Chapter 9: Hazardous Materials

A. INTRODUCTION

This chapter addresses the potential for the presence of hazardous materials resulting from previous and existing uses on the Project Site and in the surrounding area, and assesses potential risks with respect to any such hazardous materials related to the proposed zoning changes and other actions to facilitate the construction of a mixed-use development.

The co-Applicants, the New York City Educational Construction Fund (ECF) and 240 Nassau Street Holdings, LLC, are seeking zoning approvals, including zoning map and text amendments, a special permit, and other City and State approvals and potential future U.S. Department of Housing and Urban Development (HUD) actions (the "Proposed Actions"), to facilitate the construction of a proposed mixed-use development on Block 110, Lot 25 and Block 111, Lot 1 (the "Project Site") in Downtown Brooklyn, Community District (CD) 2. The proposed development would include four new buildings totaling approximately 1.7 million gross square feet (gsf), including public school facilities; residential, retail, and community facility space; cultural center space; and open space (the "Proposed Project").

The Proposed Actions include the transfer, reallocation, and lease of property among 240 Nassau Street Holdings, LLC, ECF, and the City of New York to allow for the Proposed Project and ECF financing and discretionary zoning approvals from the New York City Planning Commission (CPC) and New York City Council. A detailed description of the Proposed Project and the approvals needed to facilitate the Proposed Project is presented in Chapter 1, "Project Description."

This hazardous materials assessment is based on a Phase I *Environmental Site Assessment* (ESA) prepared by Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C. (Langan) in August 2023 for 240 Nassau Street (Block 110, Lot 25) and a Phase I ESA prepared by AKRF, Inc. (AKRF) in February 2026 for 50 Navy Street (Block 111, Lot 1). Each Phase I ESA includes the findings of a reconnaissance performed at the Project Site and an evaluation of readily available historical information, selected environmental databases, and electronic records (with respect to the Project Site and properties in the vicinity of the Project Site) in accordance with American Society for Testing and Materials (ASTM) Standard E1527-21.

B. PRINCIPAL CONCLUSIONS

Throughout its developed history, the Project Site has been composed of a mix of residential, commercial, and industrial/manufacturing properties, including petroleum storage sites with releases, gasoline filling stations, dry cleaners, metal works, and foundries. In the future with the Proposed Actions (the "With Action" condition), the Project Site would be developed with four buildings containing a total of approximately 1.7 million gsf, including approximately 1,502 mixed-income dwelling units (DUs) (approximately 302 affordable DUs), retail spaces,

community facility space, cultural center space, public school facilities, and open space. Redevelopment would involve site-wide excavation of subsurface materials at the Project Site to allow for construction of the new buildings. Although these activities could temporarily increase pathways for human exposure to any contaminated materials present in the existing structure or the subsurface by on-site workers, exposure to them and the surrounding community would be mitigated by incorporating the following into the Proposed Project:

- To avoid any potential for hazardous materials exposure on the Project Site, an (E) Designation (E-921) for hazardous materials would be placed on Block 110, Lot 25 and Block 111, Lot 1 to ensure that remediation is completed in accordance with the requirements of the New York City Mayor's Office of Environmental Remediation (OER). A hazardous materials (E) Designation is an institutional control that can be placed on a property as a result of City Environmental Quality Review (CEQR) of a zoning action. It is a mechanism to ensure that testing for, and remediation of, hazardous materials is completed as part of the future development of a site, thereby minimizing the potential for a hazardous materials impact and ensuring the protection of human health and the environment. Redevelopment of a site with an (E) Designation for hazardous materials will require review from OER and documentation of hazardous materials exposure mitigation prior to the issuance of New York City Department of Buildings (DOB) permits.

In summary, the Proposed Actions may temporarily increase exposure pathways for hazardous materials. However, the implementation of these procedures/controls would ensure that investigation, mitigation, and remediation of any hazardous materials under the Proposed Actions would be completed in a safe and comprehensive manner. Therefore, the Proposed Actions would not result in any significant adverse impacts with respect to hazardous materials at the Project Site.

C. EXISTING CONDITIONS

240 NASSAU STREET PHASE I ESA

Langan prepared a Phase I ESA for the 240 Nassau Street (Block 110, Lot 25) portion of the Project Site in August 2023. The ESA identified the following Recognized Environmental Condition (REC)[1] and Business Environmental Risk (BER):

- *Historical Uses of Adjoining and Surrounding Properties* – Historical operations/uses at surrounding properties included a dry cleaner, an industrial school, an iron scrap yard, a filling station, manufacturing facilities, and machine shops. One or more of these properties were listed in environmental regulatory databases for petroleum bulk storage (PBS), closed petroleum spills, and/or historical drycleaning facilities. Releases of petroleum and/or hazardous substances at surrounding properties may have migrated to and impacted groundwater and/or soil vapor quality at the Project Site; therefore, the historical operations at the adjoining and surrounding properties are considered a REC.
- *Utility Easement* – A subterranean Consolidated Edison (Con Edison) easement exists in the western portion of the Project Site. The easement may limit the development

[1] Per the ASTM Standard, RECs indicate *"the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property."*

potential of the 240 Nassau Street portion of the Project Site. Therefore, the presence of the Con Edison easement is considered a BER.

50 NAVY STREET PHASE I ESA

AKRF prepared a Phase I ESA for the 50 Navy Street (Block 111, Lot 1) portion of the Project Site in February 2026. The ESA identified the following RECs/Vapor Encroachment Conditions (VECs) and BER:

- *Historical Underground PBS* – The 50 Navy Street portion of the Project Site was registered in the New York State Department of Environmental Conservation (NYSDEC) PBS database as Facility No.: 2-354481 with two former 10,000-gallon underground storage tanks (USTs), which were reportedly closed-in-place in October 2022. Evidence of the former tanks, including a fill port and vent pipe, was observed during the renaissance. In addition, the lot was listed in the NYSDEC Spills database (Spill No. 1903757) for a tank tightness test failure related to the former USTs. The former underground fuel oil storage and potential associated spill at the Project Site constitutes a REC/VEC.
- *Historical Uses on the Lot* – Sanborn maps and regulatory database listings identified historical uses at the 50 Navy Street property that included a filling station with three gasoline tanks, a metalworks and electroplating facility, a garage, and a printing shop. These former uses have the potential to have impacted subsurface conditions at the Project Site and are considered a REC.
- *Historical Surrounding Property Uses* – The area immediately surrounding the Project Site was historically developed with a mix of industrial and manufacturing uses prior to 1887. These uses (including, but not limited to, blacksmith services, painting, iron foundry services, electro-galvanizing works, glassworks services, auto repair, garages, filling stations, cork and paper processing, news printing, binding and publishing, livestock and slaughterhouses, and junk yards) have the potential to have impacted subsurface conditions at the Project Site and are considered a REC.
- *Aboveground Storage Tank (AST)* – A 4,000-gallon AST identified as Tank 003 (NYSDEC PBS Facility No. 2-354481) was registered at the Project Site and appeared to have been removed from the lot without the proper regulatory administrative closure. This constitutes a BER.

D. THE FUTURE WITHOUT THE PROPOSED ACTIONS

In the future without the Proposed Actions (the “No Action” condition), it is assumed that the existing schools (P.S. 287, also known as the Dr. Bailey K. Ashford school, and the Community Roots Charter School) on Block 111, Lot 1 would remain, while the Madison Square Boys and Girls Club on Block 110, Lot 25 would close. Block 110, Lot 25 would be redeveloped with an as-of-right seven-story residential building containing approximately 84 DUs. Legal requirements, such as those relating to petroleum storage tank maintenance and handling and disposal of surplus chemicals, would continue to be applicable.

During excavation, any unforeseen USTs would be properly assessed, closed, and removed in accordance with state and local requirements (including those relating to spill reporting and tank registration). Soil intended for off-site disposal would be tested in accordance with the requirements of the receiving facility. Transportation of material leaving the Project Site

for off-site disposal would be in accordance with federal, state, and local requirements covering the licensing of haulers and trucks, placarding, truck routes, manifesting, etc.

E. THE FUTURE WITH THE PROPOSED ACTIONS

In the With Action condition, excavation would likely be required for construction of new foundation elements to support the proposed building enlargements. Although these activities could temporarily increase pathways for human exposure to any contaminated materials present in the existing structures or the subsurface, impacts would be avoided by incorporating the following into the Proposed Actions:

- To avoid any potential for hazardous materials exposure, an (E) Designation (E-921) for hazardous materials would be placed on Block 110, Lot 25 and Block 111, Lot 1 to ensure that remediation is completed in accordance with OER requirements. The (E) Designation is an institutional mechanism for regulatory oversight of future remedial action as a pre-construction requirement that would reduce or eliminate the potential for future risk or exposure as it relates to hazardous materials to the maximum extent practicable. Compliance in the hazardous materials (E) Designation program would be conducted under the administration of OER. The applicable text for the (E) Designation is as follows:

  Task 1: Sampling Protocol

  Prior to construction, the co-Applicants submits to OER, for review and approval, a Phase II Investigation protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

  No sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum-based contamination and non-petroleum-based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

  Task 2: Remediation Determination and Protocol

  A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

  If remediation is indicated from the test results, a proposed Remedial Action Work Plan (RAWP) must be submitted to OER for review and approval. The co-Applicants must complete such remediation as determined necessary by OER in accordance with the approved RAWP. The applicant should then provide proper documentation that remedial action has been satisfactorily completed.

  An OER-approved construction-related Health and Safety Plan (CHASP) would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts

associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

In addition to the measures outlined above, site redevelopment activities would occur in accordance with the following:

- During any soil disturbing redevelopment activities within the Project Site, any evidence of a petroleum spill would be reported to NYSDEC and/or other regulatory agencies and addressed in accordance with applicable requirements. If any USTs are encountered, they would be properly assessed, closed, and removed in accordance with state and local regulations. Transportation of material leaving the site for off-site disposal would be in accordance with federal, state, and local requirements covering the licensing of haulers and trucks, placarding, truck routes, manifesting, etc.
- If dewatering is required during implementation of the Proposed Project, water should be discharged in accordance with New York City Department of Environmental Protection (DEP) requirements.
- Following the completion of soil disturbance at the Project Site, a Remedial Action Report (RAR) would be submitted to OER for review and approval. The RAR would document the proper performance of all procedures required by the RAWP. Approval of the RAR would be required prior to obtaining Certificates of Occupancy for the new uses.
- An asbestos survey would be conducted within the existing Project Site buildings, and any asbestos containing materials (ACM) would be removed and disposed of prior to demolition in accordance with federal, state, and local requirements.
- Any redevelopment activities with the potential to disturb lead-based paint (LBP) would be performed in accordance with applicable requirements (including federal Occupational Safety and Health Administration [OSHA] regulation 29 CFR 1926.62—*Lead Exposure in Construction*).
- Unless there is labeling or test data indicating that suspect polychlorinated biphenyl (PCB)-containing electrical equipment, hydraulic equipment, and fluorescent lighting fixtures in the existing buildings do not contain PCBs, and that fluorescent lighting bulbs do not contain mercury, disposal (if required) would be conducted in accordance with applicable federal, state, and local requirements.
- Applicable regulatory requirements would be followed during implementation of the Proposed Project (e.g., for properly disposing of any trash, excess chemicals and soil, and for following DEP sewer discharge requirements if dewatering is required).

With these measures included as part of the Proposed Actions, no significant adverse impacts related to hazardous materials would occur during implementation of the Proposed Project. ✷