

Certificate of Property Use

Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6

Certificate of Property use number 5665-B7CHRV
Risk Assessment number 3410-9K2L3A

Owner: Build Toronto Holdings (Victoria Park) Inc.
Suite 200 – 200 King Street West
Toronto, ON M5H 3T4

Site: 411 Victoria Park Avenue and 2508, 2510, and 2530 Gerrard Street East

with a legal description as set out in Schedule '1' attached

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.

Summary:

Refer to Part 1 of the CPU, Interpretation, for the meaning of all the defined capitalized terms that apply to the CPU.

- i) CPU requirements addressed in Part 4 of the CPU, Director Requirements, are summarized as follows:
 - a. Installing/maintaining any equipment Yes
 - b. Monitoring any contaminant Yes
 - c. Refraining from constructing any building specified Yes
 - d. Refraining from using the Property for any use specified No
 - e. Other: Maintaining a barrier to site soils, and preparing and implementing a soil management plan and health and safety plan for the Property. Yes

- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
 - a. The barrier to site soils over the entirety of the Property shall be maintained indefinitely until the Director alters or revokes the CPU.

- b. The soil management plan and the health and safety plan shall be required for the Property during any activities potentially in contact with or exposing site soils for as long as the Contaminants of Concern are present on the Property.
- c. All other Risk Management Measures shall continue indefinitely until the Director alters or revokes the CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- (a) impairment of the quality of the natural environment for any use that can be made of it;
- (b) injury or damage to property or to plant or animal life;
- (c) harm or material discomfort to any person;
- (d) an adverse effect on the health of any person;
- (e) impairment of the safety of any person;
- (f) rendering any property or plant or animal life unfit for human use;
- (g) loss of enjoyment of normal use of property; and,
- (h) interference with the normal conduct of business.

“Act” means the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, as amended.

“Building” means an enclosed structure occupying an area greater than ten square metres consisting of a wall or walls, roof and floor.

“Building Code” means Ontario Regulation 332/12 (Building Code) as amended to January 1, 2017, made under the Building Code Act, 1992, S.O. 1992, c. 23.

“Contaminant” has the same meaning as in the Act; namely any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them, resulting directly or indirectly from human activities that causes or may cause an Adverse Effect.

“Contaminants of Concern” has the meaning as set out in section 3.2 of the CPU.

“CPU” means this Certificate of Property Use as may be altered from time to time and bearing the document number 5665-B7CHRV.

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use.

“EBR” means the *Environmental Bill of Rights*, 1993, S.O. 1993, c. 28, as amended.

"Ministry" means Ontario Ministry of the Environment, Conservation and Parks.

“O. Reg. 153/04” means Ontario Regulation 153/04, “Record of Site Condition – Part XV.1 of the Act” as amended, made under the Act.

“O.Reg. 347/90 means Ontario means R.R.O. 1990, Regulation 347 General — Waste Management” as amended, made under the Act.

“Owner” means the owner(s) of the Property, beginning with the person(s) to whom the CPU is issued, described in the “Owner” section on Page 1 above, and any subsequent owner(s) of the Property.

"OWRA" means the *Ontario Water Resources Act*, R.S.O. 1990, c.O.40, as amended.

“Professional Engineer” means a person who holds a licence, limited licence or temporary licence under the Professional Engineers Act, R.S.O. 1990, c. P.28.

“Property” means the property that is the subject of the CPU and described in the “Site” section on page 1 above.

“Property Specific Standards” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in section 3.2 of the CPU and are the same standards specified in the Risk Assessment.

"Provincial Officer" means a person who is designated as a provincial officer for the purposes of the Act.

“Qualified Person” means a person who meets the qualifications prescribed in subsection 5 (2) of O. Reg. 153/04, namely a person who:

- a. Holds a license, limited license or temporary license under the *Professional Engineer Act*, or
- b. Holds a certificate of registration under the *Professional Geoscientists Act*, 2000, and is a practicing member, temporary member, or limited member of the Association of Professional Geoscientists of Ontario.

"Risk Assessment" means the Risk Assessment number 3410-9K2L3A accepted by the Director on December 11, 2018 and set out in the following documents:

- Report entitled “Site Specific Risk Assessment, 411 Victoria Park Avenue, and 2508, 2510, and 2530 Gerrard Street East, Toronto, Ontario” prepared by Terrapex Environmental Limited, dated November 18, 2016;
- Report entitled “Revised Site Specific Risk Assessment, 411 Victoria Park Avenue and 2508, 2510 and 2530 Gerrard Street East, Toronto, Ontario, Final Report” prepared by Terrapex Environmental Limited, dated June 7, 2017;

- Report entitled “Revised Site Specific Risk Assessment, 411 Victoria Park Avenue and 2508, 2510 and 2530 Gerrard Street East, Toronto, Ontario, Final Report” prepared by Terrapex Environmental Limited, dated April 30, 2018;
- Report entitled “Revised Site Specific Risk Assessment, 411 Victoria Park Avenue and 2508, 2510 and 2530 Gerrard Street East, Toronto, Ontario, Final Report” prepared by Terrapex Environmental Limited, dated August 29, 2018;
- Report entitled “Revised Site Specific Risk Assessment, 411 Victoria Park Avenue and 2508, 2510 and 2530 Gerrard Street East, Toronto, Ontario, Final Report” prepared by Terrapex Environmental Limited, dated October 10, 2018; and
- Report entitled “Revised Site Specific Risk Assessment, 411 Victoria Park Avenue and 2508, 2510 and 2530 Gerrard Street East, Toronto, Ontario, Final Report” prepared by Terrapex Environmental Limited, dated November 7, 2018.

"Risk Management Measures" means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU.

“Storage Garage” has the same meaning as the Building Code.

“Sub Slab Vapour Barrier Venting Layer” means an engineered venting layer and associated Venting Components above the sub-slab materials for building construction and below a Vapour Barrier, as designed by a Professional Engineer which operates in a passive manner but can be converted into an active system if necessary, providing pressure relief, collection and venting of vapours away from a building.

“Tribunal” has the same meaning as in the Act; namely, the Environmental Review Tribunal.

“Vapour Barrier” means a geo-synthetic barrier (including but not limited to geomembrane or spray applied equivalent) meeting the appropriate gas permeability and chemical resistance specifications to be considered impermeable and resistant to the Contaminants of Concern as per Risk Assessment, and is considered appropriate by the Professional Engineer and Qualified Person for its application.

Venting Components” means a network of perforated piping/plenums or venting composites embedded in granular materials of sufficient permeability or other venting products with continuous formed void space that convey vapours and direct these vapours into vent risers that terminate above the roof elevation or active venting if required.

Part 2: Legal Authority

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.

- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
- a. the performance of any action specified in the certificate of property use;
 - b. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
 - c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.
- 2.3 Section 168.6 (1) of the Act states that if a risk assessment related to the property has been accepted under clause 168.5 (1) (a), the Director may issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
1. Take any action that is specified in the certificate and that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
 2. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- a. alter any terms and conditions in the certificate or impose new terms and conditions;
 - or
 - b. revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property,
- a. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
 - b. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
 - c. the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order

requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.

- 2.8 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.
- 2.9 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.10 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

- 3.1 The Risk Assessment was undertaken for the Property on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: “residential use” and “parkland use”, as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present above the Residential/Parkland/Institutional Property Use Standards within **Table 3** of the ***Soil, Ground water and Sediment Standards for Use under Part XV.1 of the Act*** published by the Ministry and dated April 15, 2011 for coarse textured soil or for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards for the Contaminants of Concern are set out in Schedule “A” attached to and forming part of the CPU. Also attached to and forming part of the CPU are the soil vapour and indoor air trigger levels are set out in Schedule ‘B’. Also attached to and forming part of the CPU are the following figures:
- Plan of Survey with the Property outlined ; and
 - Figures H-1A, H-1B, H-2, H-3 and H-4.

- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.

Part 4: Director Requirements

Pursuant to the authority vested in me under section 168.6(1) of the Act, I hereby require the Owner to do or cause to be done the following:

Risk Management Measures

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Item 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:
- a. The Property shall be covered by a barrier to site soils designed, installed and maintained in accordance with Risk Assessment so as to prevent exposure to the Contaminants of Concern. The barrier to site soils shall consist of a hard cap, fill cap, alternative fill cap, and/or fence as specified below:
- Hard cap:
- i. The hard cap shall consist of asphalt and/or concrete surfaces underlain by granular fill to a minimum depth of 225 mm (as illustrated in figure H-2);
- Fill caps:
- ii. The fill cap shall consist of soil meeting the Residential/Parkland/Institutional Property Use Standards within Table 3 of the *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Act* for coarse textured soils published by the Ministry and dated April 15, 2011 to a minimum depth of 1.0 m (as illustrated in figure H-2);
- iii. For any deep rooting plants extending 1.0 m below the surface (i.e. trees, etc.); the fill cap shall consist of soil meeting the Residential/Parkland/Institutional Property Use Standards within Table 3 of the *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Act* for coarse textured soils published by the Ministry and dated April 15, 2011 to a minimum depth of 1.5 m with a minimum radius of 2.4 m around any deep rooting plants (as illustrated in figure H-2).
- Alternative fill cap:
- iv. For any existing, deep rooting plants (i.e. trees, etc.); that are to be maintained at the site, the fill cap shall consist of mulch, wood bark, or similar matter to a minimum depth of 150 mm with a minimum radius of 1.2 m up to 2.4 m around the existing plant.
- Fence

- v. For portion(s) of the Property, not under development or not in use, these areas shall have a fence barrier to prevent the general public from accessing the site and a dust control plan to prevent surface soil from impacting the adjacent properties.
- b. Refrain from growing edible plants or plants with edible produce on the Property unless grown in raised beds or raised planters.
 - c. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the barriers to site soils risk management measures (including any fence barrier) as long as the Contaminants of Concern are present on the Property. The inspection program shall include, at a minimum, semi-annual (every six months) inspections of the barrier to site soils and/or fencing integrity. The inspection program shall also include, at a minimum, quarterly (every three months) inspections of the alternative fill cap as per item 4.2 a) iv). Any barrier to site soils deficiencies shall be repaired forthwith. Inspection, deficiencies and repairs shall be recorded in a log book maintained by the Owner and shall be made available upon request by a Provincial Officer.
 - d. A soil management plan shall be prepared for the Property and implemented during any activities potentially coming in contact with or exposing site soils. A copy of the plan shall be kept by the Owner and made available for review by a Provincial Officer upon request. Implementation of the plan shall be overseen by a Qualified Person and shall include, but not be limited to, provisions for soils excavation, stockpiling, characterization, disposal and record keeping specified below:
 - i. Dust control measures and prevention of soil tracking by vehicles and personnel from the Property, which may include wetting of soil with potable water, reduced speeds for on-site vehicles, tire washing stations and restricting working in high wind conditions, as required;
 - ii. Management of excavated materials which may include cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment, as required;
 - iii. Physical examination of excavated materials to identify potential methane generating materials;
 - iv. Characterization of excavated soils to determine if soils exceed the Property Specific Standards shall follow the sampling strategy in the Risk Assessment. Excavated soils and materials requiring off-site disposal as a waste shall be disposed of in accordance with the provisions of O. Reg. 347/90, as amended, made under the Act. Excavated soil meeting the Property Specific Standards and that is free of methane generating materials may be placed on-site below the barrier to site soils if deemed suitable by a Qualified Person and in accordance with the Risk Assessment. Excavated soil meeting the Residential/Parkland/Institutional Property Use Standards within Table 3 of the *Soil, Ground water and Sediment Standards for Use under Part XV.1 of the Act* published by the Ministry and dated April 15, 2011 for coarse textured soil and is free of methane generating materials may be placed on-site at any depth if deemed suitable by a Qualified Person and in

- accordance with the Risk Assessment.
- v. If free-phase product is encountered within an excavation, free-phase product monitoring shall be conducted and notification shall be provided to the Director as per Item 4.2 k).
 - vi. Record keeping including dates and duration of work, weather and site conditions, location and depth of excavation activities, dust control measures, stockpile management and drainage, soil characterization results, names of the Qualified Person, contractors, haulers and receiving sites for any soil or contaminated ground water removed from the Property and any complaints received relating to site activities potentially coming in contact with or exposing site soils and ground water.
- e. A site specific health and safety plan shall be developed for the Property and implemented during all intrusive, below-grade construction activities potentially coming in contact with or exposing site soil or ground water and a copy shall be maintained on the Property for the duration of these intrusive activities. The Owner shall ensure that the health and safety plan takes into account the presence of the Contaminants of Concern and the potential presence of methane gas and free-phase product, and is implemented prior to any intrusive work being done on the Property in order to protect workers from exposure to the Contaminants of Concern and/or explosive risk due to the presence of methane gas. The health and safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, shall address any potential risks identified in the Risk Assessment, and shall include, but not be limited to, occupational hygiene requirements, requirements for personal protective equipment, and contingency plan requirements including site contact information. Prior to initiation of any project (as defined in the Occupational Health and Safety Act, as amended) on the Property, the local Ministry of Labour office shall be notified of the proposed activities and that the Property contains contaminated soil and ground water and methane gas. Implementation of the health and safety plan shall be overseen by persons qualified to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan, which shall be made available for review by the Ministry upon request.
- f. Refrain from constructing any Building on, in or under the Property unless the building includes a Storage Garage, as defined in Building Code, and meets the following requirements:
- i. All below grade components of the Storage Garage shall include a Vapour Barrier and the sealing of all sumps and penetrations into the Building;
 - ii. The Storage Garage area covers the entire area of the Building footprint at the final grade of the Building;
 - iii. The Storage Garage is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing the following:
 - a. design of the mechanical ventilation system as set out in Division B, subsection 6.2.2.3, Ventilation of Storage and Repair Garages;
 - b. interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2); and,
 - c. air leakage as set out in Division B, section 5.4.

- iv. The mechanical ventilation system for the Storage Garage is designed to provide, during operating hours a continuous supply of outdoor air at a rate of not less than 3.9 litres per second for each square metre of floor area or be activated on an as-needed basis by carbon monoxide or nitrogen dioxide monitoring devices is required by the Building Code and as set out in Risk Assessment.

- g. Refrain from constructing any Building on, in or under the Property other than a Building that meets the requirements of Item 4.2 f) unless the Building contains a vapour mitigation system as follows:
 - i. The vapour mitigation system shall include the sealing of foundation penetrations, a Vapour Barrier, Sub Slab Vapour Barrier Venting Layer and Venting Components (as illustrated in figures H-1A and H-1B of the CPU) and necessary provisions to prevent flooding of the Sub-Slab Vapour Barrier Venting Layer if in close contact with groundwater as per Risk Assessment.
 - ii. The Owner shall retain a copy of all Vapour Barriers, Sub Slab Vapour Barrier Venting Layers and Venting Components as-built drawings signed by a Professional Engineer along with the proposed testing and performance requirements for the Vapour Barrier, Sub Slab Vapour Barrier Venting Layer and Venting Components of any building on the Property for inspection by a Provincial Officer.
 - iii. A final inspection for cracks, holes or penetrations in the below grade walls and floors shall be conducted before any finishes are applied to the walls and floors and prior to occupancy and shall be recorded in a log book. Any holes, cracks or penetrations shall be repaired and sealed immediately and recorded in a log book maintained by the Owner and made available upon request by a Provincial Officer.
 - iv. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the vapour mitigation system. In regard to the venting layer and Venting Components, inspections of the venting layer and Venting Components, where visually accessible, will be made for potential breaches. The inspection program shall include semi-annual (every six months) inspections as per the Risk Assessment and any deficiencies shall be repaired forthwith. The inspection results shall be recorded in a log book maintained by the Owner and made available upon request by a Provincial Officer.

- h. For any building containing a vapour mitigation system as per item 4.2 g); the on-site soil vapour monitoring requirements is to commence prior to occupancy of any building on the Property containing the vapour mitigation system. All air monitoring programs shall be done in accordance to: US EPA Method TO-15 for all the Contaminants of Concerns listed in Schedule 'B' of the CPU except for acenaphthylene where US EPA Method TO-13A will be used and sampled as described in the Risk Assessment. All Quality Assessment and Quality Control samples shall be taken for each monitoring event as per the Ministry's "Draft Technical Guidance, Soil Vapour Assessment, September 2013". The air monitoring program shall be carried out as follows:
 - i. The sub slab soil vapour monitoring shall be carried out on a quarterly basis (every three months) for the first year, and semi-annually (every six months) for the second year and thereafter until such time as the Director, upon

- application by the Owner, has reviewed the data available and either alters or revokes the CPU.
- ii. If any air concentration for any Contaminants of Concern exceeds Schedule 'B' for any target level, the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, sub-slab soil vapour construction logs, chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature.
 - iii. The Owner shall keep a copy of all sampling data (including copies of laboratory's certificate of analyses, sub-slab vapour construction logs, chain of custody and field notes) and shall be made available for inspection by a Provincial Officer upon request.
 - iv. If the air concentration for the Contaminants of Concern exceed Schedule 'B' for any soil vapour trigger levels, then soil vapour monitoring shall recommence for all Contaminants of Concern within fifteen (15) days of receipt of the analytical results and be carried out as follows:
 1. If none of the concentrations of the Contaminants of Concern exceed Schedule 'B' (soil vapour trigger levels) on the recommenced soil vapour monitoring event, then the soil vapour monitoring event shall be carried out on a quarterly basis (every three months) for one year.
 2. If any of the concentrations of the Contaminants of Concern exceeds Schedule 'B' (soil vapour trigger levels), on the recommenced soil vapour monitoring event, then within thirty (30) days of the receipt of the analytical results:
 - a. Commence indoor air monitoring on the Building. All indoor air monitoring shall be done in accordance to: US EPA Method TO-15 for all the Contaminants of Concerns listed in Schedule 'B' of the CPU except for acenaphthylene where US EPA Method TO-13A will be used. Air samples shall be collected with summa canisters using a twenty-four (24) hour regulator for all the Contaminants of Concerns listed in Schedule 'B' of the CPU except for acenaphthylene where sorbent tubes will be used. All Quality Assessment and Quality Control samples shall be taken for each monitoring event as per the Ministry's "Draft Technical Guidance, Soil Vapour Assessment, September 2013". Outdoor air sampling shall be done in accordance to the Ministry's "Operations Manual for Air Quality Monitoring in Ontario", dated January 2018 for the Contaminants of Concerns listed in Schedule 'B'. Indoor air monitoring shall be carried out concurrently with the soil vapour monitoring..
 - b. Sampling locations for the indoor air monitoring shall be identified by an industrial hygienist or other appropriately qualified person to be protective of human health for any persons using or occupying the buildings on the Property.
 - c. If any of the concentrations of the Contaminants of Concern exceeds Schedule 'B' (indoor air trigger levels), for the indoor air monitoring event, then the Qualified Person shall:
 1. provide written notification to the Director within fifteen (15) days of the receipt of the analytical results including a copy of the laboratory's certificate of analysis, chain of custody,

- field notes, and a description of the significance of the results; and
2. develop and submit a detailed contingency plan to the Director (as described in the Risk Assessment) within fifteen (15) days.

The indoor air and soil vapour monitoring shall continue on a quarterly basis (every 3 months) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

- i. Soil vapour monitoring on the Property shall commence within 30 days of issuance of the CPU. All air monitoring programs shall be done in accordance to USEPA Method TO-15 for trichloroethylene, vinyl chloride and sampling of methane using a suitable portable (field) instrument specifically calibrated to methane gas (e.g., CES-Landtec GEM 200 Landfill Gas Monitor or equivalent) within the sampling probes. The sampling probe locations are identified in figure H-3 of the CPU (labelled as VP-1, VP-2, VP-3, and VP-4) and probe depths and sampling methods shall be completed as described in the Risk Assessment. All Quality Assessment and Quality Control samples shall be taken for each monitoring event as per the Ministry's document entitled "Draft Technical Guidance, Soil Vapour Assessment, September 2013". The air monitoring program shall be carried out as follows:
 - i. The soil vapour monitoring probes shall be sampled on a semi-annual (every six months) basis for the first year and thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
 - ii. If the soil vapour concentration for trichloroethylene or vinyl chloride exceeds Schedule 'B' (soil vapour trigger levels) or methane exceeds 20% of lower explosive limit (LEL), the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, soil vapour construction logs, chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature.
 - iii. The Owner shall keep a copy of all sampling data (including copies of the laboratory's certificate of analyses, soil vapour construction logs, chain of custody and field notes) and shall be made available for inspection by a Provincial Officer upon request.
 - iv. If the soil vapour concentration for trichloroethylene and vinyl chloride exceeds Schedule 'B' (soil vapour trigger levels) or exceeds 20% of LEL for methane, then soil vapour monitoring shall recommence for trichloroethylene, vinyl chloride and methane within fifteen (15) days of receipt of the analytical results and be carried out as follows:
 1. If trichloroethylene or vinyl chloride soil vapour concentrations do not exceed Schedule 'B' (soil vapour trigger levels) or exceeds 20% of LEL for methane on the recommenced soil vapour monitoring event, then the soil vapour monitoring event shall be carried out at semi-annual (every six months) basis.
 2. If trichloroethylene or vinyl chloride soil vapour concentrations exceeds Schedule 'B' (soil vapour trigger levels) or exceeds 10% LEL for methane, the Qualified Person shall:
 - a. provide written notification to the Director within fifteen (15) days

of the receipt of the analytical results including a copy of the laboratory's certificate of analysis, chain of custody, field notes, and a description of the significance of the results; and

- b. develop and submit a detailed contingency plan to the Director (as described in the Risk Assessment) within thirty (30) days and the soil vapour monitoring shall continue on a quarterly basis (every 3 months) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

The vapour monitoring shall continue on a quarterly basis (every 3 months) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

- j. Methane monitoring shall commence prior to occupancy within the interior of any Building and within the vent risers for buildings containing a vapour mitigation system. The methane monitoring program, including the selection of portable gas detection monitor and monitoring locations, shall be developed and overseen by a Qualified Person. The methane monitoring shall be carried out as follows:
 - i. Methane monitoring shall be conducted on a quarterly basis (every three months) for the first year, and semi-annually (every six months) for the second year and thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
 - ii. If methane monitoring exceeds 10% of the lower explosive level (LEL), the Owner shall immediately notify the Director in writing of the exceedance and the methane monitoring shall increase to weekly monitoring for four (4) weeks.
 - 1. If the weekly methane monitoring does not exceed 10% LEL, the methane monitoring shall return to its previous frequency (quarterly for the first year or semi-annually for the second and following years); or
 - 2. If the weekly methane monitoring exceeds the 10% LEL, then the contingency plan as per Risk Assessment shall be implemented and the Director shall be immediately notified in writing.
 - iii. If methane monitoring exceeds 50% of the lower explosive level (LEL), the Owner shall immediately notify the Director in writing of the exceedance and implement the contingency plan as per Risk Assessment.
- k. Free-phase product monitoring on the Property shall commence within 30 days of issuance of the CPU. The free-phase product monitoring program shall be carried out as follows:
 - i. Free-phase product monitoring shall be conducted on a quarterly basis (every three months) for the first year and on a semi-annual basis (every six months) for the second year and thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
 - ii. The ground water monitoring program shall consist of eleven (11) ground water monitoring wells labeled as MW42, MW240A, MW606, MW607, MW608, MW919, MW926, 2012-MW6A, 2012-MW7, 2012-MW8A, and MW2005 as shown on Figure H-4 of the CPU.
 - iii. Combustible vapour levels within the headspaces of the existing

groundwater monitoring wells on the Property shall be measured using the appropriate gas tech instrument as per Risk Assessment, upon immediately upon removal of the well cap. The groundwater monitoring wells on the Property shall also be inspected using an electronic interface probe as per Risk Assessment.

- a. If the combustible vapour or interface probe measurements within a groundwater monitoring well on the Property indicate the potential presence of free-phase product, the presence of free-phase product shall be confirmed within the groundwater monitoring well using a translucent bailer.
 - b. If the presence of free-phase product is confirmed in a groundwater monitoring well on the Property, the Qualified Person shall provide written notification to the Director within fifteen (15) days including a description of the significance of the result, any measures taken, and the planned contingency measures as described in the Risk Assessment.
- iv. If free-phase product is encountered within an excavation the Owner shall arrange for the Qualified Person to:
3. Complete a free-phase product monitoring event within fifteen (15) days as per the Risk Assessment; and,
 4. Provide written notification to the Director within fifteen (15) days of completion of the free-phase product monitoring event including the results of the monitoring event, description of the significance of the result, any measures taken, and the planned contingency measures as per the Risk Assessment.
- I. The Owner shall retain a copy of the site plan prepared and signed by a Qualified Person prior to occupancy which will describe the Property, placement and quality of all of the barriers to site soils. The site plan will include a plan and cross section drawings specifying the vertical and lateral extent of the barriers. This site plan shall be retained by the Owner for inspection upon request by a Provincial Officer. The site plan shall be revised following the completion of any alteration to the extent of the barriers to site soils.
- m. The Owner shall prepare by March 31 each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements:
- i. a copy of all records relating to the inspection and maintenance program for the barrier to site soils and vapour mitigation systems including any repairs done on the barriers and mitigation systems;
 - ii. a copy of all records relating to the soil management plan;
 - iii. a copy of all records relating to the health and safety plan;
 - iv. a copy of all as-built drawings signed by a Professional Engineer along with the proposed testing and performance requirements for the Vapour Barrier, Sub Vapour Barrier Venting Layer and Venting Components for any building on the Property containing a vapour mitigation system;
 - v. a copy of all air monitoring results and supporting information;

- vi. a copy of all methane monitoring results and supporting information;
- vii. a copy of all free-phase product monitoring results and supporting information;
- viii. a copy of all signed site plans including any alterations; and
- ix. a copy of the updated financial assurance every three years from the date of issuance of the CPU.

- 4.3 Refrain from using the Property for any of the following use(s): NA
- 4.4 Refrain from constructing the following building(s): No building construction unless construction is in accordance with Item 4.2 f) or Item 4.2 g) of the CPU.
- 4.5 The Owner shall ensure that every occupant of the Property is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 4.3 and 4.4, unless noted N/A. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

Site Changes

- 4.6 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or any underlying basis for the Risk Management Measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

Reports

- 4.7 Retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Property Requirement

- 4.8 For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property as a result of the dealing.

Certificate of Requirement

- 4.9 Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act and as set out in Schedule 'C', register the certificate of requirement on title to the Property, in the appropriate land registry office.
- 4.10 Immediately after registration of the certificate of requirement, provide to the Director written verification that the certificate of requirement has been registered on title to the Property.

Owner Change

- 4.11 While the CPU is in effect, the Owner shall forthwith report in writing, to the Director any changes of ownership of the Property, except that while the Property is registered under the Condominium Act, 1998, S.O.1998 c.19, as amended, no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

Financial Assurance

- 4.12 Within fifteen (15) days of the date of the CPU, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of eighty-nine thousand, one hundred and eighty dollars (\$89,180) in a form satisfactory to the Director and in accordance with Part XII of the Act.
- 4.13 A written report reviewing the financial assurance required by the CPU shall be included in the annual report referred to as Item 4.2 m) with an updated cost estimate with respect to the matters dealt with in Item 4.12 every three years from the date of issuance of the CPU.

Part 5: General

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, the application of such requirement to other circumstances and the remainder of the CPU shall not be affected thereby.
- 5.2 An application under sub section 168.6(3) of the Act to,
a. alter any terms and conditions in the CPU or impose new terms and conditions; or
b. revoke the CPU;
shall be made in writing to the Director, with reasons for the request.

- 5.3 The Director may alter the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.
- 5.4 Subsection 186(3) of the Act provides that non-compliance with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve the Owner from,
- a. complying with any other applicable order, statute, regulation, municipal, provincial or federal law; or
 - b. obtaining any approvals or consents not specified in the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require. The Director shall also alter the CPU where the approval or acceptance of the Director is required in respect of a matter under the CPU and the Director either does not grant the approval or acceptance or does not grant it in a manner agreed to by the Owner.
- 5.7 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
- a. natural phenomena of an inevitable or irresistible nature, or insurrections,
 - b. strikes, lockouts or other labour disturbances,
 - c. inability to obtain materials or equipment for reasons beyond your control, or
 - d. any other cause whether similar to or different from the foregoing beyond your control, the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.
- 5.8 Failure to comply with a requirement of the CPU by the date specified does not absolve the Owner from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 5.9 In the event that the Owner complies with the provisions of Items 4.9 and 4.10 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the Condominium Act, 1998, S.O. 1998, c.19, as amended, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be carried out by the condominium corporation on behalf of the new Owners of the Property

Part 6: Hearing before the Environmental Review Tribunal

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Environmental Review Tribunal (the “Tribunal”), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.
- 6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU, or to rely on a ground, that is not stated in the notice requiring the hearing.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: *Service of Documents*, made under the Act as they may be amended from time to time. The address, email address and fax numbers of the Director and the Tribunal are:

The Secretary
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Fax: (416) 326-5370
Email: ERTTribunalSecretary@ontario.ca

and

Marcel Parent
Ministry of the Environment, Conservation and Parks
5775 Yonge St., 8th Floor
Toronto, Ontario
M2M 4J1
Fax: 416-326-5536
Email: marcel.parent@ontario.ca

- 6.4 Unless stayed by application to the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 6.5 If you commence an appeal before the Tribunal, under section 47 of the Environmental Bill of Rights, 1993 (the “EBR”), you must give notice to the public in the EBR registry. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Environmental Commissioner of Ontario who will place it on the EBR registry. The notice must be delivered to the Environmental Commissioner at 605-1075 Bay Street, Toronto, Ontario M5S 2B1 by the earlier of:

- 6.5.1 two (2) days after the day on which the appeal before the Tribunal was commenced; and
 - 6.5.2 fifteen (15) days after service on you of a copy of the CPU.
- 6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 6.7 For your information, under section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Under section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:
- 6.7.1 fifteen (15) days after the day on which notice of the issuance of the CPU is given in the EBR registry; and
 - 6.7.2 if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the EBR registry.

Issued at Toronto this XXth day of XXX, 2018.

DRAFT

Marcel Parent
Director, section 168.6 of the Act

Schedule '1'

Legal Description

The rear of 411 Victoria Park Avenue

Part of Lot 35, Concession A, Scarborough, designated as Parts 9 to 15, 23, 26, 28 and Part of Part 27 on Plan 64R-3507, City of Toronto

Being Part of PIN 06467-0409 (LT)

Part of the Road Allowance between Lots 34 and 35, Concession A, Scarborough closed by SC63637; Part of the North Part of Lot 34, Concession A, Scarborough, designated as Parts 6, 7 and 8 on Plan 64R-3507, City of Toronto. Subject to SC349436

Being All of PIN 06467-0385 (LT)

2508 and 2510 Gerard Street East

Parcel 35-3, Section S1, being Part of Part Lot 35, Concession A, Scarborough, designated as Parts 1 to 6 inclusive on Plan 66R-12910, save and except Part 1 on Plan 66R-13283, City of Toronto. Subject to SC274413 (A959519) over Part 5 on 66R-12910; Subject to C172036, SC37432, SC393727

Being All of PIN 06467-0053 (LT)

2530 Gerrard Street East

Parcel 35-3, Section S1, being Part of Part Lot 35, Concession A, Scarborough, designated as Part 1 on Plan 66R-13283, City of Toronto

Being All of PIN 06467-0054 (LT)

Part of the Road Allowance between Lots 34 and 35, Concession A, Scarborough closed by SC63637; Part of the North Part of Lot 34, Concession A, Scarborough, designated as Part of Part 37 on Plan 64R-8550; Part of Lot 35, Concession A, Scarborough, designated as Parts 16 to 22, 29, 30, and 33 on Plan 64R-3507, City of Toronto. Subject to SC268220

Being All of PIN 06467-0384 (LT)

Schedule 'A'

Property Specific Standards (Soil and Groundwater) for each Contaminants of Concern

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Acenaphthylene	3.6	NA
Anthracene	19.2	NA
Antimony	180	NA
Arsenic	96	NA
Barium	2,400	NA
Benzene	1.32	NA
Benz(a)anthracene	31.2	NA
Benzo(a)pyrene	25.2	2.4
Benzo(b)fluoranthene	30	2.4
Benzo(g,h,i)perylene	9.48	NA
Benzo(k)fluoranthene	12	NA
Beryllium	6.84	NA
Boron (hot water soluble)	5.28	NA
Cadmium	28.8	NA
Chrysene	24	NA
Copper	1,920	NA
Cyanide (CN ⁻)	0.132	NA
Dibenz(a,h)anthracene	3.6	NA
Dichlorobenzene, 1,4-	1.2	NA
Dichloroethylene, cis-1,2-	NA	3.0

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Dioxins and Furans (PCDD/FTEQ)	0.000373771	NA
Ethylbenzene	13.2	NA
Electrical Conductivity (mS/cm)	2.64	NA
Fluoranthene	76.8	NA
Indeno(1,2,3-cd)pyrene	11.76	NA
Lead	32,400	NA
Mercury	0.84	NA
Methylnaphthalene, 1-,2-	3.48	NA
Naphthalene	4.08	NA
Petroleum Hydrocarbons F1	516	NA
Petroleum Hydrocarbons F2	4,080	684
Petroleum Hydrocarbons F3	24,000	1,800
Petroleum Hydrocarbons F4	11,040	3,360
Phenanthrene	66	NA
Polychlorinated biphenyls	4.2	NA
Selenium	6	NA
Sodium Adsorption Ratio (unitless)	20.88	NA
Thallium	2.4	NA
Toluene	2.88	NA
Trichloroethylene	1.2	156

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Vinyl Chloride	NA	16.49
Xylenes (total)	66	NA
Zinc	10,440	NA

NA = not applicable

Schedule 'B'

Soil Vapour and Indoor Air Trigger Levels

Contaminants of Concern (COC)	Soil Vapour Trigger Levels (µg/m ³)	Indoor Air Trigger Levels (µg/m ³)
Acenaphthylene	50.5	1.01
Benzene	25.3	0.506
Dichlorobenzene, 1,4-	13.9	0.278
Ethylbenzene	10,000	201
Naphthalene	38.6	0.772
PHC F1 (Aliphatic C>6-C8)	479,000	9,590
PHC F1 (Aliphatic C>8-C10)	26,000	521
PHC F1 (Aromatic C>8-C10)	5,200	104
PHC F2 (Aliphatic C>10-C12)	26,000	521
PHC F2 (Aliphatic C>12-C16)	26,000	521
PHC F2 (Aromatic C>10-C12)	5,200	104
PHC F2 (Aromatic C>12-C16)	5,200	104
Trichloroethylene	13.5	0.271
Vinyl chloride	6.3	0.126
Xylenes	7,300	146

Schedule 'C'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to section 4.9 of Certificate of Property Use number 5665-B7CHRV issued by Marcel Parent, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on XXX, 2019, being a Certificate of Property Use and order under subsection 197(1) of the Environmental Protection Act relating to the property municipally known as 411 Victoria Park Avenue and 2508, 2510, and 2530 Gerrard Street East, Toronto, Ontario, being all of Property Identifier Numbers 06467-0384 (LT), 06467-0385 (LT), 06467-0053 (LT), 06467-0054 (LT), and 21092-0228 (LT) and part of Property Identifier Number 06467-0409 (LT) (the "property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the property

BUILT TORONTO HOLDINGS (VICTORIA PARK) INC.

and any other persons having an interest in the property, are required before dealing with the property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the property

Under subsection 197(3) of the Environmental Protection Act, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the real property.

Figure H-1A

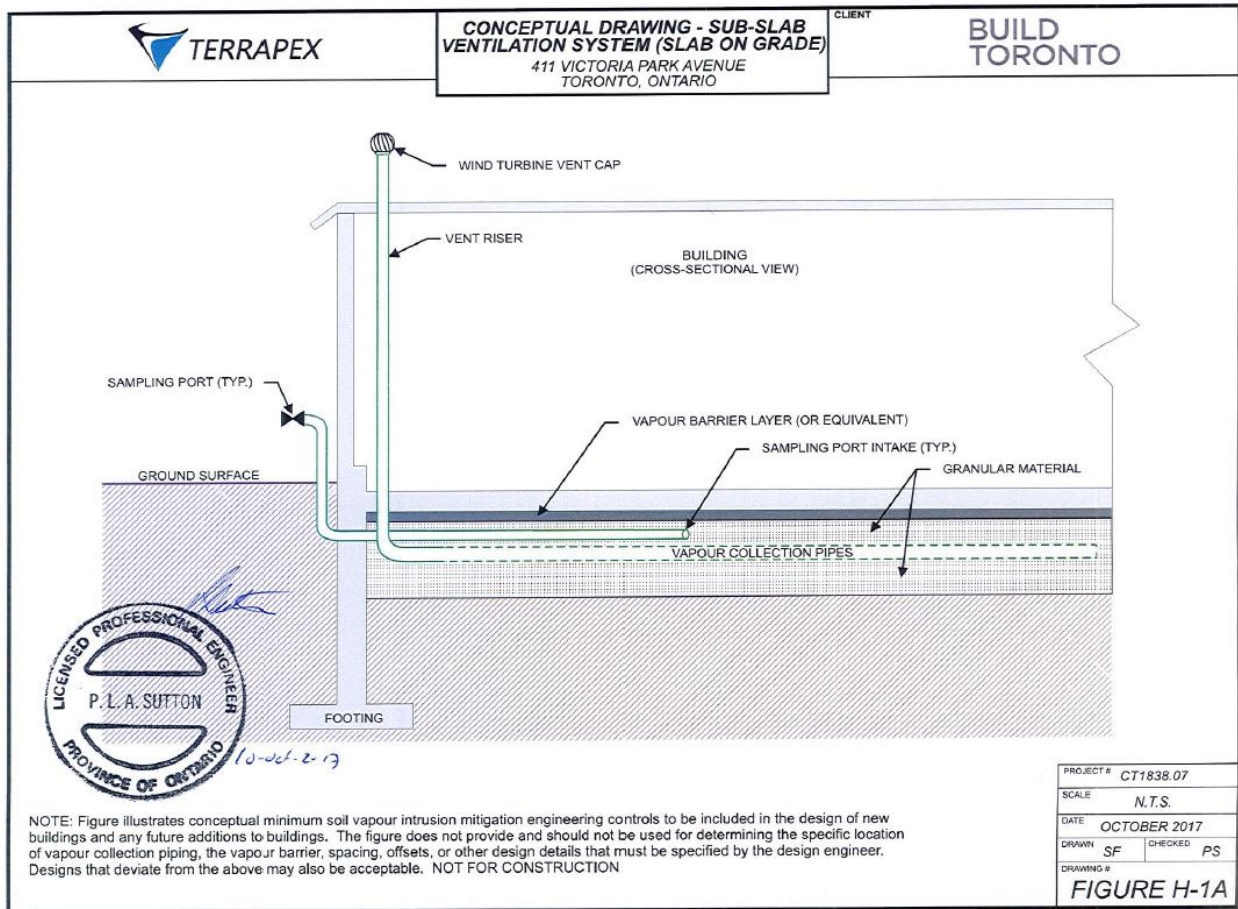


Figure H-1B

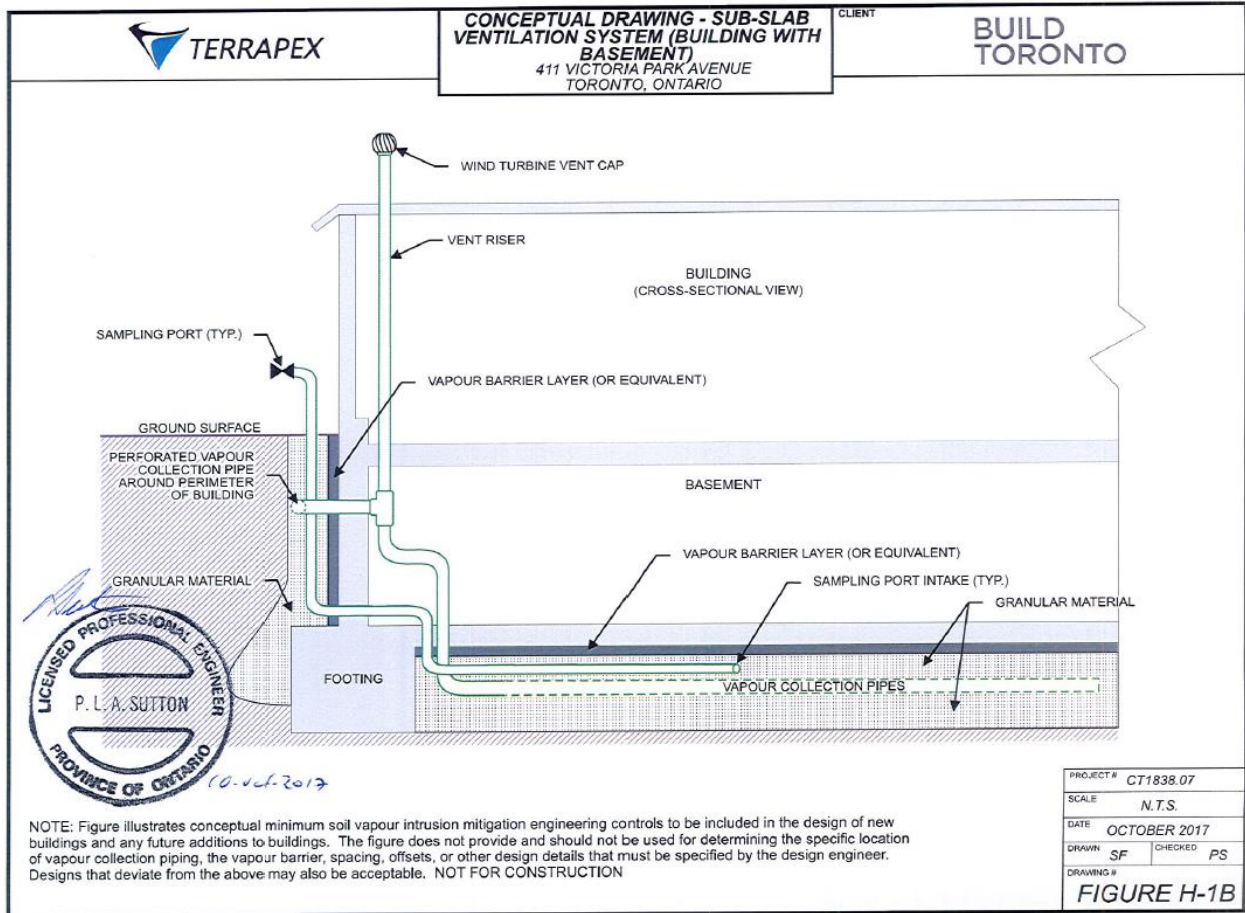


Figure H-2

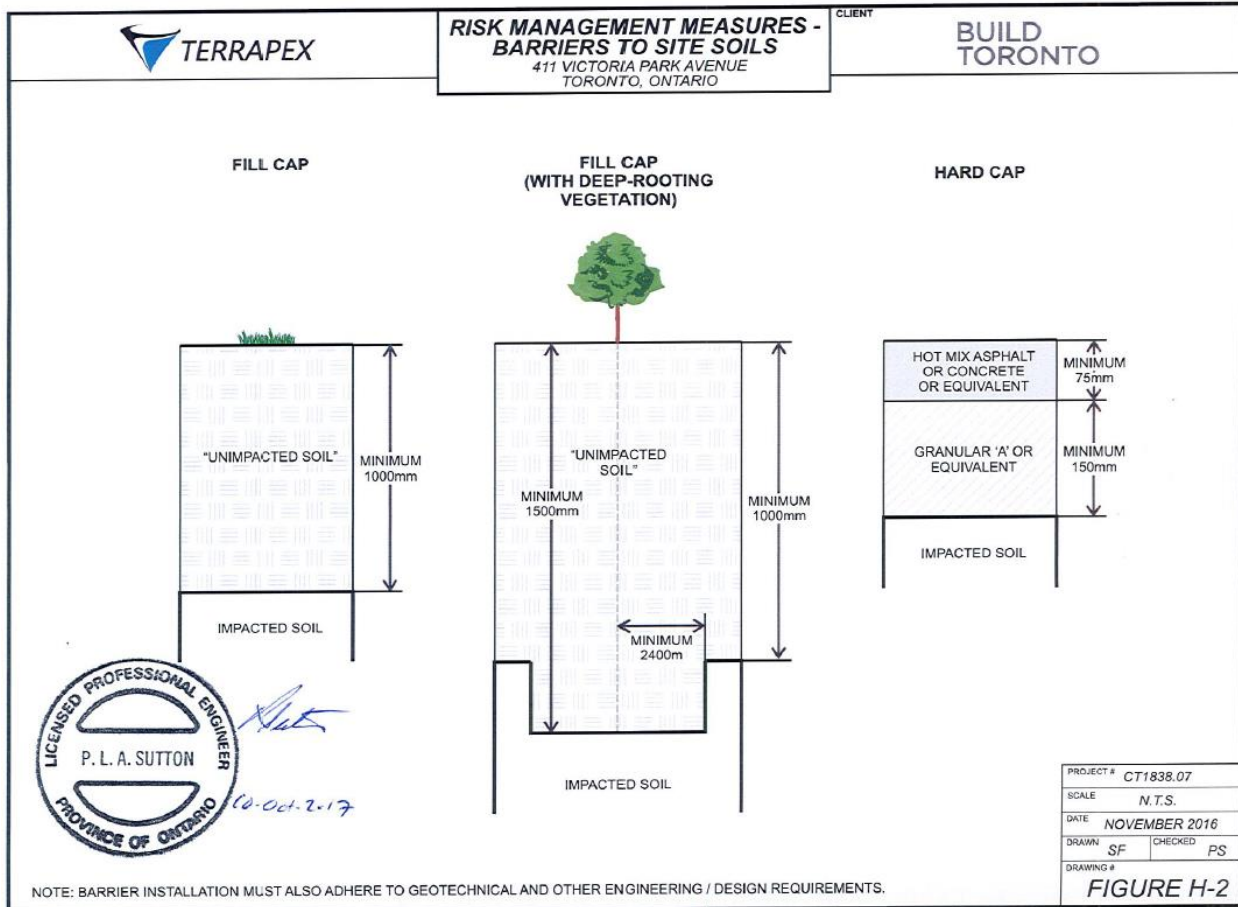


Figure H-3

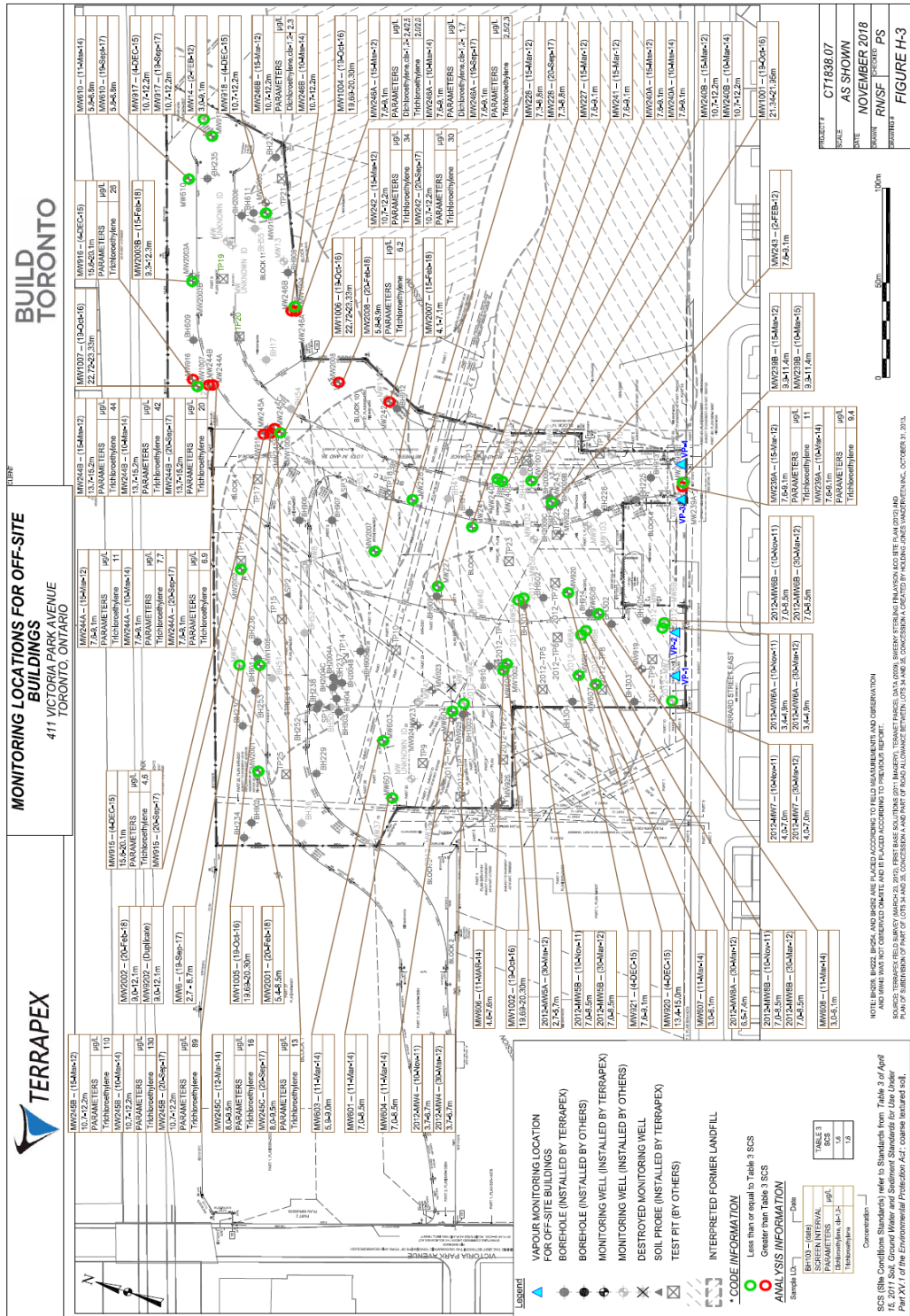


Figure H-4

