

APPENDIX C
RESPONSIBILITIES of
OWNER and REMEDIAL PARTY

Responsibilities

The responsibilities for implementing the Site Management Plan (“SMP”) for the [**Review Avenue Development Site RAD II**] site (the “site”), number [**BCP #C241005**], and are divided between the site owner and a Remedial Party, as defined below. The owner(s) is/are currently listed as: 37-80 Review, LLC (the “owner”).

Solely for the purposes of this document and based upon the facts related to a particular site and the remedial program being carried out, the term Remedial Party (“RP”) refers to any of the following: certificate of completion holder, volunteer, applicant, responsible party, and, in the event the New York State Department of Environmental Conservation (“NYSDEC”) is carrying out remediation or site management, the NYSDEC and/or an agent acting on its behalf. The RP is:

Cresswood Environmental Consultants, LLC

Nothing on this page shall supersede the provisions of an Environmental Easement, Consent Order, Consent Decree, agreement, or other legally binding document that affects rights and obligations relating to the site.

Site Owner’s Responsibilities:

1. The owner shall follow the provisions of the SMP as they relate to future construction and excavation at the site.
2. In accordance with a periodic time frame determined by the NYSDEC, the owner shall periodically certify, in writing, that all Institutional Controls set forth in a(n) **Environmental Easement** to remain in place and continue to be complied with. The owner shall provide a written certification to the RP, upon the RP’s request, in order to allow the RP to include the certification in the site’s Periodic Review Report (PRR) certification to the NYSDEC.
3. In the event the site is delisted, the owner remains bound by the **Environmental Easement** and shall submit, upon request by the NYSDEC, a written certification that the **Environmental Easement** is still in place and has been complied with.
4. The owner shall grant access to the site to the RP and the NYSDEC and its agents for the purposes of performing activities required under the SMP and assuring compliance with the SMP.
5. The owner is responsible for assuring the security of the remedial components located on its property to the best of its ability. In the event that damage to the remedial components or vandalism is evident, the owner shall notify the site’s RP and the NYSDEC in accordance with the timeframes indicated in **Section 1.3-Notifications**.

6. In the event some action or inaction by the owner adversely impacts the site, the owner must notify the site's RP and the NYSDEC in accordance with the time frame indicated in [Section 1.3- Notifications and (ii) coordinate the performance of necessary corrective actions with the RP.
7. The owner must notify the RP and the NYSDEC of any change in ownership of the site property (identifying the tax map numbers in any correspondence) and provide contact information for the new owner of the site property/ies. 6 NYCRR Part contains notification requirements applicable to any construction or activity changes and changes in ownership. Among the notification requirements is the following: Sixty days prior written notification must be made to the NYSDEC. Notification is to be submitted to the NYSDEC Division of Environmental Remediation's Site Control Section. Notification requirements for a change in use are detailed in Section 2.4 of the SMP. A 60-Day Advance Notification Form and Instructions are found at <http://www.dec.ny.gov/chemical/76250.html>.
8. If an owner has a written agreement to perform work for the RP, a description of the activities may be inserted here. (The corresponding agreement should also be included in the SMP.) The owner will [**maintain fences, maintain accessibility to remedy components and monitoring wells; comply with Environmental Easement conditions; comply with SMP conditions**] on behalf of the RP. The RP remains ultimately responsible for maintaining the engineering controls.
9. If the site remedy requires the installation, operation, and/or maintenance of an on-site vapor intrusion mitigation system insert the following: **Not Applicable**. Until such time as the NYSDEC deems the vapor mitigation system unnecessary, the owner shall operate the system, pay for the utilities for the system's operation, and report any maintenance issues to the RP and the NYSDEC.
10. If the site remedy requires the installation, operation, and/or maintenance of a drinking water treatment system, insert the following: **Not Applicable**. Until such time as the NYSDEC deems the drinking water treatment system unnecessary, the owner shall operate the drinking water treatment system, pay for the utilities and report any maintenance issues to the RP and the NYSDEC.
11. In accordance with the tenant notification law, within 15 days of receipt, the owner must supply a copy of any vapor intrusion data, that is produced with respect to structures and that exceeds NYSDOH or OSHA guidelines on the site, whether produced by the NYSDEC, RP, or owner, to the tenants on the property. The owner must otherwise comply with the tenant and occupant notification provisions of Environmental Conservation Law Article 27, Title 24.

Remedial Party Responsibilities

1. The RP must follow the SMP provisions regarding any construction and/or excavation it undertakes at the site.
2. The RP shall report to the NYSDEC all activities required for remediation, operation, maintenance, monitoring, and reporting. Such reporting includes, but is not limited to, periodic review reports and certifications, electronic data deliverables, corrective action work plans and reports, and updated SMPs.
3. Before accessing the site property to undertake a specific activity, the RP shall provide the owner advance notification that shall include an explanation of the work expected to be completed. The RP shall provide to (i) the owner, upon the owner's request, (ii) the NYSDEC, and (iii) other entities, if required by the SMP, a copy of any data generated during the site visit and/or any final report produced.
4. If the NYSDEC determines that an update of the SMP is necessary, the RP shall update the SMP and obtain final approval from the NYSDEC. Within 5 business days after NYSDEC approval, the RP shall submit a copy of the approved SMP to the owner(s).
5. The RP shall notify the NYSDEC and the owner of any changes in RP ownership and/or control and of any changes in the party/entity responsible for the operation, maintenance, and monitoring of and reporting with respect to any remedial system (Engineering Controls). The RP shall provide contact information for the new party/entity. Such activity constitutes a Change of Use pursuant to 375-1.11(d) and requires 60-days prior notice to the NYSDEC. A 60-Day Advance Notification Form and Instructions are found at <http://www.dec.ny.gov/chemical/76250.html>.
6. The RP shall notify the NYSDEC of any damage to or modification of the systems as required under Section 1.3 - Notifications] of the SMP.
7. **Not Applicable.** The RP is responsible for the proper maintenance of any installed vapor intrusion mitigation systems associated with the site, as required in Section [X] or Appendix[X] (Operation , Monitoring and Maintenance Manual) of the SMP.
8. **Not Applicable.** The RP is responsible for the proper monitoring and maintenance of any installed drinking water treatment system associated with the site, as required in Section [X] or Appendix [X](Operation , Monitoring and Maintenance Manual).
9. Prior to a change in use that impacts the remedial system or requirements and/or responsibilities for implementing the SMP, the RP shall submit to the NYSDEC for approval an amended SMP.
10. Any change in use, change in ownership, change in site classification (*e.g.*, delisting), reduction or expansion of remediation, and other significant changes related to the site may

result in a change in responsibilities and, therefore, necessitate an update to the SMP and/or updated legal documents. The RP shall contact the Department to discuss the need to update such documents.

Change in RP ownership and/or control and/or site ownership does not affect the RP's obligations with respect to the site unless a legally binding document executed by the NYSDEC releases the RP of its obligations.

Future site owners and RPs and their successors and assigns are required to carry out the activities set forth above.