

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Violations of Articles 15, 17,
and 25 of the New York State Environmental
Conservation Law and Parts 608, 661, and 750 of
Title 6 of the Codes, Rules and Regulations of
the State of New York

-by-

**NEW YORK CITY ECONOMIC DEVELOPMENT
CORPORATION**

and

SKANSKA USA BUILDING INC.

and

**MECHANICAL AND MARINE CONSTRUCTION
CORP.**

Respondents

Site: Ferry Landing at Kaiser Park in Brooklyn

ORDER ON CONSENT

DEC FILE NO. R2-20211124-215

Jurisdiction

1. The Department of Environmental Conservation (“the Department” or “NYSDEC”) is a department of the state of New York (“the State”) with authority under section 3-0301 of the Environmental Conservation Law (“ECL”) to enforce the environmental laws of the State and the rules, regulations and orders issued pursuant to that authority.
2. Pursuant to Article 15 of the ECL and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (“NYCRR”) Part 608, the Department has administrative jurisdiction over and is responsible for regulating the building of structures in, on, or above waters of the State and the placement of fill in the navigable waters of the State or wetlands adjacent thereto.
3. The Department is also responsible for the management of tidal wetlands and adjacent areas of the State and thus regulates, among other activities, the placement of fill and other materials or structures therein by requiring permits for these of activities pursuant to ECL Article 25 and 6 NYCRR Part 661.

4. Furthermore, the Department is responsible for the administration and enforcement of laws and regulations pertaining to the abatement and prevention of pollution of state waters pursuant to Article 17 of the ECL and 6 NYCRR Part 750.
5. The Department has jurisdiction over the abatement and prevention of pollution to the waters of the State pursuant to Article 17 of the ECL and 6 NYCRR Part 750, *et seq.* This jurisdiction also authorizes NYSDEC, as a State agency with an approved program per Sections 318, 402 and 405 of the federal Clean Water Act (“CWA”), 33 U.S.C. Section 1251, *et seq.*, and its implementing regulations under 40 C.F.R. Part 123 to regulate the discharge of pollutants from point sources into the waters of the State in conformity with the CWA.
6. Pursuant to this authority to protect the waters of the State, the Department administers the State Pollutant Discharge Elimination System (“SPDES”) permit program, ECL §17-0801, *et seq.* In general, the SPDES program prohibits any discharge of pollutants to the waters of the State without a permit establishing pollutant limitations and treatment requirements. SPDES permits set certain effluent limitation parameters (“parameters”), determined according to ECL §17-0809 and 6 NYCRR §750-1.11, in keeping with water pollution control mandates and consistent with meeting water quality standards (“WQS”). Those conditions address not only the allowable range of parameters for discharge of pollutants to the waters of the State, but also the manner in which the permittee is to operate, maintain, monitor, and report on its regulated facilities and activities.

Facts

7. Respondent New York City Economic Development Corporation (“NYCEDC”) is a domestic not-for-profit corporation with offices at One Liberty Plaza, 165 Broadway, New York, NY 10006-1404.
8. Based on contractual agreements with the City of New York, NYCEDC manages waterfront properties of and on behalf of the City of New York. NYCEDC is also responsible for aspects of New York City’s ferry service, including the expansion of the service to Coney Island.
9. In that context, NYCEDC applied for and on December 20, 2020, obtained DEC permits 2-6107-00860/00001-3 (collectively “the Permit”). The Permit authorizes construction and dredging activities. The authorized construction activities created a new ferry landing north of an existing fishing pier at the Leon S. Kaiser Park, which is situated in Brooklyn at 2529 Neptune Avenue and also identified as Kings County Tax Block 6965 Lot 100. The authorized dredging activities encompass some initial dredging to increase the water depth near the ferry landing north of Coney Island Creek Park (Kings County Tax Block 6955 Lot 65) as well as future maintenance dredging.
10. The project site is situated within Gravesend Bay, a navigable water of the state.

11. Respondent Skanska USA Building Inc. (“Skanska”) is a foreign business corporation with an office at 350 Fifth Avenue, Fl 32, New York, NY 10118-3290, and was hired by NYCEDC as construction manager for the implementation of the work authorized under the Permit.

12. Respondent Mechanical and Marine Construction Corp. (“MeMaCoCo”) is a domestic business corporation with an office at 91 Beaver Drive, Kings Park, NY 11754-2209, which served as Skanska’s subcontractor for work under the Permit.

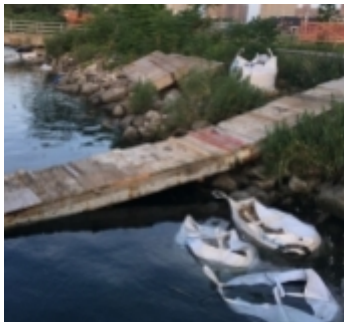
13. The Permit includes the following relevant conditions:

- a. Natural Resource Permit Condition 8: **Best Management Practices** Best management practices will be employed to prevent the loss of construction materials, debris and sediment from entering the wetlands or waterways. Such practices may include, but are not limited to construction fencing, staked hay bales, silt fencing, turbidity curtains, floating platforms, netting, and containment booms.
- b. Natural Resource Permit Condition 13: **Dredging Environmental Bucket** [...]
 - C. Bucket hoist speed must be limited to approximately 2 feet per second. The bucket must be lifted in a continuous motion through the water column and into the barge.
 - D. The bucket must be lowered to the level of the barge gunwales prior to the release of the load.
- c. Natural Resource Permit Condition 15: **Dredging Operations** Any material dredged in the conduct of the work herein permitted must be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain or deep holes that may have a tendency to cause damage to navigable channels or to the banks of a waterway.
- d. Natural Resource Permit Condition 18: **Presence of Petroleum Sheens** If any suspected petroleum sheen or slick is sighted in the work area:
 - D. The NYSDEC Spills Hotline shall be called at (800) 457-7362.
 - E. Permittee must keep records of ongoing presence of petro sheens. Any recoverable product must be recovered and disposed of appropriately using the standards below.
 - F. The spill shall immediately be contained to the maximum extent practical with a containment boom & silt curtain.
 - G. Sorbent booms shall be placed in the affected area to collect any sheens or slicks that come from the contaminated sediments.

- e. Natural Resource Permit Condition 22: **Minimize Adverse Impacts to Wetlands, Wildlife, Water** All work must be performed in a manner which minimizes adverse impacts to wetlands, wildlife, water quality and natural resources.
- f. Natural Resource Permit Condition 30: **Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

14. On or about June 28, 2021, Respondents placed no less than four construction material storage bags containing solid material including clean pea gravel in the tidal wetland landward of the fishing pier, see Figure 1, below, although according to the application, material not stored on work barges would be “staged and stored in a lot to the east of the project side, landside of the boardwalk.”

Figure 1: Bags with fill



15. On or before August 4, 2021, Respondents placed sandy material on top of the rip rap within the tidal wetland without any best management practices in place to prevent the erosion of the material into the wetland, see Figure 2, below, in violation of Natural Resource Permit Conditions 8, 15, and 30.



Figure 2: Loose material

16. On October 7, 2021, a sheen became visible at the construction site. While it was

later determined not to be a petroleum sheen or slick, it was not reported by the Respondents pursuant to Natural Resource Permit Condition 18 but called in to DEC's Spills Hotline by a member of the public, an elected official, and the US Coast Guard, resulting in Spill ## 2106429, 2106433, and 2106455, which spills were investigated by NYSDEC and closed with no findings of petroleum sheen.

17. On October 14, 2021, Respondents repeatedly violated permit condition 13 by failing to lower the dredge bucket to the level of the barge gunwales prior to release of the load.

18. On October 18, 2021, Respondents violated Natural Resource Permit Conditions 8 and 13 by excavating from outside of the turbidity curtain and by failing to lift the bucket in a continuous motion through the water column.

19. On October 19, 2021, Respondents violated Natural Resource Permit Conditions 8 and 30 by failing to properly install and maintain the sediment curtains to contain the sediment that had become suspended in the water column in connection with the dredge activities

20. On October 20, 2021, Respondents violated Natural Resource Permit Conditions 13 on at least one occasion by failing to lift the bucket in a continuous motion through the water column but instead reintroduced the bucket back into the water after it had been extracted.

21. On November 4, 2021, Respondents violated Natural Resources Permit Condition 9 by undertaking dredge activities for at least a portion of the day without a turbidity curtain deployed.

Applicable Law

22. ECL §15-0503(1)(b) and 6 NYCRR Part 608 prohibit the construction, placement, or expansion of any dock, wharf, platform, or other structure in, on, or above waters without a NYSDEC permit.

23. ECL §15-0107(4) defines "waters" to include, among other water bodies, "estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the state of New York, and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state or within its jurisdiction."

24. ECL §15-0505 and 6 NYCRR Part 608 prohibit the excavation and placement of fill in the navigable waters of the State or in marshes, estuaries, tidal marshes, and wetlands that are adjacent to and contiguous at any point to any of the navigable waters of the State and that are inundated at mean high water level or tide, without a permit

from the NYSDEC.

25. ECL §71-1107 provides for a civil penalty of up to five thousand dollars (\$5,000) for each violation of section 15-0505 as well as criminal sanctions and injunctive relief.

26. ECL §17-0105(16) *point source* to mean “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which pollutants are or may be discharged” and has been interpreted to include barges and machinery.

27. ECL §17-0105(17) defines *pollutant* to mean dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, and agricultural waste discharged into water; and ballast which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted as provided herein.

28. ECL §17-0501 and 6 NYCRR §703.1 *et seq.* prohibit any discharge into the waters of the state that shall cause or contribute to a condition in contravention of the State’s Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations.

29. Gravesend Bay as part of the Lower New York Bay is categorized as Class SB saline surface water pursuant to 6 NYCRR §890.6 item 4.

30. Pursuant to 6 NYCRR §703.2 a discharge into a Class SB surface water must not increase turbidity in a manner that causes a substantial visible contrast to natural conditions.

31. ECL §17-0803 and 6 NYCRR §750-1.4 prohibit any discharge into the waters of the state not permitted by the provisions of Article 17 of the ECL, the rules and regulations adopted or applicable pursuant thereto, the Federal Water Pollution Control Act, or provisions of a permit issued pursuant to ECL Article 17, including General Permit GP-0-15-002.

32. Pursuant to 40 C.F.R. 122.26(b)(15)(i) the term “construction activities” requiring coverage under General Permit GP-0-15-002 includes clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre.

33. ECL §17-0503(2) provides that “[g]arbage, cinders, ashes, oils, sludge or refuse of any kind shall not be thrown, dumped or permitted to run into the waters of the marine district.”

34. Pursuant to ECL § 13-0103, the marine district encompasses the waters of the

Atlantic Ocean within three nautical miles from the coastline and all other tidal waters within the state.

35. ECL Section 71-1929 provides for a civil penalty of up to thirty-seven thousand five hundred dollars (\$37,500) per day for each violation of titles 1 through 11 inclusive and title 19 of Article 17, or the rules, regulations, orders, or determinations of the Commissioner promulgated thereto.

36. ECL §25-0401 and 6 NYCRR § 661.8 prohibit regulated activities in a tidal wetland or regulated tidal wetland adjacent area without a permit from NYSDEC.

37. 6 NYCRR § 661.4(ee)(1) defines “regulated activity” to encompass, among other activities,

- a. “any form of [...] excavation or removal, either directly or indirectly, of soil, mud, sand, shells, gravel or other aggregate;”
- b. “any form of dumping, filling or depositing, either directly or indirectly, of any soil, stones, sand, gravel, mud, rubbish or fill of any kind;”
- c. “the erection of any structures or construction of any facilities or roads, the driving of any pilings or placing of any other obstructions, whether or not changing the ebb and flow of the tide;”
- d. “any form of pollution;”
- e. “any portion of a subdivision of land located in any tidal wetland or adjacent area;” and
- f. “any other new activity within a tidal wetland or on an adjacent area which directly or indirectly may substantially alter or impair the natural condition or function of any tidal wetland.”

38. ECL § 71-2503 authorizes the imposition of a civil penalty of up to ten thousand dollars (\$10,000) per day for each violation of Article 25 as well as injunctive relief.

39. By undertaking the activities set forth in paragraphs 14 through 21, above, in non-compliance with the Permit or without a permit from NYSDEC Respondents violated ECL 15-0503(1)(b); 15-0505; 17-0501; 17-0503(2); 17-0803; and 25-0401 as well as 6 NYCRR Parts 608, 661 and 750.

40. In settlement of the Respondents’ civil liability for the aforesaid violations Respondents affirmatively waive their rights to notice and hearing in the manner provided by law and consent to the payment of the sums specified below, and the issuance and entry of this Order. Respondents agree to be bound by the terms,

provisions and conditions contained herein.

NOW, having considered this matter and being duly advised, it is ORDERED:

- I. Respondent **NYCEDC** shall carry out **its** obligations set forth in the attached Schedule of Compliance (“Schedule A”) which is hereby made part of this Order.
- II. This Order on Consent, once it is signed by the Respondents and their signatures have been notarized, shall be returned to

NYSDEC Region 2
Attention: Udo Drescher
Office of General Counsel
47-40 21st Street, Fl. 4
Long Island City NY 11101-5401

along with any pertinent submissions.

- III. Civil Penalty: With respect to the aforesaid violations, Respondents shall be jointly and severally liable to pay a civil penalty in the amount of seventy thousand dollars (\$70,000).
 - A. The civil penalty shall be paid within thirty (30) days of the Department’s execution of this Order by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line> or by check made payable to the order of the “New York State Department of Environmental Conservation,” with the enclosed invoice and the Case Number of this Order on Consent “R2-20211124-215” written in the memo section of the check, which shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10th Floor, Albany, NY 12233-4900.
- IV. Permit Requirement/Schedule of Compliance: Respondents as well as their successors and assigns shall apply for any required NYSDEC permits for future work on the site to be conducted by or on behalf of Respondents and obtain them before doing any such work, except that a NYSDEC permit shall not be required for the performance of the work described in the annexed Schedule of Compliance and, subject to the additional requirements set forth in the annexed Schedule of Compliance, for the implementation of the regulated activities

authorized under and performed consistent with Permit 2-6107-00860/0001-3.

- V. Access: For the purpose of monitoring compliance with this Order and with applicable provisions of the ECL and regulations promulgated thereunder, duly authorized representatives of NYSDEC shall be permitted access to the Site and to relevant records without prior notice during reasonable hours at such times as may be desirable or necessary in order to inspect and perform tests the Department deems appropriate to determine the status of the property and Respondents' compliance. Such permitted access to ensure compliance shall include overhead flights by Department owned and operated remotely piloted aircraft systems upon reasonable notice to Respondents.
- VI. Violation of this Order: In the event that NYSDEC determines that there is a violation of this Order on Consent, the NYSDEC reserves the right to initiate actions based upon the violation(s) of this Order on Consent and also to seek penalties for such additional violations (including continued violations) that occur after the date of this order.
- VII. Binding Effect: The provisions of this Order shall be deemed to bind the Respondents and the Respondents' successors and assigns, including but not limited to any successor in title to the Site or any interest therein, receivers, trustees in bankruptcy, and all persons, officers, directors, employees, or agents acting under or for Respondents.
- VIII. Indemnification: Respondents shall indemnify and hold harmless New York State, NYSDEC, and any of their employees, agents, or contractors for all claims, actions, damages, and costs resulting from Respondents' acts in fulfillment or attempted fulfillment of the provisions of this Order.
- IX. Settlement and Reservation of Rights.
- A. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondents and their successors (including successors in title) and assigns.
- B. Except as provided in Subparagraph IX(A) of this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or his designee (including, but not

limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondents.

- C. NYSDEC reserves the right to require the Respondents to undertake any additional measures required by law to protect human health and the environment, subject to Respondents' procedural rights under the State Administrative Procedures Act and NYSDEC Uniform Procedures Regulations at 6 NYCRR Parts 620 to 622.
- X. Communication: All reports, submissions, and certifications herein required shall be made to the New York State Department of Environmental Conservation, Region 2, 47-40 21st Street, Long Island City, NY 11101, Attn: Yue Chan, Marine Resources Program. A copy of each shall also be sent to Udo M. Drescher, Asst. Regional Attorney, at udo.drescher@dec.ny.gov. The NYSDEC file number "R2-20211124-215" shall be endorsed on the face of each such submission.
- XI. Miscellaneous:
- A. No changes in this Order shall be binding upon NYSDEC unless such changes are authorized in writing by the NYSDEC Region 2 Director.
- B. The provisions of this Order constitute the complete and entire Order issued to Respondents concerning resolution of the violations identified in this Order. No term, condition, understanding, or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, comment, or statement made or submitted by the Respondent shall be construed as relieving the Respondents of their obligations to obtain such formal approvals as may be required by this Order.
- C. This Order resolves only those violations specifically described herein and does not relieve Respondent of liability for any acts, omissions, or violations not articulated herein, nor does it relieve Respondent of any liability pursuant to the jurisdiction of any other local, state, or federal agency.
- XII. Effective Date and Termination: The effective date of this Order shall be the date upon which it is signed on behalf of NYSDEC. This Order shall terminate when all requirements imposed by this Order will have been completed to the

Department's satisfaction.

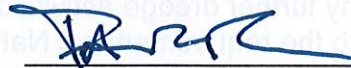
DATED:

Long Island City, New York

APRIL 6, 2022

BASIL B. SEGGOS
Commissioner
New York State Department of
Environmental Conservation

BY:



PATRICK E. FOSTER
Regional Director
NYSDEC Region 2

SCHEDULE OF COMPLIANCE (SCHEDULE A)

RESPONDENTS: NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION; SKANSKA USA BUILDING INC.; AND MECHANICAL AND MARINE CONSTRUCTION CORP.

NYSDEC FILE NO. R2-20211124-215

1. The remaining dredge activities must be performed in strict compliance with the Permit.
2. In addition, the following conditions shall apply to the dredging authorized under the Permit:

2.1. Notice, Schedule, and Prior Approval by NYSDEC

Before any further dredge activities commence, Respondent NYCEDC must, in addition to the requirements of Natural Resource Condition 19 of the Permit, provide for review and approval a proposed

- 2.1.1. map and schedule to the NYSDEC Marine Resources Program Manager, Joanna Field (joanna.field@dec.ny.gov). The map and schedule must identify the specific areas and days where and when dredging activities are proposed.
- 2.1.2. NYSDEC may require additional sampling for any future dredge activities proposed under the Permit.
- 2.1.3. Respondent NYCEDC agrees to provide the Brooklyn Community Board 13 with no less than seven (7) days' prior written notice before the commencement of sampling activities.
- 2.1.4. Upon approval of the proposed map and schedule, Respondent NYCEDC agrees to provide Brooklyn Community Board 13 and NYSDEC with no less than five (5) days prior written notice before any proposed dredge activities commence. Notice to the Community Board 13 will include the map and schedule as approved by NYSDEC and will be simultaneously submitted to the NYSDEC Marine Resource Program Manager.
- 2.1.5. Dredge activities commenced pursuant or related to the Permit without prior NYSDEC approval pursuant to this Order will constitute a violation of this Order.

2.2. Vessel Clearance

Any barge or vessel used to stage or conduct dredging operations must maintain two feet (2') clearance from the mudline during all tidal cycles.

3. Independent Monitor

3.1. Prior to the commencement of dredging activities pursuant to the Permit and this Order, Respondent NYCEDC must hire, subject to NYSDEC's review and approval, an independent monitor who will be on site and supervise the (sub)contractor at all times during which dredge activities are undertaken to ascertain strict compliance with the requirements of the Permit and this Order, including:

3.1.1. That floating booms with weighted silt curtains of sufficient depth are deployed in such a manner as to prevent the migration of suspended sediment and solids beyond the dredge site marked by the perimeter of the booms.

3.1.1.1. That the operator of the barge(s) and dredge equipment strictly and completely follow the conditions of the Permit.

3.1.1.2. That dredging will not be undertaken if the best management practices are not properly deployed, or weather conditions risk the migration of material beyond the dredge site as it is marked by the inner perimeter of the floating boom(s)

3.1.2. The vessel clearance requirement of subparagraph 2.2 above.

3.1.3. The independent monitor must further be required by Respondents NYCEDC to

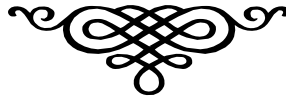
3.1.3.1. record the process of the work and any deviation from best management practices and the parameters of the Permit both in writing and using a device taking photos or videos or both and

3.1.3.2. submit daily reports at the end of each work day by electronic mail to yue.chan@dec.ny.gov and udo.drescher@dec.ny.gov and report any deviations from permit conditions and any other operational anomalies that may affect the environment at and near the dredge site.

3.2. Prior to entering into a contract with the independent monitor, Respondent NYCEDC must provide NYSDEC with a contract scope of services between Respondent NYCEDC and the independent monitor, which must reflect the requirements in the foregoing paragraphs and include a detailed description of


the monitor's tasks and authority, including the explicit authority and obligation to immediately stop work and direct that Respondents NYCEDC, Skanska and Skanska's dredging subcontractor take measures to eliminate or reduce to the greatest extent possible any potential environmental harm if any issues, problems, deficiencies or shortcomings are detected.

- 3.3. Respondents must provide NYSDEC with a copy of the fully executed contract with the independent monitor within 15 days of its execution and prior to recommencement of dredging activities.



CONSENT BY RESPONDENT NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

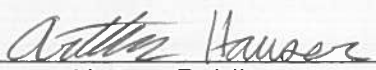
Respondent NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION consents to the issuance and entry of the foregoing Order without further notice, waives its rights to a hearing herein and agrees to be bound by the terms, conditions, and provisions of this Order.

BY: 
(SIGNATURE)
NAME: Elizabeth Arnaiz
(PRINT)
TITLE OF OFFICER: Executive Vice President
(PRINT)
EMAIL: e.arnai2@edc.nyc
(PRINT)

ACKNOWLEDGMENT

State of New York)
County of) ss.:

On this 4th day of April, 2022, before me personally came Elizabeth Arnaiz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, who being duly sworn, deposed and stated that (s)he is the Executive Vice President of the NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION, the corporation described in and which executed the foregoing instrument, and that (s)he was authorized by said corporation to execute the foregoing instrument.


Notary Public

Arthur Hauser
Notary Public, State of New York
NO. 01HA6276327
Qualified in Kings County
Certificate Filed in New York County
Commission Expires 2/11/2025



CONSENT BY RESPONDENT SKANSKA USA BUILDING INC.

Respondent SKANSKA USA BUILDING INC. consents to the issuance and entry of the foregoing Order without further notice, waives its rights to a hearing herein and agrees to be bound by the terms, conditions and provisions of this Order.

BY: 
(SIGNATURE)

NAME: Sean Szatkowski
(PRINT)

TITLE OF OFFICER: Senior VP and Account Manager
(PRINT)

EMAIL: sean.szatkowski@skanska.com
(PRINT)

ACKNOWLEDGMENT

State of New Jersey)
County of Morris) ss.:

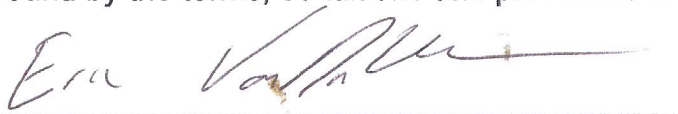
On this 31 day of March, 2022, before me personally came Sean Szatkowski, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, who being duly sworn, deposed and stated that (s)he is the Senior Vice President and Account Manager of the SKANSKA USA BUILDING INC., the corporation described in and which executed the foregoing instrument, and that (s)he was authorized by said corporation to execute the foregoing instrument.


Notary Public

KERRY E SHANAHAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires June 2, 2022

CONSENT BY RESPONDENT MECHANICAL AND MARINE CONSTRUCTION CORP.

Respondent MECHANICAL AND MARINE CONSTRUCTION CORP. consents to the issuance and entry of the foregoing Order without further notice, waives its rights to a hearing herein and agrees to be bound by the terms, conditions and provisions of this Order.

BY: 
(SIGNATURE)

NAME: Eric Van Dormolen
(PRINT)

TITLE OF OFFICER:
Vice President

EMAIL: eric@m-mcinc.com
(PRINT)

ACKNOWLEDGMENT

State of New York)
County of) ss.:

On this 1 day of April, 2022, before me personally came Eric Van Dormolen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, who being duly sworn, deposed and stated that (s)he is the Vice President of the MECHANICAL AND MARINE CONSTRUCTION CORP., the corporation described in and which executed the foregoing instrument, and that (s)he was authorized by said corporation to execute the foregoing instrument.


Notary Public

Robert C. Polizzo, Jr.
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PO6128694
Qualified in Suffolk County
Commission Expires June 13, 2025