

Certificate of Property Use

Issued under the authority of the Environmental Protection Act, R.S.O. 1990, c. E.19,
sections 168.6 (CPU) and 197 (Order)

Certificate of Property use number 6821-BQNPGJ
Risk Assessment number 2436-AFPMTU

Owner: 3428851 Canada Ltd. (Registered Owner)

and

Royal York Acquisition LP. (Beneficial Owner)
Suite 4400 - 66 Wellington St W
Toronto, Ontario, M5K 1H6

Site: 100 Front Street West (Royal York Hotel – East Wing), Toronto, ON

with a legal description as set out in Schedule '1' of the CPU.

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 | No |
| 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, health and safety plan and methane management 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 and groundwater 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 the Ontario Regulation 332/12; ‘Building Code’ as amended January 1, 2020.

“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 6821-BQNPGJ.

"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.

“First Storey” has the same meaning as in the Building Code.

“Grade” has the same meaning as in the Building Code.

“LNAPL” means light non-aqueous phase liquid.

“Licenced 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.

“Ministry” means the ministry of the government of Ontario responsible for the administration of the Act, currently named the 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.

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

“Property Specific Standards” or “PSS’ 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 2436-AFPMTU accepted by the Director on June 18, 2020 and set out in the following documents:

- Report entitled "Tier 3 Risk Assessment – PSF1556-16, IDS Ref No. 2436-AFPMTU, 100 Front Street West – East Wing, Toronto, Ontario" prepared by Pinchin Ltd., dated July 22, 2018.
- Report entitled "FINAL, Revised Tier 3 Risk Assessment, 100 Front Street West – East Wing, Toronto, Ontario (PSF1556-16, IDS Ref No. 2436-AFPMTU)" prepared by Pinchin Ltd., dated November 26, 2019; and
- Report entitled "FINAL, Revised Tier 3 Risk Assessment, 100 Front Street West – East Wing, Toronto, Ontario (PSF1556-16, IDS Ref No. 2436-AFPMTU)" prepared by Pinchin Ltd., dated May 29, 2020.

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

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

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”, 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 7** 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 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 with the following figures:
- Plan of Survey with Property outlined in red; and
 - Figures XI-1, XI-2, XI-3 and XI-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:

- 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 the Risk Assessment so as to prevent exposure to the Contaminants of Concern. The barrier to site soils shall consist of a hard cap, fill/soil cap and/or fence as specified below:

- i. Existing hard caps on the Property shall consist of concrete underlain by granular fill to a minimum depth of 15 cm (as illustrated by figure XI-1);
 - ii. Future hard caps during redevelopment on the Property shall consist of asphalt or concrete underlain by granular fill to a minimum depth of 225 mm of (as illustrated by figure XI-2 of the CPU).
 - iii. Fill caps on the Property shall consist of aggregate or soil meeting the Residential/Parkland/Institutional Property Use Standards within **Table 7 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 100 cm (as illustrated by figure XI-3 of the CPU).
 - iv. Deep rooting plants that have roots deeper than 100 cm (ie. trees and deep rooting shrubs) are prohibited from the Property.
 - v. For portion(s) of the Property not having any barriers to site soils or 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. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the barriers to site soils risk management measures and any fence barriers 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 integrity. 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 made available upon request by a Provincial Officer.
- c. A soil and groundwater management plan shall be prepared for the Property and implemented during any activities potentially coming in contact with or exposing site soils and groundwater. 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 controls including silt fences and filter socks on catch basins and utility covers to minimize contact and provisions for discharge to sanitary sewers or other approved treatment, as required;
 - iii. Characterization of excavated soils to determine if soils exceed the Property Specific Standards. 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 soils meeting the Property Specific Standards may be placed on-site below the barrier to site

- soils and in accordance with the Risk Assessment;
 - iv. Soils brought to the Property shall meet the Residential/Parkland/ Institutional Property Use Standards within **Table 7** 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 is to be placed on, in or under the Property;
 - v. Measures to manage stormwater and any groundwater from dewatering at the Property to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property, including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch-basins and utility covers, and provision for discharge to a sanitary sewer or to other approved treatment if needed;
 - vi. Management of any LNAPL prior to any excavations activities on the Property and collected LNAPL for disposed off-site at a licenced receiver; and
 - vii. Record keeping including dates and duration of work, weather and site conditions, location and depth of excavation activities, dust and odour control measures, stockpile management and drainage, management activities for any groundwater and LNAPL, soil characterization results, names of the Qualified Person, contractors, haulers and receiving sites for any soil, groundwater or LNAPL removed from the Property and any complaints received relating to site activities potentially coming in contact with or exposing site soils and groundwater.
- d. 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 soils, groundwater or LNAPL 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 take into account the presence of the Contaminants of Concern and LNAPL 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 LNAPL, including any workers in a trench scenario. 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 any workers in a trench scenario, but not be limited to, occupational hygiene requirements, requirements for personal protective equipment as outlined in Risk Assessment, and contingency plans 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, groundwater and LNAPL. Implementation of the health and safety plan shall be overseen by persons appropriately 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 a Provincial Officer upon request.
- e. Refrain from constructing any Building on the Property, unless:
- i. The intended and actual use of the Building on its First Storey and below Grade is not residential use, parkland use or institutional use, or a combination thereof; and

- ii. The ventilation and air duct systems serving the First Storey of the Building and any area below this are separate systems from the ones serving all stories above the First Storey; and
- iii. The Building complies with all applicable requirements of the Building Code, such as the provisions governing:
 - 1. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.9. (Interconnection of Systems) of the Building Code; and
 - 2. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code.
- f. The Owner shall ensure that any existing Building on the Property meets the minimum design requirements as listed on Schedule 'B'.
- g. No alterations or additions to any existing Building other than cosmetic improvements or construction of any new Building unless an assessment (prepared by Qualified Person) of the risk to appropriate human receptors is provided to the Director ninety (90) days prior to construction of any Building on the Property and the Director confirms that any alterations or additions to the existing Building or construction of a new Building (which can include vapour mitigation measures that are designed by a Professional Engineer) is protective of human health.
- h. The Owner shall maintain the existing HVAC operation specifications as detailed in the Risk Assessment for the existing Building.
- i. The indoor air monitoring requirements on the Property is to commence within sixty (60) days of issuance of the CPU or prior to occupancy of any new Building. All indoor air monitoring programs shall be done in accordance to USEPA Method TO-15 for the Contaminants of Concerns as listed in Schedule 'C' of the CPU. The air monitoring program shall be carried out as follows:
 - i. The indoor air 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. For each calendar year, one indoor air monitoring event shall be conducted during the winter months.
 - ii. All indoor air monitoring events shall be done with a summa canister, using an 8-hour regulator and the outdoor air sample shall be done in accordance with The Ministry's "Operations Manual for Air Quality Monitoring in Ontario", dated January 2018 for the Contaminants of Concerns listed in Schedule 'C'.
 - iii. Sampling locations for the existing building consist of IAQ1 to IAQ11 in the sub-basement as shown on figure IX-4. For any future (i.e. new) Building(s), indoor air monitoring locations 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.
 - iv. If the indoor air concentration for any Contaminants of Concern exceeds Schedule 'C' 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 and chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature.
 - v. The Owner shall keep a copy of all sampling data and records available for

- inspection by a Provincial Officer upon request.
- vi. If the indoor air concentration for the Contaminants of Concern exceed Schedule 'C' for any target levels, then indoor air monitoring shall recommence for all Contaminants of Concern within thirty (30) 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 'C' (trigger levels) on the recommenced indoor air monitoring event, then the indoor air monitoring event shall be carried out on a quarterly basis (every three months) for a twelve (12) month period (4 additional monitoring events).
 2. If any of the concentrations of the Contaminants of Concern exceeds Schedule 'C' (trigger levels), on the recommenced indoor air monitoring event, then a Licenced Professional Engineer shall, within 30 days of the receipt of the analytical results, either
 - i. develop and submit a detailed contingency plan to address the indoor air in the Building to the Director; or
 - ii. develop and submit a report to the Director that details these indoor air exceedances are due to background sources.The indoor air monitoring shall continue on a quarterly basis (every 3 month) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
- j. The Owner shall retain a copy of the site plan prepared and signed by a Qualified Person which will describe the Property, placement and quality of all the barriers to site soils. The site plan shall include a plan and cross section drawings specifying the vertical and lateral extent of the barriers to site soils. 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.
- k. 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:
- a. a copy of all records related to the inspection and maintenance program for the barrier to site soils;
 - b. a copy of all records related to the soil and groundwater management plans, the health and safety plan on the Property;
 - c. a copy of all records for the indoor air monitoring including but not limited to copies of the laboratory's certificate of analysis and chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature;
 - d. a copy of all signed site plans including any alterations;
 - e. confirmation that the existing Building design meets the minimum Building design details as listed in Schedule 'B' of the CPU and that there have been no alterations or additions to the existing Building; and
 - f. an updated Financial Assurance calculation every three years from the date of the issued CPU as per Item 4.13 of the CPU.

- 4.4 Refrain from using the Property for any of the following use(s): N/A
- 4.4 Refrain from constructing the following building(s): No building construction unless construction is in accordance with Items 4.2 e. or 4.2 g.
- 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.
- 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 'D', 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 fifty thousand and three hundred and thirty-six (\$50,336.00) 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 k with an updated cost estimate with respect to the matters dealt with in Item 4.12 above 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: 1-877-849-2066
Email: ERTTribunalSecretary@ontario.ca

and

Jimena Caicedo
Ministry of the Environment, Conservation and Parks
5775 Yonge St., 8th Floor
Toronto, ON M2M 4J1
Fax: 416-326-5536
Email: Jimena.Caicedo@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 XX day of XXXXX XX, 2020.

DRAFT

Jimena Caicedo
Director, section 168.6 of the Act

Schedule 'A'

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

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Acenaphthylene	0.32	N/A
Anthracene	1.04	N/A
Benzene	N/A	2.4
Benzo(a)anthracene	3.48	N/A
Benzo(a)pyrene	3.12	N/A
Benzo(b)fluoranthene	3.96	N/A
Benzo(k)fluoranthene	1.32	N/A
Cadmium	1.92	N/A
Cobalt	51.6	N/A
Dibenzo(a,h)anthracene	0.52	N/A
Dichlorobenzene, 1,4-	N/A	6.0
Dichloroethylene, 1,1-	N/A	3.84
Dichloroethylene, 1,2-cis-	N/A	2040
Dichloroethylene, 1,2-trans-	N/A	28.8
Electrical Conductivity (mS/cm)	4.2	N/A
Fluoranthene	6.96	N/A
Hexane	N/A	12
Indeno(1,2,3-cd)pyrene	2.28	N/A
PHC F1	N/A	1800
PHC F2	156	1920
PHC F3	N/A	816
Sodium Adsorption Ratio (unitless)	13.2	N/A
Tetrachloroethylene	N/A	6,240
Trichloroethylene	0.13	1,200

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Vinyl Chloride	N/A	1,036
Zinc	1680	N/A

N/A= not applicable

Schedule 'B'

Minimum Design Details for any Building

Building Parameter	Specifications
Enclosed space floor thickness (cm)	14
Enclosed space floor length (m)	59.2
Enclosed space floor width (m)	41.4
Below grade building height (m)	10

Schedule 'C'

Soil Vapour and Indoor Air Trigger Levels

Contaminants of Concern (COC)	Indoor Air Target Levels ($\mu\text{g}/\text{m}^3$)
Dichlorobenzene, 1,4-	0.89
Dichloroethylene, 1,2-cis-	107
Dichloroethylene, 1,2-trans-	42.9
hexane	1790
PHC F1	8540
PHC F2	1610
Tetrachloroethylene	13.8
Trichloroethylene	0.872
Vinyl chloride	0.406

Schedule 'D'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Item 4.8 of Certificate of Property Use number 6821-BQNPGJ issued by Jimena Caicedo, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on XXX, 2020, being a Certificate of Property Use and order under subsection 197(1) of the Environmental Protection Act relating to the property municipally known as 100 Front Street West (Royal York Hotel – East Wing), Toronto, Ontario, being part of Property Identifier Number 21409-0007 (LT) and outlined in red on the plan of survey attached to the CPU (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

3428851 CANADA LTD.

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 Property.

Schedule '1' Legal Description

Property outlined in red Plan of Survey attached to this CPU.

PCL 6-24 SEC Y1; PT TOWNLT 6 N/S FRONT ST W PL TOWN OF YORK TORONTO; PT TOWNLT 7 N/S FRONT ST W PL TOWN OF YORK TORONTO; PT TOWNLT 8 N/S FRONT ST W PL TOWN OF YORK TORONTO; PT PIPER ST PL 52 TORONTO CLOSED BYLAW 21832, INST. ES55533, AND BY-LAW 20582, THIRDLY, INST. ES48583 PT 1 66R16766; T/W PT TOWN 6 N/S FRONT ST W PL TOWN OF YORK, PT PIPER ST CLOSED BY BYLAW 21832 PL 52 PARTS 11, 12, 12, 14 & 15 66R7740 AS IN CT8275 SEE A461878; T/W PT TOWNLT 6 S/S WELLINGTON ST W PL TOWN OF YORK, PT PIPER ST PL 52 CLOSED BY BYLAWS 21832 AND 290-72 (S/T CT9199, CT19401, CT19450, CT25256, CT25257, CT25258 OVER PT 3 66R7740 AS IN A470972) T/W PT LOTS A & A S/S WELLINGTON ST PL 52, PT PIPER ST PL 52 CLOSED BY BYLAW 20582 REGISTERED AS ES48583 (SEE C131515) PARTS 1, 8 & 11 66R15693 AS IN C67910; THE BOUNDARY ON THE N/S OF FRONT ST WAS CONFIRMED UNDER THE BOUNDARIES ACT BY PL BA681 REGISTERED IN THE LAND REGISTRY OFFICE FOR THE REGISTRY DIVISION OF TORONTO AS INSTRUMENT NO. CT140854; T/W EASTMENT OVER PT 1 PL 66R13281 AS SET OUT IN AT2020522; TORONTO; CITY OF TORONTO

Being Part of PIN 21409-0007

Plan of Survey

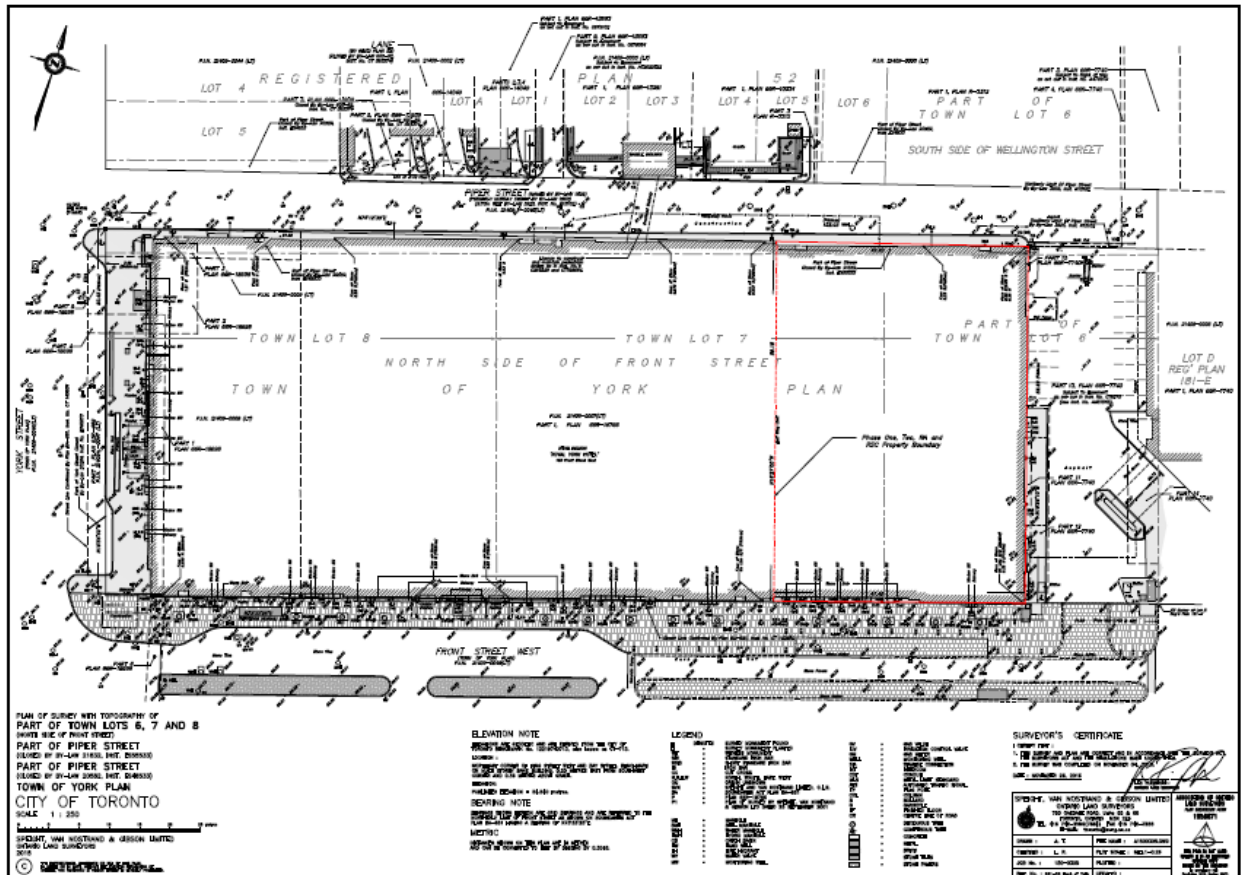


Figure XI-1

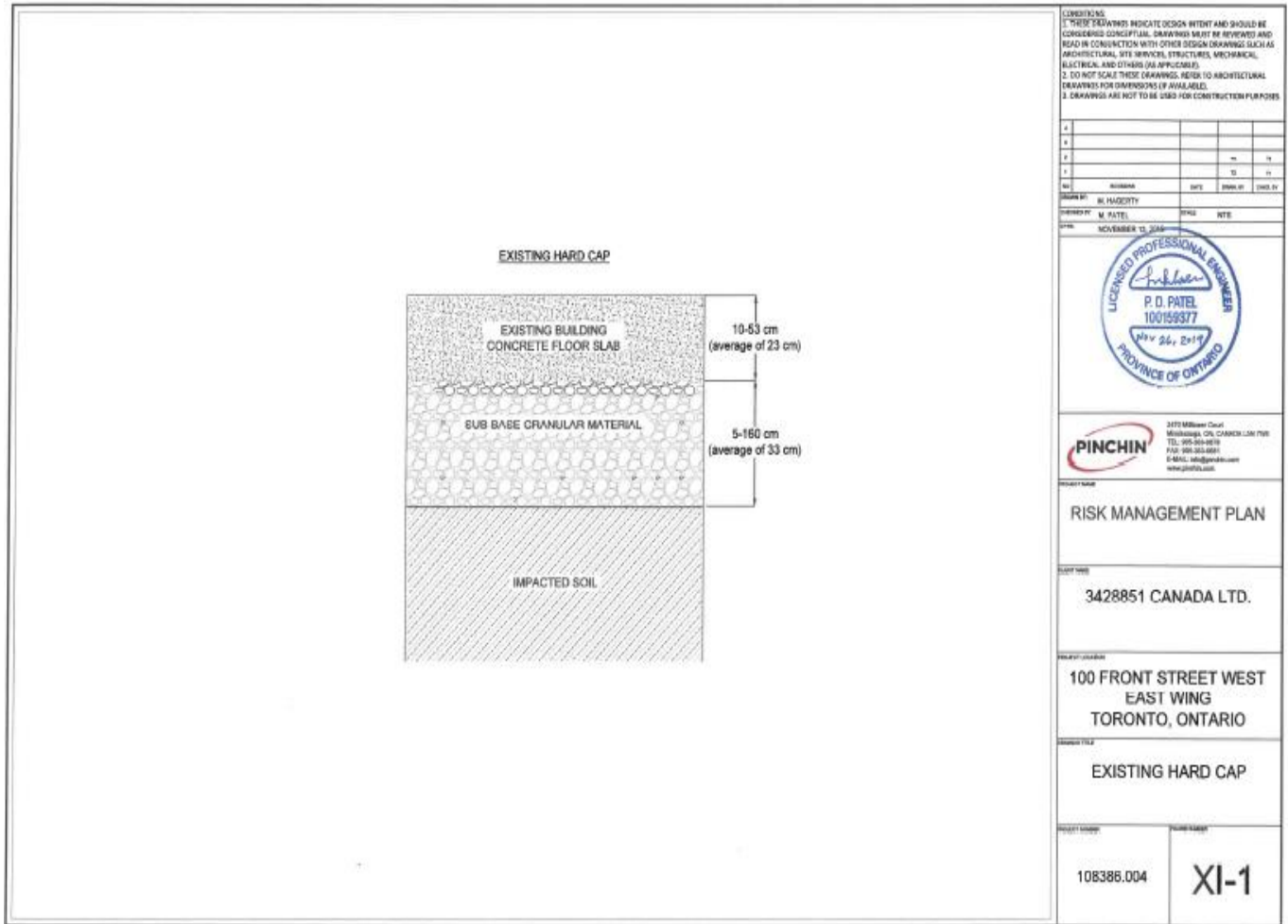
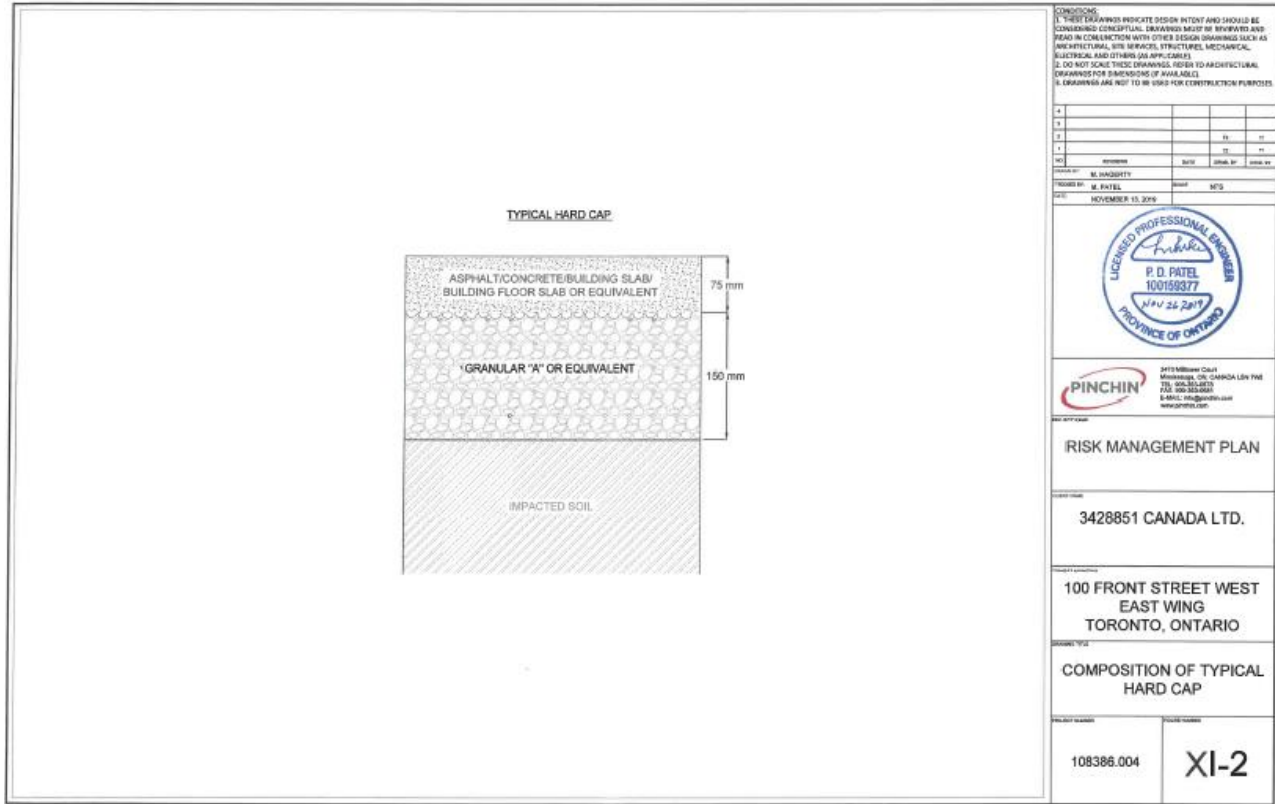


Figure XI-2



CONDITIONS:
 1. THESE DRAWINGS INDICATE DESIGN INTENT AND SHOULD BE CONSIDERED CONCEPTUAL. DRAWINGS MUST BE REVIEWED AND READ IN CONNECTION WITH OTHER DESIGN DRAWINGS SUCH AS ARCHITECTURAL, SITE SERVICES, STRUCTURAL, MECHANICAL, ELECTRICAL AND OTHERS AS APPLICABLE.
 2. DO NOT SCALE THESE DRAWINGS. REFER TO ARCHITECTURAL DRAWINGS FOR DIMENSIONS OF MATERIALS.
 3. DRAWINGS ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES.

4					
5					
6			11	12	
7			13	14	
8					

DESIGNED BY: M. HANSHY DRAWN BY: MTD
 CHECKED BY: M. PATEL DATE: NOVEMBER 13, 2019

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RISK MANAGEMENT PLAN

3428851 CANADA LTD.

100 FRONT STREET WEST
 EAST WING
 TORONTO, ONTARIO

COMPOSITION OF TYPICAL HARD CAP

108386.004	XI-2
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Figure XI-3

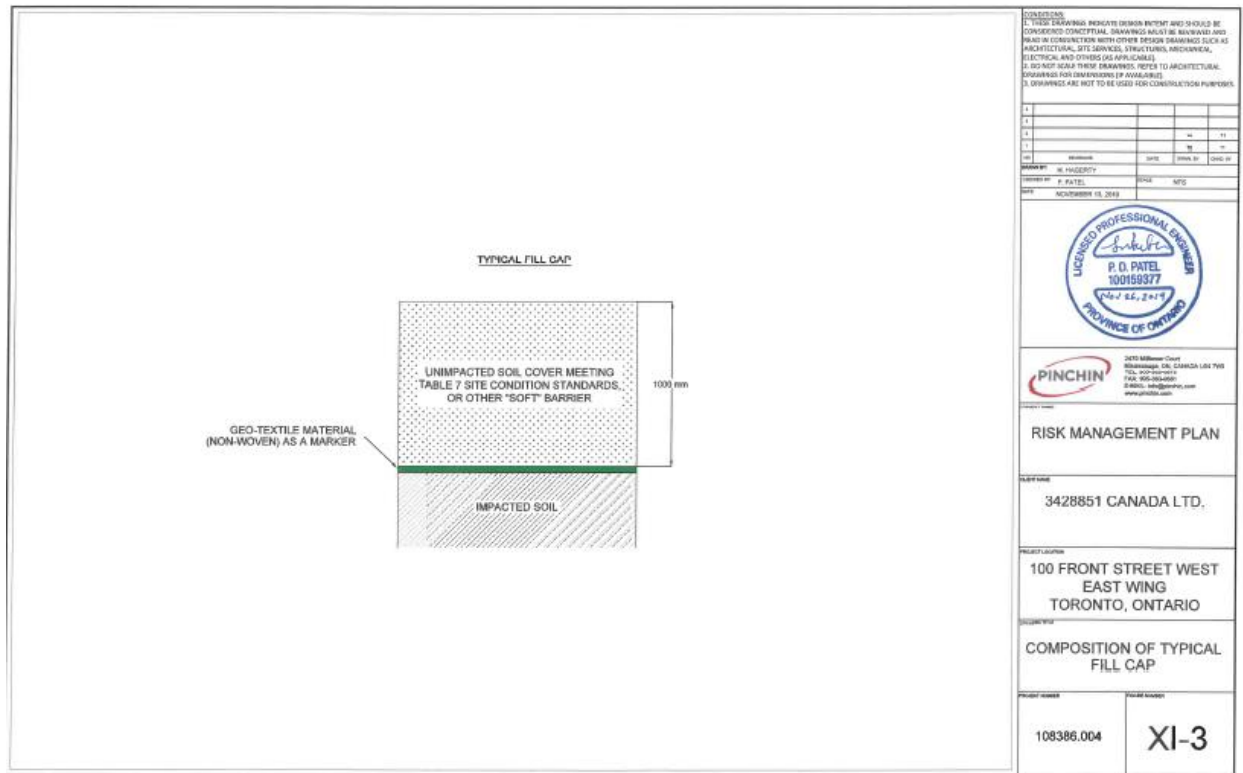


Figure XI-4

