

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 3417-CD7HPF
Risk Assessment number 3412-8SBLQ9

Owner: FCHT Holdings (Ontario) Corporation (registered owner)
85 Hanna Avenue, Suite 400
Toronto, ON M6K 3S3

and

First Capital Realty Inc. as trustee (beneficial owners)
for First Capital Holdings Trust

Site: 4435-4479 Kingston Road, Toronto

with a legal description as indicated below:

Part of Lot 11, Concession 1 as in SC287290 together with SC223758,
Scarborough, City of Toronto; and

Part of Lot 11, Concession 1 Scarborough as in SC494439 and SC588214 s/t
SC416272 Scarborough, Description amended November 16th, 1993, City of
Toronto.

Being all of PIN 06244-0214 (LT) and PIN 06244-0215 (LT)

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 | Yes |
- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:

All 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.

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

“Building Area” means the horizontal area of a Building at Grade within the outside surface of the exterior wall or walls.

“Building Code” means the Ontario Regulation 332/12: Building Code, 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 3417-CD7HPF.

"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.

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

“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”, made under the Act.

“O. Reg. 347/90 means Ontario means R.R.O. 1990, Regulation 347 General - Waste Management”, 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.

“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 licence, limited licence or temporary licence under the *Professional Engineer Act*, or

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

"Risk Assessment" means the Risk Assessment number 3412-8SBLQ9 accepted by the Director on December 21, 2021 and set out in the following documents:

- Report entitled "Risk Assessment of 4435-4479 Kingston Road, Toronto, Ontario" prepared by Intrinsic Environmental Sciences Inc., dated October 2013;
- Report entitled "Risk Assessment of 4435-4479 Kingston Road, Toronto, Ontario" prepared by Intrinsic Environmental Sciences Inc., dated October 2014;
- Report entitled "A Risk Assessment of 4435-4479 Kingston Road, Toronto, Ontario" prepared by Intrinsic Corp., dated February 2017;
- Report entitled "A Risk Assessment of 4435 - 4479 Kingston Road, Toronto, Ontario" prepared by Intrinsic Corp., dated June 16, 2020; and
- Report entitled "A Risk Assessment of 4435 - 4479 Kingston Road, Toronto, Ontario" prepared by Intrinsic Corp., dated August 26, 2021.

"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 Licenced 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 Ontario Land 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 Licenced 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: “commercial use” as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present above the industrial/commercial/community Property Use Standards within **Table 7** 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 soils 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”, air trigger levels as set out in Schedule ‘C’ and groundwater trigger levels as set out in Schedule ‘C’ attached to and forming part of the CPU and the following figures:
- Plan of Survey; and
 - Figures 2 and 3.

- 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. Refrain from constructing any new Building(s) (built after 2021) with below Grade spaces on, in or under the Property unless the Building with below Grade space includes a Storage Garage, as defined in Building Code and meets the following requirements:
 - i. The Storage Garage is constructed at or below the Grade of the Building; and
 - ii. The Storage Garage area covers the entire Building Area at Grade; and
 - iii. All below Grade components of the Storage Garage shall include waterproof barrier and moisture protection if applicable and the sealing of all sumps and penetrations into the Building; and
 - iv. The Storage Garage is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing the following:
 1. design of the mechanical ventilation system as set out in Division B, subsection 6.2.2.3, Ventilation of Storage and Repair Garages;
 2. interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2); and,
 3. air leakage as set out in Division B, section 5.4.
 - v. 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 as required by the Building Code; and
 - vi. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the Storage Garage. The inspection program shall include semi-annual (every six months) inspection 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.

- b. Refrain from constructing any new Building(s) (built after 2021) with below Grade spaces on, in or under the Property other than a Building with that contains a Storage Garage, unless the Building with below Grade space contains a vapour mitigation system as follows:
- i. The vapour mitigation system shall include the sealing of foundation penetrations and sumps, a Vapour Barrier, Sub Slab Vapour Barrier Venting Layer and Venting Components (as illustrated in figure 3 of the CPU) 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 Licenced 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.
- c. The soil vapour monitoring program along the southern Property boundary shall commence within ninety (90) days of issuance of the CPU. The soil vapour monitoring program shall be done in accordance with USEPA Method TO-15 with a summa canister for the Contaminants of Concerns as listed in Schedule 'B' of the CPU. The soil vapour monitoring program shall be carried out as follows:
- i. All soil vapour monitoring shall be done in accordance to the Ministry's document entitled "(Draft) Technical Guidance for Soil Vapour Intrusion Assessment" dated January 4, 2021.
 - ii. The soil vapour monitoring along the southern property line shall include four (4) soil vapour probes labelled as SVP1, SVP2, SVP3 and SVP4 (as indicated by figure 2 of the CPU) and shall be sampled on a semi-annual basis (every six (6) months) for the first and second years, 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.
 - iii. If the air concentrations for any Contaminants of Concern exceeds residential soil vapour trigger levels in Schedule 'B', the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, chain of custody, field notes indicating the initial and final canister pressures, construction details of soil vapour probes, atmospheric pressure, weather and temperature.

- iv. The Owner shall keep a copy of all sampling data and records available for inspection by a Provincial Officer upon request.
 - v. If the soil vapour concentration for the Contaminants of Concern exceeds residential soil vapour trigger levels in Schedule 'B', 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 exceeds residential soil vapour trigger levels in Schedule 'B' on the recommenced soil vapour sampling, then the soil vapour monitoring events shall be carried out on a semi-annual basis (every six (6) months) for an additional twelve (12) month period (two (2) additional monitoring events).
 - 2. If any of the concentrations of the Contaminants of Concern exceeds residential soil vapour trigger levels in Schedule 'B' on the recommenced soil vapour monitoring event, then within thirty (30) days of the receipt of the analytical results:
 - a. develop and submit a detailed contingency plan to the Director (as outlined in the Risk Assessment).
The soil vapour monitoring shall continue on a quarterly basis (every three (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.
- d. The air monitoring requirements on the Property is to commence prior to occupancy of any new Buildings (built after 2021) with a below Grade space, except for a Building that includes Storage Garage. All air monitoring programs shall be done in accordance with USEPA Method TO-15 with a summa canister for the Contaminants of Concerns as listed in Schedule 'B' of the CPU. The air monitoring program shall be carried out as follows:
- i. All sub slab soil vapour monitoring shall be done in accordance with the Ministry's document entitled "(Draft) Technical Guidance for Soil Vapour Intrusion Assessment" dated January 4, 2021.
 - ii. The sub slab soil vapour monitoring for all Building(s) with a below Grade space on the Property (except for a Building that includes Storage Garage) shall be carried out on a quarterly basis (every three (3) months) for the first and second years 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.
 - iii. Sampling locations for the sub slab vapour 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 Building(s) on the Property.
 - iv. If the air concentrations for any Contaminants of Concern exceeds Schedule 'B' for commercial soil vapour trigger level, the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, chain of custody, construction details of the soil vapour probes, 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 sub slab soil vapour concentration for the Contaminants of Concern

exceeds Schedule 'B' for any commercial soil vapour trigger level, then sub slab 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 exceeds Schedule 'B' (commercial soil vapour trigger levels) on the recommenced sub slab soil vapour monitoring, then the sub slab soil vapour monitoring events shall be carried out on a quarterly basis (every three (3) months) for a twelve (12) month period (4 additional monitoring events).
2. If any of the concentrations of the Contaminants of Concern exceeds Schedule 'B' (commercial soil vapour trigger levels) on the recommenced sub slab soil vapour monitoring event, then within thirty (30) days of the receipt of the analytical results:
 - a. Commence the indoor air monitoring on the Property. All indoor air monitoring shall be done using an eight (8) hour regulator and to be done in accordance to the Ministry's document entitled "(Draft) Technical Guidance for Soil Vapour Intrusion Assessment" dated January 4, 2021; and outdoor air sample shall be 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'.
 - 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 Building(s) on the Property.
 - c. Sub slab soil vapour monitoring shall continue concurrently with the indoor air monitoring on a semi-annual basis (every six (6) months) for two (2) years 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.
 - d. If any of the concentrations of the Contaminants of Concern exceeds Schedule 'B' (commercial indoor air trigger levels), on the indoor air monitoring events, then a professional engineer shall, within thirty (30) days of the receipt of the analytical results, either
 - i. develop and submit a detailed contingency plan to the Director (as outlined in the Risk Assessment); or
 - ii. develop and submit a report to the Director that details these indoor air exceedances are due to background sources.
- e. The indoor air monitoring program shall commence within ninety (90) days of issuance of the CPU for any existing Buildings built prior to 2022 on the Property. The indoor air monitoring program shall be done in accordance with USEPA Method TO-15 with a summa canister for the Contaminants of Concerns as listed in Schedule 'B' of the CPU. The indoor air monitoring program shall be carried out as follows:
 - i. All indoor air monitoring shall be done in accordance to the Ministry's document entitled "(Draft) Technical Guidance for Soil Vapour Intrusion Assessment" dated January 4, 2021; and any outdoor air samples shall be 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'.

- ii. The indoor air monitoring program shall be carried out on a semi-annual basis (every six (6) months) for the first and second years, 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.
 - iii. All indoor air monitoring shall be done using an eight (8) hour regulator and 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 Building(s) on the Property.
 - iv. If the indoor air concentrations for any Contaminants of Concern exceeds commercial indoor air trigger levels in Schedule 'B', the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, 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 any of the indoor air concentrations of the Contaminants of Concern exceeds commercial indoor air trigger levels in Schedule 'B', then indoor air 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 exceeds commercial indoor air trigger levels in Schedule 'B' on the recommenced indoor air sampling, then the indoor air monitoring events shall be carried out on a semi-annual basis (every six months) for an additional twelve (12) month period (two (2) additional monitoring events).
 2. If any of the concentrations of the Contaminants of Concern exceeds commercial indoor air trigger levels in Schedule 'B' on the recommenced indoor air monitoring event, then within thirty (30) days of the receipt of the analytical results:
 - a. develop and submit a detailed contingency plan to the Director (as outlined in the Risk Assessment); or
 - b. 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.
- f. The groundwater monitoring program on the Property shall commence within ninety (90) days of issuance of the CPU. The groundwater monitoring shall be carried out on a semi-annually basis (once every six (6) months) for the first and second years, and thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either amends or revokes the CPU. The groundwater monitoring shall be carried out as follows:
- i. The groundwater monitoring program shall consist of six (6) locations labelled PMW10, MW214, MW215, MW216, BH304(MW) and BH306(MW) as

- indicated on figure 2 of the CPU.
- ii. The Contaminants of Concern to be monitored are listed on Schedule 'C' of the CPU;
 - iii. Water from all monitoring wells shall be sampled according to Ministry's Protocol for Analytical Methods Used in the Assessment of Properties under Part XV.1 of the Environmental Protection Act (MOE, 2004b) as amended from time to time.
 - iv. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.
 - v. Should there be a reason to change a selected groundwater monitoring well or should a measured groundwater concentration exceed the groundwater trigger levels of Schedule 'C', the Owner shall immediately notify the Director in writing of the exceedance(s), along with a copy of the laboratory's certificate of analysis, chain of custody and borehole logs indicating well construction details.
 - vi. If the groundwater concentration for the Contaminants of Concern exceeds Schedule 'C' (groundwater trigger levels) and an upward trend is identified as per Risk Assessment; then within thirty (30) days of receipt of the analytical results:
 - 1. develop and submit a contingency plan to the Director; and
 - 2. The groundwater monitoring shall continue on a semi-annual basis (every six (6) month) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.
- g. 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 for inspection and maintenance program for any Building that contains a Storage Garage or a vapour mitigation system.
 - ii. a copy of all records for air monitoring program (soil vapour and indoor air) including the laboratory's certificate of analyses and chain of custody, construction details of soil vapour probes, and field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature;
 - iii. a copy of all records for the groundwater monitoring program including the laboratory's certificate of analyses, chain of custody and construction details of groundwater wells.
 - iv. a copy of all signed as-built diagrams for all Vapour Barriers, Sub Slab Vapour Barrier Venting Layers and Venting Components along with the proposed testing and performance requirements;
 - v. a copy of the updated financial assurance every three years from the date of issuance of the CPU if applicable.
- 4.3 Refrain from using the Property for any of the following use(s): all property uses except for 'commercial use' as defined in O.Reg. 153/04.

- 4.4 Refrain from constructing the following Building(s): No Building construction unless construction is in accordance with Items 4.2 a. or 4.2 b. of the CPU or is a slab on Grade Building (i.e. doesn't contain any below Grade spaces).
- 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 '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 sixty (60) days of issuance of the CPU, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of one hundred and fifteen thousand and one hundred and fifteen dollars (\$115,115.00) 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 i. with an updated cost estimate with respect to the matters dealt with in Item 4.12 above.

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 are not affected.
- 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: Information regarding a Hearing before the Ontario Land Tribunal

With respect to those provisions relating to my authority in issuing a certificate of property use under section 168.6 and an order under section 197 of the Act:

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land 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. The contact information for the Director and the Tribunal is the following:

Registrar
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Email: OLT.Registrar@ontario.ca

and

Jimena Caicedo
Ministry of the Environment, Conservation and Parks
5775 Yonge Street, 8th Floor
Toronto, Ontario
M2M 4J1
Fax: 416-326-5536
Email: jimena.caicedo@ontario.ca

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at: Tel: (416) 212-6349 or Toll Free 1 (866) 448-2248 or www.olt.gov.on.ca

Further information regarding service can be obtained from e-Laws at www.ontario.ca/laws. Please note where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and choosing service by mail does not extend any timelines.

- 6.4 Unless stayed by 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 Environmental Registry of Ontario. 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 Minister of the Environment, Conservation and Parks who will place it on the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks, College Park 5th Floor, 777 Bay St, Toronto, ON M7A 2J3 by the earlier of:

- a. two (2) days after the day on which the appeal before the Tribunal was commenced; and
- b. 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 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

- a. fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and
- b. if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

6.8 The procedures and other information provided in this Part 6 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws

Issued at Toronto this XXth day of XXXXX 2022

DRAFT

Jimena Caicedo
Director, section 168.6 of the Act

Schedule 'A'

Property Specific Standards (Groundwater) for each Contaminant of Concern

Contaminants of Concern (COC)	Property Specific Standards for Groundwater (µg/L)
Tetrachloroethylene	26
Trichloroethylene	4.4
Vinyl Chloride	3.3

NA= not applicable

Schedule 'B'

Air Trigger Levels

Contaminants of Concern (COC)	Residential Soil Vapour Trigger Levels (µg/m ³)	Commercial Soil Vapour Trigger Levels (µg/m ³)	Commercial Indoor Air Trigger Levels (µg/m ³)
Tetrachloroethylene	214	3450	13.8
Trichloroethylene	14	218	0.872
Vinyl Chloride	6.3	102	0.406

Schedule 'C'

Groundwater Monitoring Trigger Levels

Contaminants of Concern (COC)	Trigger Levels
Tetrachloroethylene	1.6
Trichloroethylene	1.6

Schedule 'D'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Item 4.9 of Certificate of Property Use number 3417-CD7HPF 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 XXXX 2022 being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as 4435-4479 Kingston Road, Toronto being all of Property Identifier Numbers 06244-0214 (LT) and 06244-0215 (LT) (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

FCHT HOLDINGS (ONTARIO) CORPORATION

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.

Plan of Survey

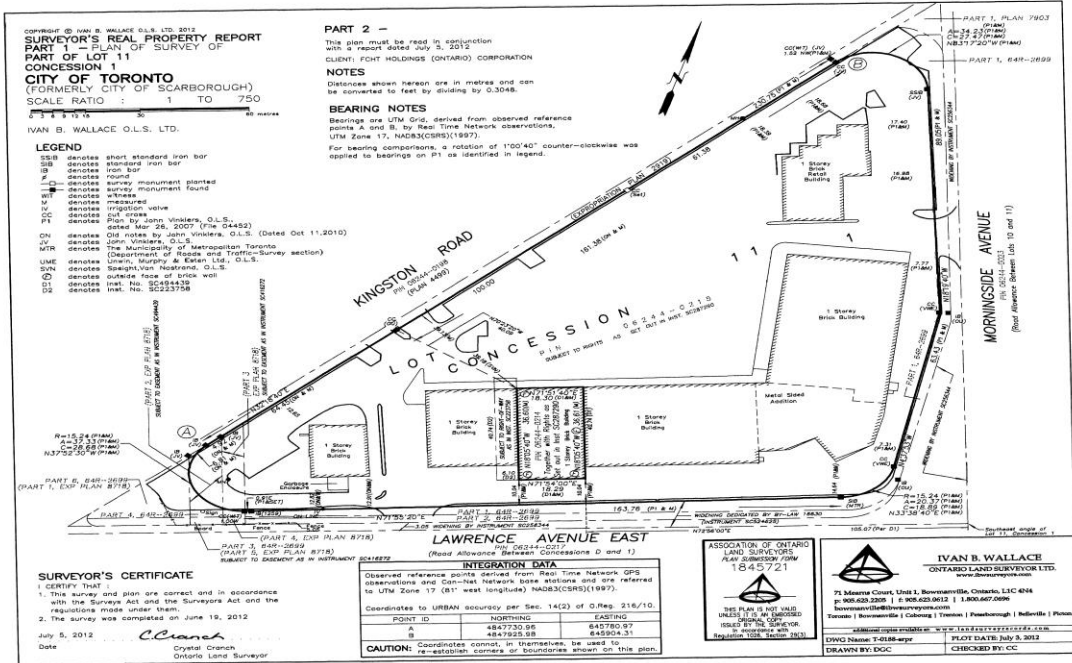
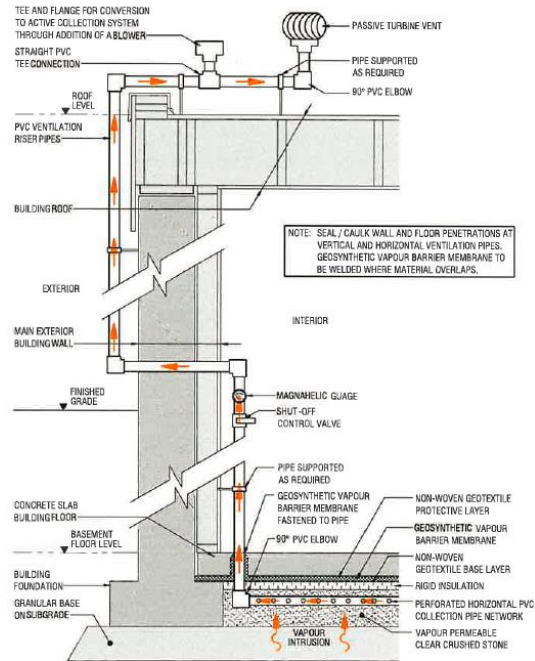


Figure 3



WATERS ENVIRONMENTAL GROUP INC.
 9135 Keele St. Unit A1
 Concord, ON L4K 0J4
 T 416 361 2437
 F 416 361 2419

DESIGN: B. CALDERONE
 CHECKED: F. LUK
 DATE: AUGUST 2021

CLIENT: FIRST CAPITAL
 ASSET MANAGEMENT LP (FCAM)
 PROJECT: PRUDEN SQUARE SHOPPING CENTRE
 435-447R KING TOWNSHIP
 TORONTO, ONTARIO

REPORT NAME: RISK MANAGEMENT PLAN

ISSUE NO: TYPICAL SOIL VAPOUR
 MITIGATION SYSTEM
 PROJECT: 10-0046.01
 SHEET NO: 3