting the cellar-level slab (facing northwest)

Photo 11, 01/17/2023: Langan measuring photoionization detector (PID) readings from the cellar-level riser pipe connection

Photo 12, 04/25/2023: Langan using a Velocicalc to measure flow rate within the cellar-level riser pipe connection (facing east)

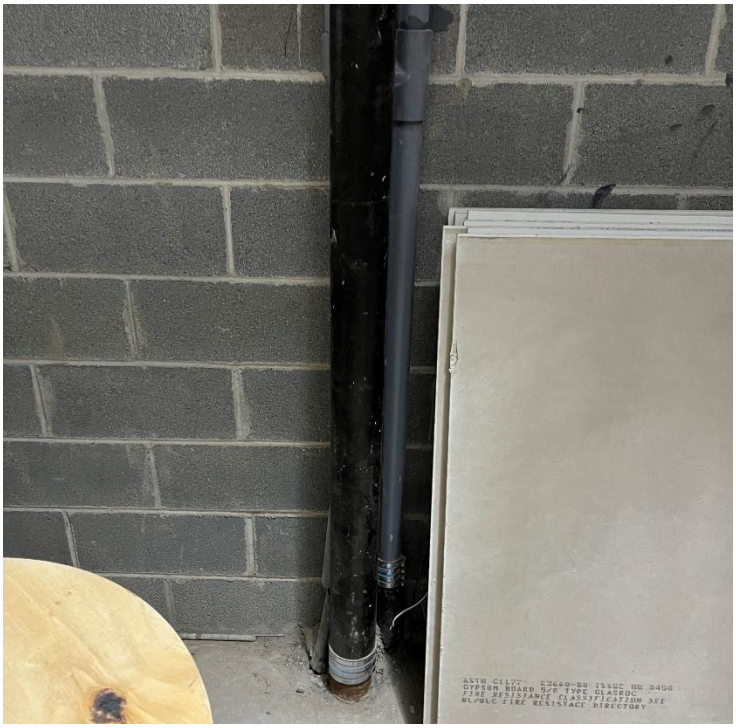


Photo 13, 01/04/2023: View of the riser pipe connection exiting the western first floor-level slab (facing west)

Photo 14, 01/17/2023: View of the completed riser pipe connection exiting the western first floor-level slab (facing west)

Photo 15, 04/25/2023: View of Langan collecting vacuum readings from the western first floor-level riser pipe connection (facing west)

Photo 16, 01/04/2023: View of the riser pipe connection exiting the eastern first floor-level slab (facing east)

Photo 17, 01/17/2023: View of the completed riser pipe connection exiting the eastern first floor-level slab (facing northeast)

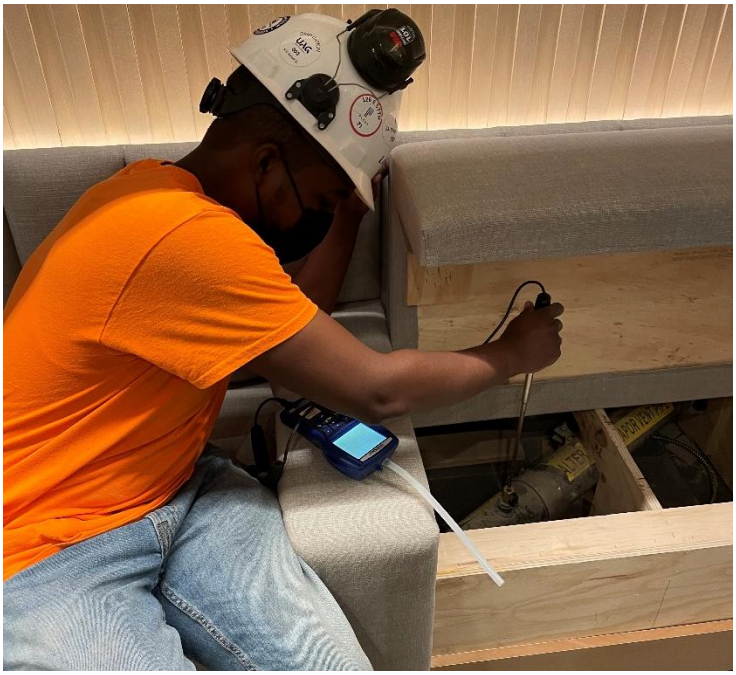


Photo 18, 04/25/2023: View of Langan collecting flow rate readings from the eastern first floor-level riser pipe connection (facing east)

Photo 19, 01/04/2023: View of the first-floor concrete building slab (facing northeast)

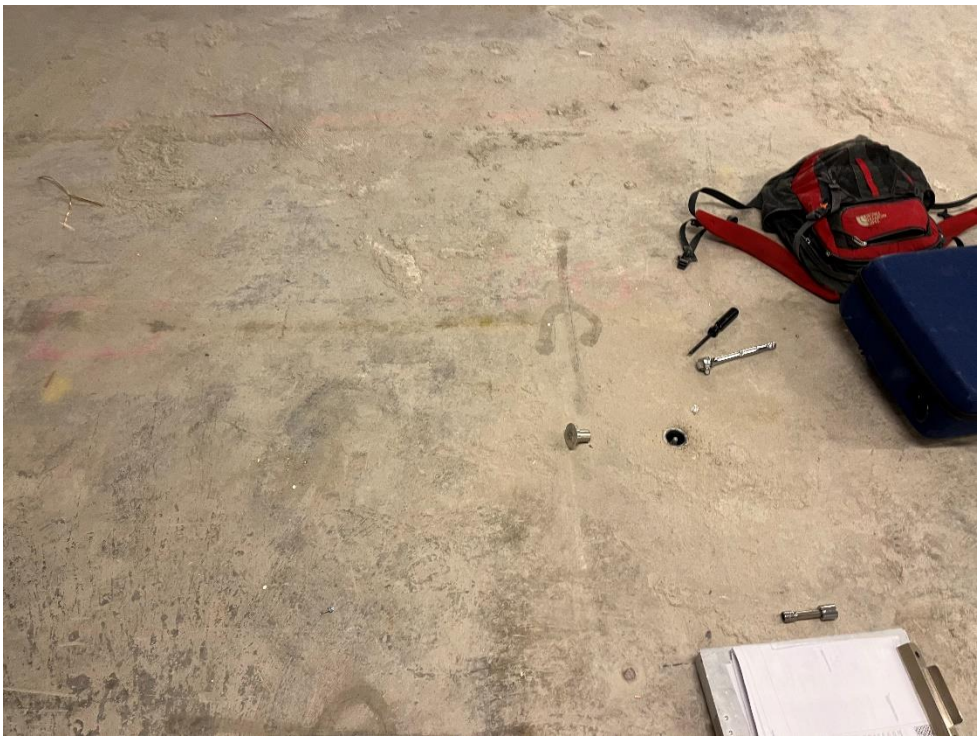


Photo 20, 01/17/2023: View of vacuum monitoring point VMP06

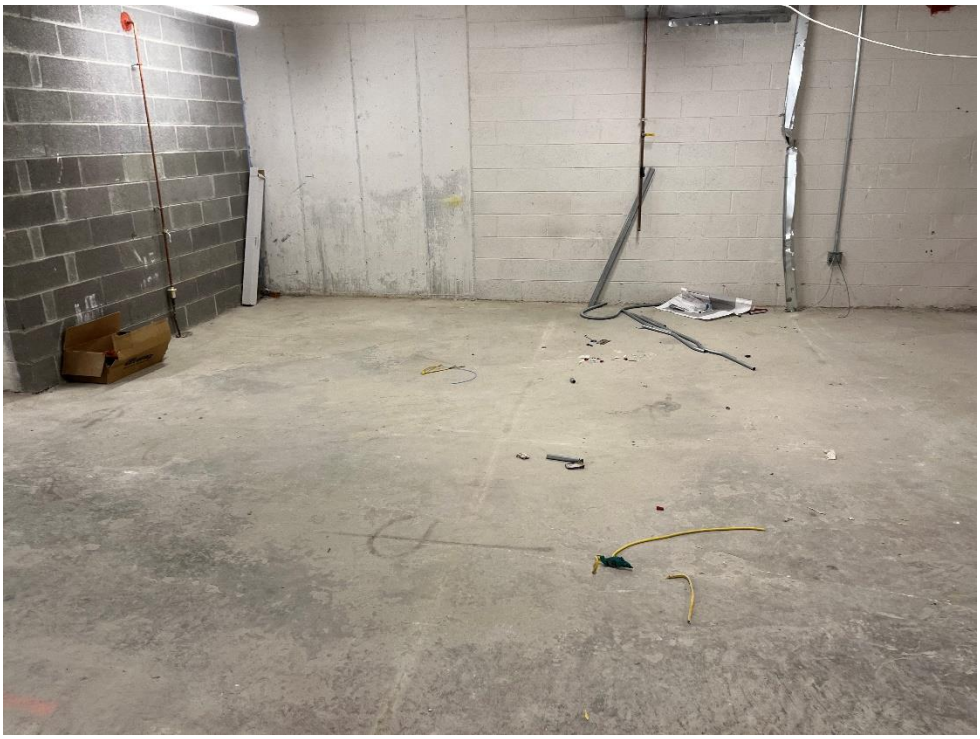


Photo 21, 01/17/2023: View of the cellar-level concrete building slab (facing east)

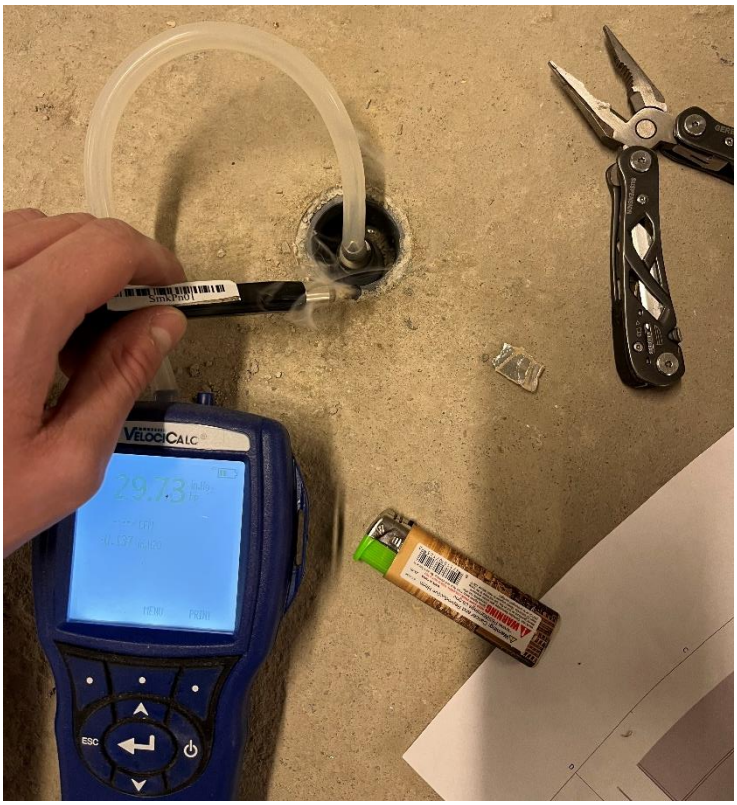


Photo 22, 01/17/2023: Langan performing a smoke test on vapor monitoring point VMP06

Photo 23, 01/17/2023: Langan collecting PID readings from vapor monitoring point VMP03

Photo 24, 04/25/2023: Langan collecting vacuum readings from vapor monitoring point VMP02

APPENDIX C

SMD System Inspection Form

SMD SYSTEM INSPECTION CHECKLIST

Site Name: 241 West 28th Street Location: 241 West 28th Street, New York, NY Project Number: 170017004

Inspector Name: Andrew Nesci Date: 1/17/2023 Weather Conditions: Cloudy, 43 to 47 °F, SW @ 5 to mph

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Startup Inspection

Check one of the following: **Y:** Yes **N:** No **NA**: Not Applicable

		Y	N	NA	Normal Situation	Remarks
	Records					
1	Is the Site Management Plan readily available on-site?	X			Y	
2	Based on site records, when was the last inspection, maintenance, or repair event?					The initial start up inspection began on January 4, 2023
3	Based on site records, was the system inoperational for any amount of time since the last inspection, maintenance, or repair event? For how long? Provide details.			X		SMD System started during inspection
	Alarm System					
4	Do the alarm lights indicate that the system is operational?	X			Y	
	General System					
5	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the floor slab, on-site at the time of this inspection?		X		N	
6	If YES to number 5, is there documentation that the Soil Management Plan, HASP, and CAMP for the site was/is being followed?			X	NA if N to 5/ Y if Y to 5	
7	If YES to number 5, is there documentation that all breaches in the floor slab have been sealed?			X	NA if N to 5/ Y if Y to 5	
8	Does all visible SMD system piping appear intact and undamaged?	X			Y	
9	Have any intake points been constructed at the roof near (less than 10 feet) the SMD system blower discharge point?		X		N	
	SMD System Blower Unit					
10	Is the SMD system's western first floor-level blower (Blower #1) operational at the time of the inspection?	X			Y	
11	Is the SMD system's cellar-level blower (Blower #2) operational at the time of the inspection?	X			Y	
12	Is the SMD system's eastern first floor-level blower (Blower #3) operational at the time of the inspection?	X			Y	
11	What is the VelociCalc Meter reading at the cellar-level riser pipe connection?				91.71 CFM	
12	What is the VelociCalc Meter reading at the western first-level riser pipe connection?				61.35 CFM	
13	What is the VelociCalc Meter reading at the eastern first-level riser pipe connection?				69.88 CFM	
14	Are the SMD system blowers expelling air at the discharge points?	X			Y	
15	Have dust and debris been removed from surface of the blowers			X	Y	
16	Have dirty or clogged filter cartridges been replaced?			X	Y	

*** If the answer to any of the above questions indicate the SMD system is non-operational or malfunctioning, or that this EC is in non-compliance,additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.**

Additional remarks Gauges to be installed on all riser pipes

Minimum Inspection Schedule: SMD inspections will be conducted annually in accordance with the Site Management Plan (SMP). Additional inspections will also be conducted at times of maintenance, repair, or severe condition events. The minimum schedule will be revised, as necessary, following the first certification year. All inspection events will utilize this checklist.

Site Name: 241 W 28th Street
Location: New York, NY
Project #: 170017004
Inspection Date: 1/17/2022

Vacuum Monitoring Points			
Location	**Vacuum (inH2O)**	**Notes**	
VMP01	-0.086	-	
VMP02	-	Partially covered in concrete. Not accessible.	
VMP03	-0.199	-	
VMP04	-0.103	-	
VMP05	-0.158	-	
VMP06	-0.140	-	
VMP07	-0.115	-	
VMP08	-	Not accessible.	
Risers			
Location	**Vacuum (inH2O)**	**Flow Rate (CFM)**	**Notes**
Cellar-level riser connection	-1.5	91.71	-
Western first-floor riser connection	-2	61.35	-
Eastern first-floor riser connection	-1	69.88	-

Notes:
1. CFM = Cubic feet per minute

Import Sys Data

Mitigation System Installation Record

☐ Structure was sampled previously

System Information

Site No: C231139

System ID:

Site Name: 241 West 28th Street

Owner Name: 241 West 28th Street Owner LLC ☐ Owner Occupied

System Address: 241 West 28th Street Telephone: 212-339-3911

City: New York, New York Zip: 10019 Alt. Telephone:

Contractor Information

Installer Name: N/A Company: Eastern Air Inc.

Telephone: 718-821-3636

Building Conditions

Building Type: Multi-Use Building

Slab Integrity: ○ Poor ○ Average ○ Good ◉ Excellent

Slab Penetrations: ☐ Sump ☐ Floor drain ☐ Perimeter drain ☐ Other

Describe:

Plumbing elements

Observed Water: ◉ Dry ○ Damp ○ Sump only ○ Standing

Describe:

System Installation

Installation Type: Sub-Slab Depressurization (Active) Date Installed: July 2021

Slab Thickess (inches): >5 in.

Subslab Material: Sand Subslab Moisture: Dry

Number of Suction Points: 3 Number of Fans Installed: 3

	☐ Fan #1 Operating	☐ Fan #2 Operating	☐ Fan #3 Operating
Fan Model No(s):	3BA1300-7AT16	3BA1400-7AT16	3BA1330-7AT16
Fan Serial No(s):	20210325 010/0393	20210325 030/0073	20200318 010/005
Final U-Tube Levels:			

Additional Mitigation Elements (check all that apply):

☐ Drainjer ☐ Membrane ☐ Sealed cracks ☐ New floor ☐ Rain cap ☐ Other

Comments:

New concrete building slab with an underlying waterproofing/vapor barrier membrane or vapor barrier membrane.

Export Data

Print Form

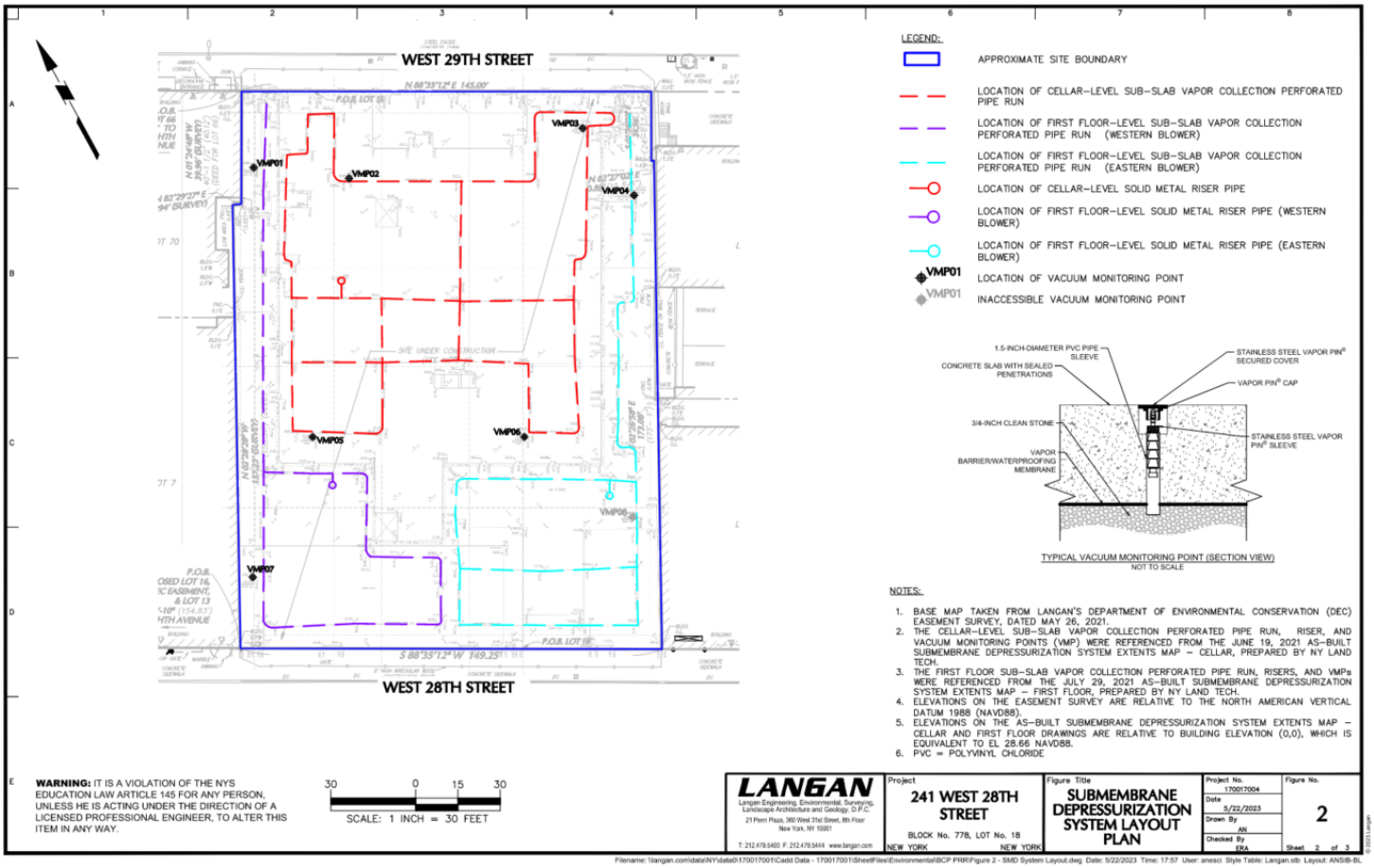
Communication Testing

Test Method: Smoke test Meter Type/Manufacturer: _____

Location	Reading/Result	Dist. From Suction Point (ft)	Passed?
VMP01/VMP03	Pass	1-2	☐
VMP04/VMP05	Pass	1-2	☐
VMP06/VMP07	Pass	1-2	☐
VMP02	Pass	1-2	☐
VMP08	Not Accessible		☐

System Sketch
(indicate notable features, location of extraction points, and communication test holes)

NORTH



Export Data

Submit by Email

SMD SYSTEM INSPECTION CHECKLIST

Site Name: 241 West 28th Street Location: 241 West 28th Street, New York, NY Project Number: 170017004

Inspector Name: Seyena Simpson Date: 04/25/2023 Weather Conditions: Sunny, 47 to 59 °F, E @ 5 mph

Reason for Inspection (i.e., routine, maintenance, severe condition, etc.): Routine

Check one of the following: **Y:** Yes **N:** No **NA**: Not Applicable

		Y	N	NA	Normal Situation	Remarks
	Records					
1	Is the Site Management Plan readily available on-site?	X			Y	
2	Based on site records, when was the last inspection, maintenance, or repair event?					The startup inspection was conducted on January 17, 2023
3	Based on site records, was the system inoperational for any amount of time since the last inspection, maintenance, or repair event? For how long? Provide details.		X		N	
	Alarm System					
4	Do the alarm lights indicate that the system is operational?	X			Y	
	General System					
5	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included the breaching of the floor slab, on-site at the time of this inspection?		X		N	
6	If YES to number 5, is there documentation that the Soil Management Plan, HASP, and CAMP for the site was/is being followed?			X	NA if N to 5/ Y if Y to 5	
7	If YES to number 5, is there documentation that all breaches in the floor slab have been sealed?			X	NA if N to 5/ Y if Y to 5	
8	Does all visible SMD system piping appear intact and undamaged?	X			Y	
9	Have any intake points been constructed at the roof near (less than 10 feet) the SMD system blower discharge point?		X		N	
	SMD System Blower Unit					
10	Is the SMD system's western first floor-level blower (Blower #1) operational at the time of the inspection?	X			Y	
11	Is the SMD system's cellar-level blower (Blower #2) operational at the time of the inspection?	X			Y	
12	Is the SMD system's eastern first floor-level blower (Blower #3) operational at the time of the inspection?	X			Y	
11	What is the VelociCalc Meter reading at the cellar-level riser pipe connection?				85.45 CFM	
12	What is the VelociCalc Meter reading at the western first-level riser pipe connection?				79.9 CFM	
13	What is the VelociCalc Meter reading at the eastern first-level riser pipe connection?				74.79 CFM	
14	Are the SMD system blowers expelling air at the discharge points?	X			Y	
15	Have dust and debris been removed from surface of the blowers?			X	Y	
16	Have dirty or clogged filter cartridges been replaced?			X	Y	

*** If the answer to any of the above questions indicate the SMD system is non-operational or malfunctioning, or that this EC is in non-compliance,additional remarks must be provided and, where applicable, documentation attached to this checklist detailing additional inspection and repair activities.**

Additional remarks:_____

Minimum Inspection Schedule: SMD inspections will be conducted annually in accordance with the Site Management Plan (SMP). Additional inspections will also be conducted at times of maintenance, repair, or severe condition events. The minimum schedule will be revised, as necessary, following the first certification year. All inspection events will utilize this checklist.

Site Name: 241 W 28th Street
Location: New York, NY
Project #: 170017004
Inspection Date: 4/25/2023

Vacuum Monitoring Points		
Location	**Vacuum (inH2O)**	**Notes**
VMP01	-0.017	-
VMP02	-0.152	-
VMP03	-0.128	-
VMP04	-0.035	-
VMP05	-0.166	-
VMP06	-0.138	-
VMP07	-0.039	-
VMP08	-	Not accessible

Risers			
Location	**Vacuum (inH2O)**	**Flow Rate (CFM)**	**Notes**
Cellar-level riser connection	-0.588	85.45	-
Western first-floor riser connection	-0.216	79.90	-
Eastern first-floor riser connection	-0.23	74.79	-

Notes:
1. CFM = Cubic feet per minute

APPENDIX D

Annual Site-Wide Inspection Form

SITE INSPECTION CHECKLIST

Site Name: 241 West 28th Street Location: 241 West 28th Street, New York, NY Project Number: 170017004

Inspector Name: Seyena Simpson Date: 4/25/2023 Weather Conditions: Sunny, 47 to 59 F, E @ 5mph

Reason for Inspection (i.e., routine, severe weather condition, etc.): Routine Annual Inspection

Check one of the following:
(Y: Yes N: No NA: Not Applicable)

		Y	N	NA	Normal Situation	Remarks
	General					
1	What are the current site conditions?	--	--	--	--	The building is currently under construction
2	Are all applicable site records (e.g., documentation of construction activity, SMD system maintenance and repair, most current easement, etc.) complete and up to date?	X			Y	
	Environmental Easement					
3	Has site use (restricted-residential) remained the same?	X			Y	
4	Does it appear that all environmental easement restrictions have been followed?	X			Y	
	Composite Cover & SMD System					
5	Are there any indications of a breach in the capping system at the time of this inspection?		X		N	
6	Are there any cracks in the building slabs?		X		N	
7	Are there any cracks in the building walls?		X		N	
8	Is there any construction activity, or indication of any construction activity within the past certification year (including any tenant improvements), that included breaching the capping system or altering the SMD system at the time of this inspection?		X		N	
9	If YES to number 8, is there documentation that the Site Management Plan, HASP, and CAMP for the site was/is being followed?			X	N/A	

*****If the answer to any of the above questions indicate non-compliance with any ICs/ECs for the site, additional remarks must be provided and, where applicable, documentation should be attached to this checklist detailing additional inspection and repair activities.*****

Additional remarks:

Minimum Inspection Schedule:

- At a minimum, site-wide inspections will be conducted annually, per certification year.
- Additional site-wide inspections will also be conducted immediately following severe storm/weather conditions.
- This checklist will be completed as part of each site-wide inspection event.

APPENDIX E

Institutional and Engineering Controls Certification Form

Enclosure 2
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form

Site Details **Box 1**

Site No. C231139

Site Name 241 West 28th Street

Site Address: 241 WEST 28TH STREET Zip Code: 10001
City/Town: New York
County: New York
Site Acreage: 0.670

Reporting Period: December 28, 2021 to April 28, 2023

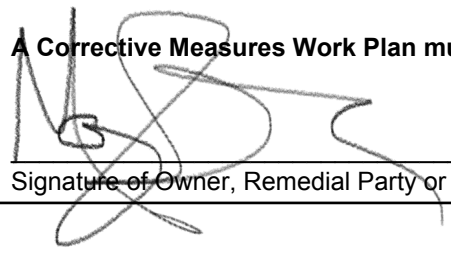
	YES	NO
1. Is the information above correct?	☒	☐
If NO, include handwritten above or on a separate sheet.		
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?	☐	☒
3. Has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?	☐	☒
4. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	☐	☒
If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.		
5. Is the site currently undergoing development?	☒	☐

Box 2

	YES	NO
6. Is the current site use consistent with the use(s) listed below? Restricted-Residential, Commercial, and Industrial	☒	☐
7. Are all ICs in place and functioning as designed?	☒	☐

IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.



5/14/2023

Signature of Owner, Remedial Party or Designated Representative Date

Box 2A

	YES	NO
8. Has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?	☐	☒

If you answered YES to question 8, include documentation or evidence that documentation has been previously submitted with this certification form.

9. Are the assumptions in the Qualitative Exposure Assessment still valid? (The Qualitative Exposure Assessment must be certified every five years)	☒	☐

If you answered NO to question 9, the Periodic Review Report must include an updated Qualitative Exposure Assessment based on the new assumptions.

SITE NO. C231139 **Box 3**

Description of Institutional Controls

Parcel	Owner	Institutional Control
778-18	249 W 28th Street Properties, LP	O&M Plan Ground Water Use Restriction Soil Management Plan Landuse Restriction Site Management Plan IC/EC Plan

Groundwater use and land use restriction to restricted residential as outlined in the environmental easement, site management plan, IC/EC plan, soil management plan, O&M plan for the SSDS.

Box 4

Description of Engineering Controls

Parcel	Engineering Control
778-18	Vapor Mitigation Cover System

Cover system that consists of the building's slabs and foundation with a vapor barrier and vapor mitigation with the SSDS,

Box 5

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

   a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the Engineering Control certification;

   b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and compete.

YES	NO
X	☐

2. For each Engineering control listed in Box 4, I certify by checking "YES" below that all of the following statements are true:

   (a) The Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

   (b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

   (c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

   (d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

   (e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES	NO
X	☐

IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and DO NOT COMPLETE THE REST OF THIS FORM. Otherwise continue.

A Corrective Measures Work Plan must be submitted along with this form to address these issues.

Signature of Owner, Remedial Party or Designated Representative	Date
	5/14/2023

IC CERTIFICATIONS
SITE NO. C231139

Box 6

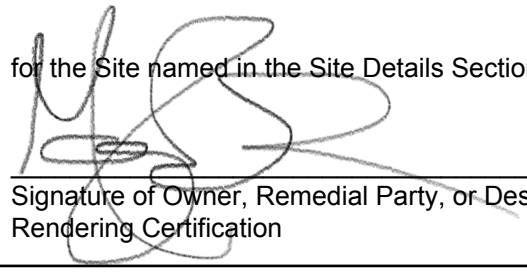
SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 1,2, and 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I MaryAnne Gilmartin (print name) at 241 West 28th Street Owner LLC (print business address),

am certifying as Remedial Party (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.



Signature of Owner, Remedial Party, or Designated Representative Rendering Certification

5/14/2023
Date

EC CERTIFICATIONS

Box 7

Qualified Environmental Professional Signature

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I Jason Hayes (print name) at Langan, 360 W 31st St., 8th Fl, NY, NY 10001 (print business address)

am certifying as a Qualified Environmental Professional for the Remedial Party (Owner or Remedial Party)

STATE OF NEW YORK · JASON JAMES HAYES · 089491 · LICENSED PROFESSIONAL ENGINEER

Signature of Qualified Environmental Professional, for the Owner or Remedial Party, Rendering Certification

Stamp (Required for PE)

05/30/2023
Date