

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RAPID IMPROVEMENTS LLC

AI # 233901, 234941

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* **Settlement Tracking No.**
* **SA-MM-23-0081**
*
* **Enforcement Tracking No.**
* **MM-PP-22-00714**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Rapid Improvements LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that operated an apartment complex located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On March 14, 2023, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. MM-PP-22-00714 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which Two Thousand Three Hundred Sixty-Seven and 65/100 Dollars (\$2,367.65) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This Settlement Agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for

issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in

accordance with the terms of this Settlement Agreement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

RAPID IMPROVEMENTS LLC

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: _____
Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 14 2023

CERTIFIED MAIL (7019 1640 0001 2617 2977)
RETURN RECEIPT REQUESTED



RAPID IMPROVEMENTS LLC
c/o VCORP Agent Services, Inc.
Agent for Service of Process
3867 Plaza Tower Drive, 1st Floor
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-PP-22-00714
AGENCY INTEREST NO. 233901 & 234941**

Dear Sir/Madam:

On or about May 11, 2022, June 14, 2022, July 26, 2022, and September 28, 2022, inspections of **CARMEL BROOK APARTMENTS**, an apartment complex, operated by **RAPID IMPROVEMENTS LLC (RESPONDENT)**, were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Solid Waste and Air Quality Regulations. The apartment complex is located at 12345 I-10 Service Road in New Orleans, Orleans Parish, Louisiana (the facility). The Facility is owned by RH Chenault Creek LLC. The facility consists of residential buildings having greater than four (4) dwellings per unit; therefore, it is subject to LAC 33:III.5151.

On or about May 11, 2022, the Department conducted an inspection of the facility (AI 233901) in response to an anonymous complaint. Upon arrival at the facility, the inspector observed the demolished building was visible from the main road. No notification of demolition was provided to the Department prior to the inspection. The inspector advised Daniel Krehbiel, the administrator for the Respondent to cease all operations until proof of required records could be provided. The inspector noted multiple renovations on-site at the time of inspection. Demolition activity was not ongoing when the inspector was present; however, demolition debris was onsite at the time of the inspection. The inspector informed Mr. Krehbiel that if compliance cannot be demonstrated, the material on site is considered Asbestos-Contaminated Debris (ACD) and is required to be disposed of as ACD. Mr. Krehbiel provided the inspector an invoice from Air Guys for an inspection and refused to sign the Field Interview Form. On May 13, 2022, Air Guys submitted laboratory results to the Department for a project identified as LA 12345 Rt. 1-10, for 80 bulk samples collected during an inspection on November 11, 2021, which were analyzed for the presence of asbestos. In correspondence dated May 16, 2022, John Evans, a

Rapid Improvements LLC

MM-PP-22-00714

Page 2

representative of Air Guys, stated that he collected the bulk samples at the facility. Mr. Evans was not an asbestos inspector accredited by the Department; therefore, the inspection he conducted at the facility is not a valid inspection. Since an asbestos inspection and notification was not completed prior to the demolition activity at the facility, all debris from the demolition is categorized as ACD, which contains Regulated Asbestos-Containing Material (RACM), in accordance with LAC 33:III.5151.F.1.d.

The Department conducted follow-up inspections on June 14, 2022 and July 26, 2022, which verified the ACD was still on site and had not been removed. On August 19, 2022, the Respondent submitted an emergency AAC-2 for 15 Asbestos Disposal Verification Forms (ADVF) (Nos. 59460-59474) for the disposal of 500 cubic yards of RACM remaining at the site. Returned ADVF Nos. 59460-59474 documented the disposal of 680 cubic yards of ACD at River Birch Landfill, a regulated asbestos landfill, between September 16, 2022 and September 26, 2022. In correspondence from the Respondent to the Department, dated October 5, 2022, the Respondent stated that Demo Diva, L.L.C. removed twenty (20), 40-yard containers of friable asbestos demolition debris between September 16, 2022 and September 26, 2022. On October 24, 2022, the Respondent submitted an AAC-2 for four (4) additional ADVFs (Nos. 60141-60144) for the disposal of 500 cubic yards of RACM remaining at the site. These ADVFs were issued on November 3, 2022 and November 4, 2022.

On September 19, 2022, a representative of Demo Diva, L.L.C. informed the inspector that they hired a different transporter to haul ACD from the facility to River Birch Landfill, but because the transporter was not listed on the ADVF, River Birch would not accept the waste.

On September 28, 2022, the Department conducted a follow-up inspection. At that time, no ACD or equipment was on site. On October 4, 2022, a representative of Demo Diva, L.L.C. sent an email to the Department regarding ADVFs that had not been received. The representative stated that the job was completed on September 28, 2022, and that the ACD from the facility had been hauled without an ADVF to the Demo Diva, L.L.C. yard.

On September 19, 2022, the Department issued Warning Letter MM-L-22-00714 to the Respondent. On October 5, 2022, a representative of the Respondent submitted a response to the Warning Letter; however, the response did not address the violations noted in the inspection report.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent stored and/or allowed the storage of regulated solid waste in a manner that may cause a health hazard and/or detriment to the environment, in violation of LAC 33:VII.315.B. Specifically, during the May 11, 2022, June 14, 2022, and July 26, 2022 inspections, a debris pile from an on-site building demolition was discovered at the facility stored openly on a concrete slab that was exposed to the elements. The debris was categorized as ACD, which contains RACM. There were no barriers in place to prevent the public from tampering with or disturbing the ACD prior to being removed from the site. A follow-up inspection performed on September 28, 2022 revealed that no ACD remained on site. On October 5, 2022, a representative of the Respondent submitted landfill tickets and ADVFs to the Department, via email, documenting disposal of some of the ACD by Demo Diva, L.L.C.

Rapid Improvements LLC

MM-PP-22-00714

Page 3

- prior to the September 28, 2022 follow-up inspection; however, the remaining ACD was hauled by Demo Diva, L.L.C. without an ADVF.
- B. The Respondent failed to either assume RACM is present or thoroughly inspect the affected facility prior to conducting demolition activities. On or about November 11, 2021, John Evans conducted an asbestos inspection at the facility. Mr. Evans is not an asbestos inspector accredited by the Department; therefore, the inspection he conducted at the facility is not a valid inspection. Specifically, the Respondent demolished the building prior to having it thoroughly inspected for asbestos by an inspector accredited by the Department. The failure to assume RACM is present or thoroughly inspect the affected facility by an accredited inspector prior to conducting demolition activities is a violation of LAC 33:III.5151.F.1 and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to notify the Office of Environmental Services of a renovation and/or demolition at least ten working days prior to conducting the demolition. Specifically, the Respondent did not provide the Office of Environmental Services with a typed notice of intent to demolish or renovate by completing and submitting the latest version of notification of demolition and renovation form, AAC-2 or AAC-2(b), prior to starting the demolition. The failure to notify the Office of Environmental Services of a renovation and/or demolition at least ten working days prior to conducting the demolition is a violation of LAC 33:III.5151.F.2.a, LAC 33:III.5151.F.2.c and La. R.S. 30:2057(A)(2).

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Jacqueline Prudente at (225) 219-3095 or Jacqueline.prudente@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

Rapid Improvements LLC

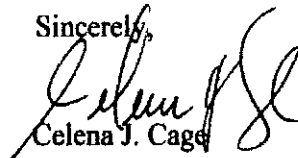
MM-PP-22-00714

Page 4

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Celena J. Cage
Assistant Secretary

Office of Environmental Compliance

CJC/JAP/pog

Alt ID No. N/A

c: Rapid Improvements LLC

c/o Yitzch Horowitz

12345 I-10 Service Rd.

New Orleans, LA 70128



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

REQUEST TO SETTLE (OPTIONAL)

Enforcement Tracking No.	MM-PP-22-00714	Contact Name	Dr. Jacqueline Prudente
Agency Interest (AI) No.	233901 & 234941	Contact Phone No.	(225) 219-3095
Alternate ID No.	N/A		
Respondent:	Rapid Improvements LLC	Facility Name:	Carmel Brook Apartments
	c/o VCORP Agent Services, Inc.	Physical Location:	12345 I-10 Service Road
	Agent for Service of Process		
	3867 Plaza Tower Drive, 1st Floor	City, State, Zip:	New Orleans, LA 70128
	Baton Rouge, LA 70816	Parish:	Orleans

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-PP-22-00714), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY (MM-PP-22-00714).
<input type="checkbox"/>	<p>In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-PP-22-00714), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$_____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.</p> <ul style="list-style-type: none"> • Monetary component = \$_____ • Beneficial Environmental Project (BEP) component (optional) = \$_____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. <p>The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (MM-PP-22-00714) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Dr. Jacqueline Prudente