

# 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

December 23, 2021

David Schwarz  
11-20 46th Road Owner LLC  
c/o SD Asset Management, LLC  
10 East 34th Street, Mezzanine  
New York, NY 10016

Re: 11-20 46<sup>th</sup> Road Site  
Site No.: C241242  
Long Island City, Queens County  
Certificate of Completion

Dear Mr. Schwarz:

Congratulations on having satisfactorily completed the remedial program at the 11-20 46th Road 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:

Christopher Allan  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
47-40 21st Street  
Queens, NY 11109

- 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, 2023.

If you have any questions regarding any of these items, please contact Christopher Allan at (718) 482-4065 or [christopher.allan@dec.ny.gov](mailto:christopher.allan@dec.ny.gov).

Sincerely,

*Susan Edwards*

Susan Edwards, P.E.

Director

Division of Environmental Remediation

Enclosure

ec w/ enclosure:

C. Vooris– NYSDOH, [christine.vooris@health.ny.gov](mailto:christine.vooris@health.ny.gov)

S. McLaughlin – NYSDOH, [scarlett.mclaughlin@health.ny.gov](mailto:scarlett.mclaughlin@health.ny.gov)

G. Rys – NYSDOH, [gregory.rys@health.ny.gov](mailto:gregory.rys@health.ny.gov)

M. Gokey – NYS T&F, [matthew.gokey@tax.ny.gov](mailto:matthew.gokey@tax.ny.gov)

L. Shaw - Knauf Shaw LLP, [lshaw@nyenvlaw.com](mailto:lshaw@nyenvlaw.com)

R. Kovacs – Roux, [rkovacs@rouxinc.com](mailto:rkovacs@rouxinc.com)

ec w/o enc.:

C. Allan – NYSDEC

J. O'Connell – NYSDEC

G. Burke – NYSDEC

J. Simpson – NYSDEC

K. Lewandowski – NYSDEC

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

11-20 46th Road Owner LLC

**Address**

c/o SD Asset Management, LLC, 10 East 34<sup>th</sup> St, New York, NY 10016

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 5/19/20    **Agreement Execution:** 6/15/20

**Agreement Index No.:** C241242-05-20

**Application Approval Amendment:** none

**Agreement Execution Amendment:** none

**SITE INFORMATION:**

**Site No.:** C241242    **Site Name:** 11-20 46th Road Site

**Site Owner:** 11-20 46th Road Owner LLC

**Street Address:** 11-20 46th Road

**Municipality:** Long Island City

**County:** Queens

**DEC Region:** 2

**Site Size:** 0.229 Acres

**Tax Map Identification Number(s):** 4-56-36

**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 2021000417793.

#### **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 6 NYCRR 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 6 NYCRR 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: Susan Edwards Date: 12/23/2021

Susan Edwards, P.E., Acting Director  
Division of Environmental Remediation

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

*11-20 46th Road Site, Site ID No. C241242*  
*11-20 46th Road, Queens, NY, 11101*  
*Long Island City, Queens County, Tax Map Identification Number 4-56-36*

**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 11-20 46th Road Owner LLC for a parcel approximately 0.229 acres located at 11-20 46<sup>th</sup> Road in Long Island City, 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**, since 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 Queens County as 2021000417793.

**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.

**11-20 46th Road Site, C241242, 11-20 46th Road, Long Island City 11101**

**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 21<sup>st</sup> Street, Long Island City, NY 11101, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C241242/>.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

11-20 46th Road 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

**Please record and return to:**  
David Schwarz  
11-20 46th Road Owner LLC  
c/o SD Asset Management, LLC  
10 East 34th Street, Mezzanine  
New York, NY 10016

**Exhibit A**  
**Site Description**



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

BEGINNING at a point on the southwesterly side of 46th Road (9th Street) distant 85 feet southeasterly from the corner formed by the intersection of the Southeasterly side of 11th Street (East Avenue) 100 feet wide, as shown on the Alteration Map Number 3117 to the Topographical Maps of the City of New York for the Borough of Queens, with the said Southwesterly side of 46th Road;

THENCE southwesterly at right angle to 46th Road, 99.75 feet (100.00 feet tax map);

THENCE southeasterly and parallel with 46th Road, 100 feet;

THENCE northeasterly and again at right angles to 46th Road 99.75 feet (100.00 feet tax map) to the southwesterly side of 46th Road; and

THENCE northwesterly along the southwesterly side of 46th Road, 100 feet to the point of place of BEGINNING.

SUBJECT to an easement and right of way over the southwesterly 3.75 feet of the above described premises for ingress and egress and for light and air in favor of the premises adjoining on the Southwest.

Said premises being known as 11-20 46th Road, Long Island City, New York.

The Grantor Is the same as the Grantee in a deed October 28, 1954 and recorded November 3, 1954 Liber 6715 cp 57.

Area of that certain plot, piece or parcel of land described above Is 9,975 square feet (0.229 acres).



**Exhibit B**

**Site Survey**

46th ROAD

(9th STREET)  
60' WIDE

100.00'

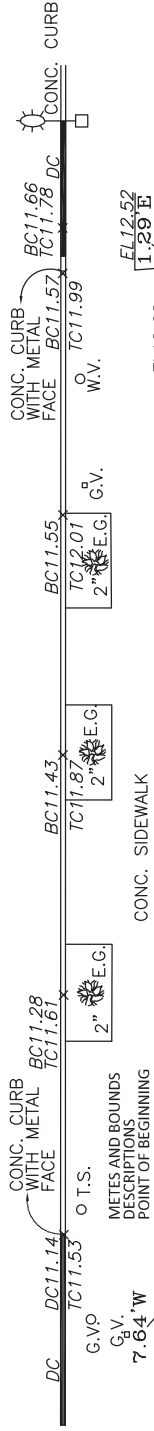
L.G.11.7  
CL11.64 x

CL11.77 x

CL11.88 x

CL12.00 x

L.G.12.4  
xCL11.95



11th STREET

(EAST AVENUE)  
100' WIDE

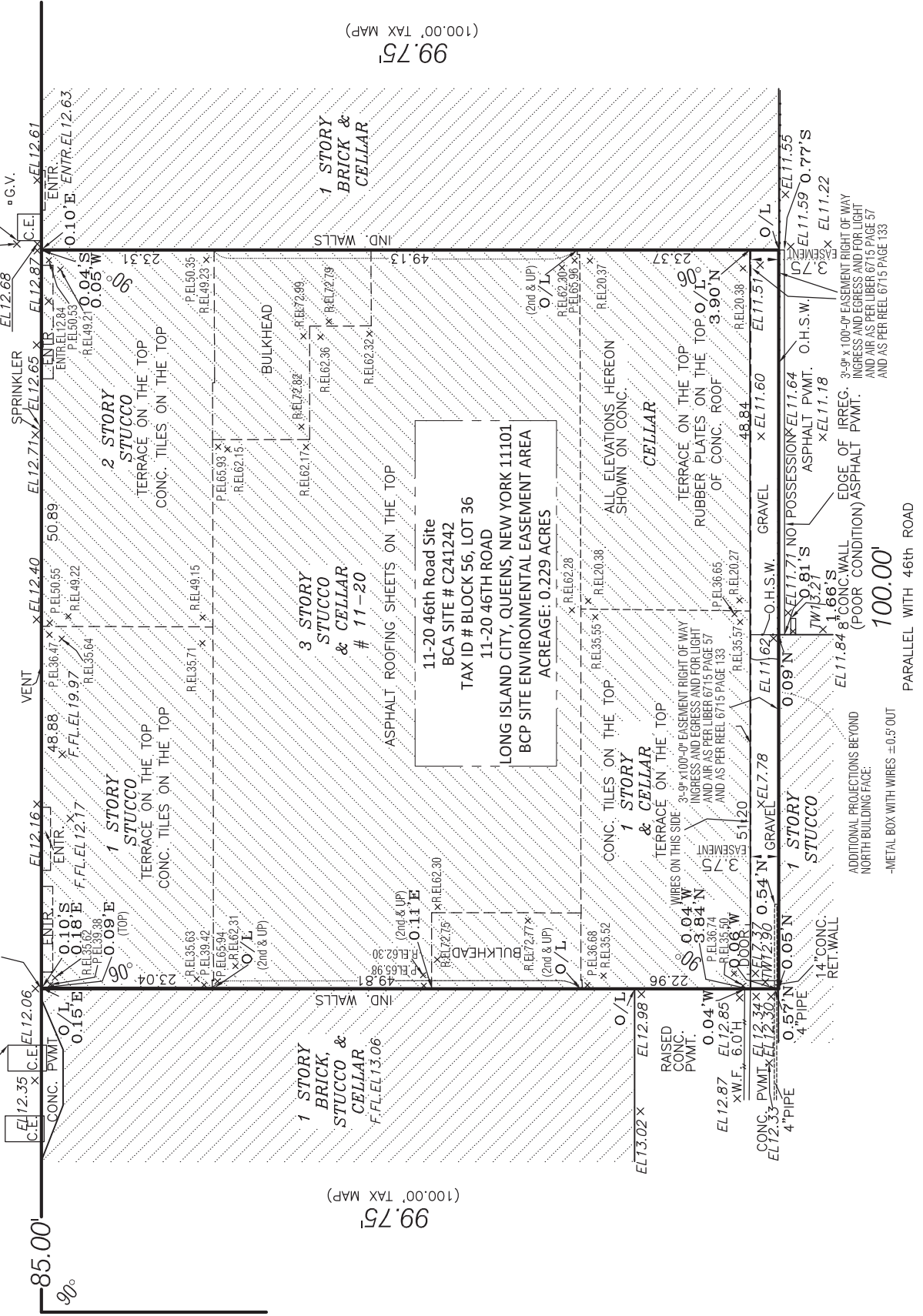
85.00'

(100.00' TAX MAP)

(100.00' TAX MAP)

99.75'

99.75'



ADDITIONAL PROJECTIONS BEYOND NORTH BUILDING FACE.  
-METAL BOX WITH WIRES ±0.5' OUT

PARALLEL WITH 46th ROAD

3.0\"/>

3.90' N

100.00'

99.75'

99.75'



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Site Management Form**  
 12/10/2021



**SITE DESCRIPTION**

**SITE NO.**        **C241242**

**SITE NAME** 11-20 46th Road Site

SITE ADDRESS: 11-20 46th Road        ZIP CODE: 11101

CITY/TOWN:    Long Island City

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:

**Description of Institutional Control**

**11-20 46th Road Owner LLC**  
 c/o SD Asset Management, LLC 10 East 34th St, Mezzanine  
**11-20 46th Road**  
 Environmental Easement  
   Block: 56  
     Lot: 36  
       Sublot:  
         Section: 4  
           Subsection:  
             S\_B\_L Image: 4-56-36  
               Ground Water Use Restriction  
               IC/EC Plan  
               Landuse Restriction  
               O&M Plan  
               Site Management Plan  
               Soil Management Plan

## Description of Engineering Control

### 11-20 46th Road Owner LLC

c/o SD Asset Management, LLC 10 East 34th St, Mezzanine

### 11-20 46th Road

Environmental Easement

Block: 56

Lot: 36

Sublot:

Section: 4

Subsection:

S\_B\_L Image: 4-56-36

Cover System

Vapor Mitigation