



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

☐ Yes

☒ No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) **BCP App Rev 9**

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME 37TH AVENUE OWNER LLC; HORIZON 37TH AVE, LLC; RFC KETCHAM 37TH AVE, LLC

ADDRESS 42-01 235th Street

CITY/TOWN Douglaston

ZIP CODE 11363

PHONE 718-229-4488 ex 35 FAX

E-MAIL jpetras@rockfarmerproperties.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application, to document that the requestor is authorized to do business in NYS.

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

Section II. Project Description

1. What stage is the project starting at? ☒ Investigation ☐ Remediation

2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see [DER-10 / Technical Guidance for Site Investigation and Remediation](#) for further guidance).

3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No

4. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

REFER TO ATTACHMENTS

Section III. Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (**please submit the information requested in this section in electronic format only**):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903).

2. **SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.**

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum			
Chlorinated Solvents		PCE	carbon tetrachloride, TCE, PCE
Other VOCs			
SVOCs			
Metals			
Pesticides			
PCBs			
Other*			

*Please describe: _____

3. **FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:**

- **SAMPLE LOCATION**
- **DATE OF SAMPLING EVENT**
- **KEY CONTAMINANTS AND CONCENTRATION DETECTED**
- **FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE**
- **FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5**
- **FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX**

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

☒ Yes ☐ No

4. **INDICATE PAST LAND USES (CHECK ALL THAT APPLY):**

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Coal Gas Manufacturing | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input checked="" type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Rockfarmer 37th Avenue				
ADDRESS/LOCATION 82-13 37th Avenue				
CITY/TOWN Jackson Heights		ZIP CODE 11372		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL):				
COUNTY Queens		SITE SIZE (ACRES) 0.46		
LATITUDE (degrees/minutes/seconds) 40 ° 45 ' 00.17 "		LONGITUDE (degrees/minutes/seconds) 73 ° 53 ' 02.12 "		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address		Section No.	Block No.	Lot No. Acreage
82-11 to 82-21 37th Avenue and 35-64 83rd Street		NA	1456	35 0.23
82-01 to 82-09 37th Avenue and 35-57 to 35-65 82nd Street		NA	1456	41 0.23
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a metes and bounds description of the property.				
2. Is the required property map attached to the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, identify census tract : _____ Percentage of property in En-zone (check one): <input checked="" type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. ☐ Yes ☒ No

Easement/Right-of-way Holder

Description

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>
PBS No. 2-207845	NYSDEC	Closure for 1,500-gal. heating oil UST.
NYR000186999	USEPA	RCRA Conditionally Exempt Small Quantity Generator for Rite Aid tenant.

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.**

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**? ☒ Yes ☐ No


11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?
If yes, requestor must answer questions on the supplement at the end of this form. ☐ Yes ☒ No

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ Yes ☒ No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? ☐ Yes ☐ No

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor:    _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance		DEC USE ONLY BCP SITE NAME: _____ BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Kristen Kenney			
ADDRESS 42-01 235th Street			
CITY/TOWN Douglaston		ZIP CODE 11363	
PHONE 718-229-4488 x35	FAX	E-MAIL kkenney@rockfarmerproperties.com	
NAME OF REQUESTOR'S CONSULTANT Vertex Engineering, PC			
ADDRESS 45-18 Court Square, Suite 602			
CITY/TOWN Long Island City		ZIP CODE 11101	
PHONE 646-553-3500	FAX	E-MAIL jdultz@vertexeng.com	
NAME OF REQUESTOR'S ATTORNEY Scott Furman, Sive Paget & Riesel, P.C.			
ADDRESS 560 Lexington Avenue, 15th Floor			
CITY/TOWN New York		ZIP CODE 10022	
PHONE 212-421-2150	FAX	E-MAIL sfurman@sprlaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME 37th Avenue Palace		OWNERSHIP START DATE: 11/13/1997	
ADDRESS 60 Crossways Park Drive West, Suite 301			
CITY/TOWN Woodbury		ZIP CODE 11797	
PHONE 516-488-0100	FAX	E-MAIL nfang@sfkesq.com	
CURRENT OPERATOR'S NAME 37th Avenue Palace			
ADDRESS 60 Crossways Park Drive West, Suite 301			
CITY/TOWN Woodbury		ZIP CODE 11797	
PHONE 516-488-0100	FAX	E-MAIL nfang@sfkesq.com	
IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)			
If answering "yes" to any of the following questions, please provide an explanation as an attachment.			
1. Are any enforcement actions pending against the requestor regarding this site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, DEC assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9 (f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☒ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Are there any unregistered bulk storage tanks on-site which require registration? ☐ Yes ☒ No

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☐ Current Owner ☒ Potential /Future Purchaser ☐ Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site. Is this proof attached?

☒ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305? ☐ Yes ☒ No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). In addition, attach a copy of an acknowledgement from the repository indicating that it agrees to act as the document repository for the property.
8. Any community board located in a city with a population of one million or more, if the proposed site is located within such community board's boundaries.

Section X. Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?

☐ Residential ☒ Commercial ☐ Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☐ Vacant ☐ Recreational (check all that apply)

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: ☐ Residential ☒ Commercial ☐ Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing?

☐ Yes ☐ No

4. Do current historical and/or recent development patterns support the proposed use?

☒ Yes ☐ No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

The site is located in a commercial C4-3 zone, and there are no proposed changes to the current use of the site building. The current ground-floor retail, parking garage, and commercial offices are permitted uses in the C4 district.

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

☒ Yes ☐ No

There are no proposed changes to the current use of the site building or changes to the current structure. The proposed ground-floor retail, parking garage, and commercial offices are permitted uses in the C4 district. The proposed use preserves the existing structure and is consistent with the existing mixed use and the goals of the commercial C4 district.

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *Proposed DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Manager (title) of 37TH AVENUE OWNER LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *Proposed DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 4-12-18 Signature: [Signature]

Print Name: John Petric

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *Proposed DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Manager (title) of HORIZON 37TH AVE, LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *Proposed DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 4-18-15 Signature: [Signature]

Print Name: John Petras

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

XI. Statement of Certification and Signatures

(By requestor who is an individual)

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Date: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Manager (title) of RFC KETCHAM 37TH AVE, LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *Proposed DER-32, Brownfield Cleanup Program Applications and Agreements*; and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 4-10-18 Signature: [Signature]

Print Name: John Petrus

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

BCP App Rev 9

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Is the property upside down or underutilized as defined below?	
	Upside Down? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Underutilized? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
From ECL 27-1405(31):	
<p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
<p>From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)</p>	
<p>375-3.2:</p> <p>(I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or</p> <p>(c) there are no structures.</p> <p>"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.</p>	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

- ☐ Project is an Affordable Housing Project - Regulatory Agreement Attached;
- ☐ Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a "pending" status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- ☒ This is Not an Affordable Housing Project.

From 6 NYCRR 375- 3.2(a) as of August 12, 2016:

(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)

Site Name: Rockfarmer 37th Avenue

City: Jackson Heights

Site Address: 82-13 37th Avenue

County: Queens

Zip: 11372

Tax Block & Lot

Section (if applicable): NA

Block: 1456

Lot: 35

Requestor Name: 37TH AVENUE OWNER LLC; HORIZON 37TH AVE, LLC; RFC KETCHAM 37TH AVE, LLC

City: Douglaston

Requestor Address: 42-01 235th Street

Zip: 11363

Email: jpetras@rockfarmerproperties.com

Requestor's Representative (for billing purposes)

Name: Kristen Kenney

Address: 42-01 235th Street

City: Douglaston

Zip: 11363

Email: kkenney@rockfarmerproperties.com

Requestor's Attorney

Name: Scott Furman, Sive Paget & Riesel, P.C. **Address:** 560 Lexington Avenue, 15th Floor

City: New York

Zip: 10022

Email: sfurman@sprlaw.com

Requestor's Consultant

Name: Vertex Engineering, PC

Address: 45-18 Court Square, Suite 602

City: Long Island City

Zip: 11101

Email: jdultz@vertexeng.com

Percentage claimed within an En-Zone: ☒ 0% ☒ <50% ☐ 50-99% ☐ 100%

DER Determination: ☐ Agree ☐ Disagree

Requestor's Requested Status: ☒ Volunteer ☐ Participant

DER/OGC Determination: ☐ Agree ☐ Disagree

Notes:

For NYC Sites, is the Requestor Seeking Tangible Property Credits: ☐ Yes ☒ No

Does Requestor Claim Property is Upside Down: ☐ Yes ☒ No

DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Does Requestor Claim Property is Underutilized: ☐ Yes ☒ No

DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Does Requestor Claim Affordable Housing Status: ☐ Yes ☒ No ☐ Planned, No Contract

DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

PART A:
SUPPLEMENTAL INFORMATION

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

Part A - Section I. Requestors Information

The Requestors, 37TH AVENUE OWNER LLC; HORIZON 37TH AVE, LLC; and RFC KETCHAM 37TH AVE, LLC are the prospective purchasers of the two contiguous tax lots known by the addresses 82-01 to 82-09 37th Avenue, 82-11 to 82-21 37th Avenue, 35-57 to 35-65 82nd Street, and 35-64 83rd Street in Jackson Heights, Queens County, New York (the “site”), and more specifically identified as Block 1456, Lots 35 and 41 on the Tax Map of Queens County. Upon acquisition of the site, the Requestors will own the site as tenants in common. The Requestors are Delaware limited liability companies, authorized to do business in New York. Attached as Exhibit I are the Certificates of Formation for each of the Requestors and verification of qualification to do business in New York.

Pursuant to ECL § 27-1405(1), the Requestors are properly designated as a Volunteers because their liability will arise solely from their ownership acquired after the disposal/discharge of contamination and because they have taken and will take reasonable steps to (i) stop any continuing release, (ii) prevent any threatened future release, and (iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination. Requestors are prospective purchasers of the site, they have no previous involvement in the site as owners, operators or otherwise and they have no relationship to the seller, other than by way of the contract of sale.

OWNERSHIP ENTITY INFORMATION	
OWNERSHIP ENTITY	OWNER NAME
37TH AVENUE OWNER LLC	37 th Avenue Queens Associates LLC (99%) & RFC 37 th Ave JV LLC (1%)
HORIZON 37TH AVE, LLC	Rockfarmer Horizon Fund LLC (investment fund controlled by John Petras and George Michelis)
RFC KETCHAM 37TH AVE, LLC	John Petras & George Michelis

EXHIBIT 1:

**NEW YORK STATE DEPARTMENT OF STATE ENTITY INFORMATION
AND VERIFICATION OF QUALIFICATION TO DO BUSINESS**

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 13, 2018.

Selected Entity Name: 37TH AVENUE OWNER LLC

Selected Entity Status Information

Current Entity Name: 37TH AVENUE OWNER LLC

DOS ID #: 5322387

Initial DOS Filing Date: APRIL 13, 2018

County: QUEENS

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

DOUGLASTON MANAGEMENT

42-01 235TH STREET

DOUGLASTON, NEW YORK, 11363

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares

Type of Stock

\$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 13, 2018	Actual	37TH AVENUE OWNER LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 13, 2018.

Selected Entity Name: HORIZON 37TH AVE, LLC

Selected Entity Status Information

Current Entity Name: HORIZON 37TH AVE, LLC

DOS ID #: 5322391

Initial DOS Filing Date: APRIL 13, 2018

County: QUEENS

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

DOUGLASTON MANAGEMENT

42-01 235TH STREET

DOUGLASTON, NEW YORK, 11363

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares

Type of Stock

\$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 13, 2018	Actual	HORIZON 37TH AVE, LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 13, 2018.

Selected Entity Name: RFC KETCHAM 37TH AVE, LLC

Selected Entity Status Information

Current Entity Name: RFC KETCHAM 37TH AVE, LLC

DOS ID #: 5322388

Initial DOS Filing Date: APRIL 13, 2018

County: QUEENS

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

DOUGLASTON MANAGEMENT

42-01 235TH STREET

DOUGLASTON, NEW YORK, 11363

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

of Shares

Type of Stock

\$ Value per Share

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 13, 2018	Actual	RFC KETCHAM 37TH AVE, LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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Part A - Section II. Project Description

The purpose of the environmental investigation and remediation is to support the proposed renovation of the existing site structure for use as a commercial office building with ground-floor retail and a parking garage. The project scope of work is anticipated to include the following:

- Chlorinated volatile organic compound (CVOC) source investigation in soil, including the installation of soil borings below the footprint of the site building and in the sidewalks surrounding the building;
- Perform a sanitary sewer evaluation to confirm the locations of the sewer connections to the site building, sewer locations beneath the sidewalk, nearby streets, and within the building to determine if sewer discharges from former dry-cleaning tenants are a potential source of the CVOC impacts;
- Groundwater investigation and delineation via the installation and sampling of permanent monitoring wells, both on-site and off-site in the surrounding New York City (NYC)-owned sidewalks;
- Based on the findings of the source area soil investigation, CVOC-impacted soil “hot spot” remediation may be required. Due to site limitations and tenant occupancy, soil excavation is not possible below the footprint of the site building; therefore, soil remediation will be completed via soil vapor extraction (SVE), if required. Soil impacts identified below the sidewalk may be addressed via soil excavation and/or SVE based on the proximity of the identified impacts to site structures, subsurface utilities, etc.;
- CVOC-impacted groundwater remediation via the injection of reagents and operation of the SVE system; and

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Rockfarmer 37th Avenue – Jackson Heights, New York

- Mitigation of soil vapor impacts via the installation and operation of an active sub-slab depressurization system (SSDS).

The estimated project schedule is summarized in the following table:

ESTIMATED PROJECT SCHEDULE		
ACTIVITIES	START	END
<u>Remedial Investigation</u>		
Submit Remedial Investigation Workplan	--	05/01/2018
Comment Period and NYSDEC Review (30 Days)	05/03/2018	06/04/2018
Implement Additional Remedial Investigation	06/06/2018	06/29/2018
<u>Remedial Investigation Report (RIR) / Alternative Analysis (AA) / Remedial Action Plan (RAP)</u>		
Prepare RIR / AA / RAP	07/02/2018	10/01/2018
Submit RIR / AA /RAP to NYSDEC	--	10/03/2018
Comment Period and NYSDEC Review (60 Days)	10/06/2018	12/08/2018
VERTEX Response to NYSDEC RIR / AA / RAP Comments	12/10/2018	12/17/2018
NYSDEC Review of VERTEX Response to RIR / AA / RAP Comments	12/22/2018	12/29/2018
RIR / AA / RAP Approved by NYSDEC	--	01/05/2019
<u>Remediation Work</u>		
Implement Remediation	01/19/2019	06/19/2019
Prepare Final Engineering Report (FER), Site Management Plan (SMP), and Environmental Easement (EE)	06/22/2019	09/20/2019
Submit FER / SMP / EE	--	09/22/2019
Comment Period and NYSDEC Review (60 Days)	09/28/2019	11/23/2019
VERTEX Response to NYSDEC FER, SMP, and EE Comments	11/25/2019	12/01/2019
NYSDEC Review of VERTEX Response to RIR / AA / RAP Comments	12/05/2019	12/15/2019
Certificate of Completion	--	12/25/2019

Brownfield Cleanup Program (BCP) Application
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Part A – Section III. Property's Environmental History

Included with this BCP application (electronic format only) is the *Phase II Focused Subsurface Investigation (FSI)* report, prepared by The Vertex Companies, Inc. and dated March 15, 2018. In addition, figures depicting sample results for soil vapor, indoor air, soil, and groundwater are included as an attachment.

Part A - Section IV. Property Information

The following section provides a summary of the property description and environmental assessment, in accordance with the NYSDEC's *Instructions for Completing a BCP Application*.

Location

The site is located in an urban area with a mix of commercial and residential buildings. The property address is 82-01 to 82-09 37th Avenue, 82-11 to 82-21 37th Avenue, 35-57 to 35-65 82nd Street, and 35-64 83rd Street, Jackson Heights, Queens County, New York. The property consists of two contiguous parcels identified by the New York City Department of Finance as Block 1456, Lots 35 and 41. The site is located on the north side of 37th Avenue, between 82nd Street and 83rd Street. The approximate site area is 20,000 square feet (0.46 acres), which is divided equally between the two Lots.

Site Features

The site is improved with an approximately 108,000-square foot (above-grade), nine-story commercial office building, with ground-floor retail (Rite Aid, nail salon, and vacant space) and a two-level parking garage. The site building is improved with a basement, which is occupied by office space, utilities and storage space. The building footprint covers the entire site, and is surrounded to the south, east, and west by public sidewalks and roadways. To the north are

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Rockfarmer 37th Avenue – Jackson Heights, New York

residential structures.

Current Zoning and Land Use

The site is currently active. Based on a review of the New York City Department of City Planning Zoning and Land Use (Zola) mapping program, the site is zoned C4-3. The C4 (commercial) zoning is described as areas mapped in regional commercial centers, outside of the central business districts. The C4 zone typically includes specialty and department stores, theaters, and other commercial and office uses. C4-3 districts are mapped in more densely built areas, with a required accessory parking of 1 per 400 square feet. The neighboring properties are currently used for a combination of commercial and residential uses.

Past Use of the Site

According to a Draft *Phase I Environmental Site Assessment (ESA)* prepared by Merritt Environmental Consulting Corp. (Merritt), dated November 13, 2017, and VERTEX's review of Sanborn fire insurance maps, the earliest identified use of the site included stores by at least 1930. The current commercial office building, with ground-floor retail and a parking garage, was constructed in 1993. Review of city directories identified Star Cleaning & Dyeing Co. at 82-05 37th Avenue in 1939 and Columbia Cleaners at 82-13 37th Avenue for the years 1939 to 1970. In addition, Cecil Cleaners was identified at 35-62 83rd Street from 1986 to 1994. No other historical operations of environmental concern were identified. The locations of the former drycleaner tenants are depicted on Figure 8.

The Draft Phase I ESA (Merritt, November 2017) also identified that a 1,500-gallon heating oil underground storage tank (UST) was registered for the site address 82-11 37th Avenue. The UST (Tank No. 001) was identified as "closed-removed" under Permit No. 2-207845. No closure documentation was available. The former location of the UST is unknown. Geophysical investigations were conducted of accessible areas of the site on December 13, 2017 and February

Brownfield Cleanup Program (BCP) Application
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14, 2018. No anomalies indicative of USTs or other subsurface structures were identified during the geophysical investigations.

Site Geology and Hydrogeology

Based upon the findings of the Phase II FSI (The Vertex Companies, Inc., March 2018), soils encountered at the site generally consist of sands from approximately 1.0 foot below ground surface (bgs) to the soil boring completion depth of 40.0 feet bgs. Bedrock was not encountered to a depth of 40 feet bgs. Groundwater was encountered at depths ranging from 32.65 to 34.19 feet bgs. Based on review of local topography and the location of the closest water body in relation to the site, groundwater is assumed to flow to the northeast, towards Flushing Bay.

Environmental Assessment

The impacted media and primary contaminants of concern are discussed below. The information is based on the *Phase II FSI* report (The Vertex Companies, Inc., March 2018). The Phase II FSI was conducted as a component of environmental due diligence in support of the planned acquisition of the site by 37TH AVENUE OWNER LLC.

Soil – Based on limited soil sampling conducted at three locations in the sidewalk around the perimeter of the site building, no volatile organic compounds (VOCs) were identified at concentrations exceeding the NYSDEC Soil Cleanup Objectives (SCOs). No odors or staining was noted on the soils; however, elevated photoionization detector (PID) readings were encountered. The elevated PID readings noted during the screening of the soils may be the result of trapped soil gas. Further soil investigation is warranted to identify the presence of any source materials in the soil beneath the building slab.

Groundwater – Review of groundwater analytical results identified tetrachloroethene (PCE) at two temporary monitoring well locations at concentrations of 17 micrograms per liter (ug/L)

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cross-gradient to groundwater flow and 90 ug/L in the downgradient direction. Both PCE concentrations exceed the NYSDEC Ambient Groundwater Quality Standard (AWQS) of 5 ug/L. No exceedances of the AWQS were reported for the groundwater sample collected from the most up-gradient temporary monitoring well, and the highest PCE concentration was detected in the perceived downgradient sampling location. This suggests that a potential PCE source area is located beneath the southeastern portion of the site building footprint or beneath the adjacent sidewalks in this area. This finding coincides with the areas of highest soil vapor and indoor air concentrations of the contaminants of concern (discussed below).

Soil Vapor and Indoor Air – Vapor intrusion (VI) sampling conducted during the heating season in December 2017 and February 2018 identified concentrations of carbon tetrachloride and PCE in soil vapor in exceedance of the New York State Department of Health (NYSDOH) matrix sub-slab vapor concentration criteria. The highest soil vapor concentration of carbon tetrachloride (767 microgram per cubic meter (ug/m^3)) and PCE (10,100 ug/m^3), exceed the matrix sub-slab vapor concentration criteria of 6 ug/m^3 and 100 ug/m^3 , respectively. In addition, the highest indoor air concentrations of carbon tetrachloride (1.1 ug/m^3) and PCE (10.5 ug/m^3) were identified in exceedance of the NYSDOH matrix indoor air concentration criteria. These contaminants are likely associated with the former on-site dry-cleaning operations. Evaluation of the data and comparison to the NYSDOH Vapor/Indoor Air Matrix Guidance (May 2017) identified seven sample locations where the contaminant concentrations are elevated to such levels that mitigation of the VI concern is indicated.

Based on the results of the Phase II FSI, a suspected source of the contaminants of concern is the former on-site dry-cleaning operations. A contaminated soil source was not located during the Phase II FSI investigation but is assumed to be below the building slab, possibly somewhere in the southeast corner of the building or beneath the adjacent sidewalks in this area.

PART B:
SUPPLEMENTAL INFORMATION

Brownfield Cleanup Program (BCP) Application
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Part B - Section VI. Current Property Owner/Operator Information

The Requestors are not the current owner of the site, and have no direct relationship with the current owner. The Requestors are the prospective purchasers of the site.

The following table provides a summary of the previous owner/operators for the site.

PROPERTY OWNER/OPERATOR INFORMATION			
Name of Previous Owner/Operator	Address/Phone Number	Dates of Ownership	Relationship to Requestors
37 th Avenue Palace LLC	8211 37 th Avenue Flushing, NY	11/13/1997 to present	None
Carlo Cinganelli	6 Somerset Drive Great Neck, NY	10/22/1991 to 11/13/1997	None
Acapulco Realty Co.	37-51 76 th Street Jackson Heights, NY	07/09/1986 to 10/22/1991	None
Jerome Klorfein & Rhoda Klorfein Roberts	350 5 th Avenue New York, NY	10/07/1976 to 07/09/1986	None
Chase Manhattan Bank (trustee for Arthur Klorfein & Julius Klorfein)	One Chase Manhattan Plaza New York, NY	Unknown to 10/07/1976	None

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

Part B Section VII. Requestors Eligibility Information

The Requestors are the prospective purchasers of the site. An executed access agreement is included as Exhibit 2.

EXHIBIT 2:
ACCESS AGREEMENT

82-11 37th Avenue LLC
f/k/a 37th Avenue Palace LLC
82-11 37th Avenue
Jackson Heights, NY 11372

April 23, 2018

RFC Ketcham 37th Ave, LLC
Horizon 37th Ave, LLC
37th Avenue Owner LLC
42-01 235th Street,
Douglaston, NY 11363
Attn: John Petras

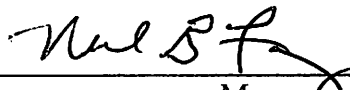
Re: 82-01/21 37th Avenue, 35-57/65 82nd Street, and 35-64 83rd Street
Jackson Heights, Queens County, New York 11363

Dear Mr. Petras:

This letter confirms that RFC Ketcham 37th Ave, LLC, Horizon 37th Ave, LLC and 37th Avenue Owner LLC and their consultants have access to the above-referenced site to implement any investigation or remedial work required by the New York State Department of Environmental Conservation ("NYSDEC") pursuant to the Brownfield Cleanup Program (the "BCP"), and otherwise to comply with all obligations under the Brownfield Cleanup Agreement (the "BCA"), including the recording of an environmental easement, if required, from the date hereof until such time as the BCA is terminated or NYSDEC issues a Certificate of Completion.

Very truly yours,

82-11 37th Avenue LLC

By: 
_____, Manager

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

Part B Section IX. Site Contact List Information

Chief Executive Officers

New York City:

Mayor Bill de Blasio
City Hall
New York, NY 10007

Borough of Queens:

President, Borough of Queens
Melinda Katz
Queens Borough Hall
120-55 Queens Boulevard
Kew Gardens, NY 11424
Telephone: 718-286-3000
Fax: 718-286-2876

Planning Board Chairperson

New York City:

Marisa Lago, Chairperson
New York City Planning Commission
120 Broadway, 31st Floor
New York, New York 10271
Telephone: 212-720-3300
Fax: 212-584-8628

Queens Office:

120-55 Queens Blvd., Room 201
Kew Gardens, NY 11424

Site Property Owner

82-11 37th Avenue LLC f/k/a 37th Avenue Palace LLC
82-11 37th Avenue
Jackson Heights, NY 11372

Brownfield Cleanup Program (BCP) Application
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Site Building Occupants

Rite Aid

82-13 37th Avenue
Jackson Heights, NY 11372

Dr. David Szuster

82-11 37th Avenue, Units 401, LL9 & LL16
Jackson Heights, NY 11372

Congressman Joseph Crowley

82-11 37th Avenue, Units 402 & 403
Jackson Heights, NY 11372

Lama Accounting

82-11 37th Avenue, Unit 404
Jackson Heights, NY 11372

Apicha Community Health Center

82-11 37th Avenue (5th Floor, Partial 4th Floor, Units LL21 & LL22)
Jackson Heights, NY 11372

Body Repair Physical Therapy

82-11 37th Avenue, Unit 602
Jackson Heights, NY 11372

Castro Law, PLLC

82-11 37th Avenue, Unit 603
Jackson Heights, NY 11372

Dr. Jacqueline Dauhajre, MD

82-11 37th Avenue, Unit 604
Jackson Heights, NY 11372

Queens Community Board 3

82-11 37th Avenue, Unit 606
Jackson Heights, NY 11372

Assemblyman Francisco Moya

82-11 37th Avenue, Unit 607
Jackson Heights, NY 11372

Youman, Madeo & Fasano, LLP

82-11 37th Avenue, Unit 908 (Unit 608, 9th Floor, Units LL20 & LL23)
Jackson Heights, NY 11372

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Nunez Dental

82-11 37th Avenue, Units 703 & 704
Jackson Heights, NY 11372

Grameen America Inc.

82-11 37th Avenue, Unit 709
Jackson Heights, NY 11372

Metropolitan Learning Institute

82-11 37th Avenue (8th Floor)
Jackson Heights, NY 11372

CS Safety Specialist Corp.

82-11 37th Avenue (Units LL1, LL3 & LL4)
Jackson Heights, NY 11372

Intl Services

82-11 37th Avenue, Unit LL2
Jackson Heights, NY 11372

INM Architects

82-11 37th Avenue, Unit LL5
Jackson Heights, NY 11372

Law Offices of Laura S. Outeda, ESQ.

82-11 37th Avenue, Unit LL7
Jackson Heights, NY 11372

Community Mediation Services

82-11 37th Avenue, Unit LL8
Jackson Heights, NY 11372

Corazon A Corazon NY

82-11 37th Avenue, Unit LL10
Jackson Heights, NY 11372

NYSARC, Inc.

82-11 37th Avenue, Unit LL13
Jackson Heights, NY 11372

Big Brothers Big Sisters of NYC

82-11 37th Avenue, Unit LL14
Jackson Heights, NY 11372

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Neuro Pain Care

82-11 37th Avenue, Units LL15 & LL17
Jackson Heights, NY 11372

Math Matters

82-11 37th Avenue, Unit LL18
Jackson Heights, NY 11372

Olympus Corp.

82-11 37th Avenue, Unit LL19
Jackson Heights, NY 11372

Nelly's Salon

35-57 82nd Street
Jackson Heights, NY 11372

Adjoining Property Owners

Property address	35-54 83rd Street
Block	1456
Lot	29
Owner Full name	82/83 JH LLC
Address	3554 83 rd Street
City state zip	Flushing, NY 11372-5200

Property address	35-53 82nd Street
Block	1456
Lot	46
Owner Full name	82/83 JH LLC
Address	3553 82 nd Street
City state zip	Flushing, NY 11372-5162

Property address	35-50 82nd Street
Block	1281
Lot	33
Owner Full name	82 nd Street Tenants Corp.
Address	1 Dupont Street, Suite 200
City state zip	Plainview, NY 11803-1606

Property address	81-11 37th Avenue
Block	1281
Lot	38
Owner Full name	82-01 37 th Store, LLC
Address	60 Crossways Park Drive West
City state zip	Woodbury, NY 11797

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Property address **37-02 82nd Street**
Block 1292
Lot 6
Owner Full name 82 Associates LLV
Address 286 Northern Boulevard
City state zip Great Neck, NY 11021-4704

Property address **82-02 37th Avenue**
Block 1470
Lot 1
Owner Full name Hampton Associates
Address 13648 39th Avenue
City state zip Flushing, NY 11354-5516

Property address **82-12 37th Avenue**
Block 1470
Lot 6
Owner Full name New York Leasings Realty LLC
Address P.O. Box 156
City state zip Albertson, NY 11507-0156

Property address **83-02 37th Avenue**
Block 1471
Lot 1
Owner Full name Jojule Realty Corp.
Address 3030 Northern Boulevard, Suite 400
City state zip Long Island City, NY 11101-2809

Property address **35-64 84th Street**
Block 1457
Lot 34
Owner Full name Georgian Hall 83-01/27 37th Avenue LLC
Address 3564 84th Street
City state zip Flushing, NY 11372-5374

Water Service:

New York City Department of Environmental Protection
Bureau of Environmental Planning and Analysis
Vincent Sapienza, P.E., Commissioner
59-17 Junction Boulevard, 11th Floor
Flushing, NY 11373
Phone: 718-595-7000
vsapienza@dep.nyc.gov

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

Contact List Requests

No one has requested to be placed on the contact list.

Local News Media for Public Announcements

Queens Tribune
150-50 14th Road
Whitestone, NY 11357
Phone: 718-357-7400

School and Day Care Facility Administrators

Renaissance Charter School

Stacey Gauthier, Principal
25-59 81st Street
Jackson Heights, NY 11372
Phone: 718-803-0060

St. Joan of Arc Catholic School

John Fruner, Principal
3527 82nd Street
Jackson Heights, NY 11372
Phone: 718-639-9020

Public School Q222

Yvonne Marrero, Principal
86-15 37th Avenue
Queens, NY 11372
Phone: 718-429-2563

82nd Street Academics

8110 35th Avenue
Jackson Heights, NY 11372
Phone: 718-457-0429

Public School 69

77-02 37th Avenue
Jackson Heights, NY 11372
Phone: 718-424-7700

Public School 212

34-25 82nd Street
Jackson Heights, NY 11372

Brownfield Cleanup Program (BCP) Application
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Phone: 718-898-6973

Local Document Repository

Queens Library at Jackson Heights
35-51 81st Street
Jackson Heights, NY 11372
Phone: 718-899-2500

A copy of the approval letter, dated April 13, 2018, from Ms. Judith Todman, Manager of The Archives at Queens Library, is included in Exhibit 3. The letter acknowledges the Queens Library's agreement to act as the document repository for the site.

Community Board

Queens Community Board 3
82-11 37th Avenue, Suite 606
Jackson Heights, NY 11372
Phone: 718-458-2707
Email: communityboard3@nyc.rr.com

A copy of the approval email, dated April 13, 2018, sent from Ms. Giovanna A. Reid, District Manager of Community Board 3, acknowledging its agreement to act as the document repository is included in Exhibit 3.

EXHIBIT 3:
DOCUMENT REPOSITORY CONFIRMATIONS

Tim Biercz -- Vertex

From: Giovanna Reid <communityboard3@nyc.rr.com>
Sent: Friday, April 13, 2018 6:29 PM
To: Tim Biercz -- Vertex
Subject: RE: Document Repository Request - Brownfield Cleanup Program

We would be happy to serve as a repository.

Giovanna A. Reid
District Manager
Community Board 3
718-458-2707

From: Tim Biercz -- Vertex [mailto:tbiercz@vertexeng.com]
Sent: Tuesday, April 10, 2018 2:27 PM
To: communityboard3@nyc.rr.com
Subject: Document Repository Request - Brownfield Cleanup Program

Community Board 3:

The Vertex Companies, Inc. (VERTEX) will be conducting an environmental cleanup at a site in Jackson Heights, NY. The cleanup will be conducted under the oversight of the New York State Department of Environmental Conservation (NYSDEC), in their Brownfield Cleanup Program (BCP). As part of the BCP application process, VERTEX is to obtain approval from the local community board to act as a secondary document repository. VERTEX is working to obtain approval from the Queens Library at Jackson Heights to store records; however, the NYSDEC has requested that we obtain approval from the local community board as well.

The following provides some additional information concerning the site location and nature of the documents associated with this repository request.

Brownfield Site Location:

82-01/21 37th Avenue, 35-57/65 82nd Street, and 35-64 83rd Street
Jackson Heights, Queens County, New York
Block 1456, Lots 35 and 41
0.46 acres

The site parcels are improved with ground-floor retail, parking garage, and commercial offices.

Volume and Nature of Documentation:

The following reports and documentation are required to be submitted to the NYSDEC as part of the environmental cleanup in the BCP. These documents would need to be maintained in the document repository. The estimated number of pages is based on a typical environmental report.

- Application and Worksheet with appendices (50-100 pages)
- Approval and correspondence from NYSDEC
- Brownfield Cleanup Agreement (50-100 pages)

- Citizen Participation Plan (100-200 pages)
- Remedial Investigation Work Plan (200-300 pages)
- Remedial Investigation Report (1,000-1,500 pages)
- Remedial Action Work Plan (100-200 pages)
- Site Management Plan (100-200 pages)
- Final Engineering Report (1,000-2,000 pages)

These documents would be provided in print and bounded reports, with a CD included. As we move through the project, we have the ability to potentially remove some of the earlier submitted reports and replace them with the most up-to-date document. That approval would need to come from the NYSDEC. I don't know for sure how large the repository will grow, as we will have to discuss with the NYSDEC case manager that is assigned to the cleanup. I would think that we can stay in touch during the process and if you request that document space is needed, we will forward that request to the NYSDEC. My experience is that the case managers understand the limitations of the community boards and can make decisions accordingly. My sense is that the repository would stay in the 1,000 to 2,000-page range.

I am requesting approval and an acknowledgement from the community board indicating that it agrees to act as the document repository for the project.

Thank you very much for your assistance, and please feel free to contact me if you have any additional questions.

Timothy R. Biercz

SENIOR PROJECT MANAGER

O: 908.333.4317 | C: 732.690.3083 | VERTEXENG.COM

THE VERTEX COMPANIES, INC.
3322 ROUTE 22 WEST, SUITE 907
BRANCBURG, NJ 08876

If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at info@vertexeng.com, and do not use or disseminate such information.

*Queens Borough Public Library
89-11 Merrick Boulevard
Jamaica, NY 11432*

*Central Library Office
Fax # 718/990-8570*

.....
FAX TRANSMITTAL

ATTENTION: *Tim Biercz*

FROM: *S. Todman*

COMPANY: *Queen Library*

TELEPHONE #:

FAX #: *908 450-1443*

[] _____

Number of Pages: (including this page) *2*

Date: *4-13-18*

Time: *5:01 pm*

*If you do not receive all of the pages indicated or there are any problems with transmission,
please call:*



April 13, 2018

Mr. Timothy R. Biercz
THE VERTEX COMPANIES, INC.
3322 ROUTE 22 WEST, SUITE 907
BRANCBURG, NJ 08876

RE: NYS DEC Brownfield Cleanup Program Repository

Dear Mr. Biercz,

As per our conversation, the Archives at Queens Library located at 89-11 Merrick Blvd., will serve as repository for the New York State Department of Environmental Conservation, in their Brownfield Cleanup Program.

We have in the past dealt with the issue of having the document sent first to the nearest Community Library, in this case, the Jackson Heights branch located at 35-51 81st Street, Jackson Heights, NY 11372 for immediate access to these documents for the residents of that neighborhood. After the official review period is over, the documents should be submitted to the Archives for future access.

If you have any questions or need further information from me, please don't hesitate to contact me.

Sincerely,

Judith Todman
Manager
The Archives at Queens Library
89-11 Merrick Blvd.
JAMAICA NY 11432

718 990-8633

Cc: N. Lu

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

Part B Section X. Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?

Based on a review of the New York City Department of City Planning Zoning and Land Use (Zola) mapping program, the site is zoned C4-3. The C4 (commercial) zoning is described as areas mapped in regional commercial centers, outside of the central business districts. The C4 zone typically includes specialty and department stores, theaters, and other commercial and office uses. C4-3 districts are mapped in more densely built areas, with a required accessory parking of 1 per 400 square feet.

2. Current Use: Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

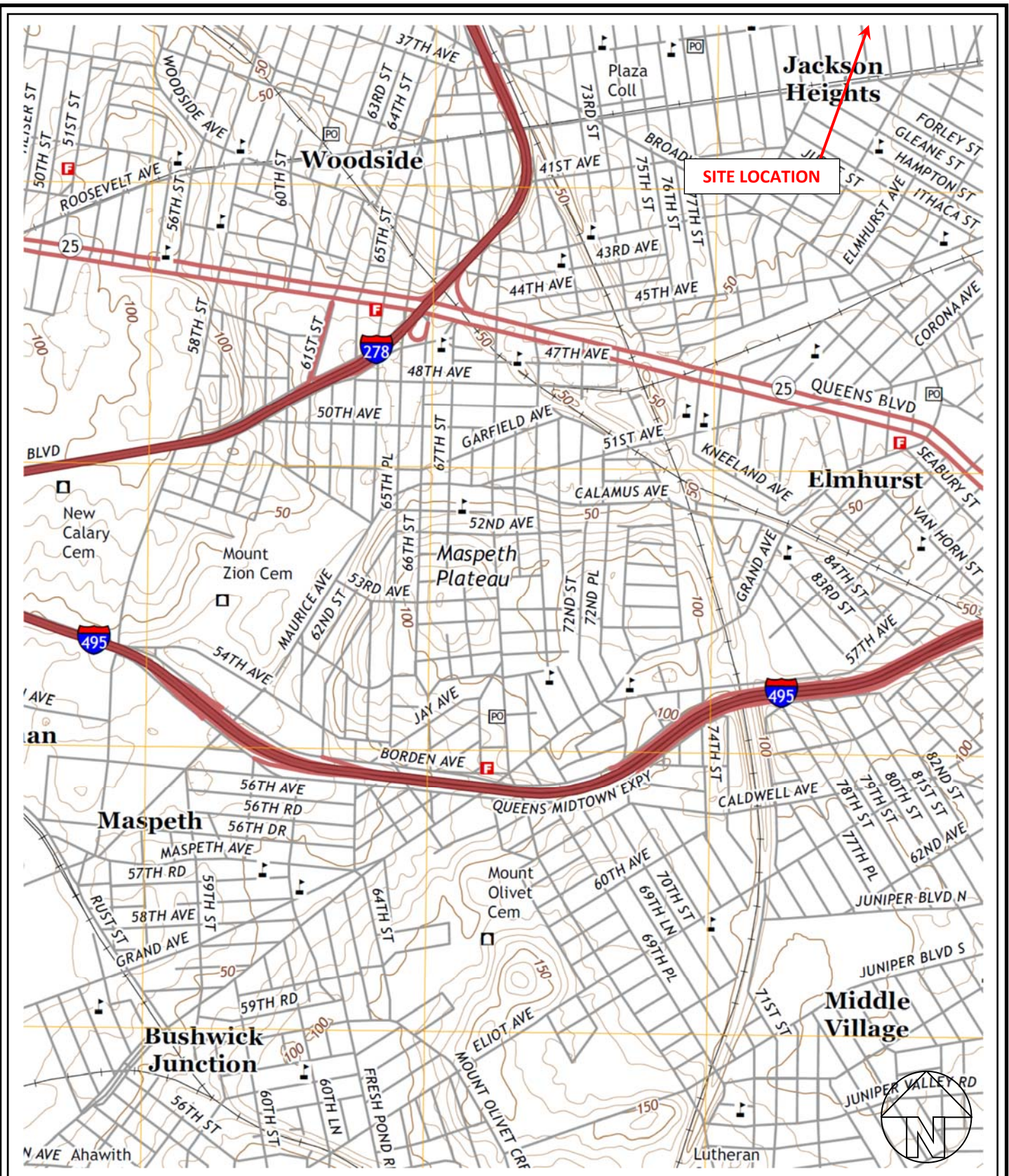
The current operations at the site include ground-floor retail (Rite Aid), a two-story parking garage, and 30-40 commercial office units (depending on how they are grouped) . No possible contaminant source areas are anticipated based on current site operations.

3. Attach a statement detailing the specific proposed use:

The site is located in a commercial C4-3 zone, and there are no proposed changes to the current use of the site building. The current ground-floor retail, parking garage, and commercial offices are permitted uses in the C4 district.

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

FIGURES



Source: USGS, 2013
 Brooklyn, NY Quadrangle
 Contour Interval: 20 feet

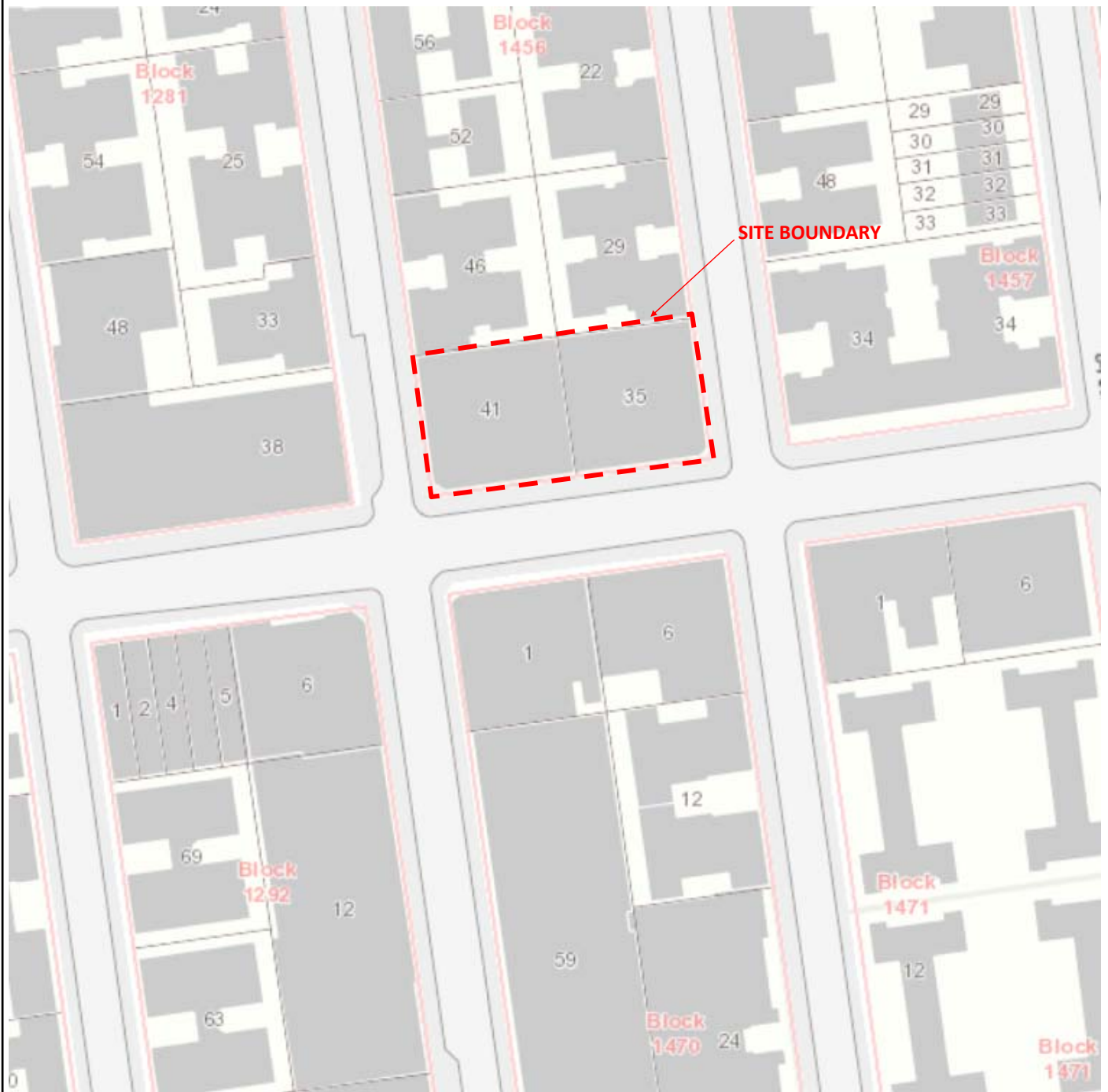
SITE LOCATION MAP

82-13 37th Avenue
 Jackson Heights, New York

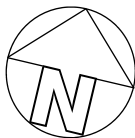
VERTEX Project No. 48122

VERTEX ENGINEERING, PC

FIGURE NO. 1



Source: NYC Oasis online
mapping program



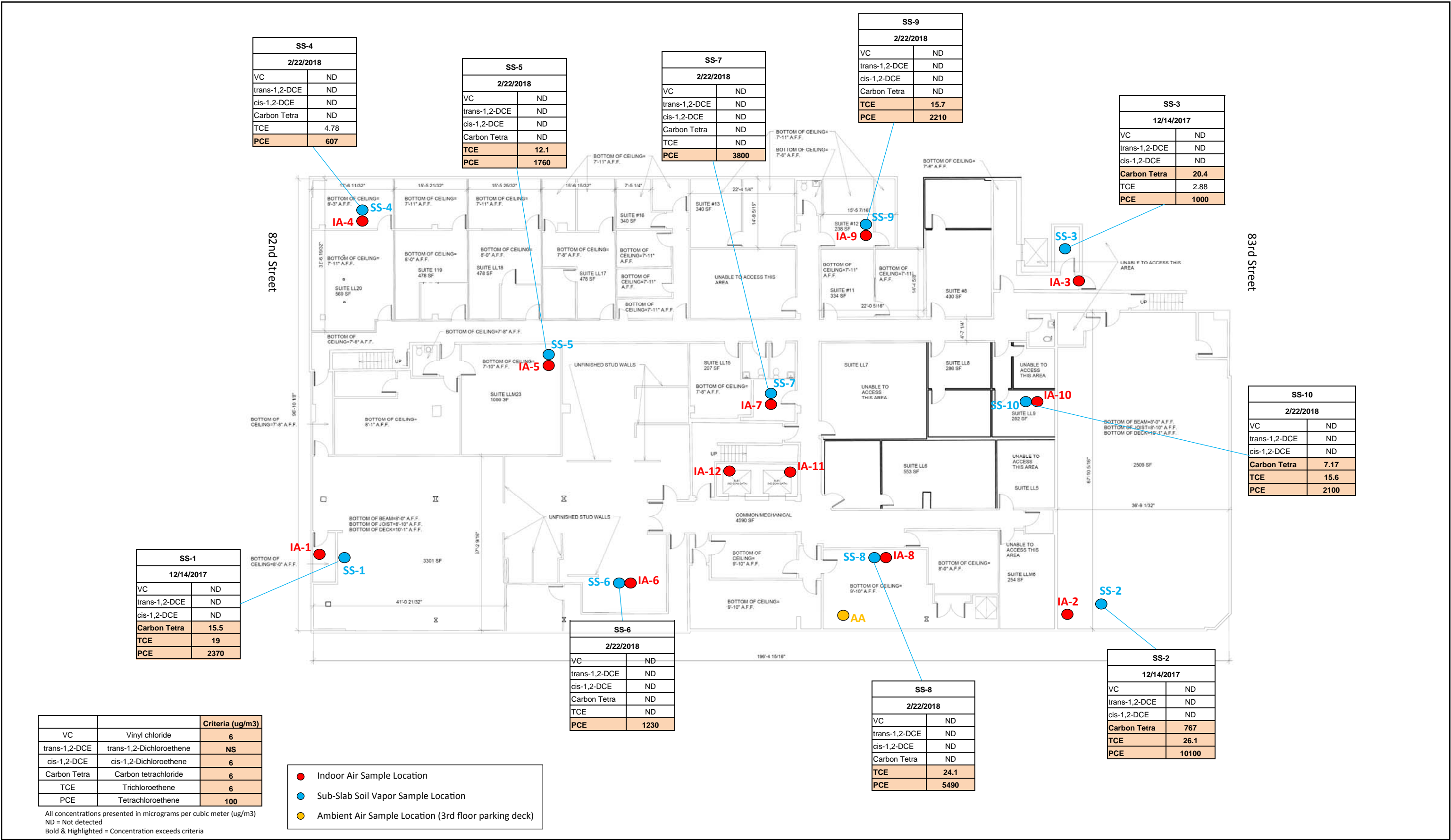
TAX MAP

82-13 37th Avenue
Jackson Heights, New York

VERTEX Project No. 48122

VERTEX ENGINEERING, PC

FIGURE NO. 2



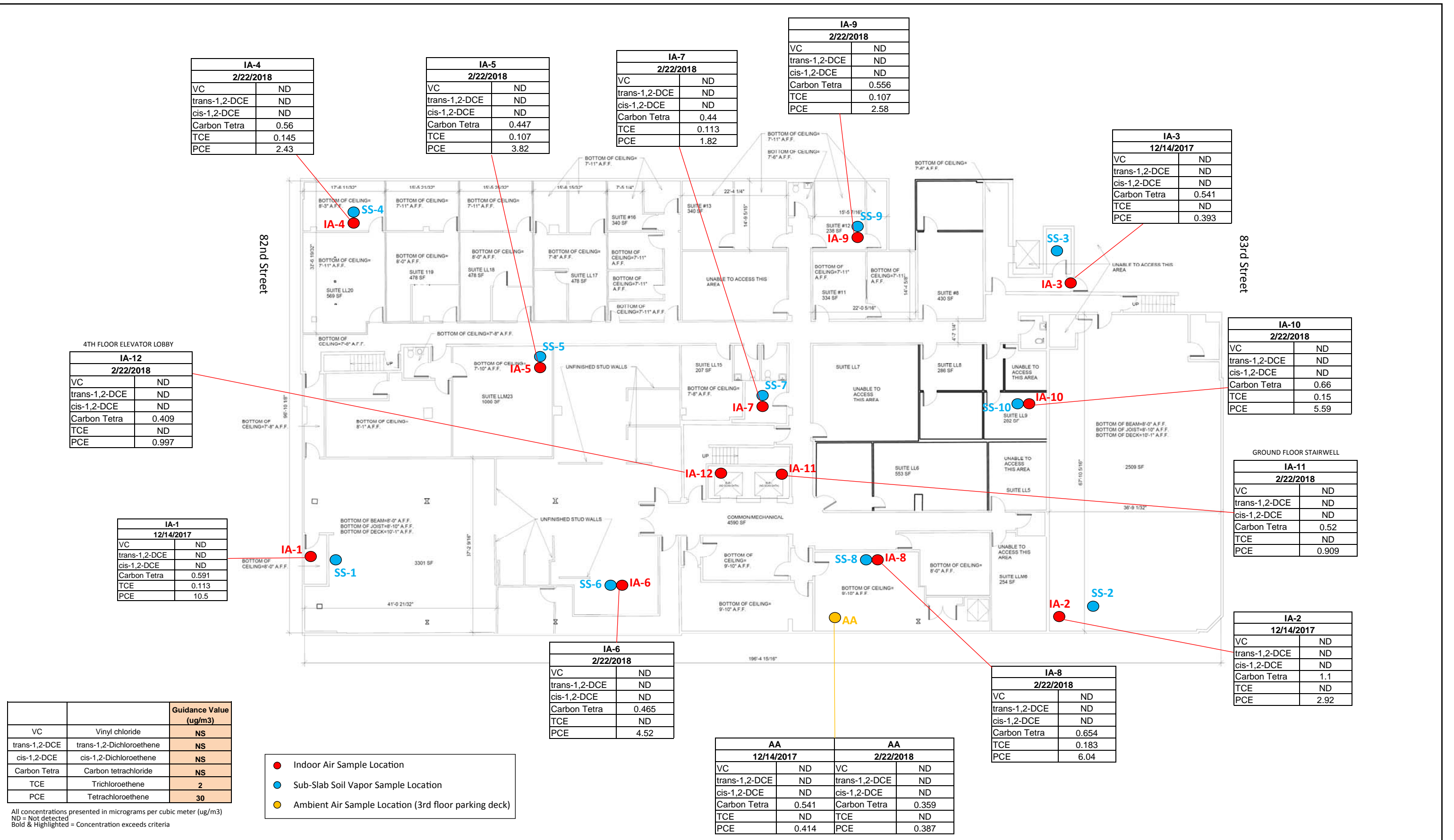
Map Source: Existing Basement Floor Plan, Existing Conditions Surveys Inc., 11/30/2017

SOIL VAPOR RESULTS MAP
82-01/21 37TH AVENUE, 35-57/65 82ND STREET & 35-64 83RD STREET
JACKSON HEIGHTS, QUEENS COUNTY, NEW YORK

VERTEX ENGINEERING, PC

FIGURE NO. 3

VERTEX Project No. 48122

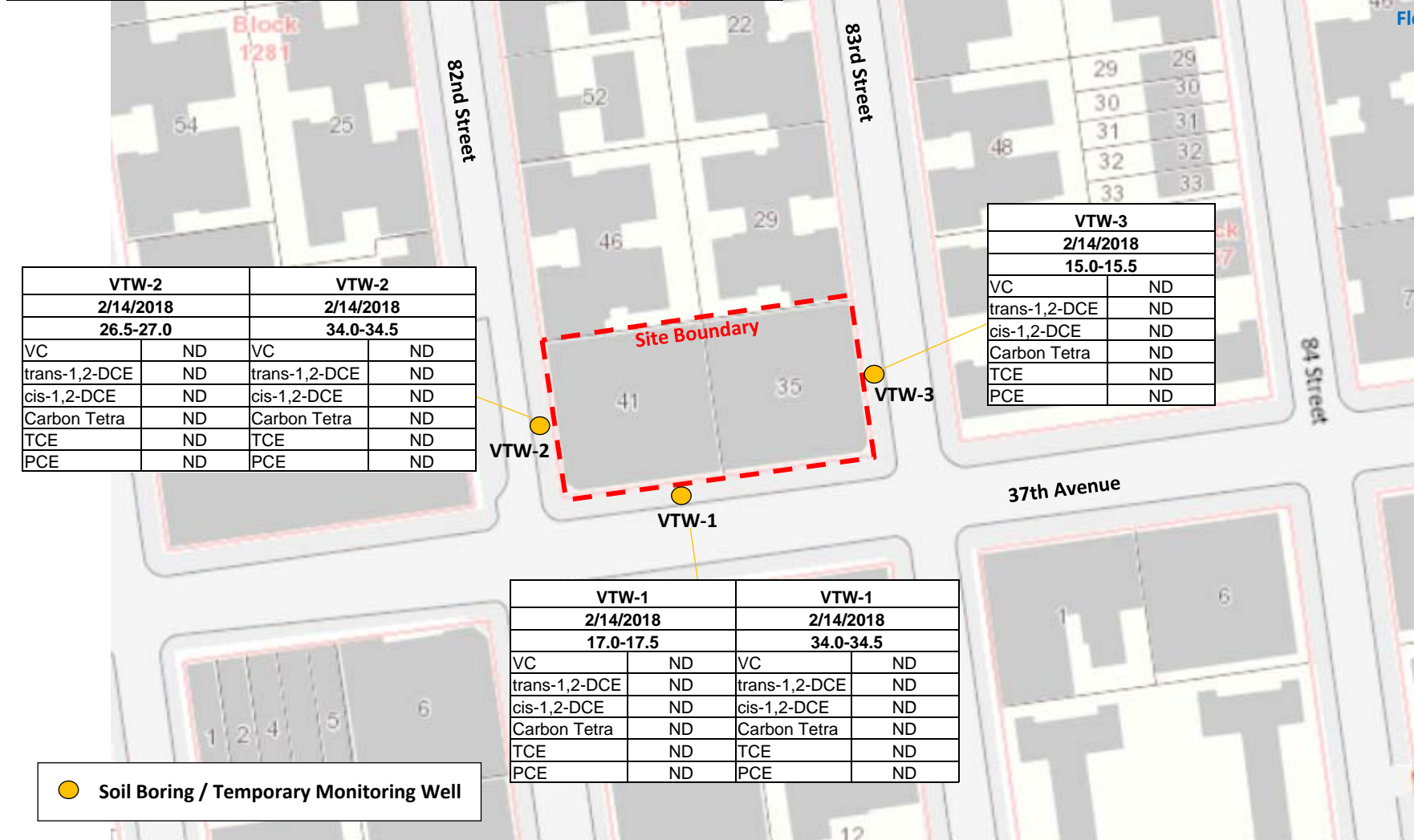


Map Source: *Existing Basement Floor Plan*, Existing
Conditions Surveys Inc., 11/30/2017

VERTEX ENGINEERING, PC

VERTEX Project No. 48122

		RUSCO-I	RUSCO-C	RUSCO-RR	RUSCO-R	UUSCO
VC	Vinyl chloride	27	13	0.9	0.21	0.02
trans-1,2-DCE	trans-1,2-Dichloroethene	1000	500	100	100	0.19
cis-1,2-DCE	cis-1,2-Dichloroethene	1000	500	100	59	0.25
Carbon Tetra	Carbon tetrachloride	44	22	2.4	1.4	0.76
TCE	Trichloroethene	400	200	21	10	0.47
PCE	Tetrachloroethene	300	150	19	5.5	1.3



SOIL RESULTS MAP

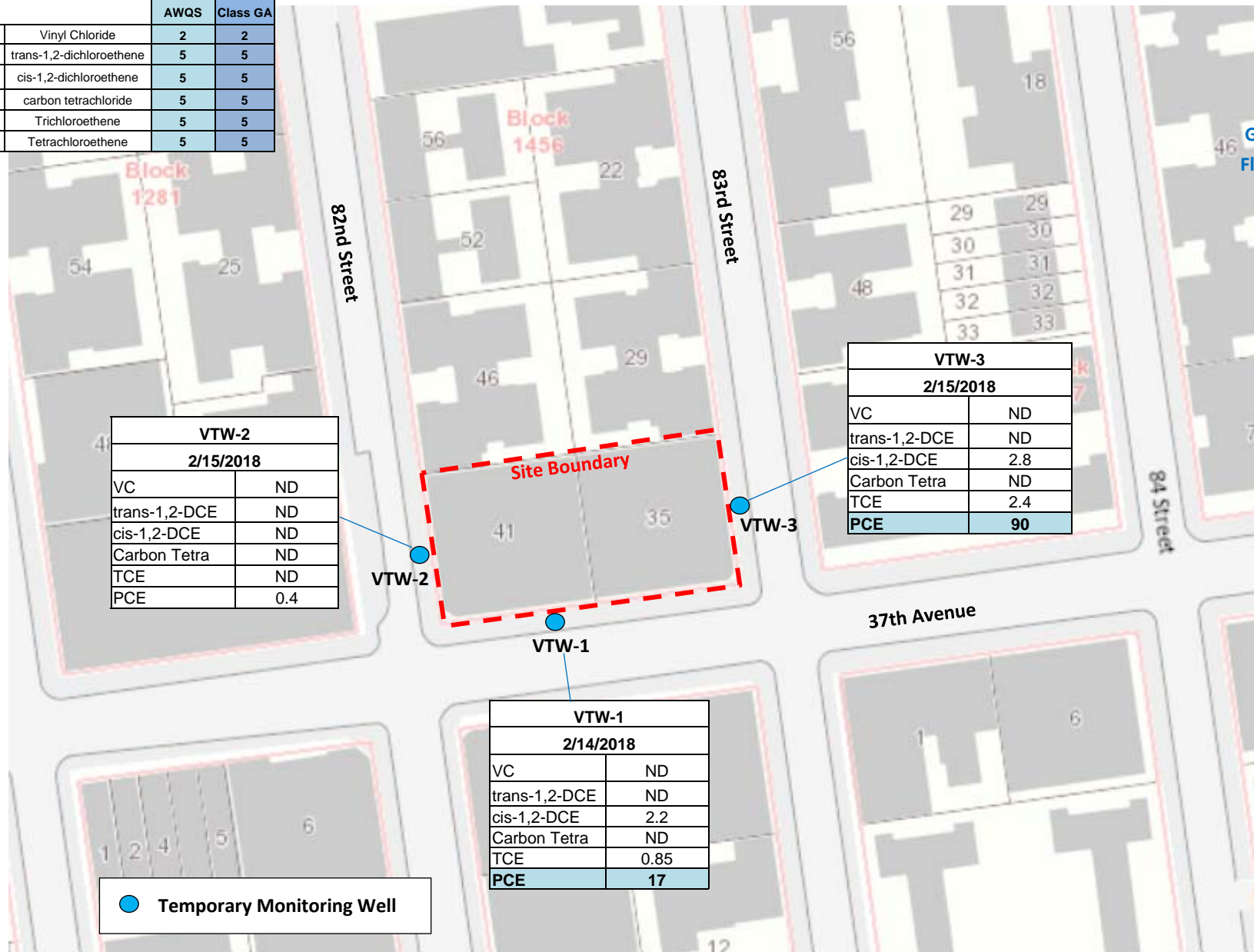
82-01/21 37TH AVENUE, 35-57/65 82ND STREET & 35-64 83RD STREET
JACKSON HEIGHTS, QUEENS, NEW YORK

VERTEX ENGINEERING, PC

FIGURE NO. 5

VERTEX Project Number
48122

		AWQS	Class GA
VC	Vinyl Chloride	2	2
trans-1,2-DCE	trans-1,2-dichloroethene	5	5
cis-1,2-DCE	cis-1,2-dichloroethene	5	5
Carbon Tetra	carbon tetrachloride	5	5
TCE	Trichloroethene	5	5
PCE	Tetrachloroethene	5	5



GROUNDWATER RESULTS MAP

82-01/21 37TH AVENUE, 35-57/65 82ND STREET & 35-64 83RD STREET
JACKSON HEIGHTS, QUEENS, NEW YORK

VERTEX ENGINEERING, PC

FIGURE NO. 6

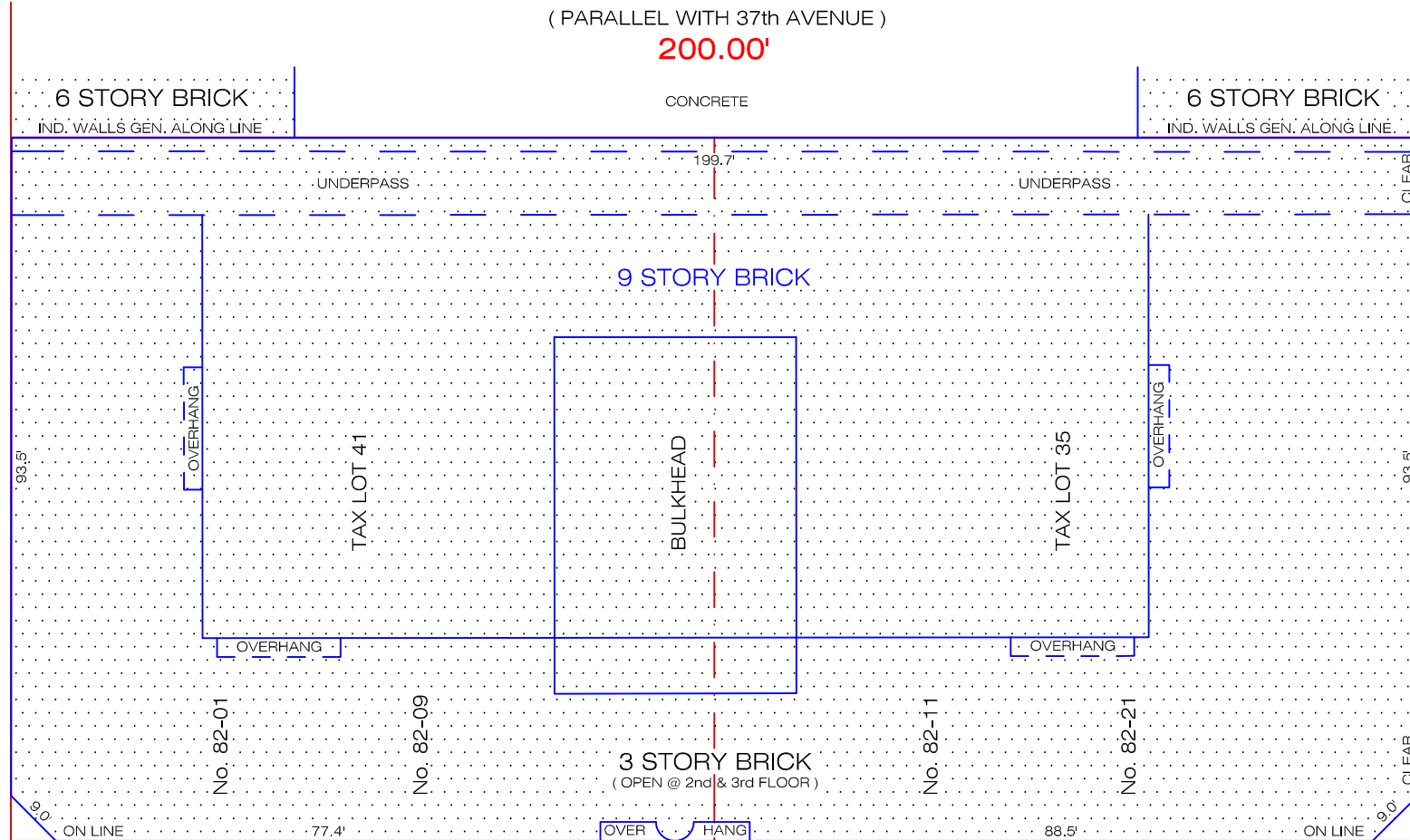
VERTEX Project Number
48122

STREET

82nd

PROJECTIONS ON TO STREET:
SIGN.....1.2'±
MASONRY TRIM.....0.3'±
ROOF.....0.9'±

100.00'



200.00'

PROJECTIONS ON TO STREET:
SIGN.....1.1'±
MASONRY TRIM.....0.4'±
ROOF.....1.0'±

AVENUE

STREET

83rd

100.00'

PROJECTIONS ON TO STREET:
SIGN.....0.9'±
MASONRY TRIM.....0.4'±
ROOF.....0.8'±

DATE: DECEMBER 5th, 2017



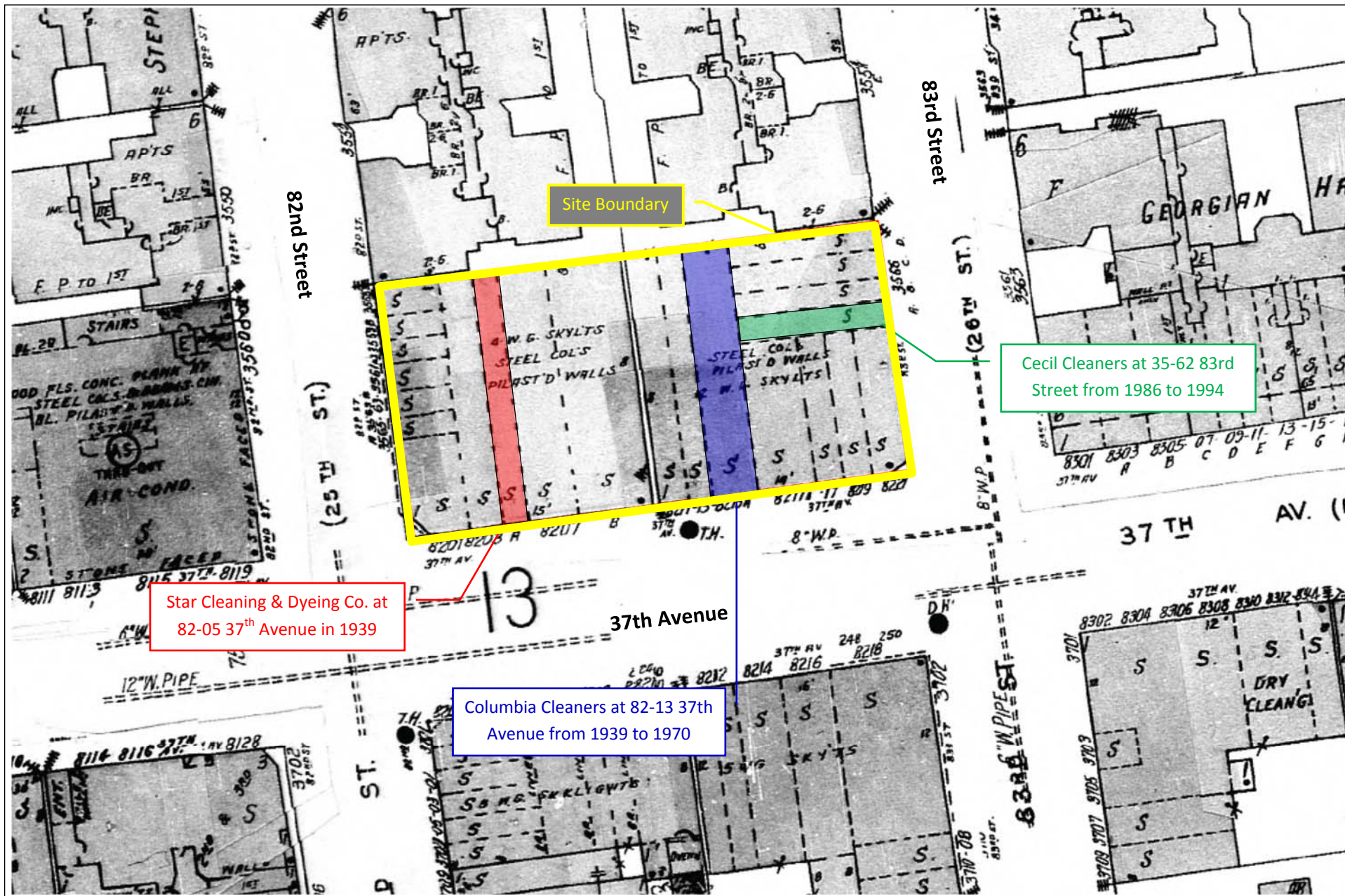
VINCENT TEUTONICO, L.S.
NEW YORK LICENSE 050307

1. GUARANTEES OR CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED AND ON HIS BEHALF TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. GUARANTEES OR CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.
2. PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY.
3. UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW.
4. ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S INKED SEAL OR HIS EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
5. EASEMENTS OF RECORD ARE ONLY GUARANTEED IF AN ABSTRACT OF TITLE IS FURNISHED TO THE SURVEYOR.
6. THIS IS TO CERTIFY THAT THERE ARE NO VISIBLE STREAMS NOR NATURAL WATER COURSES IN THE PROPERTY EXCEPT AS SHOWN ON THIS SURVEY.

TITLE No.
836867 (F-NY-CP-KV)
CERTIFIED TO:
FIRST AMERICAN TITLE INSURANCE COMPANY
KENSINGTON VANGUARD NATIONAL LAND SERVICES OF NY

2k72 MAPPING, INC.
LAND SURVEYING
92-65 218th PLACE
QUEENS VILLAGE, NY 11428
TELEPHONE (347) 264-4800
EMAIL: 2K72MAPPING@GMAIL.COM
DRAWN BY: L.C.

SURVEY No. 8748
BOROUGH OF QUEENS
COUNTY OF QUEENS
STATE OF NEW YORK
TAX MAP FILED MAP
SECTION SECTION
BLOCK 1456 BLOCK
LOT 35 & 41 LOT



FORMER DRYCLEANER LOCATIONS

82-13 37TH AVENUE
JACKSON HEIGHTS, NEW YORK

VERTEX ENGINEERING, PC

FIGURE NO. 8

VERTEX Project Number
48122

Brownfield Cleanup Program (BCP) Application
Rockfarmer 37th Avenue – Jackson Heights, New York

PREVIOUS ENVIRONMENTAL REPORT
(ELECTRONIC FORMAT ONLY)