

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 | F: (518) 402-9020
www.dec.ny.gov

Transmitted via E-mail and US Mail

December 28, 2022

37th Avenue Owner LLC
Horizon 37th Ave, LLC
RFC Ketcham 37th Ave, LLC
42-15 235th Street
Douglaston, NY 11363
(jpetras@rockfarmerproperties.com)

Re: Certificate of Completion
Rockfarmer 37th Avenue
Jackson Heights, Queens County
Site No. C241212

Dear John Petras:

Congratulations on having satisfactorily completed the remedial program at the Rockfarmer 37th Avenue site. Enclosed please find an original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record the Notice of Certificate of Completion in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time frame specified. A standard Notice of Certificate of Completion form is attached to this letter.
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:

Sadique Ahmed, Bureau B
New York State Department of Environmental Conservation



Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7016

- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2024.

If you have any questions, please do not hesitate to contact Sadique Ahmed, the Department's project manager, at 518 402 9656.

Sincerely,



Andrew Guglielmi
Division Director
Division of Environmental Remediation

Enclosure

ec w/ enclosure:

37th Avenue Owner LLC, (ipetras@rockfarmerproperties.com)
Horizon 37th Ave, LLC, (ipetras@rockfarmerproperties.com)
RFC Ketcham 37th Ave, LLC, (ipetras@rockfarmerproperties.com)
Scott Furman, Esq., (sfurman@sprlaw.com)
Joseph J. C. Dultz, (jdultz@vertexeng.com)
Christine Vooris, (christine.Vooris@health.ny.gov)
Scarlett McLaughlin, (scarlett.mclaughlin@health.ny.gov)
Kristin Kulow, (kristin.kulow@health.ny.gov)
Matt Gokey, (matthew.gokey@tax.ny.gov)
Paul Takac, (paul.takac@tax.ny.gov)

ec w/o enc.:

Sadique Ahmed, (sadique.ahmed@dec.ny.gov)

William Bennett, (william.bennett@dec.ny.gov)
Gerard Burke, (gerard.burke@dec.ny.gov)
Jane O'Connell, (jane.oconnell@dec.ny.gov)
Jennifer Andalaro, (jennifer.andalaro@dec.ny.gov)
Heather Leibowitz, (heather.leibowitz@dec.ny.gov)
Kelly Lewandowski, (kelly.lewandowski@dec.ny.gov)
[Leia Schmidt, \(Leia.Schmidt@dec.ny.gov\)](mailto:Leia.Schmidt@dec.ny.gov)

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)

CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

37th Avenue Owner LLC
Horizon 37th Ave, LLC
RFC Ketcham 37th Ave, LLC

Address

42-15 235th Street, Douglaston, NY 11363
42-15 235th Street, Douglaston, NY 11363
42-15 235th Street, Douglaston, NY 11363

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 7/13/18 **Agreement Execution:** 8/2/18

Agreement Index No.: C241212-07-18

Application Amendment Approval: 11/21/22

Agreement Amendment Execution: 11/21/22

SITE INFORMATION:

Site No.: C241212 **Site Name:** Rockfarmer 37th Avenue

Site Owner: 37th Avenue Owner LLC

Horizon 37th Ave, LLC

RFC Ketcham 37th Ave, LLC

Street Address: 82-11 37th Avenue and 82-01 37th Avenue

Municipality: Jackson Heights

County: Queens

DEC Region: 2

Site Size: 0.459 Acres

Tax Map Identification Number(s): 1456-35, 1456-41

Percentage of site located in an EnZone: 0 - 49 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

Allowable Uses under the BCP: Restricted-Residential, Commercial, and Industrial

Cleanup Track: Track 4: Restricted use with site-specific soil cleanup objectives

Tax Credit Provisions:

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 28 %.

Tangible Property Credit at the time of this COC issuance is 0%.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Queens County as 2020000355292.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program; or
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos
Commissioner
New York State Department of Environmental Conservation

By: Andrew Guglielmi Date: 12/28/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Exhibit A

Site Description

SCHEDULE "A" PROPERTY DESCRIPTION

Legal Description – Environmental Easement

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 37th Avenue with the westerly side of 83rd Street;

RUNNING THENCE northerly, along the westerly side of 83rd Street, 100 feet;

THENCE westerly, parallel with 37th Avenue, 200 feet to the easterly side of 82nd Street;

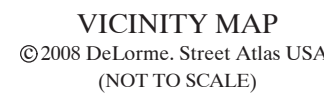
THENCE southerly, along the easterly side of 82nd Street, 100 feet to the northerly side of 37th Avenue;

THENCE easterly, along the northerly side of 37th Avenue, 200 feet to the easterly side of 83rd Street, to the point or place of BEGINNING.

Containing 20,000 square feet or 0.459 acres more or less.

Exhibit B

Site Survey



NAD 1983



ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE LYING AND BEING IN THE BOROUGH AND COUNTY OF QUEENS, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF 37TH AVENUE WITH THE WESTERLY SIDE OF 83RD STREET;

RUNNING THENCE NORTHERLY, ALONG THE WESTERLY SIDE OF 83RD STREET, 100 FEET;

THENCE WESTERLY, PARALLEL WITH 37TH AVENUE, 200 FEET TO THE EASTERLY SIDE OF 82ND STREET;

THENCE SOUTHERLY, ALONG THE EASTERLY SIDE OF 82ND STREET, 100 FEET TO THE NORTHERLY SIDE OF 37TH AVENUE;

THENCE EASTERLY, ALONG THE NORTHERLY SIDE OF 37TH AVENUE, 200 FEET TO THE EASTERLY SIDE (DEED), WESTERLY SIDE (ACTUAL), OF 83RD STREET, TO THE POINT OR PLACE OF BEGINNING.

CONTAINING 20,000 SQUARE FEET OR 0.459 ACRES.
 EMENT AREA INDICATED BY HATCHED PORTION OF SURVEY

NOTE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW. THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN MORE DETAIL IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM THE NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEG@DEC.NY.GOV



UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.

ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE
LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.

3. MAP ENTITLED "SECTION 20 OF FINAL MAPS OF THE BOROUGH OF QUEENS, PREPARED UNDER AUTHORITY OF CHAPTER 466 OF THE LAWS OF 1901" PREPARED BY THE CITY OF NEW YORK, OFFICE OF THE PRESIDENT OF THE BOROUGH OF QUEENS TOPOGRAPHICAL BUREAU, DATED: NEW YORK, MARCH 8th, 1910.

NO.	DATE	BY	DESCRIPTION	APPROVED
REVISIONS				

LOTS 35 & 41, BLOCK 1456
BOROUGH & COUNTY OF QUEENS
CITY AND STATE OF NEW YORK

ENVIRONMENTAL EASEMENT SURVEY

V-001 0 0

WILLIAM T. WUMLER

WILLIAM T. WHIMPLE
NEW YORK PROFESSIONAL LAND SURVEYOR #5051

CAD FILE N^o: PAGE N^o:
04-200247-00 1 OF 1

NOTICE OF CERTIFICATE OF COMPLETION

Brownfield Cleanup Program

6 NYCRR Part 375-1.9(d)

Rockfarmer 37th Avenue, Site ID No. C241212

82-11 37th Avenue and 82-01 37th Avenue, Jackson Heights, NY 11372

Jackson Heights, Queens County, Tax Map Identification Numbers: 1456-35 & 1456-41

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to 37th Avenue Owner LLC, Horizon 37th Ave, LLC and RFC Ketcham 37th Ave, LLC for a parcel approximately 0.459 acres located at 82-13 37th Avenue, Jackson Heights, Queens County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the Remedial Work Plan.

PLEASE TAKE NOTICE, the remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☒ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

PLEASE TAKE NOTICE, the remedial program relies upon use restrictions or the long-term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for City Register of the City of New York County as Recorded/Filed on December 14, 2020, City Register File No (CRFN): 2020000355292.

PLEASE TAKE NOTICE, the Environmental Easement requires that the approved Site Management Plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

PLEASE TAKE NOTICE, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

Rockfarmer 37th Avenue, C241212
82-11 37th Avenue and 82-01 37th Avenue, Jackson Heights, Queens County, NY 11372

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

PLEASE TAKE NOTICE, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

PLEASE TAKE NOTICE, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

PLEASE TAKE NOTICE, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 2 Office, located at 47-40 21st Street, Long Island City, NY 11101 by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C241212/>.

WHEREFORE, the undersigned has signed this Notice of Certificate

37th Avenue Owner LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
taking acknowledgment

Rockfarmer 37th Avenue, C241212
82-11 37th Avenue and 82-01 37th Avenue, Jackson Heights, Queens County, NY 11372

WHEREFORE, the undersigned has signed this Notice of Certificate

Horizon 37th Ave, LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
taking acknowledgment

Rockfarmer 37th Avenue, C241212
82-11 37th Avenue and 82-01 37th Avenue, Jackson Heights, Queens County, NY 11372

WHEREFORE, the undersigned has signed this Notice of Certificate

RFC Ketcham 37th Ave, LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF)

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
taking acknowledgment

Please record and return to:
John Petras
37th Avenue Owner LLC
Horizon 37th Ave, LLC
RFC Ketcham 37th Ave, LLC
42-15 235th Street
Douglaston, NY 11363



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/6/2022



SITE DESCRIPTION

SITE NO. C241212

SITE NAME Rockfarmer 37th Avenue

SITE ADDRESS: 82-13 37th Avenue ZIP CODE: 11372

CITY/TOWN: Jackson Heights

COUNTY: Queens

ALLOWABLE USE: Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan ☒ ☐

Monitoring Plan ☒ ☐

Operation and Maintenance (O&M) Plan ☒ ☐

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2024

Description of Institutional Control

37th Avenue Owner LLC

42 15 235th Street

82-01 to -09 37 Av/35-57

Environmental Easement

Block: 1456

Lot: 41

Sublot:

Section:

Subsection:

S_B_L Image: 1456-41

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

82-11 to -21 37th Ave/35-64

Environmental Easement

Block: 1456

Lot: 35

Sublot:

Section:

Subsection:

S_B_L Image: 1456-35

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

Description of Engineering Control

37th Avenue Owner LLC

42 15 235th Street

82-01 to -09 37 Av/35-57 to -65 82 S

Environmental Easement

Block: 1456

Lot: 41

Sublot:

Section:

Subsection:

S_B_L Image: 1456-41

Cover System

Monitoring Wells

Vapor Mitigation

82-11 to -21 37th Ave/35-64 83rd St

Environmental Easement

Block: 1456

Lot: 35

Sublot:

Section:

Subsection:

S_B_L Image: 1456-35

Cover System

Monitoring Wells

Vapor Mitigation