

## 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 8370-CLWLW7  
Risk Assessment number 5175-ATSJBB

**Owner:** 490 St. Clair West Property Inc. (registered Owner)  
Suite 400 - 1075 Bay Street  
Toronto, ON, M5S 2B1

490 St. Clair West GP Inc., (beneficial Owner)  
general partner for and behalf of  
490 St. Clair West Limited Partnership

**Site:** 1467 Bathurst Street and 490 St. Clair Avenue West, Toronto, ON

with a legal description as indicated below:

Firstly: Part Lot a Plan 1153, Township of York Part 1 Plan 66R29123; Toronto  
(York) Street Limit Confirmed by BA2111, Registered as CT635606;

Secondly: Part Lot a Plan 1153, Township of York Part 3 Plan 66R29460;  
Toronto (York) Street Limit Confirmed by BA2111, Registered as CT635606, City  
of Toronto.

All of PIN 10467-0044 (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 No
  - e. Other: Maintaining a barrier to site soils and preparing and implementing a soil and groundwater 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 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.

“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” or ‘COCs’ 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 8370-CLWLW7.

"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.

“LNAPL” means light non-aqueous phase liquid.

“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 5175-ATSJBB accepted by the Director on December 5, 2022, and set out in the following documents:

- Report entitled "Site-Specific Risk Assessment, PSF1647-17, IDS 5175-ATSJBB, 1467 Bathurst Street, Toronto, Ontario, Final Report" prepared by Terrapex Environmental Ltd., dated September 28, 2018;
- Report entitled "Site-Specific Risk Assessment, PSF1647-17, RA1647-17a, IDS 5175-ATSJBB, 1467 Bathurst Street, Toronto, Ontario, Final Report" prepared by Terrapex Environmental Ltd., dated July 15, 2019; and
- Report entitled "Site-Specific Risk Assessment, PSF1647-17, RA1647-17b, IDS 5175-ATSJBB, 1467 Bathurst Street, Toronto, Ontario, Final Report" prepared by Terrapex Environmental Ltd., dated April 4, 2022; and
- Report entitled "Revised Site-Specific Risk Assessment, PSF1647-17, RA1647-17b, IDS 5175-ATSJBB, 1467 Bathurst Street, Toronto, Ontario, Final Report" prepared by Terrapex Environmental Ltd., dated August 12, 2022.

"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 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 as described in the Risk Assessment.

"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 as described in the Risk Assessment.

## 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 3** (and **Table 7** for volatiles in

groundwater) 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 are set out in Schedule 'B' and the groundwater trigger levels as set out in Schedule 'C' as attached to and forming part of the CPU and the following figures:

- Plan of Survey (66R-29460) with Property outlined in red; and
- Figures H-1, 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. Refrain from planting any plants or vegetable gardens that are intended for human consumption on the Property except for those planted in above ground containers that have no contact with the soils on the Property.
  - b. 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 cap, and/or fence as specified below:
    - i. Hard caps on the Property for driveways, roads, walkways, Building foundations shall have a minimum depth of 225 mm consisting of asphalt or concrete underlain by granular fill (as illustrated by figure H-2 of the CPU).
    - ii. Fill caps on the Property shall consist of a minimum depth of 1.0 m consisting of granular fill and/or 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 (as illustrated by figure H-2 of the CPU).

- iii. Fill caps for any deep rooting plants (including trees or deep rooting shrubs) that have a rooting depth deeper than 1.0 shall have a minimum depth of 1.5 m for a radius of at least 1.2 m surrounding the plant 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 (as illustrated by figure H-2 of the CPU).
  - iv. 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.
- c. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of all barriers to site soils risk management measures (including any Storage Garages, Building foundations and 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.
- d. 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, groundwater and LNAPL. 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 and odour 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. Characterization of any excavated soils shall follow the soil sampling requirements 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, made under the Act. Excavated soils meeting the PSS may be placed on-site below the barrier to site soils if deemed suitable by a Qualified Person. Excavated soils 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 may be placed within the barriers to site soils if deemed suitable by a Qualified Person and in accordance with the Risk Assessment.
  - iv. Soils brought to the Property shall follow the soil sampling strategy in the Risk Assessment and only soils 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 is to be placed on, in or under the Property.

- v. Characterization of groundwater from dewatering activities shall follow the sampling strategy in Risk Assessment and take into account the potential presence of LNAPL and dissolved contaminants along with any contingency measures as per the Risk Assessment.
  - 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 groundwater removed from the Property and any complaints received relating to site activities potentially coming in contact with or exposing site soils and groundwater.
- 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 soils or groundwater 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, LNAPL and methane 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. 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:
- i. occupational hygiene requirements;
  - ii. requirements for personal protective equipment including any appropriate chemically-resistant clothing;
  - iii. any trenches or sub Grade excavations or spaces shall be monitored for potential vapour accumulation due to LNAPL and methane as per the Risk Assessment;
  - iv. any odour mitigation plans if applicable;
  - v. any dewatering prior to subsurface work shall include proper handling and disposal of any groundwater; and
  - vi. any 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 groundwater. 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 meets the requirements of 4.2 g. of the CPU and 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

- iii. All below Grade components of the Storage Garage that extends below 150 m above mean sea level shall include waterproof barrier that is chemically resistant to weathering (as illustrated in figure H-1) as per Risk Assessment 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.
- g. Refrain from constructing any Building on, in or under the Property unless the Building that meets the requirements of Item 4.2 h. of the CPU and contains a passive vapour mitigation system as follows:
- i. The passive vapour mitigation system shall include the sealing of foundation penetrations and sumps, a Vapour Barrier, Sub Slab Venting Layer and Venting Components (as illustrated in figures H-1 of the CPU) as per Risk Assessment.
  - ii. The Owner shall retain a copy of all Vapour Barriers, Sub Slab Venting Layers and Venting Components as-built drawings signed by a Licenced Professional Engineer along with the proposed testing and system performances (as per Risk Assessment) 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 passive vapour mitigation system. In regard to the venting layer and Venting Components, inspections of the venting layer and Venting Components (i.e. pipes, ducts, vents, and blowers) 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. The indoor air monitoring program on the Property is to commence prior to occupancy of any Building on the Property and shall be carried out on a quarterly (every three months) basis 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. The indoor air monitoring program shall be carried out as follows:

- ii. Indoor air monitoring shall be done in accordance with USEPA Method TO-15 with a summa canister for the COCs listed in Schedule 'B' using a 24-hour regulator (sample duration) except for acenaphthylene shall be collected and analyzed using NIOSH Method 5515 or US EPA TO-13A.
  - iii. Indoor air monitoring shall be done in accordance with the Ministry's document entitled "(Draft) Technical Guidance for Soil Vapour Intrusion Assessment" dated January 4, 2021.
  - iv. Sampling 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 Building(s) on the Property.
  - v. If the indoor air concentrations of any COCs exceeds Schedule 'B' for any indoor air trigger levels on the Property, 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.
  - vi. The Owner shall keep a copy of all sampling data and records available for inspection by a Provincial Officer upon request.
  - vii. If the indoor air concentration of the COCs exceeds Schedule 'B' for any indoor air triggers on the Property, then indoor air monitoring shall recommence for all COCs within fifteen (15) days of receipt of the analytical results and be carried out as follows:
    - 1. If none of the concentrations of the COCs exceeds Schedule 'B' (indoor air 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 (four additional monitoring events); and
    - 2. If any of the concentrations of the COCs exceeds Schedule 'B' (indoor air trigger levels) on the recommenced indoor air monitoring event, then a Licenced 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.

The indoor air monitoring shall continue on a quarterly basis (every three months) until such time as the Director has reviewed the data available and either agrees to or alters the indoor monitoring in the CPU.
- i. Off site soil vapour monitoring shall commence within sixty (60) days of issuance of the CPU. All air monitoring programs shall be done in accordance to USEPA Method TO-15 for the COCs listed in Schedule 'B' except for acenaphthylene shall be collected and analyzed using NIOSH Method 5515 or US EPA TO-13A. The three (3) sampling probe locations as identified in figure H-3 of the CPU (labelled as VP1001, VP1002 and VP2001) 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 quarterly (every three months) basis for the first year and semi-annually (every six months)

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 COCs exceeds Schedule 'B' (soil vapour trigger levels), 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 COCs exceeds Schedule 'B' (soil vapour trigger levels), then soil vapour monitoring shall recommence within fifteen (15) days of receipt of the analytical results and be carried out as follows:
  - 1. If soil vapour concentrations of COCs do not exceed Schedule 'B' (soil vapour trigger levels) on the recommenced soil vapour monitoring event, then the soil vapour monitoring event shall be carried out at quarterly (every three months) basis for one year.
  - 2. If soil vapour concentrations of COCs exceeds Schedule 'B' (soil vapour trigger levels), 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 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.

- j. Off site groundwater monitoring program shall commence within sixty (60) days of issuance of the CPU and shall be carried out on a semi-annually (once every six months) basis for first year and annually (once a year) basis 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 the sampling of four (4) groundwater monitoring wells labeled as MW1704, MW1901, MW1902 and MW2101 as shown on figure H-4 of the CPU.
  - ii. The COCs to be monitored shall consist of PHC F1, PHC F2, benzene, lead, and xylenes as identified 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 the selected groundwater monitoring wells and/or should a measured groundwater concentrations exceed the Schedule 'C' of the CPU; 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 the well construction details.
  - vi. If the groundwater concentration for the COCs exceed Schedule 'B', then groundwater monitoring shall recommence for all COCs within fifteen (15) days of receipt of the analytical results and be carried out as follows:
    - 1. If any of the concentrations of the COCs exceeds Schedule 'C' on the recommenced groundwater monitoring event; then within thirty (30) days of the receipt of the analytical results; develop and submit a contingency plan to the Director (as outlined in the Risk Assessment); and
    - 2. The groundwater 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.
- k. The Owner shall retain a copy of the site plan prepared and signed by a Qualified Person prior to occupancy of any Building 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.
- j. 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 related to the inspection and maintenance program for the barrier to site soils, Building foundations, passive soil vapour mitigation systems, Storage Garages and fences along with and all repairs and maintenance efforts carried out to mitigate any concerns identified;
  - ii. a copy of all records related to the soil management and groundwater plan and the health and safety plan on the Property;
  - iii. a copy of all records for all air monitoring programs including the laboratory's certificate of analyses and chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature;
  - vi. a copy of all records related to the groundwater monitoring program including the laboratory's certificate of analyses and chain of custody and borehole logs indicating the well construction details.
  - v. a copy of all signed as-built diagrams for all Vapour Barriers, Sub Slab Venting Layers and Venting Components along with the proposed testing and performance system requirements;
  - vi. a copy of all signed site plans including any alterations; and
  - vii. a copy of the updated financial assurance every five 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 Items 4.2 f. and 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 '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, 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 in the amount of one hundred and sixty-five thousand and one hundred and eighty-eight dollars (\$165,188) 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 j. with an updated cost estimate with respect to the matters dealt with in Item 4.13 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, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.
- 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 failure to comply 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 relieve 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, 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](mailto:OLT.Registrar@ontario.ca)

and

Jimena Caicedo  
Ministry of the Environment, Conservation and Parks  
5775 Yonge Street, 8<sup>th</sup> Floor  
Toronto, Ontario  
M2M 4J1  
Fax: 416-326-5536  
Email: [jimena.caicedo@ontario.ca](mailto: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](http://www.olt.gov.on.ca)

Further information regarding service can be obtained from e-Laws at [www.ontario.ca/laws](http://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](http://www.ontario.ca/laws)

Issued at Toronto this XX<sup>th</sup> day of XXX 2023.

## **DRAFT**

Jimena Caicedo  
Director, section 168.6 of the Act

## Schedule 'A'

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

Contaminants of Concern (COCs)	Property Specific Standards for Soil (µg/g)	Property Specific Standards for Groundwater (µg/L)
Acenaphthylene	7.2	NA
Anthracene	14	NA
Antimony	17	NA
Arsenic	49	NA
Barium	1,200	NA
Benz(a)anthracene	34	NA
Benzene	140	42,000
Benzo(a)pyrene	31	NA
Benzo(b)fluoranthene	39	NA
Benzo(ghi)perylene	23	NA
Benzo(k)fluoranthene	11	NA
Bromodichloromethane	NA	600
Bromoform	0.60	300
Bromomethane	0.60	6
Carbon Tetrachloride	0.60	2.4
Chloroform	0.60	NA
Chloride	NA	4,200,000
Chlorobenzene	NA	240
Cyanide (CN-)	NA	6.0
Chrysene	30	NA
Dibromochloromethane	NA	600
Dibenz(a,h)anthracene	4.3	NA
Dichlorobenzene, 1,2-	7.0	600
Dichlorobenzene, 1,3-	6.0	600
Dichlorobenzene, 1,4-	0.71	6.0
Dichlorodifluoromethane	NA	1200
Dichloroethane, 1,1-	6.0	240
Dichloroethane, 1,2-	0.84	1,056
Dichloroethylene, 1,1-	0.60	2.4
Dichloroethylene, 1,2-cis-	6.0	8.7
Dichloroethylene, 1,2-trans-	1.2	6.0
Dichloropropane, 1,2-	0.60	12
Dichloropropene, 1,3-	0.60	6.0
Electrical Conductivity	23	NA
Ethylbenzene	310	3,600
Ethylene Dibromide	0.60	110
Fluorene	NA	5.0
Fluoranthene	89	NA
Hexane (n-)	500	5600
Indeno(1,2,3-cd)pyrene	22	NA
Lead	260	260
Methylene Chloride	1.2	600
Methyl Ethyl Ketone	60	NA
Methyl Isobutyl Ketone	12	NA
Methyl t-butyl ether (MTBE)	1.2	160

Methylnaphthalene, 2-(1-)	16	1,100
Molybdenum	9.7	NA
Naphthalene	17	1300
PHC F1	11,000	280,000
PHC F2	5,200	700,000
PHC F3	40,000	22,000
PHC F4	7,300	3,100
Phenanthrene	68	NA
Sodium Adsorption Ratio (unitless)	98	NA
Styrene	6.0	600
Tetrachloroethane, 1,1,1,2-	0.60	6.0
Tetrachloroethane, 1,1,2,2-	0.60	6.0
Tetrachloroethylene	2.8	48
Toluene	1,300	49,000
Trichloroethane, 1,1,1-	6.0	240
Trichloroethane, 1,1,2-	0.60	16
Trichloroethylene	0.74	24
Trichlorofluoromethane	NA	600
Vinyl Chloride	0.24	12
Xylenes (total)	2,800	55,000
Zinc	620	NA

NA= not applicable

**Schedule 'B'**  
**Air Trigger Levels**

<b>Contaminants of Concern (COCs)</b>	<b>Indoor Air Trigger Levels (<math>\mu\text{g}/\text{m}^3</math>)</b>	<b>Soil Vapour Trigger Levels (<math>\mu\text{g}/\text{m}^3</math>)</b>
Acenaphthylene	0.185	9.25
Benzene	0.506	25.3
Bromomethane	1.04	52.1
Carbon Tetrachloride	0.417	20.9
Chlorobenzene	209	10,400
Dichlorobenzene, 1,2-	125	6,260
Dichlorobenzene, 1,4-	0.278	13.9
Dichloroethane, 1,1-	34.4	1,720
Dichloroethane, 1,2-	0.428	2.14
Dichloroethylene, 1,1-	14.6	730
Dichloroethylene, 1,2-cis-	31.3	1,560
Dichloroethylene, 1,2-trans-	12.5	626
Dichloropropane, 1,2-	0.834	41.7
Dichloropropene, 1,2	0.278	13.9
Ethylbenzene	209	10,500
Ethylene Dibromide	0.00185	0.0927
Hexane	521	26,100
Methyl ethyl ketone	1,000	50,100
Methyl isobutyl ketone	602	30,100
Methyl t-butyl ether (MTBE)	4.28	214
Methylene Chloride	48.4	2,420
Naphthalene	0.772	38.6
PHC F1 – Aliphatic C6-C8	9,590	480,000
PHC F1 – Aliphatic C>8-C10 <sup>a</sup>	521	26,100
PHC F1 – Aromatic C>8-C10 <sup>b</sup>	104	5,210
PHC F2 – Aliphatic C>10-C12 <sup>a</sup>	521	26,100

PHC F2 - Aliphatic C>12-C16 <sup>a</sup>	521	26,100
PHC F2 - Aromatic C>10-C12 <sup>b</sup>	104	5,210
PHC F2 - Aromatic C>12-C16 <sup>b</sup>	104	5,210
Styrene	54.2	2,710
Tetrachloroethane, 1,1,1,2-	0.15	7.51
Tetrachloroethane, 1,1,2,2-	0.0192	0.959
Tetrachloroethylene	4.28	214
Toluene	1,040	52,100
Trichloroethane, 1,1,1-	209	10,400
Trichloroethane, 1,1,2-	0.0695	3.48
Trichloroethylene	0.271	13.6
Vinyl Chloride	0.126	6.32
Xylenes (total)	146	7,300

- a. The measured concentrations of individual COCs of PHC F1 (Aliphatic Aliphatic C>8-C10), PHC F2 (Aliphatic C>10-C12), PHC F2 (Aliphatic C>12-C16), PHC F2 (Aromatic C>10-C12), and PHC F2 (Aromatic C>12-C16) and the sum of those COCs should not exceed the identified indoor air trigger level from the same sampling location.
- b. The measured concentrations of individual COCs of PHC F1 (Aromatic C>8-C10), PHC F2 (Aromatic C>10-C12), and PHC F2 (Aromatic C>12-C16) and the sum of those COCs should not exceed the identified indoor air trigger level from the same sampling location.

### Schedule 'C'

#### Groundwater Trigger Levels

Contaminants of Concern (COCs)	Groundwater Trigger Levels (µg/L)
Benzene	44
Lead	25
PHC F1	750
PHC F2	150
Xylenes (total)	4,200

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 8370-CLWLW7 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 XXXXX, 2023 being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as 1467 Bathurst Street and 490 St. Clair Avenue West, Toronto being all of Property Identifier Number 10467-0044 (LT) (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

**490 ST. CLAIR WEST PROPERTY 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 Property.

# Plan of Survey (66R-29460)

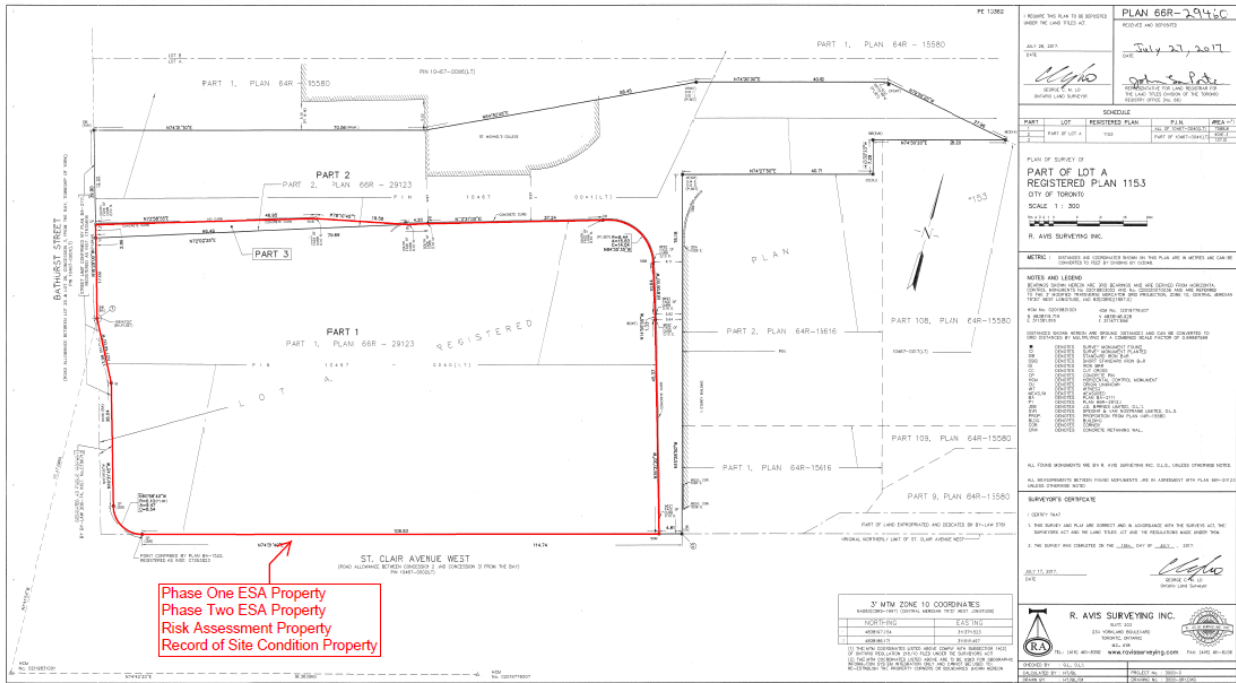




Figure H-1

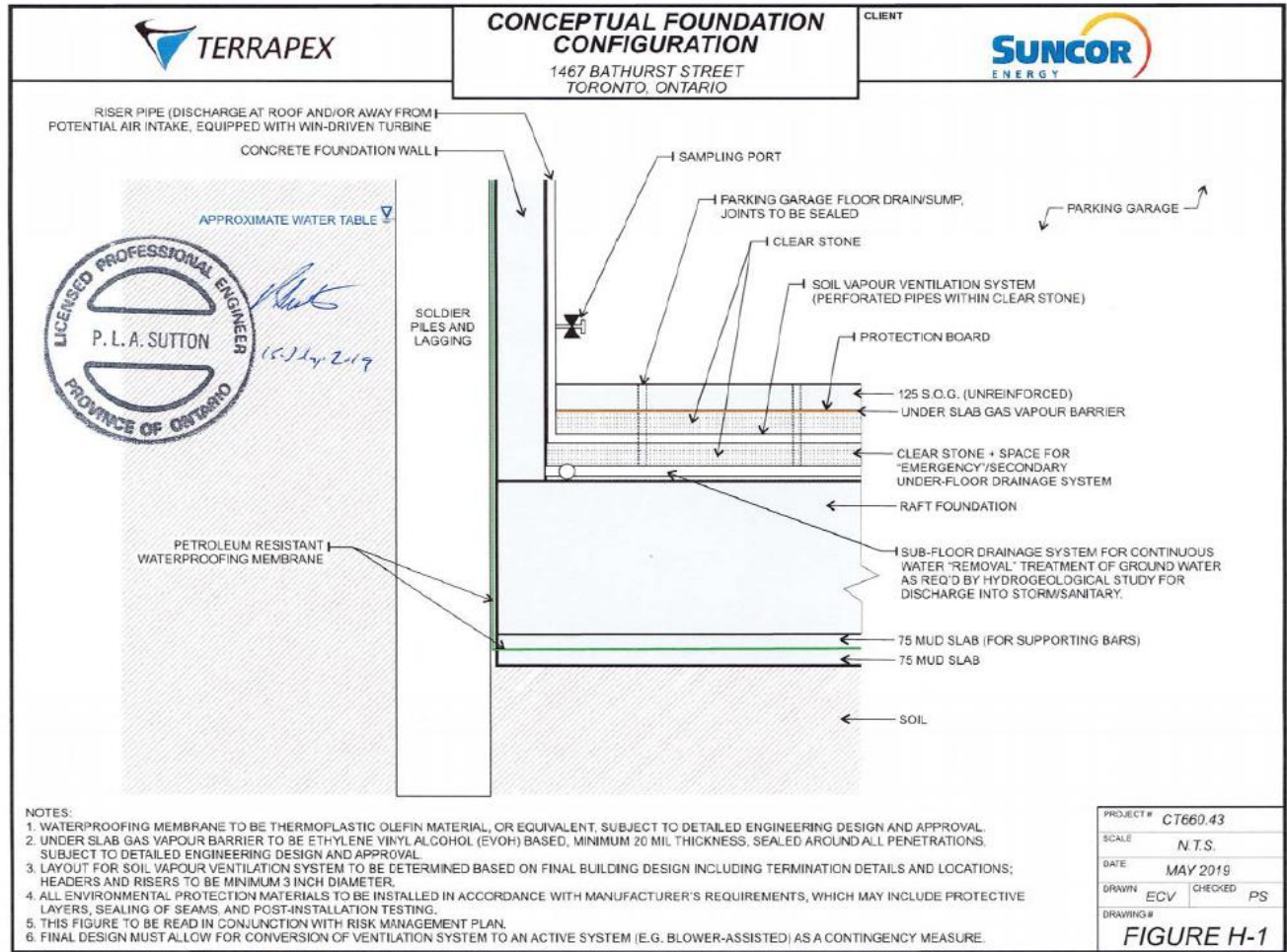


Figure H-2

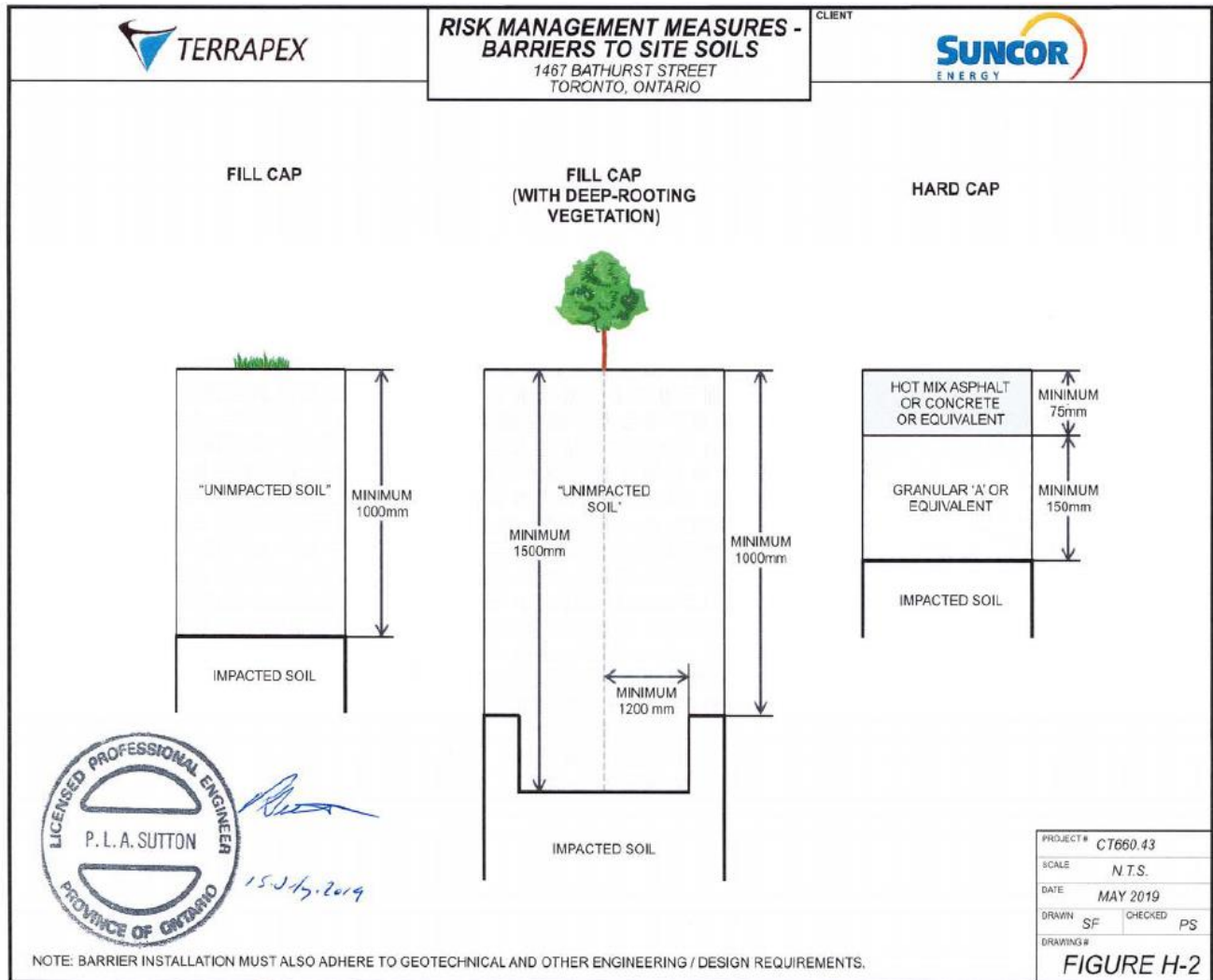


Figure H-3

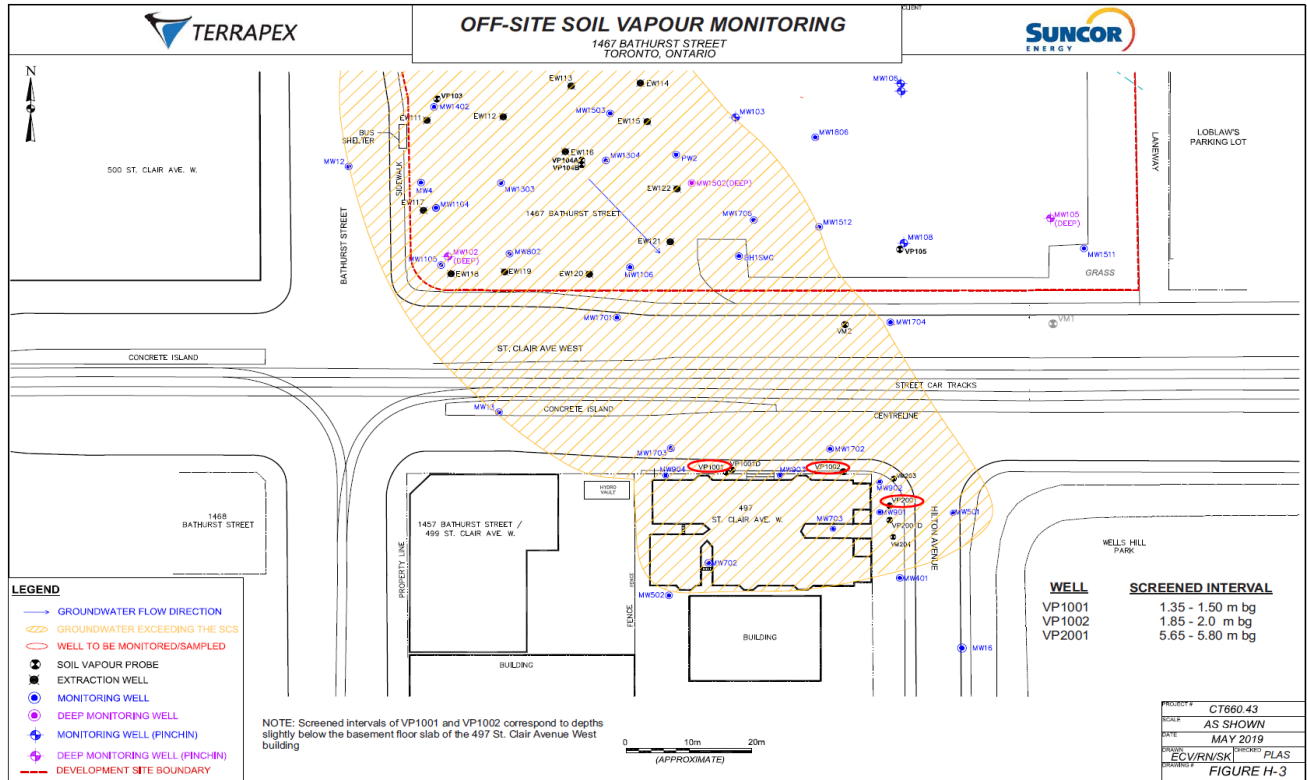


Figure H-4

