

Certificate of Property Use -DRAFT

Issued under the authority of the Environmental Protection Act, R.S.O. 1990, c. E.19, sections 168.6 (CPU), 196(2) (Order) and 197 (Order)

Certificate of property use number: 1505-AFBR7X-1
Risk assessment number: 1505-AFBR7X

Owner:

Rotary Club of Sarnia Charitable Foundation (Owner)
1210 Michigan Avenue
P.O. Box 22014 Twin Lakes Postal Outlet
Sarnia, ON, N7S 6J4

Property:

1206 Michigan Avenue, Sarnia (Property)

With a Legal Description of:

Part Lot 54, Concession 9 Sarnia Township designated Part 2 on Reference Plan 25R9634,
City of Sarnia, County of Lambton

Being All of PIN: 43148-0135 (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.

Risk Management Measures (RMMs) that are required to be implemented are found in Part 4 of the CPU, Director Requirements. Key RMMs specified in Part 4 include, but are not limited to:

- Prohibiting the construction of any new Building (s) on the Property unless the new Building (s) is constructed as specified in Section 4.2 (a), 4.2(b), and 4.2(c) of this CPU;
- Implementing a Performance Monitoring Program for any new Building (s) constructed on the Property as specified in Section 4.2 (h) of this CPU;
- Implementing a Soil and Groundwater Management Plan during any intrusive activities on the Property or portions of the Property potentially in contact with COCs identified in soils and/or groundwater as specified in Section 4.2 (k) of this CPU;

- Implementing a Health and Safety Plan during any intrusive activities undertaken on the Property potentially in contact with COCs in soil and/or groundwater as specified in Section 4.2 (l) of this CPU;
- Prohibiting the use of groundwater in, on or under the Property as per Section 4.2 (m) of this CPU;
- Restricting the use of the Property to Commercial land use as per Section 4.4 of this CPU;
- Permitting access to the Property in accordance with subsection 196(2) of the Environmental Protection Act as per Section 4.6; and,
- Registering a certificate on the Property title in accordance with Section 197 of the Environmental Protection Act and that before dealing with the Property in any way, a copy of the CPU is to be given to every person who will acquire an interest in the Property as per Section 4.7, 4.8 and 4.9 of this CPU.

Part 1: Interpretation

In the CPU the following capitalized 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.

“Applicable Site Condition Standards” and “ASCS” means soil and groundwater that meets the soil or groundwater criteria identified in *Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils) (industrial/commercial/community land use)* 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.

“Building” and “Building (s)” means an enclosed structure or structures 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 Ontario Regulation 332/12 (Building Code), made under the *Building Code Act, 1992*, S.O. 1992, c. 23.

“Competent Person” has the same meaning as set out in the OHSA.

“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 may cause an Adverse Effect.

“Contaminant of Concern” and “COC” has the meaning as set out in Section 3.2 of this CPU.

“CPU” means this Certificate of Property Use Number No. **1505-AFBR7X-1** as may be amended from time to time; and includes any schedules attached thereto, which form part of this certificate of property use.

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

"EBR" means the *Environmental Bill of Rights, 1993*, S.O. 1993, c.28.

"Environmental Compliance Approval" has the same meaning as set out in the Act.

"First Storey" has the same meaning as set out in the Building Code.

"Grade" has the same meaning as set out in the Building Code.

"Health and Safety Plan" means the plan specified in Section 4.2(1).

"Intrusive Activities" means any intrusive activity undertaken at the Property, such as excavating or drilling into soil or ground water, which may disturb or expose Contaminants of Concern at the Property.

"Licensed Professional Engineer" means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*, R.R.O. 1990, c.P.28, and who has obtained the appropriate education and training and has demonstrated experience and expertise in the areas related to the work required to be carried out in this CPU.

"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.

"OHSA" means the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

"Open-air Storey" has the same meaning as in the Building Code.

"Owner" means the owner(s) of the Property, described in the "Owner" section on Page 1 above, and any beneficial or 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 "Property" section on page 1 above, and illustrated in Figure 1 of Schedule A which is attached to and forms part of this CPU.

"Property Specific Standards" and "PSS" means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in Section 3.2 of this CPU.

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

"PSSGM Plan" means the property specific soil and groundwater management plan specified in Section 4.2 (k)

"Qualified Person" means a person who meets the qualifications prescribed in section 5 of O. Reg. 153/04.

"Risk Assessment" and "RA" means the Risk Assessment **No. 1515-AFBR7X** accepted by the Director on, **August 21, 2023** and set out in the following final documents:

- **Risk Assessment for 1206 Michigan Avenue, Sarnia, Ontario**, report prepared by MTE Consultants Inc., dated August 31, 2018
- **Revised Risk Assessment Report for 1206 Michigan Avenue, Sarnia, Ontario**, report prepared by MTE Consultants Inc., dated December 20, 2019

- **Revised Risk Assessment Report for 1206 Michigan Avenue, Sarnia, Ontario**, report prepared by MTE Consultants Inc., dated August 28, 2020
- **“RA1598-17; IDS 1505-AFBR7X (1206 Michigan Ave) - Correction to Figure 8a”** e-mail from Steve Russell, MTE Consultants Inc., received by TASDB on October 28, 2020, with the following documents attached:
 - *Figure 8a Revised 1206 Michigan Ave, Sarnia.pdf*
 - *L1461042_COA.pdf*
 - *L2342575_COA.pdf*
- **Revised Risk Assessment, 1206 Michigan Avenue, Sarnia, Ontario**, report prepared by MTE Consultants Inc., dated August 5, 2021
- **Revised Risk Assessment, 1206 Michigan Avenue, Sarnia, Ontario**, report prepared by MTE Consultants Inc., dated February 27, 2023
- **“RE: Request for additional information: 1206 Michigan Avenue, Sarnia [RA1598-17e, IDS 1505-AFBR7X]”** email from Steve Russell, MTE Consultants Inc., received by TASDB on June 8, 2023, with the following document attached:
 - *Request for Additional Information_2023-06-08_1206 Michigan Avenue.pdf*

“Risk Management Measures” and “RMMs” means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU. In the event of a conflict between the requirements in this CPU and those in the Risk Assessment, the requirements of the CPU take precedence.

“Risk Management Plan” and “RMP” means the risk management plan detailed in Section 7.0 and Appendix K of the Risk Assessment.

“Tribunal” has the same meaning as in the Act; namely, the Ontario Land Tribunal.

Part 2: Legal Authority

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.
- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
 - a. the performance of any action specified in the certificate of property use;
 - b. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
 - c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.
- 2.3 Subsection 168.6 (1) of the Act states that if a risk assessment relating to a 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 specified in the certificate that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, 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 the 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 the 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 196(2) of the Act states that a person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.
- 2.8 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.
- 2.9 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.
- 2.10 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.
- 2.11 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 (RA) was undertaken for the Property to assess the human health risks and ecological risks associated with the presence or discharge of the Contaminants identified in the RA and to identify appropriate Risk Management Measures (RMMs) 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 either above **Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils)** for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011, or for which there are no such standards, are set out in the RA (Contaminants of Concern). The Property Specific Standards for these

Contaminants of Concern are set out in **Table A of Schedule A** which is attached to and forms part of the CPU.

- 3.3 I am of the opinion, for the reasons set out in the RA that the RMMs described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the RA.
- 3.4 I am of the opinion, for the reasons set out in the RA, that Contaminants of Concern require on-going pathway elimination and it is necessary to restrict the use of the Property and the construction of Buildings and implement RMMs as set out in the RA and in Part 4 of the CPU.
- 3.5 I believe for the reasons set out in the RA that it is also advisable to require access to the Property as set out in the section 196(2) requirement in Section 4.6 of this CPU.
- 3.6 I believe for the reasons set out in the RA that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in section 197 order requirements in Section 4.7, Section 4.8 and Section 4.9 of this CPU.

Part 4: Director Requirements

Pursuant to the authority vested in me under subsection 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 Section 4.1, carry out or cause to be carried out the following key elements of the RMMs:

New Buildings (Building (s)):

- a) The Owner shall refrain from constructing any new **Building (s)** or portions thereof on, in or under the Property unless the Building or portion thereof:
- i. includes and is constructed with a storage garage with an Open-air Storey design as detailed in Section K-7.2.5.1 of the RMP along with Section 4.2 (b) of this CPU; or,
 - ii. includes and is constructed with a slab-on-grade foundation in combination with a soil vapour mitigation system as detailed in Section K-7.2.5.2 and Section 4.2 (c) of this CPU.
- b) The construction of any new **Building(s)** or portions thereof on the Property, other than that identified in Section 4.2 (c), that includes a storage garage with an Open-air Storey design, as defined in the Building Code, and as specified in Section K-7.2.5.1 of the RMP shall meet the following requirements:
- i. The storage garage is constructed with at least one level at Grade;
 - ii. The storage garage area covers the entire Building area at ground surface, unless the Building or portion thereof is constructed as slab-on-grade and includes a vapour mitigation system in accordance with requirements specified in 4.2 (c) of this CPU, such that the entire Building includes either a vapour mitigation system or Open-air Storey storage garage; and,
 - iii. The storage garage with Open-air Storey design complies with all applicable requirements of the Building Code.
- c) The construction of any **new Building(s)** or portions thereof on the Property, other than that identified in Section 4.2 (b) of this CPU, is permitted on the Property provided that the new Building or portion thereof includes, and is constructed with, a vapour mitigation system, as identified in Section K-7.2.5.2 of the

RMP, that has been incorporated into the design of, and installed in, any new Building(s) or portions thereof to be constructed on the Property, such that the entire Building includes either a vapour mitigation system or storage garage with Open-air Storey design. The vapour mitigation system shall be designed by an appropriately qualified Licensed Professional Engineer in consultation with a Qualified Person in accordance with the conceptual design detailed in Section K-7.2.5.2 of RMP and **Figure 2 – Conceptual Design Drawing for Vapour Mitigation System for New Building** of Schedule A, which is attached to and forms part of this CPU (**Figure 2**), and shall also include the following components:

- i. The Owner shall obtain an Environmental Compliance Approval, as necessary, and any other permits or approvals as may be required;
 - ii. The installation of the vapour mitigation system shall be completed under the supervision of an appropriately qualified Licensed Professional Engineer and a Qualified Person;
 - iii. The passive vapour mitigation system shall be designed and constructed such that the passive venting system can easily be converted to an active venting system with all applicable approvals and permits as may be necessary;
 - iv. Pre-occupancy pilot testing of the vacuum created by the sub slab vapour venting system shall be conducted using a temporary electrically powered fan(s) in order to demonstrate that, if the venting system is required to be converted to an active venting system, the system will be able to achieve the performance criteria of a minimum of 6 Pascal pressure differential below the foundation floor slab across at least 90 percent of the Building footprint relative to the indoor air pressure in the Building during all seasons. The pre-occupancy pilot test shall be overseen by, and clearly documented in a report prepared by an appropriately qualified Licensed Professional Engineer; and,
 - v. A quality assurance/quality control (QA/QC) program shall be undertaken during the installation of the vapour mitigation system and shall be completed by, and clearly documented in a report prepared \and overseen by an appropriately qualified Licensed Professional Engineer and Qualified Person in consultation with the qualified contractor.
- d) Within 90 calendar days of the completion of the construction of **new Building(s)** or portions thereof as specified in Section 4.2 (c) of this CPU and prior to first occupancy, the Owner shall submit to the Director as-built drawings and detailed design specifications of the vapour mitigation system including any verification and QA/QC reports, along with a detailed report documenting the completion of a pre-occupancy pilot vacuum (pressure) test program, prepared by the qualified Licensed Professional Engineer along with a statement from the qualified Licensed Professional Engineer that the vapour mitigation system has been installed in accordance with the original design specifications and that it has been designed to meet the requirements and objectives specified in Section K-7.2.5.2 of the RMP along with Section 4.2 (c) of this CPU.
- e) The vapour mitigation system detailed in Section K-7.2.5.2 of the RMP and 4.2 (c) of this CPU shall be operated, monitored, and maintained by the Owner for as long as the COCs are present on the Property. As detailed in Section K-7.4.5.2 of the RMP, the qualified Licensed Professional Engineer that designed the vapour mitigation system shall prepare an operation, inspection, monitoring, and maintenance program, including a contingency plan, that is to be implemented by the Owner, prior to first occupancy, and shall be made available by the Owner to the Ministry upon request.
- f) An inspection, monitoring and maintenance program specified in Section K-7.4.5.2 of the RMP and Section 4.2 (e) of this CPU shall be implemented to ensure the continued integrity of the Building floor slab and vapour mitigation system for as long as the COCs are present on the Property. The inspection program shall include, at minimum, semi-annual inspections of the integrity of the Building floor slab and monitoring of the vapour mitigation system in accordance with the monitoring and maintenance program specified in Section 4.2 (e) of this CPU. Any cracks, breaches or loss of integrity observed in the Building floor slab or any observed deficiencies or necessary maintenance requirements with the vapour mitigation system shall be repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary. If repairs to the Building floor slab or the vapour mitigation system cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by

a qualified Professional Engineer, as specified in Section 4.2 (j) of this CPU, are implemented. All repairs are to be inspected by an appropriately qualified Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared, and signed by a qualified Licensed Professional Engineer, that the vapour mitigation System has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the vapour mitigation system. The Owner shall keep records of the inspections, monitoring and maintenance program, along with documentation of all repairs that were required to be undertaken and these records shall be made available by the Owner to the Ministry for review upon request.

- g) The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the vapour mitigation system are made aware of the presence of the vapour mitigation system and the need to take appropriate precautions to always ensure the integrity of the vapour mitigation system. If the vapour barrier is damaged at any time, the Owner shall ensure that it is repaired forthwith by a qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary, to the original design specifications, at minimum. If repairs to the vapour mitigation system cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a qualified Professional Engineer are implemented. All repairs to the vapour mitigation system are to be inspected by a qualified Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a qualified Licensed Professional Engineer, that the vapour mitigation system has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the vapour mitigation system. The Owner shall maintain records of all activities and repairs in relation to the vapour mitigation system and these records shall be made available by the Owner to the Ministry for review upon request.
- h) Once the final design of the vapour mitigation system is completed as specified in Section 4.2 (c) of this CPU, the Owner shall submit to the Director, for review and approval, a performance monitoring program. The performance monitoring program shall be prepared by a qualified Licensed Professional Engineer in consultation with an appropriately Qualified Person, that consists sub-slab vapour and potentially indoor air monitoring, similar to that detailed in Section K-7.4.5.2 of the RMP.

Specifically, the performance monitoring program shall include the following key components:

- i. Be overseen by a qualified Licensed Professional Engineer.
- ii. The collection of sub-slab vapour samples from an appropriate number of representative locations, including an appropriate number of QA/QC samples, that is adequate for the size and configuration of any new Building(s) and as determined by the qualified Licensed Professional Engineer at the following frequency (at minimum):
 - 1. Prior to first occupancy;
 - 2. Semi-annually (spring and winter) thereafter for a minimum of two years and until written approval to discontinue the indoor air sampling as part of the performance monitoring program by the Director is received by the Owner.
- iii. The sub-slab vapour samples shall be sent to an accredited laboratory and analyzed for the Target Analytes listed in Schedule A: Table B2 – Target Sub-Slab Vapour Concentrations (**Table B2**), which is attached to and forms part of this CPU.
- iv. An annual report documenting the performance monitoring program shall be prepared by a qualified Licensed Professional Engineer and submitted to the Director on or before **March 31st** following each year of monitoring for a minimum of two years and until written approval to discontinue the program is received by the Owner from the Director. The annual report shall include, but not be limited to:
 - 1. Laboratory results and laboratory certificates of analysis;

2. Field logs, leak testing (as necessary) and documentation of QA/QC;
 3. Discussion and interpretation of the results in comparison to the respective criteria as listed in **Table B2**; and,
 4. Conclusions and recommendations with respect to the need for additional and/or continued monitoring as may be warranted.
- i) Upon completion of the installation of the vapour mitigation system as specified in Section 4.2 (c) of this CPU, and prior to first occupancy, the Owner shall implement the performance monitoring program, that has been approved in writing by the Director, as required by Section 4.2 (h) of this CPU and detailed in K-7.4.5.2 of the RMP for a minimum of two years and until the Owner receives written approval from the Director to discontinue the program. Any changes to the performance monitoring program that has been approved by the Director, as required by Section 4.2 (h) of this CPU, (i.e. sampling frequency, locations, methodology etc.) must be requested in writing by an appropriately qualified Licensed Professional Engineer and these changes shall only be implemented upon the Owner receiving written approval from the Director.
- j) If the performance monitoring program detailed in Section 4.2 (h) of this CPU identifies one or more of the Target Analytes at concentrations above the Sub-Slab Vapour Concentrations specified in **Table B2** the Owner shall implement the contingency measures detailed in Section K-7.4.5.2 of the RMP, and as follows:
- i. Conduct a confirmatory sampling program, completed by a Qualified Person, with sample collection occurring within 30 calendar days of the date of the initial sample collection to confirm the exceedance.
 - ii. If none of the measured concentrations exceed the values set out in **Table B2** following the confirmatory sampling event described directly above in subsection 4.2(j)(i), then monitoring shall continue to be carried out as described in Sections 4.2 (i) and (j) of this CPU.
 - iii. If any of the measured concentrations exceed the values set out on **Table B2** on the confirmatory monitoring event, the Owner shall notify the Director in writing within 14 calendar days of receipt of the analytical results and shall implement the contingency measures as described below and in Section K-7.4.5.2 of the RMP. This written notice shall include the sub-slab vapour sampling results, the laboratory certificates of analysis and the anticipated timeline for the implementation of an indoor air sampling program along with any additional work as may be deemed necessary by a qualified Licensed Professional Engineer.
 1. Confirmatory indoor-air sampling shall occur within 30 calendar days from the date of the Owner's receipt of the laboratory analysis from the vapour sampling under subsection i. of Section 4.2 (j) of this CPU and be completed by a qualified Licensed Professional Engineer.
 2. Submit written notice to the Director within 7 calendar days of the Owner's receipt of the laboratory analysis under subsection 4.2(j)(iii)(1) directly above. This written notice shall include the indoor air results compared to the criteria in **Table B1 – Target Indoor Air Concentrations** in Schedule A, which is attached to and forms part of this CPU (**Table B1**), the laboratory certificates of analysis and the details of, and the anticipated timeline to implement contingency measures consistent with Section K-7.4.5.2 of the RMP. A report proposing contingency measures, as necessary, e.g. the conversion of the passive system to an active system, along with the implementation of a confirmatory sampling program shall be provided to the Director within 30 calendar days of the Owner's receipt of the laboratory analysis. Implementation of the proposed contingency measures shall occur upon receipt of the Director's approval;
 3. Within 30 calendar days of the completion of implementation of the contingency measures, the Owner shall submit to the Director a report prepared by a qualified Licensed Professional Engineer documenting the implementation of contingency measures, results of the implementation of the confirmatory sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program as necessary. The report shall include, but not be limited to:

- a) Laboratory results and laboratory certificates of analysis;
- b) Field logs, leak testing (as necessary), vacuum (pressure) monitoring results (as necessary) and documentation of QA/QC;
- c) Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations as listed in **Table B1**;
- d) Discussion and interpretation of the results of any vacuum (pressure) monitoring upon the commissioning of the active system in relation to achieving the performance criteria of a minimum of 6 Pascal pressure differential below the Building foundation floor slab across at least 90 percent of the Building footprint relative to the indoor air pressure in the Building; and,
- e) Conclusions and recommendations with respect to the performance of the Building's vapour mitigation system along with the need for additional work and/or continued monitoring as may be deemed warranted.

Soil and Groundwater Management Plan:

- k) A property specific soil and groundwater management plan (PSSGM Plan) shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs in soil or groundwater that exceed the Applicable Site Condition Standards as detailed in Section K-7.2.1 of the RMP. A copy of the PSSGM Plan shall be maintained on the Property for the duration of all planned intrusive activities. Any short term intrusive activities required for the purposes of emergency repairs (i.e. for repairs to underground utilities etc.) will not require *the submission* of the PSSGM Plan- prior to undertaking the short term emergency repairs. For planned intrusive activities, this PSSGM Plan shall be submitted to the Director by the Owners at least 14 calendar days prior to any such intrusive activities being undertaken and shall be consistent with the measures specified in Section K-7.2.1 of the RMP. The PSSGM Plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:
 - i. oversight by a Qualified Person;
 - ii. include dust control measures and prevention of soils tracking by vehicles and personnel from the Property;
 - iii. odour control measures including, weather monitoring (temperature, humidity, wind), monitoring with a photoionization detector (PID), ambient air quality sampling (depending on the extent and duration of the excavation activities), specifications regarding the size of open excavations, wetting of soil with potable water, implementation of atomization equipment or foam suppression, tarping odorous soil, or ceasing work to reassess the source of odour and to evaluate the appropriate control measure,
 - iv. management of excavated soils including 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;
 - v. management measures and an action plan (including appropriate disposal options) for Non-Aqueous Phase Liquid (NAPL) if encountered. If NAPL is encountered, the Owners shall notify the Director in writing within 24 hours of the NAPL being encountered;
 - vi. storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
 - vii. characterization of excavated excess soils and groundwater, to determine if the excavated soils or groundwater exceed the Property Specific Standards listed in **Table A** of Schedule A of this CPU and/or the applicable generic site condition standards for parameters other than those identified in **Table A** and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, and Ontario Regulation 406/19, made under the Act;
 - viii. characterization of groundwater as a result of dewatering shall include, but not be limited to, adequate groundwater sampling prior to dewatering activities along with appropriate sampling of the groundwater collected during dewatering activities.

- ix. record keeping is to include, but not to be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, dust control measures, odour control measures, stockpile management and drainage, NAPL management and disposal, all soil and groundwater characterization results obtained as part of the PSSGM Plan , names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils, groundwater, as a result of dewatering activities, and NAPL removed from the Property and any complaints received relating to site activities; and,
- x. a copy of the PSSGM Plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan:

- l) A property specific Health and Safety Plan shall be developed for the Property and implemented during all planned intrusive activities undertaken potentially in contact with any COCs in soil and groundwater that have been identified in the RA at concentrations that exceed the Applicable Site Condition Standards and a copy shall be maintained on the Property for the duration of all intrusive activities. The Owners shall ensure that the Health and Safety Plan takes into account the presence of the COCs and is implemented prior to any intrusive activities being undertaken on the Property or portion (s) of the Property in order to protect workers from exposure to the COCs as detailed in Section K-7.2.2 of the RMP. The Health and Safety Plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any Project (on the Property or portion (s) of the Property), the local Ministry of Labour office shall be notified, where so prescribed under the OHSA, of the proposed activities and that COCs have been identified in soils and or groundwater on the Property. The Health and Safety Plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owners shall retain a copy of the Health and Safety Plan to be available for review by the Ministry upon request.

Prohibition of Ground Water Use:

- m) Upon issuance of the CPU, the Owner shall take all actions necessary or advisable to prevent any use of ground water in or under the Property as a potable water source.
- n) The Owner shall,
 - a. Refrain from using ground water in or under the Property as a potable source of water; and
 - b. Except, as may be required for continued use as a monitoring well, as defined in the Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA):
 - i. properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Regulation 903 of the Revised Regulations of Ontario 1990: (Wells), made under the OWRA; and,
 - ii. refrain from constructing on the Property any wells as described or defined in the OWRA.

Site Changes

- 4.3 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the RMMs and/or any underlying basis for the RMMs, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further RMMs 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.

Property Use Restrictions

- 4.4 The Owner shall refrain from using the Property for any type of property use specified in O. Reg. 153/04, other than Commercial land use.

Reports

- 4.5 The Owner shall 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) calendar days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Access Requirement

- 4.6 The adjacent property at 1226 Murphy Road is subject to conditions imposed under Certificate of Property Use no. 2805-AE8KLLK-1 which require an on-going groundwater monitoring program at the Property to confirm the stability of the existing chlorinated solvent plume originating from that property. The Owner shall permit access to the Property by an appropriately Qualified Person, retained by any person subject to the conditions of Certificate of Property Use no. 2805-AE8KLLK-1 and any person and equipment an appropriately Qualified Person retained by any person subject to the conditions of Certificate of Property use no. 2805-AE8KLLK-1 considers necessary for the purpose of conducting groundwater monitoring and sampling, per condition 4.2(w) of Certificate of Property Use no. 2805-AE8KLLK-1, in the existing wells at the Property, which are shown on Schedule A: Figure 3 – Groundwater Monitoring Locations (**Figure 3**), which is attached to and forms part of this CPU.

Property Requirement

- 4.7 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

- 4.8 Within fifteen (15) calendar days from the date of receipt of a certificate of requirement, issued under subsection 197(2) of the Act, completed as outlined in Schedule B, register the certificate of requirement on title to the Property in the appropriate land registry office.
- 4.9 Within five (5) calendar days after registering of the certificate of requirement, provide to the Director a copy of the registered certificate and of the parcel register (s) for the Property confirming that the certificate of requirement has been registered on title to the Property.

Owner Change

- 4.10 While the CPU is in effect, 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

- 4.11 The Director has not included in the CPU a requirement that the Owner provide financial assurance to the Crown in right of Ontario.

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 amend 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 provided, 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 a requirement of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve you 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.
- 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(s) 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 provisions of Sections 4.8 and 4.9 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 may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.
- 5.10 Where the CPU requires that the Director must be notified or receive a report this should be done by email at environment.sarnia@ontario.ca

- 5.11 Where there is more than one Owner, each person is jointly and severally liable to comply with any requirements of the CPU unless otherwise indicated.

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 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

Sean Morrison
Sarnia District Manager
Ministry of the Environment, Conservation and Parks
1094 London Road
Sarnia, ON, N7S 1P1
Fax: 519-381-5536
Email: environment.sarnia@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 Flr, 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 Sarnia this XXXX day of XXXX, 2024.

DRAFT

Sean Morrison,
Director, section 168.6 of the Act

Schedule A: Figure 1 – Site Plan (not to scale)



LEGEND

--- SITE

REFERENCES

LAMBTON COUNTY, 2020 AERIAL IMAGE AND PARCEL MAPPING, AND LAND INFORMATION ONTARIO, ROAD AND UTILITIES MAPPING PRINTER FOR ONTARIO, 2024 (key plan).

NOTES

THIS FIGURE IS SCHEMATIC ONLY AND TO BE READ IN CONJUNCTION WITH ACCOMPANYING TEXT.
ALL LOCATIONS ARE APPROXIMATE.



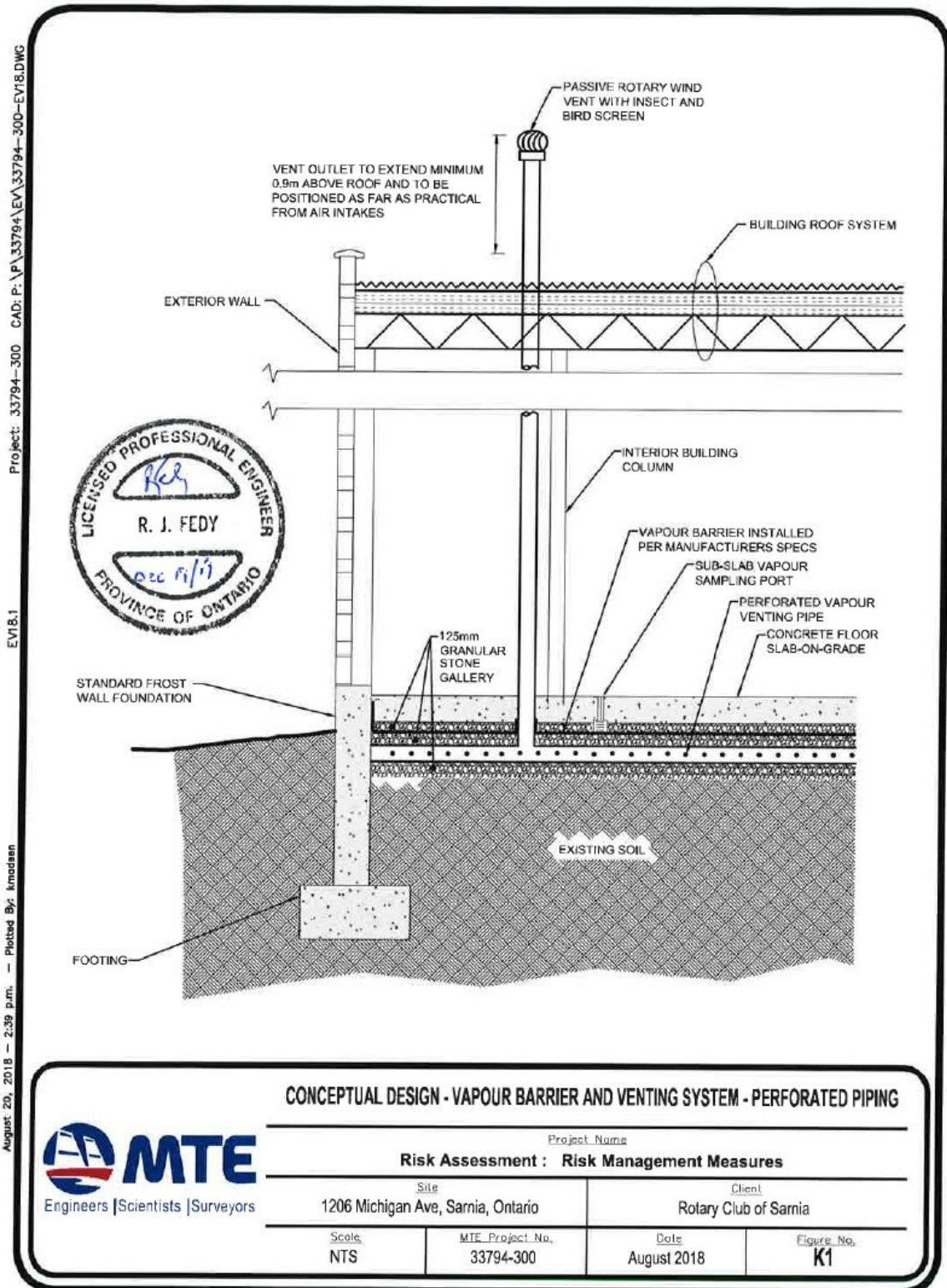
PROJECT
CERTIFICATE OF PROPERTY USE
1206 MICHIGAN AVENUE, SARNIA, ONTARIO

SITE LOCATION MAP

Drawn	Scale	Figure
DCH	1:400	1
Checked	Project No.	
CLB	204K-02-07	0

Plot Date: February 8, 2024 - 10:58 AM
 CAD: P:\35794\303\357794-303-L02 ROTARY\35794-303-102001.DWG

Schedule A: Figure 2 – Conceptual Design Drawing for Vapour Mitigation System for New Building (not to scale)



Schedule A: Figure 3 – Groundwater Monitoring Locations (not to scale)



December 12, 2022 - 11:07 a.m. - Plotted By: Emsbridge
 EV21.K2
 Project: 33794-300 CAD, P:\33794\100\EA\33794-300-EV21.DWG

Schedule A: Table A - Property Specific Standards (PSS) – Soil & Groundwater

<i>Groundwater Contaminant of Concern (COC)</i>	<i>PSS (µg/L)</i>
Cis-1,2-dichloroethylene	47
trans-1,2-dichloroethylene	4
Tetrachloroethylene	698
Trichloroethylene	34.7
Vinyl Chloride	79

<i>Soil Contaminant of Concern (COC)</i>	<i>PSS (µg/g)</i>
Tetrachloroethylene	14

Schedule A: Table B1 – Target Indoor Air Concentrations

<i>Target Analyte</i>	<i>Target Indoor Air Concentrations (µg/m³)</i>
Tetrachloroethylene	13.8
Trichloroethylene	0.401
Vinyl Chloride	0.406

Schedule A: Table B2 – Target Sub-Slab Vapour Concentrations

<i>Target Analyte</i>	<i>Target Indoor Air Concentrations (µg/m³)</i>
Tetrachloroethylene	3450
Trichloroethylene	100
Vinyl Chloride	102

SCHEDULE B

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Section 4.7 of Certificate of Property Use number **1505-AFBR7X-1** issued by **Sean Morrison**, Director of the Ministry of Environment, Conservation and Parks under subsections 168.6(1) and 197(1) of the *Environmental Protection Act*, dated **XXXX XX, 2024** being a Certificate of Property Use and order under section 197(1) of the *Environmental Protection Act* relating to the property municipally known as **1206 Michigan Avenue, Sarnia being All of PIN: 43148-0135 (LT) (the "Property")** with respect to a Risk Assessment and Risk Management Measures and other preventive measure requirements,

Rotary Club of Sarnia Charitable Foundation

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.