A. INTRODUCTION

As detailed in the 2021 *City Environmental Quality Review (CEQR) Technical Manual*, the goal of a hazardous materials assessment is to determine whether an action may increase the exposure of people or the environment to hazardous materials, and if so, whether this increased exposure would result in potential significant adverse public health or environmental impacts. A hazardous material is any substance that under certain circumstances may pose a threat to human health or the environment. Substances that can be of concern include, but are not limited to, heavy metals, volatile and semi-volatile organic compounds, methane, polychlorinated biphenyls and hazardous wastes (defined as substances that are chemically reactive, ignitable, corrosive, or toxic). According to the *CEQR Technical Manual*, the potential for significant impacts from hazardous materials can occur when: (a) hazardous materials exist on a site; (b) an action would increase pathways to their exposure; or (c) an action would introduce new activities or processes using hazardous materials.

B. PRINCIPAL CONCLUSIONS

The Proposed Action would not result in significant adverse impacts related to hazardous materials. The following assessment is based on review of several documents, published between 2009 and 2015, related to remediation of hazardous materials at the Project Site, including a Final Engineering Report (FER) and Site Management Plan (SMP). Based on review and approval of these documents, the New York State Department of Environmental Conservation (NYSDEC) issued a "Release and Covenant Not to Sue" on April 7, 2015, which states that the Project Site has been remediated and can now be used for purposes up to and including restricted residential. However, since contaminated soil remains beneath the Site, Institutional and Engineering Controls must be implemented to protect human health and the environment. These Controls include maintaining the two-foot soil cover and imposing a "Declaration of Covenants and Restrictions," which requires compliance with the SMP. The SMP also requires that NYSDEC be notified if any intrusive work is conducted and a Monitoring Plan must be drafted to assess the performance and effectiveness of the remedy.

As such, to avoid the potential for any significant adverse impacts associated with new construction resulting from the Proposed Action, the Applicant or its successors in title must remain in compliance with the SMP, as outlined above. In following these guidelines, the Proposed Action and resultant Proposed Project would not result in any significant adverse impacts related to hazardous materials.

C. METHODOLOGY

An assessment was conducted to determine whether the Proposed Action could lead to increased exposure of people or the environment to hazardous materials and whether the increased exposure would result in significant adverse public health impacts or environmental damage. The following assessment is based on review of documents related to remediation of hazardous materials at the Project Site, including the following:

- Ash Pit Remedial Action Work Plan (RAWP), prepared by Shaw Environmental, Inc., submitted September 2009
- Fact Sheet, published August 2013 by NYSDEC and State of New York Department of Health (NYSDOH), in conjunction with Consolidated Edison Company of New York, Inc. (Con Edison; also stylized "conEdison")
- Voluntary Cleanup Program (VCP), Decision Document, issued October 2013
- Declaration of Covenants and Restrictions, issued December 23, 2014
- Final Engineering Report (FER), prepared by Shaw Environmental & Infrastructure Engineering of New York, P.C., published February 2015
- Site Management Plan, prepared by Shaw Environmental & Infrastructure Engineering of New York, P.C., published February 2015
- Fact Sheet, published on August 2015 by NYSDEC and NYSDOH, in conjunction with Con Edison
- Assignable Release and Covenant Not to Sue, published by NYSDEC April 7, 2015
- Con Edison's Annual Report of Site Investigation and Remediation (SIR) Costs for 2014, submitted April 30, 2015
- Con Edison's Periodic Review Report, October 2017 - October 2018, submitted October 30, 2018

These documents are summarized below and included as **Appendix C** to the EIS.

D. EXISTING CONDITIONS

The Project Site is located on Block 2023, Lot 10, in the South Williamsburg neighborhood of Brooklyn Community District (CD) 2. Lot 10 is currently vacant, vegetated, and enclosed by a chain-link fence on all sides. There are two gated entrances secured with padlocks, one on Kent Avenue and one on Division Avenue. The Proposed Project would facilitate development of a new 23-story, approximately 684,242-gross-square-foot (gsf) commercial building, comprised of: 598,442 gsf of office space, 21,233 gsf of retail, and 64,567 gsf of parking space. The development would provide 49,453 sf of publicly accessible waterfront open space along Wallabout Channel. It would be 352 feet tall (roof height) with mechanical bulkheads reaching a maximum height of approximately 392 feet.

Current and Historic Site Use

The currently vacant Project Site was occupied by power generating plants from the late 19th through early 21st centuries. In 1893, the Brooklyn City Railroad constructed the Eastern Station

powerhouse[1] on the northern part of the property to provide electricity for its trolley lines, replacing the disused Moller, Sierck & Co. sugar refinery. A larger power plant supplanted the original one around 1907, as the property expanded southward to its current dimensions on land previously occupied by a coal yard and a Knickerbocker Ice Company building. The Brooklyn Rapid Transit Company and its successors (the Brooklyn-Manhattan Transit Corporation [BMT], the City-owned Board of Transportation, and the Transit Authority) operated the larger power plant, which for many years provided power to trolley, elevated, and subway lines. Water-borne vessels delivered coal to the site.

In 1959, Con Edison acquired the property from the City of New York. Con Edison continued to operate the plant until shuttering it in 1999 and subsequently demolished the buildings in 2009. It then performed environmental remediation, which was completed in 2014 under the supervision of the NYSDEC through the Voluntary Cleanup Program (VCP). A deed restriction running with the land was recorded against the property in 2014, outlining the required long-term engineering and institutional controls placed on the site under the VCP. In 2015, NYSDEC approved the SMP and Final Engineering Report, and then issued an Assignable Release and Covenant Not to Sue.

The Applicant entered into contract to purchase the site from Con Edison in 2018 and closed the sale in 2019, following approval by the New York State Public Service Commission.

Remedial Program

NYSDEC and Con Edison entered in a Voluntary Cleanup Agreement (VCA) on August 15, 2002. The agreement obligates the responsible party to implement a full remedial program at the Project Site. The goal of the VCP is to enhance private sector cleanup of brownfields by enabling parties to remediate sites using private rather than public funds and to reduce the development pressures on "greenfields." In 2010, the VCA was amended to investigate and remediate the Project Site.

In 2013, NYSDEC approved the Project Site's remedial program. It was chosen in accordance with the New York State Environmental Conservation Law and applicable guidance. The elements of the remedy include:

1. **Remedial Design** to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program, and to ensure green principles and techniques are implemented
2. **Excavation** of all on-site soils above the water table, which exceed restricted-residential SCOs, and replacement of soil with clean fill
3. **Underground Storage Tank Removal** of an old fuel oil tank, located at the northern section of the site, to be registered and removed
4. **Site Cover** to allow for restricted residential use of the site

[1] The name Eastern Station reflects its location in what was at the time called the Eastern District of the City of Brooklyn. Over its long history, the site was known by a variety of other names including: Kent Avenue Generating Station; Kent Avenue Station; Kent Avenue Power House; BRT Power Station; and Williamsburg Power Station.

5. **Manufactured Gas Plant Tar Investigation** to delineate the extent of the MGP tar contamination emanating from National Grid's Nassau Gas Works, located directly south of the site
6. **Institutional Control** in the form of a deed restriction for the controlled property that:
    a. requires the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3)
    b. allows the use and development of the controlled property for restricted residential, commercial and industrial uses as defined by Part 375-1.8(g), although land use is subject to local zoning laws
    c. restricts the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYSDOH or County DOH
    d. requires compliance with the Department approved SMP
7. **Site Management Plan (SMP)** which includes the following:
    a. **Institutional and Engineering Control Plan** that identifies all use restrictions and controls for the site, and details the steps necessary to ensure they remain in place
        i. Institutional: deed restriction listed above
        ii. Engineering: long term groundwater monitoring, site-wide inspections to ensure that use restrictions and the soil cover remain in place, and an excavation plan
    b. **Monitoring Plan** to assess the performance and effectiveness of the remedy

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.

Confirmation of Remediation

In February 2015, Shaw Environmental & Infrastructure Engineering of New York, P.C., prepared an FER. The FER demonstrates that the remediation requirements set forth in the Project Site work plan have been or will be achieved. The FER reported the following:

- The remediation at the Site included the removal and disposal of approximately 13,700 tons of soil and debris down to the water table or confining concrete slab (approximately 5 – 13 feet below grade) in accordance with NYSDEC Restricted Residential Soil Cleanup Objectives (SCOs). Clean fill materials were brought in to replace the excavated soil.
- In the northern section of the Site, an old underground storage tank used to store fuel oil was registered and removed. The surrounding soils were also excavated.
- A two-foot soil cover was added at the southwest corner of the Site to allow for restricted residential use. The soil cap was topped off with a layer of 3/4-inch stone.
- Extensive efforts were made to protect the community from potential hazards. Appropriate dust suppression techniques were employed to prevent the release of asbestos and other particulates into the surrounding areas. The NYSDOH-based Community Air Monitoring Plan (CAMP) was implemented to mitigate potential short-term exposures to workers and local residents. In addition, there was an Asbestos Air Monitoring Program.

- An Interim Remedial Measure (IRM) was performed in late 2011 to early 2012. The IRM involved the removal of sediment from a former ash pit, located in the northwestern portion of the Site. The ash pit was backfilled with low-density cellular concrete fill and covered with structural concrete.
- NYSDEC is overseeing an environmental investigation of Manufactured Gas Plant (MGP)-related contamination, being performed by National Grid at the former Nassau Gas Works Site located immediately to the south of the Project Site. Results of the investigation show MGP-related contamination underneath the Site.

Requirements for New Construction

Based on review and approval of the FER and SMP, NYSDEC issued a "Release and Covenant Not to Sue" on April 7, 2015. The FER described the remedial activities completed, certified that remediation requirements had been achieved for the Site, and included the SMP. With the receipt of this document, the NYSDEC stated that Con Edison had successfully remediated the Project Site and it can now be used for purposes up to and including restricted residential.

However, since contaminated soil remains, Institutional and Engineering Controls must be implemented to protect human health and the environment. These Controls include maintaining the two-foot soil cover in the southwest corner of the Project Site and the imposition of a "Declaration of Covenants and Restrictions," which requires compliance with the SMP. The SMP also mandates that the NYSDEC must be notified if any intrusive work is to be conducted, and a Monitoring Plan must be drafted to assess the performance and effectiveness of the remedy.

Periodic Review Report

Con Edison submitted a *Periodic Review Report (PRR)* to NYSDEC on October 30, 2018 for the period October 2017 to October 2018 on October 30, 2018. Prepared by Roux Environmental Engineering and Geology, D.P.C., it provided monitoring information about the Project Site. In terms of the aforementioned institutional and engineering controls applicable to the Project Site, the report stated that the site remained in compliance with the use restrictions, as the site remained vacant, and the soil cover system appears to be functioning as designed, per the annual cover system inspection, as well as the annual site wide inspection, performed on October 23, 2018.

This is the most recent PRR on file for the Project Site.[2]

E. FUTURE WITHOUT THE PROPOSED ACTION (NO-ACTION CONDITION)

In the future without the Proposed Action, also known as the "No-Action Condition," the Project Site would be redeveloped with a new as-of-right development pursuant to the site's existing M3-1 zoning. As such, it is anticipated that construction related to the as-of-right development would involve "intrusive work," including soil and groundwater disturbance. In accordance with the

[2] https://www.dec.ny.gov/data/DecDocs/V00732/

Project Site's SMP, it is expected that the NYSDEC would be contacted and a Monitoring Plan would be drafted and implemented under NYSDEC oversight.

F. FUTURE WITH THE PROPOSED ACTION (WITH-ACTION CONDITION)

In the future with the Proposed Action, the Project Site would be redeveloped as proposed by the Applicant, pursuant to the Proposed Action. As a result, the With-Action development scenario for the Project Site would include commercial office uses, retail uses, and below-grade public parking area comprising 234 spaces. There would also be waterfront public open space, including a shore public walkway and supplemental public access area.

Similar to the No-Action Condition, construction activities associated with the Proposed Action would involve "intrusive work," including soil and groundwater disturbance. However, the potential for significant adverse impacts would be avoided with compliance with the requirements of the SMP and Institutional and Engineering Controls, described above including a Monitoring Plan drafted and implemented under NYSDEC oversight. As such, with required institutional controls in place, no significant adverse impacts related to hazardous materials would be expected to occur as a result of the Proposed Action and resultant Proposed Project.