

**Memorandum of Agreement Between
New York State Department of Environmental Conservation and
New York City Office of Environmental Remediation
Regarding the New York City Clean Soil Bank Program**

I. Purpose

In February 2013, the New York State Department of Environmental Conservation (“NYSDEC” or “DEC”) authorized the New York City Office of Environmental Remediation (“NYCOER” or “OER”), via Beneficial Use Determination (“BUD”) No. 1051-2-31, to operate the New York City Clean Soil Bank (“CSB”) program. Established pursuant to Section 15(e) of the New York City Charter and Subchapter 4 of Title 43 of the Rules of the City of New York (“RCNY”), the CSB is an OER-administered program that coordinates the need for clean soil as fill material on public and private construction projects with excess clean, native soil excavated from city- or state-overseen minor to moderate remediation projects.¹ This soil must be verified by OER as native or unimpacted soil excavated as a consequence of remedial action or approved development at these sites. Since 2013, the CSB program has coordinated 139 transfers under the BUD between generating and receiving sites involving more than 592,000 tons of clean soil.

In 2017, DEC revised the state’s solid waste regulations in the Part 360 series (“Part 360”) of Title 6 of the New York Codes, Rules, and Regulations (“NYCRR”). The revised Part 360 includes a pre-determined BUD (“pre-BUD”) for the beneficial use of fill material such as the clean, native soil excavated from City’s Voluntary Cleanup Program (VCP) sites. 6 NYCRR 360.12(c)(1)(iii) and 360.13 provide special requirements for a fill material to meet the pre-BUD including specific testing, notification, and waste transport requirements. These differ from the established CSB protocols and practices previously approved by DEC under BUD No. 1051-2-31. Newly revised Standard Operating Procedures (“SOP”) for the CSB program, which are attached as an appendix and incorporated hereto by reference, clarify how CSB practices and protocols will conform with the special requirements in the Part 360 pre-BUD for fill material while also meeting equivalent transport and tracking requirements in 6 NYCRR Part 364.

Therefore, OER and DEC (collectively known as the “Government Entities”) enter into this Memorandum of Agreement (“MOA” or “Agreement”) to facilitate the administration of the CSB program by OER and to promote the beneficial reuse of fill material in New York City. This MOA is not a delegation of any program from DEC to OER.

II. Applicability

- a. This Agreement is applicable to OER and parties accepted into OER’s CSB program for which eligibility is established under regulations promulgated by OER and authorized by New York City local law. The terms of this Agreement apply to sites that generate clean soil, sites that receive clean soil, and sites that store stockpiles of clean soil for OER’s CSB program. This Agreement only covers the topics expressly set forth herein.

¹ For this MOA, “clean soil” refers to soil, sand or gravel containing no anthropogenic material and unimpacted by spills or releases of petroleum products, pesticides or hazardous wastes.

- b. This Agreement does not in any way grant or otherwise create any rights, obligations, responsibilities, expectations, or benefits for any person and does not in any way affect either DEC's or OER's authority under state or federal law.

III. General Provisions for New York City Clean Soil Bank Program

- a. OER must administer the CSB program in accordance with the applicable requirements for the beneficial use of fill material pursuant to 6 NYCRR 360.12 and comply with the following requirements:
 - i. Provide administrative oversight of the CSB program, exercise regulatory authority over the CSB program, and supply adequate resources to ensure that a reuse under the CSB program will be protective of human health and the environment and is conducted in accordance with applicable federal, state, and local law.
 - ii. Maintain records regarding transport, analytical sampling results, fill types, and quantities for every CSB transfer, for the duration of this Agreement or three years after completion of a transfer, whichever is later. DEC may inspect these records upon request.
 - iii. Notify DEC promptly if transfers of unauthorized fill material are intercepted by OER during implementation of the CSB.
- b. The SOP outlines the approved practices and protocols to be used by OER and CSB participants to manage fill material in an equally protective manner to 6 NYCRR 360.13 including the following:
 - i. Sampling and analysis requirements for fill material;
 - ii. Notification requirements in the City of New York; and
 - iii. Construction and demolition ("C&D") debris tracking requirements.
- c. Vehicles transporting soil approved for reuse under the CSB program must be registered with DEC pursuant to 6 NYCRR Part 364.
- d. DEC agrees that OER can receive notification prior to transfers in place of DEC, and that OER's manifest system can replace 364-5.1 Waste Tracking requirements. Clean soils meeting DEC General Fill reuse criteria may be used in all locations and applications allowed for General Fill pursuant to 6 NYCRR 360.13(f); those exceeding General Fill criteria, but eligible for the CSB, may be used under restrictions described in Section 5.2 of the SOP. DEC furthermore agrees that soils cease being regulated as solid waste pursuant to 6 NYCRR Part 360 when characterized at the site of generation as eligible for the CSB and on arrival at OER-designated soil storage facilities or destinations of beneficial use, provided CSB notification and manifest procedures are followed for all CSB soil transfers as outlined in the SOP.
- e. Nothing herein limits DEC's authority to take action where it deems appropriate.

IV. Implementation

- a. OER must allow DEC to perform periodic audits of its implementation of the CSB program for the purpose of determining conformance with the terms of this Agreement and the approved SOP.
- b. OER must provide DEC with an annual report on the status of the CSB program for the previous calendar year by March 1st of each year. All correspondence must be sent to the following two recipients:
 - i. Regional Materials Management Engineer
NYSDEC Hunters Point Plaza
47-40 21st Street
Long Island City, NY 11101
R2DMM@dec.ny.gov
 - ii. Director, Bureau of Solid Waste Management
Division of Materials Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7060
benuse@dec.ny.gov
- c. The annual report must include a listing of all CSB transfers including the origin and destination of the material, a breakdown of the quantity of each material in a transfer, and the quantity of material stored at staging sites at year's end.
- d. OER must make all CSB program records available to DEC upon request. The Government Entities will, in a timely manner, keep each other informed of proposed modifications to its statutory or regulatory authority that may affect the CSB program or the reuse of fill material.

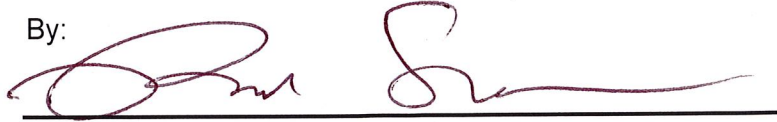
V. Modification and Termination

- a. This Agreement will be in effect for five years following its effective date of execution.
- b. OER may request an extension of this Agreement within 3 months prior to the expiration of this Agreement.
- c. DEC will not unreasonably withhold an extension.
- d. Terms of this Agreement and the SOP can only be modified in a writing signed by an authorized representative of both Government Entities.
- e. This Agreement can be terminated after 90 days upon notice by either party or with less than 90 days of notice if the DEC determines that 90 days of notice will not be sufficient to protect public health or the environment.

Basil Seggos, Commissioner
New York State Department of
Environmental Conservation

Dated: 9/29/20

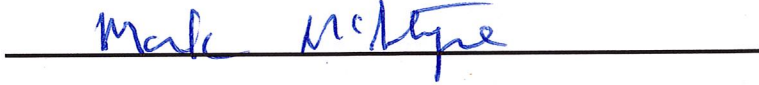
By:



Mark McIntyre, Director
New York City Office of
Environmental Remediation

Dated: 10/1/20

By:



**Appendix to Memorandum of Agreement Between
the New York State Department of Environmental Conservation and
the New York City Office of Environmental Remediation**

New York City Clean Soil Bank Program

Standard Operating Procedure

Revised August 26, 2020

**New York City Clean Soil Bank Program
Standard Operating Procedure (“SOP”)**

Table of Contents

1.0	Background.....	7
2.0	Purpose of the New York City Clean Soil Bank Program.....	7
3.0	General Requirements for the New York City Clean Soil Bank Program	8
3.1	Remedial Investigation Elements Considered in Clean Soil Bank Program	9
4.0	Responsibilities under the New York City Clean Soil Bank Program.....	10
4.1	Required Coordination between OER and DEC	10
4.2	Material Generator Obligations.....	11
4.3	Material Recipient Obligations	11
4.4	OER Outreach to Prospective CSB Program Participants.....	12
4.5	Availability of CSB to DEC remedial projects and other projects.....	12
4.6	Forms.....	12
5.0	Steps for the Operation of the New York City Clean Soil Bank Program	14
5.1	Evaluate a site’s soil eligibility for reuse in the Clean Soil Bank (by OER).	14
5.2	Evaluate eligibility of sites to receive clean, native soil from CSB (by OER).	14
5.3	Establish terms and authorization to transfer (by Generator and Recipient).	15
5.4	Conduct a logistics call (by Generator, Recipient and OER).	15
5.5	Complete removal of all contaminated media prior to load-out of CSB material (by Generator).....	15
5.7	Complete and maintain use of CSB transfer manifest form (by Generator and Recipient).....	16
5.8	Perform field screening of CSB material at the receiving site (by Recipient).....	17
5.9	Conduct all required daily reporting (by Generator and Recipient).....	17
5.10	Perform final reporting and reporting to DEC (by OER).....	17
Attachments:	17
	Clean Soil Bank Availability Form.....	17
	Clean Soil Bank Request Form	17
	References	17

1.0 Background

The New York City Office of Environmental Remediation (“OER”) was established by Local Law No. 27 of 2009 to administer the New York City Voluntary Cleanup Program (“City VCP”) under the authority of the 2009 New York City Brownfield Law (Section 15(c) of the New York City Charter) and Chapter 9 of Title 24 of the New York City Administrative Code, regulations contained in Chapter 14 of Title 43 of the Rules of the City of New York, and a 2010 Memorandum of Agreement (“VCP MOA”) with the New York State Department of Environmental Conservation (“DEC”). In February 2013, DEC authorized OER, via Beneficial Use Determination (“BUD”) No. 1051-2-31, to operate the New York City Clean Soil Bank (“CSB”) program, which was established pursuant to Section 15(e) of the New York City Charter and Subchapter 4 of Title 43 of the Rules of the City of New York.

In 2017, DEC revised the state’s solid waste regulations in the Part 360 series (“Part 360”) of Title 6 of the New York Codes, Rules, and Regulations (“NYCRR”) to include a pre-determined BUD (“pre-BUD”) for the beneficial use of fill material, such as soil excavated from CSB generating sites, and lays out additional requirements for fill material to meet the pre-BUD in 6 NYCRR 360.13 ([s]special requirements for pre-determined beneficial use of fill material). The 6 NYCRR 360.13 requirements differ from the established CSB program protocols and practices previously approved by DEC in 2013 under BUD No. 1051-2-31. This Standard Operating Procedure (“SOP”) provides the practices and protocols for the CSB program to conform with the additional requirements in 6 NYCRR 360.13, and also transport and tracking protocols equivalent to 6 NYCRR Part 364 for fill material in New York City.

2.0 Purpose of the New York City Clean Soil Bank Program

Developers on City VCP projects commonly excavate deep-seated, clean, native soil from beneath historic fill in order to develop basements and sub-grade parking. Excavated soil is subject to regulation under Part 360 as fill material, which is a type of construction and demolition C&D debris that is solid waste and subject to proper handling or disposal. Although the clean, native soil has economic value, developers usually have no immediate use for this material and discard it for a fee by sending it to a Part 360.16 or Part 361-5 registered or permitted construction and demolition debris handling and recovery facility (“C&D facility”).² These facilities process and re-sell this material as fill material for new development or capital construction projects. The purpose of the CSB program is to enable the transfer of verified, clean fill material directly from generating sites to receiving sites resulting in a reduction of unnecessary costs, duplicative handling of the same material, truck transports and associated emissions, and preventable activities at Part 361 facilities that may be historically clustered in communities of disproportionate impact.

OER administers the CSB program to coordinate the need for fill material on public and private construction projects from excess clean, native soil generated from deep excavations at city- or state-overseen City VCP or brownfield sites, which typically only include lightly to moderately contaminated sites. This fill material must be verified by OER as clean, native soil

² Due to transition provisions in Section 360.4 extended by a September 19, 2019 DEC Enforcement Discretion Letter, many C&D facilities continue operation pursuant to Part 360 regulations in effect prior to November 4, 2017.

excavated as a consequence of remedial action or approved development at such sites. The clean, native soil must meet 6 NYCRR Subpart 375-6.8 Track 1 unrestricted use Soil Cleanup Objectives (“SCOs”) or Track 2 residential SCOs, and Protection of Groundwater SCOs. Material meeting Track 2 Restricted-Residential SCOs can be used under restrictions described in Section 5.2. Rather than having excavated clean, native soil shipped to New Jersey for disposal, the material will be re-directed to other New York City construction sites that need clean backfill.

Under the CSB program, the soil is moved from generator to receiving site at no cost, except for the cost of trucking by the soil generator, thus creating significant savings for generators of such soil and receiving sites alike. There are no tipping or soil purchase fees and the material avoids transfers through registered or permitted facilities. For sites in OER remedial programs, the CSB program serves as a government-regulated, non-profit alternative to private, for-profit management of fill material. The requirements established for the CSB program under this SOP must meet or exceed the regulatory requirements established by Part 361-5 for both registered or permitted C&D facilities and the pre-BUD requirements in Part 360 for the reuse of fill material in New York City. This program has many other important advantages:

- By reducing costs to developers, the CSB program lowers site remediation costs and provides a powerful incentive to redevelop brownfield properties;
- By reducing New York City’s capital construction costs for the purchase of clean fill material, the CSB program saves government financial resources and allows more taxpayer dollars to be spent on other government services;
- By matching projects that are in close proximity, truck transport mileage and associated vehicular emissions are greatly reduced;
- By transporting soil directly to a construction site, the CSB program eliminates the potential double, triple, or quadruple handling of the same material, transfer of this material through Part 361-5 registered or permitted facilities that may be clustered in communities of disproportionate impact, and reduces truck traffic and emissions in these communities.

3.0 General Requirements for the New York City Clean Soil Bank Program

To participate in the CSB program, a party generating fill material must be in a remedial program under the authority of OER or DEC, perform a Remedial Investigation (“RI”) of the proposed site that will provide information delineating clean, native soil from historic or contaminated fill, and undertake all necessary contaminant removal actions that will effectively separate historic fill or contamination before excavating the clean underlying soil for use in the CSB program. All parties that are interested in participating in the CSB program, but are not enrolled in the City VCP or the state Brownfield Cleanup Program, must perform such a remedial investigation of their site under the direction of OER.

Upon appropriate demonstration that the clean, native soil from a site meets Unrestricted Use SCOs, Protection of Public Health-Residential Use or Restricted-Residential Use SCOs and also meets Protection of Groundwater SCOs, OER will consider such sites for participation in the CSB program. Steps to demonstrate eligibility for the CSB are detailed further below.

3.1 Remedial Investigation Elements Considered in Clean Soil Bank Program

For sites in the City VCP, any RI used to determine whether material is appropriate for re-use in the CSB program must be performed under OER's direct oversight according to the requirements of DEC's DER-10 Technical Guidance and consistent with the VCP MOA. Investigations must at least include sampling of soil, groundwater, and soil vapor media at all sites. The following minimum requirements must be provided for all remedial investigations used to determine whether a material qualifies for re-use as clean, native soil in the CSB program:

3.1.1 Site description. The RI must include a physical description of the site and identify sensitive land uses or ecological resources near the site.

3.1.2 Description of proposed use of site. The RI must take into account the proposed development of the site and consider the depth of the excavation for development purposes, the areas of building and open space, the plans for engineered cover on open space areas (concrete, asphalt, or soil), and the future of the land use (residential, commercial or industrial).

3.1.3 Phase 1 and site inspection. Every RI must show the preceding performance of a Phase 1 investigation and site inspection to establish the historical usage of the property and features of environmental concern. Phase 1 studies must include a review of available fire insurance maps and governmental databases to help establish proper density of sampling and enable biased direction of sample collection to identify contaminant sources. A property's historic use can also be established by other means, including information from knowledgeable individuals.

3.1.4 Sampling of soil. Sampling of shallow and deep soil must be performed at multiple boring locations consistent with DER-10. Generally, sampling locations must be biased toward worst case site conditions and include shallow samples (0-2 foot depth) and at least one deep sample per boring. A variety of sampling approaches must be used to determine the appropriate depth of the deep samples (sampling at locations of real-time instrument detections, sampling base of development depth, sampling top of the water table, etc.). **Any soil that is considered potentially eligible for the CSB program must be sampled at this stage at a frequency consistent with 6 NYCRR 360.13(e), Table 1.** All samples used in the remedial investigation will be grab samples from discrete depths within a boring. However, in some instances, composite samples may also be collected for disposal characterization and may include additional composite samples for consideration by the site receiving CSB material. In addition to soil sampling for chemical analytical testing, soil must be continuously sampled from the ground surface to the bottom of the boring and logged by a geologist or engineer. All boring logs and chemical results must be included in the RI report.

3.1.5 Sampling of groundwater and soil vapor. For projects in the City VCP or State BCP, groundwater sampling of the uppermost aquifer and soil vapor sampling in the sub-slab horizon (if a slab exists), or at a depth greater than five feet (typically the depth of the proposed base of the new building slab) must be performed on each site. These samples will be used to identify if a significant contaminant source area is present on site and to determine the elements of the remedial action. Generally, a minimum of 3 groundwater samples must be collected for each property, with greater numbers for

larger properties. Monitoring well and groundwater sample collection methodology must comply with DER-10. Soil vapor sample collection must conform with New York State Department of Health (“DOH”) soil vapor sampling guidance. Similar to groundwater, a minimum of 3 soil vapor samples must be performed for each property, with higher numbers of samples for larger properties. All data must be reported in the remedial investigation report.

3.1.6 Chemical analysis at Environmental Laboratory Approval Program (“ELAP”) certified lab. Chemical analysis for soil and other environmental media must be performed by a New York State DOH ELAP-certified chemical labs. Soil analyses must always be performed for expanded parameters including TAL metals, TCL organics including VOCs and SVOCs, pesticides, and PCBs. The analytical results must meet appropriate minimum detection levels sufficient to allow comparison to Subpart 375-6.8 Protection of Public Health-Residential or Protection of Public Health-Restricted-Residential and Protection of Groundwater SCOs.

3.1.7 Remedial Investigation Report. For projects in the City VCP, a Remedial Investigation Report must be prepared upon the completion of the RI for OER review which summarizes all data and information obtained for the property, including all soil, groundwater, and soil vapor sampling data. Data tables must be presented with comparisons to applicable standards, including Subpart 375-6.8 SCOs. Figures ordinarily include a site location map, site boundary map, redevelopment plan, surrounding land use plan, site plan, location of soil exceedances from SCOs, groundwater exceedances from state groundwater standards, soil vapor detections, and groundwater flow direction. Tables must also include construction details for groundwater soil borings, monitoring wells, and soil vapor probes, as well as depth to groundwater measurements. This report must contain sufficient information to enable OER to determine the distribution of the vertical and aerial extent of contaminated material and underlying clean, native soil.

4.0 Responsibilities under the New York City Clean Soil Bank Program

OER must administer the CSB program according to the following:

4.1 Required Coordination between OER and DEC

All City VCP projects are subject to evaluation by OER to assess the potential for significant threat to the environment and public health. OER regularly meets with DEC’s Division of Environmental Remediation (“DER”) to discuss City VCP projects and remedial site evaluations. Generally, OER does not handle sites that may have significant threats to the environment unless specifically approved by DEC. Under the VCP MOA, OER must also coordinate with DEC on petroleum spills at City VCP sites.

For City VCP projects in the CSB program, OER must maintain detailed records of all remedial activities undertaken at projects and sites authorized by OER to transfer clean, native soil as fill material under this MOA, and make this information available to DEC. OER must submit an annual report to DEC that summarizes activities for all projects and sites that transferred clean soil under the MOA, including a list of all generating and receiving sites, addresses for those

sites with tax block and lot numbers, and the quantity of material transferred. Annual reports must be transmitted to DEC by March 1st of each year for the previous reporting year.

Sites established by OER for storage of soils used under the Clean Soil Bank must comply with all applicable federal, state and local requirements and must provide for separate receipt, storage and distribution of soils intended for general use versus those for restricted use (see Section 5.2 of this SOP).

4.2 Material Generator Obligations

Generators of clean, native soil for the CSB program must certify each load that contains only clean, native soil and must originate a manifest for each load sent to a receiving site. OER must establish a CSB number for each project to be included in the manifests. The requirements for these documents are listed in Section 5.7 below. The generating site must designate a qualified environmental professional (“QEP”) who must be responsible for the transfer of fill material. This individual’s contact information must be supplied to OER before any transfer.

The qualified environmental professional must review and confirm that sampling and analysis was conducted *in-situ* during the RI, or subsequent to excavation, that is representative of the material to be included in the CSB transfer. The QEP further must screen all excavated material to be included in the CSB transfer for potential contamination by visual and olfactory means and through real-time instrumentation. The CSB transfer soil must be reported to OER in a daily report or on the remedial report required under OER’s remedial program. The daily report must, at least, provide information on the number of trucks, the approximate quantity of soil loaded, the geographical location of the receiving facility or site, and any issues encountered. In the case of any problem or emergency, the qualified environmental professional must promptly notify OER of these events by phone. Emergency conditions must be managed according to the facility’s or site’s Safety Plan.

No boulders or rocks greater than 12 inches in size can be included in CSB loads. Smaller tolerances on maximum rock size may be established between a CSB generator and recipient. Truck drivers must follow the rules established by the receiving facility or site. Truck drivers must display appropriate placards on their trucks as required by state transportation regulations.

4.3 Material Recipient Obligations

The receiving site must identify an onsite project manager that is responsible for managing the transferred clean, native soil upon its delivery to the receiving site. Contact information for the project manager must be supplied to OER before any transfer occurs.

The onsite project manager must inspect each load of transferred material for evidence of contamination at the time of receipt. The individual must then confirm whether the information contained in the manifest is correct and signs the manifest accordingly. The recipient taking possession of the CSB material must secure it at the receiving site in compliance with all applicable laws, rules, or regulations. No material can be stockpiled on site for more than 90 days without prior DEC approval. Records

showing where the transferred soils were placed must be kept at the receiving site. Further requirements for the manifest document are listed in Section 5.7 below.

In the case of a major problem or emergency, the onsite project manager or the qualified environmental professional must promptly alert OER of such events by phone. Emergency conditions must be addressed according to the facility's Safety Plan.

No boulders or rocks greater than 12 inches in size can be included in CSB loads. Smaller tolerance on the maximum rock size may be established by the receiving facility and agreed between the CSB generator and recipient. In addition, the receiving facility will establish any special rules for truck drivers on its property prior to the start of the transfer.

4.4 OER Outreach to Prospective CSB Program Participants

OER offers participation in the Clean Soil Bank program to parties seeking OER approval of land cleanup plans. Typically, this discussion occurs when a party meets with OER to discuss a conceptual cleanup plan, which is usually about 30-45 days before approval of a cleanup plan. As of that time, the remedial investigation must have been completed and the development plan must have been well defined so that the need to either dispose of excess clean soil or receive clean backfill can be determined. Once a party expresses interest in the CSB, parties will fill out a clean soil availability form or a clean soil request. At this point, OER attempts to match sites for a specific soil transfer.

Several factors are important in establishing a soil exchange. These include, but are not limited to, the following factors: (1) the timing and need of soil availability; (2) the relative proximity of sites that seek to exchange soil; (3) the quantity of soil that is available and required; and (4) the soil's geotechnical properties. Once a possible match is established, OER shares contact information between the parties. The parties, in turn, negotiate the exchange before working with OER to prepare for the soil transfer.

4.5 Availability of CSB to DEC remedial projects and other projects

Sites in the State Brownfield Program and sites outside of the City VCP and State BCP that perform a comparable remedial investigation that demonstrates clean, native soil that meets all of the requirements in this SOP may be eligible to participate in the Clean Soil Bank. However, OER will not include a site from the Brownfield Cleanup Program without DEC's prior approval.

4.6 Forms

4.6.1 Clean Soil Availability Form (Attachment 1)

Parties in the City VCP that want to participate in the CSB must fill out a Clean Soil Availability Form. For generating sites, the form must include: the location of the potential generating site, including address, borough, and tax block and lot; the OER remedial project number; the primary contact including name, phone number, and email address; the quantity of verified clean soil available for transfer through the CSB; the time period when the soil will be available; general soil characteristics; and any other information required by OER. See Attachment 1.

4.6.2 Clean Soil Request Form (Attachment 2)

Parties in OER's remedial program seeking to receive clean soil from the CSB are required to fill out a Clean Soil Request Form. This form requires the following information about the receiving site: the location of the site, including address, borough, and tax block and lot; the primary contact including name, phone number, and email address; the quantity of clean soil needed; site ownership information (if City-owned, the agency with site control); the time period that soil is requested; any limitations on the characteristics of soil requested including geotechnical limitations; whether the receiving site is under an OER-approved Site Management Plan; whether the site is subject to an E-Designation³ or an environmental deed restriction; the general plan for use of soil on the property; and top and bottom depths that soil will be placed at below street grade. See Attachment 2.

4.6.3 Clean Soil Transfer Manifest Form

Participants in the CSB must provide manifests tracking the movement of material from one site to another. DEC's "Part 360 Series Waste Tracking Document – Construction & Demolition Debris" form is to be used as the CSB manifest, and must accompany each truckload of material. The DEC Tracking Document must be filled out as completely as applicable. The type of C&D debris should be marked as "General Fill" and waste quantity will typically be estimated (since recipient sites rarely have truck scales). The "location where waste was picked up" section must be completed with both the address and OER-assigned CSB Tracking Number in order to aid in program administration by managers. A qualified environmental professional in charge of the generating site's remedial program must complete the details and signature fields within the "Generator" section. A designated representative of the transporter and receiving site, respectively, must complete the "Transporter" and "receiving facility" sections. The receiving site representative must scan and electronically deliver copies of all completed manifests to the generator and OER program managers each day following a transfer of material.

4.6.4 Agreements between Generating and Receiving Parties (Minimum Provisions)

Parties that participate in a soil transfer under the CSB must negotiate their own terms of transfer. No tipping fee for disposing of soil at a receiving site is allowed. However, responsibility for transporting soil, soil transfer rates, the timing of delivery, the sharing of costs associated with a transfer, and other issues will be negotiated without OER's involvement. Other issues subject to negotiation between the parties may include supplemental sampling; location of soil placement; quantity of soil transfer; terms of load rejection, coarse fraction size restrictions, and insurance. OER will not be subject to agreements between the generating and receiving parties. However, all agreements must comply with requirements of this SOP and identify the Generator and Recipient who will be responsible for the action items in the Steps below.

³ An E-Designation means that a tax lot has environmental requirements, established under the city's land use review program, regarding hazardous materials, air quality or noise. Developers of E-designated lots must work with OER to address and satisfy a site's environmental requirements before they obtain a building permit and later a certificate of occupancy from the New York City Department of Buildings.

5.0 Steps for the Operation of the New York City Clean Soil Bank Program

The New York City Clean Soil Bank program must involve, at a minimum, the following ten-step process:

- 5.1 Evaluate a site's soil eligibility for reuse in the Clean Soil Bank program (by OER);
- 5.2 Evaluate eligibility of sites to receive clean, native soil in the Clean Soil Bank program (by OER);
- 5.3 Establish the terms of a transfer and authorization to transfer under the CSB (by Generator and Recipient);
- 5.4 Conduct a logistics call (by Generator, Recipient, and OER);
- 5.5 Complete removal of any contaminated media prior to load-out of CSB material (by Generator);
- 5.6 Confirm excavation into clean, native soil and perform field screening and material verification before load-out of CSB material at the generating site (by Generator);
- 5.7 Complete and maintain Clean Soil Transfer Manifest form (by Generator and Recipient);
- 5.8 Perform field screening of CSB material at the receiving site (by Recipient);
- 5.9 Conduct all required daily reporting (by Generator and Recipient);
- 5.10 Perform final reporting and reporting to DEC (by OER).

A detailed description of these steps follows:

5.1 Evaluate a site's soil eligibility for reuse in the Clean Soil Bank (by OER).

OER must evaluate the chemical quality of the fill material from a potential generating site as revealed in the site remedial investigation report and any other site investigation information to determine if the material meets Subpart 376-6.8 Track 1 Unrestricted SCOs or Track 2 Residential or Restricted-Residential SCOs, and Protection of Groundwater SCOs. Only clean, native soil that is verified through sampling and analysis to meet these criteria may be eligible for transfer to a receiving property under the CSB.

5.2 Evaluate eligibility of sites to receive clean, native soil from CSB (by OER).

OER must vet the receiving site for its proximity to ecological resources including wetlands and whether it is agricultural land used for raising livestock or producing animal products for human consumption. Sites that exhibit these characteristics are not eligible to receive material under the CSB. However, DEC approval may be sought for sites with or adjacent to ecological resources requiring protection, and for wetlands augmentation projects; if DEC approval is obtained, these sites may be included as recipient sites under the CSB.

Soils meeting Protection of Public Health – Restricted-Residential SCOs may be used under the CSB, but must be covered at the receiving site with a minimum of six inches of soil meeting General Fill criteria OR with pavement (asphalt, concrete, or crushed stone).

The following types of sites will have priority for the receipt of clean, native soil from the CSB in decreasing order of preference: New York City-owned sites with capital construction projects or other operations requiring clean soil; projects funded by New York City where clean soil will be used to improve climate resilience; and private properties in OER and State BCP remedial programs. In addition, the geotechnical properties of soil requested by receiving sites will be an important factor in matching soil to receiving sites.

5.3 Establish terms and authorization to transfer (by Generator and Recipient).

OER must share all relevant data and information with potential generators and recipients of soil in the CSB including the timing of transfer, the quantity of soil to be exchanged, the location of generating and receiving sites, and the soil's chemical and geotechnical properties. Once a match is made between a site generating eligible soil and a site eligible to receive this material, including a determination that the geotechnical properties are acceptable to the receiving property, parties will negotiate the terms of soil transfer, including the location to receive the material, the hours of operation, the daily volume of transfer, the total quantity of soil, additional sampling requirements, and any other issues of interest to the parties. Typically, the developer originating the transfer of soil covers transportation costs. No tipping fees can be charged. OER must be informed of the tentative agreement terms and, at this point, OER must determine whether to authorize the transfer of soil under the CSB. Upon approval, the parties will then finalize the terms of the soil exchange and establish a date for the start of soil transfer.

The parties and OER must hold a conference call. The parties must identify their respective project managers and their contact information must be exchanged. The receiving party must grant site access to the generator's trucks. The soil is the responsibility of the generator until it is accepted at the recipient's site and becomes the recipient's sole responsibility upon acceptance.

5.4 Conduct a logistics call (by Generator, Recipient and OER). Before any transfer of soil, OER and all parties involved in generation and receipt of soil must attend a logistics call. The call will be held to ensure that all parties understand their roles and CSB program procedures including: timeframes for delivery, limits on quantity of delivery, hours of operation at each facility, truck size, trucking limits for local bridges, receiving facility rules, receiving site access restrictions, frequency of loads, hours of operation, acceptance/rejection criterion, tolerance for coarse fraction, contact information for key parties, communication expectations, required managerial involvement, and the overall expectations of the parties. If the parties agree on any supplemental sampling (i.e. geotechnical testing), a sampling protocol will be finalized and may include sampling frequency and location, stockpile size, delivery of data, timing of analytical work and analytical methods. Generally, a list of drivers' names will be provided to the receiving facility prior to the start of work and will be updated as necessary.

5.5 Complete removal of all contaminated media prior to load-out of CSB material (by Generator). In most cases, clean, native soil in New York City is overlain by light to moderately contaminated soil and/or historic fill. This contaminated material must be completely removed prior to excavation and load-out of the underlying clean, native soil for use in the CSB in accordance with an OER-approved cleanup plan. A

qualified environmental professional must confirm whether overlying contaminated material has been completely removed and that the site has been over-excavated to a depth of approximately one-foot depth into clean, native soils. Any contaminated media must be transported and disposed as a regulated material in accordance with the approved RAWP, and all activities must comply with requirements in existing environmental laws, regulations, and the City VCP MOA. The project's qualified environmental professional must inspect the load outs and transfers of contaminated soil for compliance.

5.6 Confirm excavation into clean, native soil and perform field screening and material verification before load-out of CSB material at the generating site (by Generator). The determination that clean, native soil has been encountered during the excavation of the site must be made in the field by a QEP in consultation with OER, who must review the RI soil sampling results for representativeness pursuant to 360.13(e). During excavation for load-out and delivery, clean, native soil must be screened by the qualified environmental professional by means of a PID and by visual and olfactory means for evidence of contamination. Contaminated soil will not be transferred under this CSB. A qualified environmental professional, or a person supervised by the qualified environmental professional, must certify each load of soil that leaves the generating facility if the qualified environmental professional finds that the load is compliance with all CSB material requirements. Acceptable certification must document that the load: (1) contains only clean, native soil; (2) was screened using visual, olfactory, and real-time instrumentation and revealed no evidence of contamination; and (3) is compliant with the SOP and any required stipulations. Acceptable certification must also include the date, time, and load number that it pertains to. OER must periodically inspect the load out and transfer of clean, native soil.

5.7 Complete and maintain use of CSB transfer manifest form (by Generator and Recipient). Trucks that are utilized for transport of soil in the CSB must use DEC's "Part 360 Series Waste Tracking Document – Construction & Demolition Debris" form to document the time and location of each transport of clean soil. Each load must be tracked and accompanied with the Tracking Document as a trucking manifest. The Tracking Document must include the following minimum information:

- Clean Soil Bank program project number;
- City VCP project number for the originating site (if any);
- City VCP project number for the destination site (if any);
- Date of transport;
- Name and signature of the driver;
- Hauling company name;
- A load number;
- Time of departure from the generating facility;
- License plate number of the truck;
- Time of arrival at the designated receiving facility;
- Capacity of the truck;
- Approximate quantity of the load;
- Name and signature of the receiving party; and
- Verification that the soil was inspected when unloaded.

The receiving site representative is responsible for scanning and electronically delivering copies of all completed manifests to the generator and OER program managers each

day following a transfer of material. Trucking manifests must be maintained and included in the Remedial Action Report submitted to OER at the end of the project. Manifests will be maintained at the receiving property.

5.8 Perform field screening of CSB material at the receiving site (by Recipient).

Once clean soil arrives at the receiving site, it must be inspected for evidence of contamination by representatives of the receiving property. Screening must be performed prior to sign-off on the manifest by a representative of the receiving facility. It is anticipated that soil will be staged only briefly prior to final placement at the receiving facility; however, if it is necessary to store soil for a longer period, piles or containers must be covered and run-on/ run-off controls employed to prevent wind or water dispersion. The recipient may not store soils longer than 90 days before final placement.

5.9 Conduct all required daily reporting (by Generator and Recipient).

For OER Projects operating under terms of a RAWP, daily reports must be submitted to OER's project manager via EPIC, OER's online project management database. These reports must include a summary of all completed transfers each day and be submitted promptly, by the end of each day following transfer of material. Photographic documentation must also be provided.

For recipient projects not participating in one of OER's cleanup programs, Daily Status Reports per OER's Stipulation Letter Template are not required. However, routine check-ins and submission of completed tracking tickets to OER by the end of each day following transfer of material is required. This correspondence may be provided to OER through EPIC or via e-mail.

OER will maintain all reports for DEC inspection upon request for minimum timeframes in accordance with the Clean Soil Bank MOA. The Generator and the Recipient must keep relevant records for a minimum of three years following completion of soil transfer for DEC or OER inspection on request.

5.10 Perform final reporting and reporting to DEC (by OER).

OER must provide an annual report that summarizes activity for all projects that transferred soil under the CSB, including a list of generating and receiving sites identified by address and tax block and lot number, and the quantity of soil transferred. This reporting must be prepared and certified by a qualified environmental professional. OER must prepare an annual report for each calendar year and submit it to DEC by the end of March of the year following the reporting period.

Attachments:

Clean Soil Bank Availability Form

Clean Soil Bank Request Form

References

NEW YORK CITY CLEAN SOIL BANK

Clean Soil Availability Form

PRIMARY CONTACT <input type="checkbox"/> Contractor <input type="checkbox"/> Consultant <input type="checkbox"/> Developer		
NAME		
ADDRESS		
CITY	STATE	ZIP CODE
PHONE	FAX	E-MAIL

PROPERTY/SITE INFORMATION		
NYC OER PROJECT NUMBER(s) (IF APPLICABLE) and OER Project Manager		
NYSDEC PROJECT NUMBER (IF APPLICABLE) and NYSDEC Project manager info		
OTHER PROJECT <input type="checkbox"/> Yes <input type="checkbox"/> No		
PROJECT NAME		
ADDRESS	BOROUGH	ZIP CODE
PROJECT AREA	Acres	or Square Feet
ANTICIPATED TOTAL CLEAN SOIL GENERATION		<input type="checkbox"/> Tons <input type="checkbox"/> Yards (choose one)
LIST ALL TAX BLOCK AND LOT NUMBERS		

OER APPROVALS		
Excavation to be performed under an OER and/or NYSDEC approved RAWP or RAP?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
TIME PERIOD AND QUANTITY OF SOIL AVAILABILITY		
QUANTITY OF CLEAN SOIL TO BE DELIVERED TO THE CLEAN SOIL BANK OR CLEAN SOIL STOCKPILE (CUBIC YARDS IN PLACE)		
EXPECTED TIME PERIOD THAT SOIL WILL BE DELIVERED TO THE SOIL BANK OR STOCKPILE		
ANTICIPATED EXCAVATION START DATE:	ANTICIPATED EXCAVATION END DATE:	

Other Details

SOIL PHYSICAL CHARACTERISTICS FOR EXPORT TO CLEAN SOIL BANK OR CLEAN SOIL STOCKPILE (830 FORBELL STREET)

DEPTHS THAT CLEAN SOIL WILL BE OBTAINED (BELOW ADJACENT STREET GRADE)

ESTIMATED TOP DEPTH OF CLEAN HORIZON (BELOW ADJACENT STREET GRADE):

ESTIMATED BOTTOM DEPTH (BELOW ADJACENT STREET GRADE):

ESTIMATED GROUNDWATER DEPTH:

Type of Soil (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> gravel | <input type="checkbox"/> silty sand |
| <input type="checkbox"/> coarse sand and gravel | <input type="checkbox"/> silt |
| <input type="checkbox"/> coarse sand | <input type="checkbox"/> silt and clay |
| <input type="checkbox"/> course and fine sand | <input type="checkbox"/> clay |
| <input type="checkbox"/> fine sand | <input type="checkbox"/> till |

Are boring logs for clean soil on file with OER in a final RIR or Phase 2?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

Are soil samples available for geotechnical testing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

Are geotechnical test results available?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

SOIL CHEMICAL CHARACTERISTICS

Chemical tests performed on soil? (TCL/TAL and/or Waste Classification)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

Soil meets Track 1 Unrestricted Use Soil Cleanup Objectives (SCOs)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

Soil meets Part 360 General Fill and Groundwater Protection standards?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

Soil meets Part 375 Restricted Residential SCOs?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

Soil meets more than one classification listed above?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

EXPORT LOGISTICS

Direct soil loading to trucks from excavation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

Loading to trucks from segregated clean soil stockpile?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
---	------------------------------	-----------------------------

What is the expected rate of clean soil export?

Average: _____ Tons per day Yards per day (choose one)

Maximum: _____ Tons per day Yards per day (choose one)

Email this form to your Project Manager and Stockpile@OER.NYC.GOV

NEW YORK CITY CLEAN SOIL BANK

Clean Soil Request Form

PRIMARY CONTACT <input type="checkbox"/> Contractor <input type="checkbox"/> Consultant <input type="checkbox"/> Developer		
NAME		
ADDRESS		
CITY	STATE	ZIP CODE
PHONE	FAX	E-MAIL
Property Owner Information (entity name and contact information)		

PROPERTY/SITE INFORMATION		
NYC OER/NYSDEC PROJECT NUMBER (IF APPLICABLE) and Agency project manager		
OTHER PROJECT (not in City/State Cleanup programs)		
PROJECT NAME		
ADDRESS	BOROUGH	ZIP CODE
LIST ALL TAX BLOCK AND LOT NUMBERS		

TYPE OF SOIL REQUESTED		
Unrestricted Use Soil (meets Part 375)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Residential Soil (Part 375)/ General Fill (Part 360)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Restricted Residential Soil (Part 375)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Specific Geotechnical requirements	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Specific Material Composition/Organic requirements	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Provide Details		
TIME PERIOD AND QUANTITY OF SOIL NEED		
QUANTITY OF CLEAN SOIL NEEDED (CUBIC YARDS): (IF MORE THAN ONE TYPE OF MATERIAL IS DESIRED, LIST EACH TYPE AND VOLUME)		
WHEN SOIL IS NEEDED AND HOW MANY LOADS PER DAY CAN BE PICKED UP:		
ANTICIPATED START DATE FOR LOADING: ____ / ____ / ____ ANTICIPATED LOADING END DATE: ____ / ____ / ____		
LOADS PER DAY: ____		

PROPOSED SOIL USAGE (explain why soil requested is appropriate for the use).

SOIL PHYSICAL CHARACTERISTICS REQUIRED FOR IMPORTED MATERIAL:

Email this form to your Project Manager and Stockpile@OER.NYC.GOV

References

City VCP MOA between OER and DEC-DER available at <https://www1.nyc.gov/site/oer/about/authority.page>

New York City Brownfield Program Regulations available at <https://www1.nyc.gov/site/oer/about/authority.page>

New York City Clean Soil Bank information available at <https://www1.nyc.gov/site/oer/safe-land/clean-soil-bank.page>