

DRAFT Certificate of Property Use

Issued under the authority of the Environmental Protection Act, R.S.O. 1990, c. E.19,
sections 168.6 (CPU), 132 (Financial Assurance) and 197 (Order)

Certificate of Property Use number 8442-D6JL9U
Risk Assessment number 3157-B3LRAA

Registered and Beneficial Owner

DCMS Realty (Burlington) Inc.
5290 Yonge Street, Suite 200
Toronto, Ontario M5N 5P9

Site: 2421 and 2431 New Street, Burlington, Ontario

with a legal description described below:

PT LOT 16, CONC 3 SDS, PT 1, 20R15030; BURLINGTON,
Being all of PIN 07068-0255 (LT), and

PT LOT 16, CONC 3 SOUTH OF DUNDAS STREET, AS IN 643033; BURLINGTON/NELSON TWP
Being all of PIN 07068-0208 (LT).

This Certificate of Property Use and section 197 Order set out the requirements regarding the above-noted Property and the Risk Assessment carried out in relation to the Property which was assigned the number noted above and is described in more detail in Part 1 below.

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

Part 1: Interpretation

In this CPU, the following capitalized terms have the meanings described below. These terms are also defined in the Approved Model. Not all of these terms may be used in this CPU.

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

“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.

“ASTM” means the American Society for Testing and Materials.

“Barrier” means a Fill Cap Barrier, Hard Cap Barrier or Shallow Soil Cap for Tree Preservation Barrier.

“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 Ontario Regulation 332/12 (Building Code) as amended to January 1, 2015, made under the *Building Code Act, 1992*, S.O. 1992, c.23.

“Capping Soil” means,

- (a) soil found on, in or under the Property in which no Property Specific Contaminants of Concern are present, or
- (b) soil that meets the applicable site condition standards for the Property, as specified in Item 3.2 of the CPU, and does not contain any contaminant for which no applicable site condition standard for soil is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which is associated with any potentially contaminating activity described in the Risk Assessment, or

“Certificate of Property Use” or “CPU” means this certificate of property use bearing the number 8442-D6JL9U issued for the Property by the Director under section 168.6 of the Act, as it may be amended from time to time.

“Competent Person” has the same meaning as in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“Contaminants of Concern” has the same meaning as in O. Reg. 153/04, which, for the Property, means one or more contaminants found on, in or under the Property at a concentration that exceeds the applicable site condition standards for the Property, as specified in section 7 of the Risk Assessment report and in Schedule A of the CPU.

“Director” means a person in the Ministry appointed as a director for the purpose of issuing a certificate of property use under section 168.6 of the Act.

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

“Fill Cap Barrier” means cover, above the Contaminants of Concern, as shown in Detail 3 and Detail 4 of Figure J.2, Soil Cover System Engineering Details, that,

- (a) is at least 1.0 metre thick, or any greater thickness than 1.0 metre, as specified in section 7 of the Risk Assessment report, and
- (b) consists of at least 0.5 metres thickness of Capping Soil, and above this, cover consisting of additional Capping Soil or non-soil surface treatment such as asphalt, concrete or concrete pavers, stone pavers, brick or aggregate.

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

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

“Hard Cap Barrier” means an asphalt or concrete cover layer, above the Contaminants of Concern as shown in Detail 1 and Detail 2 of Figure J.2, Soil Cover System Engineering Details, that is at least 225 millimetres thick, and consists of at least 75 millimetres thickness of hot mix asphalt or poured concrete underlain by Granular “A” aggregate or equivalent material and includes a Building slab or Building foundation and floor slab meeting these specifications.

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

“Minister” means the minister of the Ministry.

“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.

“Notice of Intended Location” means a notification that is required as condition of a Mobile Environmental Compliance Approval (Mobile ECA) that is to be provided to the District Manager prior to that Mobile ECA being utilized at a specific location for the purposes of an authorized activity such as for the in-situ chemical treatment of ground water.

“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. 406/19” means Ontario Regulation 406/19 (On-Site and Excess Soil Management), made under the Act.

“Owner” means the owner(s) of the Property, beginning with the person(s) to whom the Certificate of Property Use for the Property is first issued by the Director and any subsequent registered or beneficial owner of the Property.

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

“Property Specific Standards” means the standards established as the maximum allowable concentrations for the Contaminants of Concern at the Property, as specified in section 6 of the Risk Assessment report and in Schedule A of the CPU.

“Proposed Development” means the development plans for the Property as understood at the time the Risk Assessment was accepted and as shown in Appendix S of the Risk Assessment.

“Provincial Officer” has the same meaning as in the Act, namely, a person who is designated by the Minister as a provincial officer for the purposes of the Act and the regulations.

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

“Risk Assessment” means the Risk Assessment Number 3157-B3LRRA submitted with respect to the Property and accepted by a Director under section 168.5 of the Act on June 25, 2024 and set out in the following documents.

- Risk Assessment Pre-Submission Report for 2421 and 2431 New Street, Burlington, Ontario, report prepared by EXP Services Inc., dated August 7, 2018.
- Risk Assessment Report for 2421 and 2431 New Street, Burlington, Ontario, report prepared by EXP Services Inc., dated June 20, 2019.
- Revised Risk Assessment Report for 2421 and 2431 New Street, Burlington, Ontario, report prepared by EXP Services Inc., dated January 20, 2020.
- Risk Assessment, 2421 and 2431 New Street, Burlington, ON, Version 3 Submission, report prepared by exp Services Inc., dated November 4, 2021.
- Version 4 Submission, 2421 and 2431 New Street, Burlington, ON Risk Assessment, report prepared by EXP Services Inc., dated May 30, 2022.
- Version 5 Submission, 2421 and 2431 New Street, Burlington, ON Risk Assessment”, report prepared by Exp Services Inc., dated February 20, 2024.
- RE: Request for Additional Information - RA for 2421 and 2431 New Street, Burlington, Ontario [RA1707-18e; IDS#3157-B3LRRA], e-mail from Henry Yee, EXP Services Inc. received by TASDB on June 5, 2024 with the following document attached:
 - 2421 and 2431 New Street, Burlington, ON Letter_June 2024 – Final.pdf.
- RE: Request for Additional Information - RA for 2421 and 2431 New Street, Burlington, Ontario [RA1707-18e; IDS#3157-B3LRRA], e-mail from Henry Yee, EXP Services Inc. received by TASDB on June 21, 2024 with the following document attached:
 - 2421 and 2431 New Street, Burlington, ON Letter_June 2024 – Finalized.pdf.

"Risk Management Measures" means the risk management measures specific to the Property described in Section 7 and Appendix J of the Risk Assessment and/or Part 4 of the CPU.

“Shallow Soil Cap for Tree Preservation Barrier” means a Barrier to site soils to preserve mature trees that existed on the Property prior to the acceptance of the Risk Assessment that is specific to the areas of the Property that are identified in Figure J.4, Area of Tree Preservation, that consists of at least 0.30 metres thickness of Capping Soil underlain by a geotextile fabric as shown in Detail 6 of Figure J.3 .

“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 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 of property use 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; and
 - 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 of Concern 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 following intended use(s) including: a combination of "Residential Use", "Parkland Use", "Commercial Use", "Community Use" and/or "Institutional Use", as defined in O. Reg. 153/04.
- 3.2 The contaminants on, in or under the Property that are present above the Table 2 standards of the ***Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act*** published by the Ministry and dated April 15, 2011 for coarse textured soils are set out in the Risk Assessment and in Schedule A (Contaminants of Concern).

The Standards for these Contaminants of Concern are also set out in Schedule A which is attached to and forms part of the CPU. Also attached to and forming part of the CPU are the following figures:

- Plan of Survey Showing Topographical Information of Part of Lot 16, Concession 3, South of Dundas Street (Geographic Township of Nelson), City of Burlington, Regional Municipality of Halton, Prepared by KRCMAR Surveyors Ltd., Surveyor's Certificate dated December 8, 2017.
- Figure J.1, Risk Assessment Measures Soil Cover System, prepared by EXP Services Inc, dated December 2023.
- Figure J.2, Soil Cover System Engineering RMM Details, prepared by EXP Services Inc, dated December 2023, and sealed by R. K. Helik, P.Eng.
- Figure J.3, Soil Cover System Engineering RMM Details for Tree Preservation, prepared by EXP Services Inc, dated December 2023.
- Figure J.4, Area of Tree Preservation, prepared by EXP Services Inc, dated December 2023.
- Figure J.5, Section View of the Building Profile with the Vapour Membrane, prepared by EXP Services Inc, dated December 2023.
- Figure J.6, Soil Vapour Barrier Membrane Engineering RMM Details, prepared by EXP Services Inc, dated December 2023 and sealed by R. K. Helik, P.Eng.
- Figure J.7, Vapour Barrier Installation Notes and Conditions, prepared by EXP Services Inc, dated December 2023 and sealed by R. K. Helik, P.Eng.
- Figure J.8, Sub-Slab and Perimeter Drainage Specifications, prepared by EXP Services Inc, dated December 2023 and sealed by R. K. Helik, P.Eng.
- Figure 5A, Borehole Location Plan, prepared by EXP Services Inc., dated May 2021.
- Figure R.1, Proposed Monitoring Well and Injection Well Location Plan or Ongoing Groundwater Monitoring, prepared by EXP Services Inc, dated September 2023.
- Figure R.2, Proposed Indoor Air Quality Monitoring Location Plan, prepared by EXP Services Inc, dated November 2023.

- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and 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 Risk Assessment.
- 3.4 I am of the opinion, for the reasons set out in the Risk Assessment, that Contaminants of Concern require on-going pathway elimination and it is necessary to restrict the use of the Property and/or the construction of Buildings and/or the notice provisions as outlined in Part 5 of this CPU.
- 3.5 I am of the opinion, that the requirements set out in Part 6 of this CPU are necessary to supplement the Risk Management Measures described in the Risk Assessment and in Part 4 of the CPU.
- 3.6 I believe for the reasons set out in the Risk Assessment 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 the order requirements in Part 7 of this CPU.

Part 4: CPU Risk Management Measures and Requirements Relating to the Risk Assessment and the Property

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)1 of the Act:

- 4.0 Implement, and thereafter maintain or cause to be maintained, the following Risk Management Measures and requirements identified in the Risk Assessment and set out in Items 4.1 to 4.14 and 5.2 as applicable.

4.1 Hard Cap Barrier, Fill Cap Barrier and Shallow Soil Cap for Tree Preservation Barrier Risk Management Measure

- a. Cover all areas of the Property as shown in Figure J.1, Risk Assessment Measures Soil Cover System, where Contaminants of Concern are present at or within 1.0 metre(s) below the soil surface, or within 1.5 metre(s) below the soil surface in areas of the Property where deep-rooted vegetation is to be planted, such that,
- i. a Hard Cap Barrier as shown in Detail 1 (Asphalt and Granular Sub-Base Construction) or Detail 2 (Concrete Sidewalk/Foundation and Granular Sub-Base Construction) of Figure J.2, Soil Cover System Engineering RMM Details, and as described in section 1.2.2.1 of Appendix J of the Risk Assessment,
 - ii. a Fill Cap Barrier as shown in Detail 3 (Soft Cap Construction), or Detail 4 (Tree Planting Specifications) of Figure J.2, Soil Cover System Engineering RMM Details, and as described in section 1.2.2.2 of Appendix J of the Risk Assessment, or
 - iii. a Shallow Soil Cap for Tree Preservation Barrier as shown in Figure J.3, Soil Cover System Engineering RMM Details for Tree Preservation and as described in section 1.2.2.3 of Appendix J of the Risk Assessment,

is in place in these areas, so as to prevent exposure to the Contaminants of Concern at the Property, in conjunction with any existing Barriers in any other areas of the Property where Contaminants of Concern are present below the soil surface;

- b. Before commencing development of all or any part of the Property, install fencing and implement dust control measures for any part of the Property requiring covering but which has not been covered, so as to prevent exposure to the Contaminants of Concern at the Property. Fencing and dust control measures shall be maintained until such time as the Barriers are installed.

4.2 Inspection, Maintenance and Reporting Requirements for all Barriers

- a. Prepare and implement a written inspection and maintenance program, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, so as to ensure the continuing integrity of each Barrier at

the Property so long as the Contaminants of Concern are present at the Property, including, at a minimum:

- i. procedures and timing for implementing the program;
- ii. semi-annual inspections, in spring and fall, of the Barriers;
- iii. noting any deficiencies in the Barrier observed during the inspections, or at any other time;
- iv. repairing promptly any such deficiencies, to the original design specifications, with written confirmation that the Barrier has been properly repaired;
- v. contingency measures, such as fencing, to be implemented if cracks, breaches or any loss of integrity of the Barrier cannot be repaired or addressed in a timely manner, to prevent exposure to the Contaminants of Concern in that area of the Property;
- vi. recording, in writing, all inspections, deficiencies, repairs and implementation of contingency measures, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

and which is,

- A. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and
 - B. updated and delivered to the Owner within 30 days following making any alteration to the program.
- b. Prepare a site plan of the entire Property, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, showing the Property, any fencing, and the location, type and design of each Barrier at the Property, including cross-sectional drawings of the Barrier showing its design and vertical and lateral extent;

and which are,

- A. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and
- B. updated and delivered to the Owner within 30 days following making any alteration to the location, design or extent of the Barrier, or other relevant feature shown on the site plan.

- c. Prepare and implement written procedures, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for written and oral communication to all persons who may be involved in Intrusive Activities at the Property that may disturb a Barrier at the Property, so as to ensure the persons are made aware of the presence and significance of the Barrier and the Contaminants of Concern at the Property and the precautions to be taken to ensure the continued integrity of the Barrier when undertaking the Intrusive Activities, and if damaged, to ensure that the Barrier is repaired promptly to the original design specifications, or, if it cannot be repaired promptly, to ensure that the contingency measures are implemented, and records kept, as specified in the inspection and maintenance program;

and which are,

- A. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and
- B. updated and delivered to the Owner within 30 days following making any alteration to the procedures.

4.3 Subsurface Utility Trench Risk Management Measure

- a. Where new utilities are to be installed or existing utilities repaired on the Property, trench plugs/ trench dams consisting of low-permeability materials such as compacted clay or bentonite, or other low permeable material such as concrete or unshrinkable fill, shall be installed across the trench cross-section so as to prevent migration of Contaminants of Concern into the permeable backfill material along any buried piping, cable or duct banks. Clay seals (plugs) are required to be installed where utilities are to be installed near or below the groundwater table and shall consist of clay compacted at appropriate moisture contents that is extended for a minimum of 750 mm along the utility trench, across the full width and extend to the base of the overlying topsoil or surface treatment.
- b. Drawing(s), prepared by a Licensed Professional Engineer shall be retained by the Owner, and be available for inspection upon request by a Provincial Officer, showing the location of each subsurface utility trench constructed on the Property, including cross-sectional drawings of the subsurface utility trench showing its design and vertical and lateral extent.

4.4 Building with Storage Garage (continuous 3.9 Litres/second of Ventilation) with Sub-Slab Vapour Barrier and Sub-Slab and Perimeter Drainage Risk Management Measure:

Refrain from constructing any Building on the Property unless the Building includes a Storage Garage, and:

- a. the Storage Garage is constructed at or below the Grade of the Building;
- b. the Storage Garage area covers the entire Building Area at Grade;

- c. the Storage Garage is constructed with sub-slab perimeter and foundation drainage as conceptually described within section 1.10 of Appendix J of the Risk Assessment and shown in Figure J.8, Sub-Slab and Perimeter Drainage Specifications. The sub-slab perimeter and foundation drainage is to be designed, installed and maintained as set out in subsection 9.14.2.1 (Foundation Wall Drainage) and subsection 9.16.3.1 (Control of Water Ingress) of the Building Code with the objective of capturing and removing Contaminants in Concern in ground water in a manner that will limit contamination in ground water from migrating off of the Property.
- d. the Storage Garage complies with all applicable requirements of the Building Code, such as the provisions governing:
 - i. design of a mechanical ventilation system as set out in Division B, Article 6.2.2.3. (Ventilation of Storage and Repair Garages) of the Building Code;
 - ii. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.9. (Interconnection of Systems) of the Building Code; and
 - iii. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code;
- e. 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;
- f. the Storage Garage includes throughout the entire Building Area, a continuous leak free soil vapour barrier membrane, such as a sheet geomembrane or spray applied membrane, below the foundation floor slab, and below and along the walls of any subsurface structures such as a sump, as conceptually described in section 1.7.2 of Appendix J of the Risk Assessment and as further illustrated in Figure J.5, Section View of the Building Profile with the Vapour Membrane, Figure J.6, Soil Vapour Barrier Membrane Engineering RMM Details, and Figure J.7, Vapour Barrier Installation Notes and Conditions,

and which:

 - A. is of appropriate thickness and meets the appropriate gas permeability and chemical resistance specifications to be considered substantially impermeable to the soil vapour, in accordance with the appropriate ASTM standards such as D1434, E96, D1709, D412 and D543, as applicable;
 - B. has a suitable protective geotextile, or other suitable protective material, such as a sand layer, immediately below or above the soil vapour barrier membrane, as considered appropriate by the Licensed Professional Engineer;
- g. a quality assurance and quality control program, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, is implemented so as to ensure that the Storage Garage, including the soil vapour barrier membrane, is being, and has been, properly installed and the installation

documented, including inspections, verification testing and documenting of the installation as it is carried out, including at a minimum:

- i. procedures and timing for implementing the program, by a person acceptable to and under the supervision of a Licensed Professional Engineer;
- ii. daily inspections to be completed during the installation of the vapour barrier membrane, including of the quality assurance and quality control measures and procedures undertaken by the installer;
- iii. undertaking, at a minimum, the following quality control measures and verification testing of the soil vapour barrier membrane:
 - 1. daily inspection reports noting any deficiencies and corrective actions taken;
 - 2. smoke testing of the soil vapour barrier membrane, or equivalent alternative testing method that provides comparable results;
 - 3. verification of the type and thickness of the vapour barrier membrane through testing of representative samples of materials used, including destructive testing and repair of portions of the membranes to be conducted in a manner and at a frequency that meets or exceeds manufacturer's recommendations;
 - 4. verification of field seams of sheet geomembranes as being continuous and leak free, through vacuum or pressure testing, geophysical testing or other appropriate means; and
 - 5. verification that appropriate measures to prevent post-construction damage or degradation to the vapour barrier membrane have been taken including at a minimum preparation of the sub-slab foundation layer, placement of a protective geotextile, or other suitable protective materials, below or above the soil vapour membrane;
- iv. noting any deficiencies in the materials or installation of the vapour barrier membrane;
- v. ensuring the prompt repair of any deficiencies, to the design specifications;
- vi. preparing a written report of all inspections, quality control measures and verification testing undertaken, and any deficiencies and repairs, prepared by the Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer;

and which are,

- A. delivered to the Owner before installation of the vapour barrier membrane begins; and
- B. updated and delivered to the Owner within 30 days of making any alteration to the program; and

- h. as constructed plans of the Storage Garage, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, showing the location of the Building and the location and specifications of the Storage Garage, ventilation systems and soil vapour barrier membrane, including cross sectional as-built drawing and which are delivered to the Owner before use of all or any part of the Building begins, or within 90 days following completion of installation of the Storage Garage and soil vapour barrier membrane.

4.5 Up-Gradient Boundary Control Risk Management Measure

- a. Coinciding with the construction of the Proposed Development, the Owner under the supervision of a Qualified Person, shall install a network of ground water injection wells as described in Appendix U of the Risk Assessment adjacent to the northeast and up-gradient boundary of the Property. Subject to field verification of the estimated injection rates and the zones of influence, the ground water injection wells shall be installed in pairs, including an overburden well and a fractured bedrock well, at locations IW1, IW2, IW3, IW4, IW5 and IW6 as shown in Figure R.1, Proposed Monitoring Well and Injection Well Location Plan for Ongoing Groundwater Monitoring.
- b. If triggered by Item 4.7.1 d iii of the CPU the ground water injection wells are to be utilized as a contingency measure in accordance with a Mobile ECA for the treatment of chlorinated volatile organic Contaminants of Concern in ground water via insitu chemical oxidation
- c. Within 30 days following the installation of the ground water injection wells the Owner shall submit to the Director a report, prepared by a Qualified Person detailing the hydrological studies described in part a. above and including figures identifying the final locations and construction details of each of the injection wells.

4.6 Indoor Air Quality Monitoring Program

Under the supervision of a Qualified Person, implement the indoor air quality monitoring program within all Buildings constructed in the Property as described in section 7.4.3 of the Risk Assessment, as follows:

- a.
 - i. For the Buildings identified within the Proposed Development, the indoor air quality monitoring program shall consist of the collection of indoor air quality samples on the First Storey of the Buildings referred to as Level 1 or L1 at monitoring locations IAQ-1 to IAQ-7 as shown on Figure R.2, Proposed Indoor Air Quality Monitoring Location Plan. For quality control and quality assurance purposes, at minimum of one duplicate indoor air quality sample, one trip blank and one ambient outdoor air quality sample and shall be collected, or
 - ii. For any other Building, provide to the Director at least 90 days prior to occupancy of the Building an indoor air quality monitoring program for approval. The sampling locations for the indoor air quality monitoring program shall be located at the lowest occupied level of the Building at locations identified by an industrial hygienist or other appropriately qualified person to be protective of human health for any persons using

or occupying the Buildings on the Property. For quality control and quality assurance purposes, duplicate indoor air quality sample(s), trip blank(s) and an ambient outdoor air quality sample shall be collected;

- b. All indoor air quality monitoring shall be in accordance with the sample collection and analytical methodologies specified and for the Contaminants of Concerns that are listed in Schedule B of the CPU. The ambient outdoor air sample shall be in accordance with the Ministry's "Operations Manual for Air Quality Monitoring in Ontario", dated March 2008. The samples shall be collected over a 24-hour duration and the results of the indoor air quality samples shall be compared to the Residential/ Parkland/ Institutional Use Indoor Air Quality Target Levels for each Contaminant of Concern identified in Schedule B;
- c. The indoor air quality monitoring program shall commence with at least one monitoring event prior to occupancy of a Building and then on a quarterly basis for a minimum period of two years. After eight quarterly consecutive sampling events with no confirmed exceedances of a respective Indoor Air Quality Target Level the sampling frequency is reduced to a semi-annual basis until such time as the Director, upon application by the Owner, has reviewed the data available and either alters the frequency of the monitoring or eliminates the requirement altogether;
- d. If the indoor air concentration for the Contaminants of Concern exceeds a respective Indoor Air Target Quality Level identified in Schedule B, then the Director shall be notified in writing within 10 business days of receiving the results. The notification to the Director shall include the indoor air quality sampling results and the laboratory certificates of analyses. Follow-up confirmatory indoor air samples shall be collected from each location and shall be analyzed for all Contaminants of Concern within 30 days of receipt of the initial analytical results. The Owner shall provide written notification to the Director within 10 business days of receiving the results from the follow-up sampling event;
- e. If the concentration any Contaminant of Concern is verified to exceed a respective Indoor Air Quality Target Level within the follow-up sampling event, then the Owner shall within 30 days of receiving the laboratory analysis submit to the Director a proposed contingency plan for review and approval as outlined in section 7.5 of the Risk Assessment. The proposed contingency plan shall be prepared by a Licensed Professional Engineer and shall include, but not be limited to, a detailed interpretation of the available data collected to date along with recommendations to further assess and address risks to vapour intrusion;
- f. Upon the Owner receiving written approval from the Director, the Owner shall implement the approved contingency plan; and
- g. Within 30 calendar days of approval of the contingency plan by the Director, the Owner shall submit written confirmation, along with supporting documentation, prepared by a Qualified Person that the contingency plan has been implemented.

4.7 Ground Water Monitoring Program

4.7.1 Up-Gradient Ground Water Monitoring Program

A ground water monitoring program shall be carried out by the Owner at the up-gradient property boundary as described within section 7.4.4.1 and Appendix J of the Risk Assessment to demonstrate that the quality of ground water migrating onto the Property is not exceeding the Property Specific Standards. The up-gradient ground water monitoring program shall be overseen by a Qualified Person and shall include, but not be limited to the following components:

- a. The Up-Gradient Ground Water Monitoring Program shall consist of the measurement of ground water levels and the collection of ground water samples at the following monitoring well locations:
 - i. Prior to the development of the Property, ground water samples shall be collected at monitoring well locations BH2-S2S, BH2B-S2S, MW109, BH3-SM, BH2-SM and MW103D as shown on Figure 5A, Borehole Location Plan, and
 - ii. Following development of the Property, ground water samples shall be collected at monitoring wells BH/MW501, BH/MW502, BH/MW503S, BH/MW503D, BH/MW504S, BH/MW504D, BH/MW505S and BH/MW505D that are to be installed at the locations shown in Figure R.1, Proposed Monitoring Well and Injection Well Location Plan for Ongoing Groundwater Monitoring;
- b. The Up-gradient Ground Water Monitoring Program shall be conducted quarterly (every three months) following issuance of the CPU and shall continue on a quarterly frequency for a minimum period of two years following the development of the Property after which time the frequency can convert to a semi-annual frequency until such time as the Director, upon application by the Owner, has reviewed the data available and either alters the frequency of the monitoring or eliminates the requirement altogether;
- c. Ground water samples shall be sent to an accredited laboratory and analysed for the Contaminants of Concern specified in Table 1B of Schedule A of the CPU;
- d. The ground water monitoring results from the Up-Gradient Ground Water Monitoring Program shall be compared against the Property Specific Standards and the Up-Gradient Trigger Value Concentrations identified in Table 1B of Schedule A of the CPU:
 - i. If the concentration of any Contaminant of Concern in ground water is identified to exceed an Up-Gradient Trigger Value Concentration for the Contaminant of Concern in any of the monitoring wells, then the Director shall be promptly notified in writing and the ground water monitoring at the respective monitoring location(s) shall be repeated within 30 calendar days of receipt of the analytical results,
 - ii. If the concentrations of any Contaminant of Concern in ground water is verified to exceed an Up-Gradient Trigger Value Concentration for the Contaminant of Concern in any of the monitoring wells, then the Director shall be promptly notified in writing and a second confirmatory sample shall be collected at the respective ground water monitoring well location(s) within 30 calendar days of receipt of the analytical results,

- iii. If the concentration for any Contaminants of Concern is verified in the third ground water sample to exceed a respective Up-Gradient Trigger Value Concentration the Owner shall:
 - 1. immediately notify the Director in writing of the exceedances advising the Director that the contingency measures described in section 1.9.2 of Appendix J of the Risk Assessment have been triggered requiring the in-situ treatment of ground water through the injection of chemical oxidants, and
 - 2. within 60 calendar days of the receiving the results submit the required Notice of Intended Location. The commencement of the action plan shall commence no later than 30 days following submission of the Notice of Intended Location;
- iv. Upon the Owner receiving written approval from the Director, the Owner shall implement the approved contingency plan, and
- v. The Owner shall submit written confirmation to the Director, along with supporting documentation, prepared by a Qualified Person that the contingency plan has been implemented in accordance with the schedule approved by the Director;
- e. Following the completion of four quarterly ground monitoring events pursuant to part b. of Item 4.7.1, and following each subsequent sampling event, an assessment of the trends in plume behaviour at each monitoring well location and for each Contaminant of Concern shall be completed that incorporates all current and historical ground water quality data using a Mann- Kendall trend analysis. The findings of the trend analyses shall be interpreted by a Qualified Person who shall make recommendations to implement any additional contingency plans regarding the Up-Gradient Monitoring Program;
- f. The Owner shall keep a copy of all ground water sampling data available for inspection by a Provincial Officer upon request;
- g. Any changes to the ground water monitoring program, including changes to the any of the selected ground water monitoring wells, must be requested in writing by the Qualified Person and these changes can only be implemented upon receiving approval from the Director in writing; and
- h. In the event that any monitoring well is destroyed during construction or site activities the monitoring well shall be replaced with a similarly constructed well proximate to the same location as the destroyed well.

4.7.2 Down-Gradient Ground Water Monitoring Program

A ground water monitoring program shall be carried out by the Owner at the down-gradient property boundary as described within section 7.4.4.2 and Appendix J of the Risk Assessment to assess the quality of ground water migrating off of the Property. The down-gradient ground water monitoring program shall be overseen by a Qualified Person and shall include, but not be limited to the following components:

- a. The Down-Gradient Ground Water Monitoring Program shall consist of the measurement of ground water levels and the collection of ground water samples at the following monitoring well locations:
 - i. Prior to development of the Property, ground water samples shall be collected at monitoring well locations MW404, MW106S, MW106D, BH4-S2S, BH1-SM, MW107S and MW107D as shown on Figure 5A, Borehole Location Plan,
 - ii. Following development of the Property, ground water samples shall be collected at monitoring wells BH/MW506S, BH/MW506D, BH/MW507S, BH/MW507D, BH/MW508S, BH/MW508D, BH/MW509S and BH/MW506D to be installed at the locations as shown in Figure R.1, Proposed Monitoring Well and Injection Well Location Plan for Ongoing Groundwater Monitoring;
- b. The Down-Gradient Ground Water Monitoring Program shall be conducted quarterly (every three months) following issuance of the CPU and shall continue on a quarterly frequency for a minimum period of two years following the development of the Property after which time the frequency can convert to a semi-annual frequency until such time as the Director, upon application by the Owner, has reviewed the data available and either alters the frequency of the monitoring or eliminates the requirement altogether;
- c. Ground water samples shall be sent to an accredited laboratory and analysed for the Contaminants of Concern specified in Table 1B of Schedule A of the CPU;
- d. The ground water monitoring results from the Down-Gradient Ground Water Monitoring Program shall be compared against the Property Specific Standards identified in Table 1B of Schedule A and the Table 6 Generic Site Condition Standards for Shallow Soils in a Potable Ground Water Condition as set out in the *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act* published by the Ministry and dated April 15, 2011.
- e. Following the completion of four quarterly ground monitoring events pursuant part b. of Item 4.7.2 and following each subsequent sampling event, an assessment of the trends in plume behaviour at each monitoring well location and for each Contaminant of Concern shall be completed that incorporates and interprets all current and historical ground water quality data using a Mann- Kendall trend analysis as outlined in section 7.4.4.3 of the Risk Assessment and as follows:
 - i. if an upward trend in concentration is identified through the Mann – Kendall trend analyses, or if it is the opinion of a Qualified Person that a significant increase in a concentration of a Contaminant of Concern has been observed at any monitoring well location, then the Director shall be promptly notified in writing. The written notification shall be prepared by a Qualified Person and shall include the ground water data and laboratory certificates of analyses,
 - ii. a proposed contingency plan shall be submitted to the Director for review and approval within 60 days of receiving the laboratory analysis. The proposed contingency plan shall be prepared by a Licensed Professional Engineer and shall include, but not be limited to, a detailed interpretation of the available data collected

to date along with recommendations to implement any additional monitoring, assessment of risk, and/or remedial action.

- iii. Upon the Owner receiving written approval from the Director, the Owner shall implement the approved contingency plan, and
 - iv. The Owner shall submit written confirmation to the Director, along with supporting documentation, prepared by a Qualified Person that the contingency plan has been implemented in accordance with the schedule approved by the Director.
- f. The Owner shall keep a copy of all ground water sampling data available for inspection by a Provincial Officer upon request;
- g. Any changes to the ground water monitoring program, including changes to any of the selected ground water monitoring wells, must be requested in writing by the Qualified Person and these changes can only be implemented upon receiving approval from the Director in writing; and
- h. In the event that any monitoring well is destroyed during construction or site activities the monitoring well shall be replaced with a similarly constructed well proximate to the same location as the destroyed well.

4.8 No Ground Water Use Risk Management Measure

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. 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.

4.9 Health and Safety Plan Requirement

In addition to any requirements under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, within thirty (30) days of the date of the CPU prepare and implement a written health and safety plan for the Property, prepared by a Competent Person in consultation with a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, that includes information concerning the potential hazards and safe work measures and procedures with respect to the Contaminants of Concern at the Property and the communication of this information to all persons who may be involved in Intrusive Activities at the Property, as described in section 7.2.3 and Appendix J of the Risk Assessment, and including, at a minimum:

- a. the procedures and timing for implementing the plan, including the supervision of persons implementing the plan;
- b. all relevant information concerning the presence of, human exposure to, and risk posed by, the Contaminants of Concern through dermal contact, soil or ground water ingestion and inhalation of soil particles or vapour, and concerning any biogenic gases such as methane that may be present at the Property including information in the Risk Assessment;
- c. all relevant information, measures and procedures concerning protection of the persons from exposure to the Contaminants of Concern and the precautions to be taken when undertaking Intrusive Activities, including the supervision of workers, occupational hygiene requirements, use of personal protective equipment, provision of air flow augmentation in excavations or other areas or situations of minimal air ventilation, and other protective measures and procedures as appropriate;
- d. all relevant information concerning the presence and significance of the Risk Management Measures and requirements which are being, or have been, implemented at the Property;
- e. the procedures and timing for implementing emergency response and contingency measures and procedures, including contact information, in the event of a health and safety incident;
- f. the recording, in writing, of the implementation of the plan and any health and safety incidents that occur, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

and which is,

- A. delivered to the Owner before any Intrusive Activities are undertaken at the Property;
and
- B. updated and delivered to the Owner within 30 days following making any alteration to the plan.

4.10 Soil and Ground Water Management Plan Requirement

Within thirty (30) days of the date of the CPU prepare and implement in accordance with the details described in section 7.5.3 and Appendix J of the Risk Assessment, a written soil and ground water management plan for the Property, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for managing excavated soil or soil brought to the Property, and, if any, ground water from dewatering during Intrusive Activities at the Property and from the permanent dewatering associated with the sub-slab perimeter and foundation drainage of a Storage Garage of a future Building, so as to prevent exposure to or uncontrolled movement or discharge of the Contaminants of Concern in soil or ground water at the Property, including, at a minimum:

- a. procedures and timing for implementing the plan, including the supervision of persons implementing the plan;
- b. measures to control dust and prevent tracking of soil by vehicles and persons from the Property, including the cleaning of equipment and vehicles;
- c. measures, in addition to any applicable measures specified in O. Reg. 153/04 or O. Reg. 406/19, to manage soil excavated at the Property and any soil brought to or removed from the Property, including:
 - i. characterizing for contaminant quality of excavated soil and any soil brought to the Property, including determining whether the soil meets the requirements for Capping Soil;
 - ii. managing excavated soil separately from any soil brought to the Property, including any excavated soil that is to be:
 1. used as Capping Soil at the Property;
 2. otherwise used below the Capping Soil as fill at the Property;
 3. removed from the Property for off-site storage or for processing but is to be returned for use as fill at the Property; or
 4. removed from the Property for off-site use as fill or disposal; and
 - iii. stockpiling of excavated soil and any soil brought to the Property in separate designated areas that:
 1. reflect the distinctions described in subparagraphs (c) i and ii;
 2. have been lined and covered, as appropriate, to prevent uncontrolled movement or discharge of the Contaminants of Concern;
 3. have been bermed or fenced, as appropriate, to restrict access by persons; and
 4. have storm water runoff controls in place to minimize storm water runoff contacting stockpiled soil, with provision for discharge of storm water runoff to a sanitary sewer or to other approved treatment if needed;
- d. measures to manage storm water and any ground water from dewatering at the Property, including permanent dewatering associated with the sub-slab perimeter and foundation

drainage of a Storage Garage of a future Building, to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property, including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch-basins and utility covers, and provision for discharge to a sanitary sewer or to other approved treatment if needed;

- e. recording, in writing, the soil, storm water and any ground water management measures undertaken, in addition to any applicable record keeping requirements specified in O. Reg. 153/04, O. Reg. 406/19 or pursuant to other applicable law or other instruments, to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, including:
 - i. dates and duration of the Intrusive Activities being undertaken;
 - ii. weather and site conditions during the Intrusive Activities;
 - iii. the location and depth of excavation activities, and dewatering activities, if any;
 - iv. dust control and soil tracking control measures such as hauling records;
 - v. characterization results for excavated soil and any soil brought to or removed from the Property, and for any ground water from dewatering;
 - vi. soil management activities including soil quantities excavated and brought to and removed from the Property, and stockpile management and storm water runoff control;
 - vii. management activities for any ground water from dewatering including the permanent dewatering associated with the sub-slab perimeter and foundation drainage of a Storage Garage of a future Building;
 - viii. names and contact information for the Qualified Persons and on-site contractors involved in the Intrusive Activities;
 - ix. names and contact information for any haulers and owners or operators of receiving sites for soil and any ground water removed from the Property, and for haulers and owners or operators of project areas (as defined in O. Reg. 406/19 also known as source sites) of any soil brought to the Property;
 - x. any complaints received relating to the Intrusive Activities, including the soil, storm water and any ground water management activities;

and which is,

- A. reviewed and updated, as may be necessary, and delivered to the Owner before any planned Intrusive Activities are undertaken at the Property; and
- B. updated and delivered to the Owner within 30 days following making any alteration to the plan.

4.11 Annual Reports Requirement

Prepare each year on or before March 31, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum

information requirements:

- a. a copy of all records relating to the requirements for the Hard Cap Barrier, Fill Cap Barrier and the Shallow Soil Cap for Tree Preservation Barrier as outlined in Items 4.1 and 4.2, if applicable;
- b. a copy of all records relating to the requirements for the Subsurface Utility Trench Risk Management Measure as outlined in Item 4.3, if applicable;
- c. a copy of all records relating to the Building with Storage Garage (continuous 3.9 Litres/second of Ventilation) with Sub-Slab Vapour Barrier and Sub-Slab and Perimeter Drainage Risk Management Measure as outlined in Item 4.4, if applicable;
- d. a copy of all records relating to the Up-Gradient Boundary Control Risk Management Measure as outlined in Item 4.5, if applicable;
- e. a copy of all records relating to the indoor air quality monitoring program as outlined in Item 4.6, if applicable;
- f. a copy of all records relating to the Up-Gradient and Down-Gradient Ground Water Monitoring Programs as outlined in Item 4.7, if applicable;
- g. a confirmation that the No Ground Water Use Risk Management Measure as outlined in Item 4.8 has been complied with;
- h. a copy of all records relating to the health and safety plan as outlined in Item 4.9, if applicable;
- i. a copy of all records relating to the soil and ground water management plan as outlined in Item 4.10, if applicable, and
- j. a copy of all records relating to the financial assurance requirement as outlined in Items 6.4, 6.5 and 6.6, if applicable.

Part 5: CPU Restrictions on Property Use, Building Construction and Notice Requirements

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)2 of the Act:

5.1 Property Use Restriction

Refrain from using the Property for any of the following use(s): "Agricultural or Other Use", as specified in O. Reg. 153/04.

5.2 Building Construction Restrictions

Refrain from constructing the following Building(s): Any Building except as may be permitted in the CPU including by implementing on any particular Building, the Risk Management Measures as may be applicable. The use of any other Buildings, including the continued use of any of the Buildings that existed on the Property prior to acceptance of the Risk Assessment, is prohibited.

5.3 Notice of Restrictions

Pursuant to the requirements of subsection 168.6(4) of the Act, 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 5.1 and 5.2, except where noted N/A, and that every occupant complies with such provisions. 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.

Part 6: Additional Requirements

I hereby require the Owner to do or cause to be done the following things under the authority of paragraph 168.6(1)1 of the Act:

6.1 Site Changes Affecting Risk Management Measures

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, the Owner shall 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. In support of this work, a new risk assessment may need to be completed in accordance with O. Reg. 153/04 and submitted to the Ministry for acceptance. An amendment to the CPU will be issued to address the changes set out in any notice received and any future changes that the Director considers necessary in the circumstances.

6.2 Report Retention Requirements

The Owner shall retain a copy of any reports required under the CPU for a period of seven (7) years from the date the report is created and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the requesting Director or Provincial Officer.

6.3 Owner Change Notification

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

- 6.4 Within fifteen (15) days of the date hereof, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of four hundred and twenty-three thousand, two hundred and seventy-six dollars (CAD \$423,276) in a form satisfactory to the Director and in accordance with Part XII of the Act to cover costs for the performance of the Risk Management Measures required to be carried out under the CPU.
- 6.5 Commencing on March 31, 2027, and at intervals of every three (3) years thereafter, the Owner shall submit to the Director, a re-evaluation of the amount of financial assurance to implement the actions required under Item 6.4. The re-evaluation of the amount of financial assurance required shall include an assessment based on any new information relating to the environmental conditions of the Property and shall include any costs of additional monitoring and/or implementation of contingency plans.
- 6.6 Commencing on March 31, 2025, the Owner shall prepare and maintain at the Site an updated re-evaluation of the amount of financial assurance required to implement the actions required under Item 6.4 for each of the intervening years in which a re-evaluation is not required to be submitted to the Director under Item 6.5. The re-evaluation shall be made available to the Ministry, upon request. If the re-evaluation is for an amount greater than the amount as set out in Item 6.4 the Owner shall submit to the Director a copy of the re-evaluation.

Part 7: Section 197 Order (Property Notice and Certificate of Requirement Registration) Requirements

I hereby order the Owner to do or cause to be done the following under the authority of subsections 197(1) and 197(2) of the Act:

7.1 Property Notice Requirement

For the reasons set out in the CPU and pursuant to the authority vested in me by 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.

7.2 Certificate of Requirement Registration

Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act completed as outlined in Schedule C register the certificate of requirement on title to the Property, in the appropriate land registry office.

7.3 Verification

Within five (5) days after registering 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 registration has been completed.

Part 8: General Requirements

- 8.1 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.
- 8.2 An application under subsection 168.6(3) of the Act to alter any terms and conditions in the CPU, or impose new terms and conditions, or revoke the CPU, shall be made in writing to the Director, with reasons for the request.
- 8.3 Failure to comply with the requirements of the CPU constitutes an offence.
- 8.4 The requirements of the CPU are minimum requirements only and do not relieve the Owner from, complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or obtaining any approvals or consents not specified in the CPU.
- 8.5 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 8.6 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.
- 8.7 Failure to comply with a requirement of the CPU by a date specified does not relieve the Owner(s) from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 8.8 The Risk Management Measures identified in the Risk Assessment and also in Part 4 of the CPU and all the other requirements in the CPU shall commence upon the issuance of the CPU and continue in full force and effect in accordance with the terms and conditions of the CPU until such time as the Director alters or revokes the CPU.
- 8.9 The provisions of the CPU shall take precedence in the event of a conflict between the provisions of the CPU and the Risk Assessment.

- 8.10 In the event that the Owner complies with the provisions of Items 7.2 and 7.3 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.
- 8.11 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.
- 8.12 Where the CPU requires that the Director must be notified or receive a report this should be done by email at environment.haltonpeel@ontario.ca.

Part 9: 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:

- 9.1 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.
- 9.2 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.
- 9.3 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

Halton-Peel District Manager, Central Region
Ministry of the Environment, Conservation and Parks
4145 North Service Road, Suite 300
Burlington, Ontario L7L 6A3
Fax: 905-319-9902
Email: environment.haltonpeel@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.

9.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.

9.5 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.

9.6 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.

9.7 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.

9.8 The procedures and other information provided in this Part 9 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 on this DATE day MONTH, YEAR

DIRECTOR

Director, section 168.6 of the Act

SCHEDULE A

Table 1A: Contaminants of Concern and Property Specific Standards in Soil

Contaminants of Concern (COC)	Units	Property Specific Standard (PSS)
MEDIA – SOIL		
Volatile Organic Compounds (VOCs)		
Tetrachloroethylene	µg/g	26
Trichloroethylene	µg/g	0.078

Table 1B: Contaminants of Concern, Property Specific Standards and Trigger Value Concentrations in Ground Water

Contaminants of Concern (COC)	Units	Property Specific Standard (PSS)	Up-Gradient Trigger Value Concentration ^{2,3}
MEDIA – GROUND WATER			
BTEX			
Benzene	µg/L	4.8	4.4
Volatile Organic Compounds (VOCs)			
Chloroform	µg/L	13.2	12.1
1,1-Dichloroethylene (1,1-DCE)	µg/L	4.1	3.7
Cis-1,2- Dichloroethylene (cis-1,2-DCE)	µg/L	1200	1100
Trans-1,2- Dichloroethylene (trans-1,2-DCE)	µg/L	11.5	10.6
Tetrachloroethylene (PCE)	µg/L	13,200	12,100
Trichloroethylene (TCE)	µg/L	420	385
Vinyl Chloride (VC)	µg/L	1507 ¹	421

1. PSS for vinyl chloride was derived from the theoretical maximum concentration vinyl chloride based on measured concentrations of parent compounds.
2. The Up-Gradient Trigger Value Concentrations for all Contaminants of Concern other than for vinyl chloride are equal to 110% of the maximum observed ground water concentration.
3. The Up-Gradient Trigger Value Concentration for vinyl chloride is equal to [(max of 1,1-DCE + cis-1,2-DCE + trans-1,2-DCE + TCE + PCE) x 10%] + max of VC, plus 20% based on results from recent ground water sampling events.

SCHEDULE B

Indoor Air Quality Target Levels

Contaminant Of Concern	Indoor Air Quality Target Level
	Residential/ Parkland/ Institutional (R/P/I) Use ($\mu\text{g}/\text{m}^3$)
Benzene	0.506
Chloroform	20.9
1,1-Dichloroethylene	14.6
Cis-1,2-Dichloroethylene	31.3
Trans-1,2-Dichloroethylene	12.5
Tetrachloroethylene	4.28
Trichloroethylene	0.271
Vinyl Chloride	0.126

SCHEDULE C

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to item 7.1 of Certificate of Property Use Number 8442-D6JL9U issued by DIRECTOR, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the *Environmental Protection Act*, on DATE, being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property now municipally known as 2421 New Street, Burlington and 2431 New Street, Burlington, being all part of Property Identifier Numbers PIN 07068-0208 (LT) and PIN 07068-0255 (LT) (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

DCMS REALTY (BURLINGTON) 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.

FIGURES

Plan of Survey Showing Topographical Information of Part of Lot 16, Concession 3, South of Dundas Street (Geographic Township of Nelson), City of Burlington, Regional Municipality of Halton, Prepared by KRCMAR Surveyors Ltd., Surveyor's Certificate dated December 8, 2017.

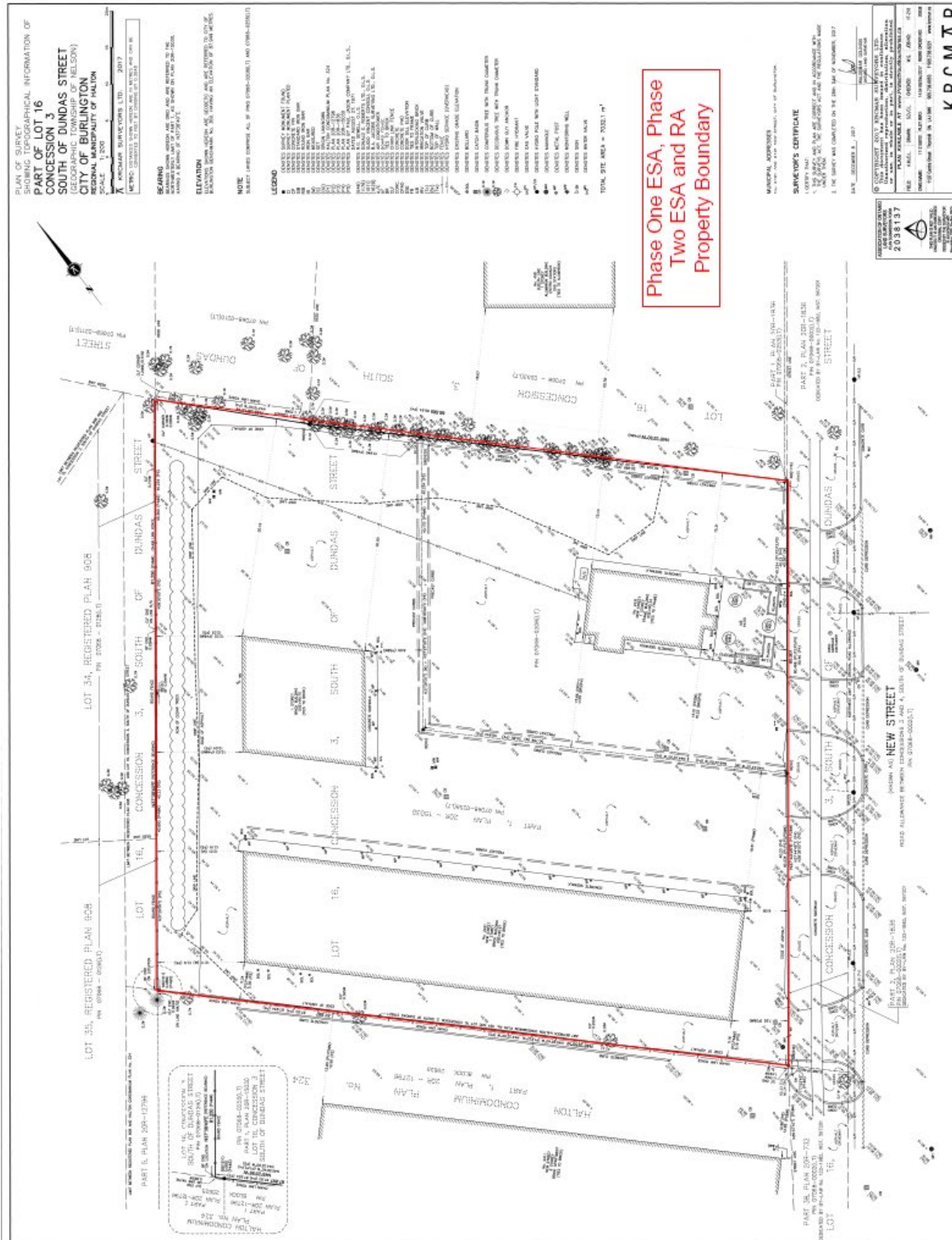


Figure J.1, Risk Assessment Measures Soil Cover System, prepared by EXP Services Inc., dated December 2023.

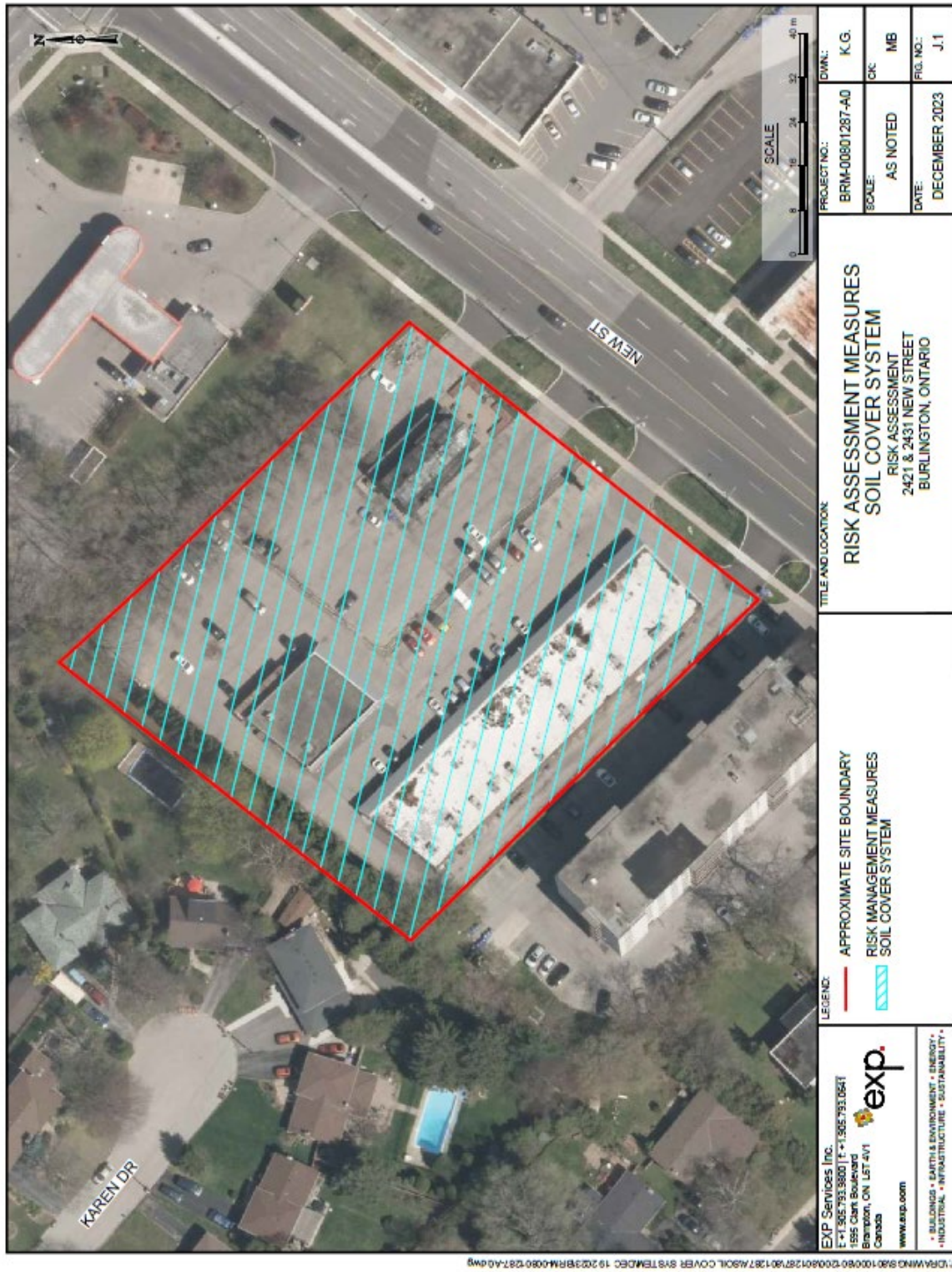


Figure J.2, Soil Cover System Engineering RMM Details, prepared by EXP Services Inc., dated December 2023 and sealed by R. K. Helik, P.Eng.

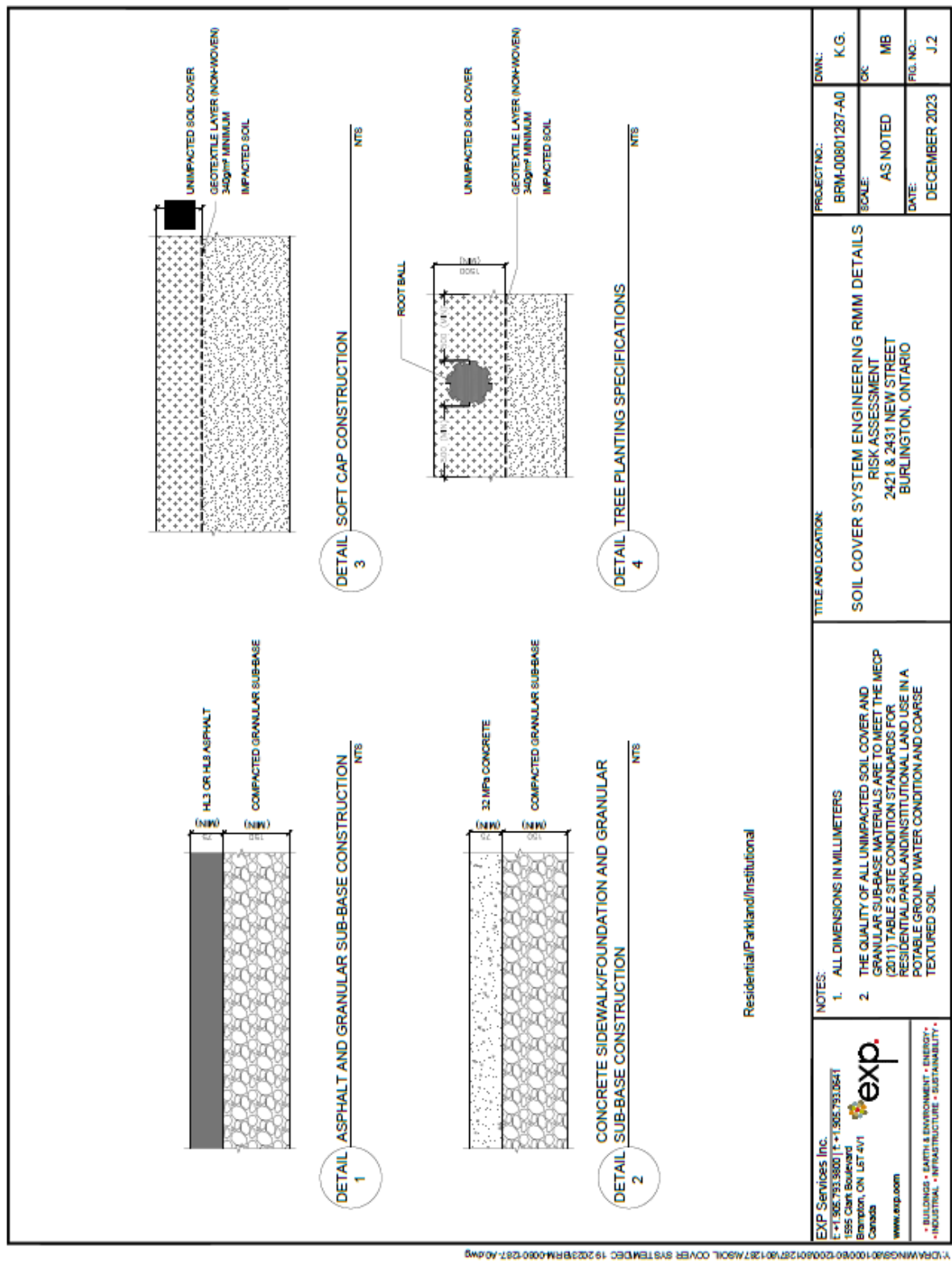


Figure J.3, Soil Cover System Engineering RMM Details for Tree Preservation, prepared by EXP Services Inc., dated December 2023.

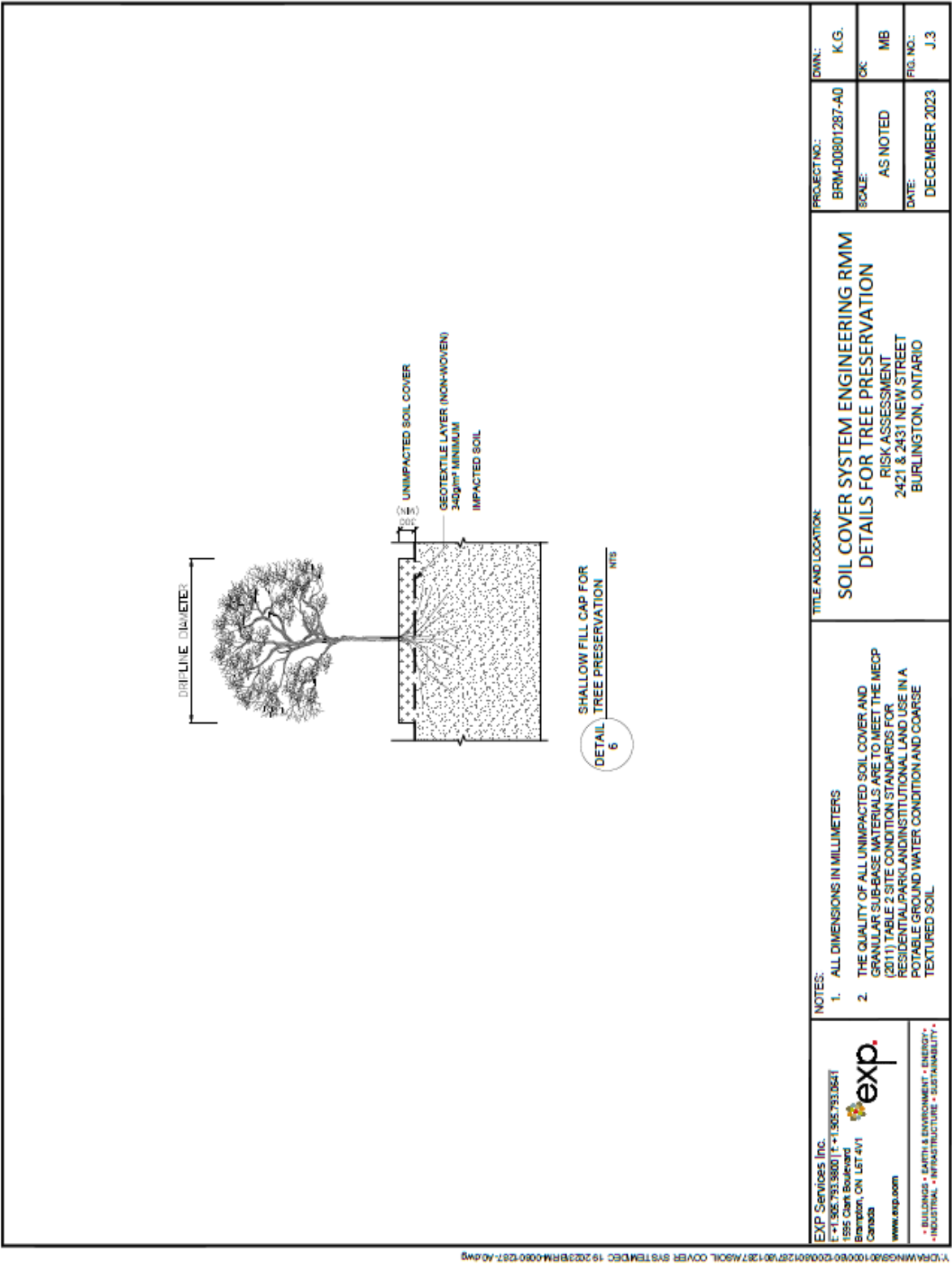


Figure J.4, Area of Tree Preservation, prepared by EXP Services Inc., dated December 2023.

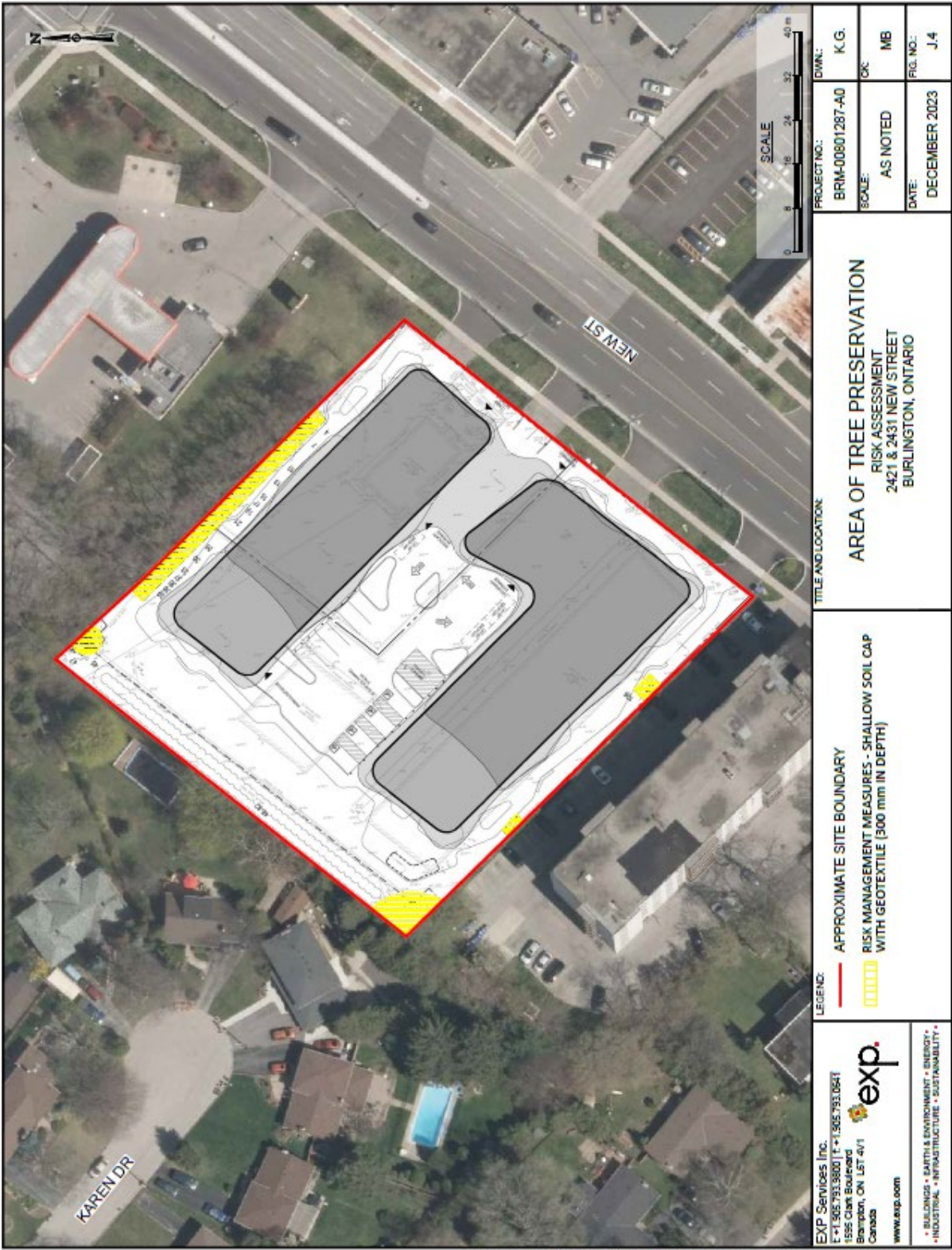


Figure J.5, Section View of the Building Profile with the Vapour Membrane, prepared by EXP Services Inc., dated December 2023.

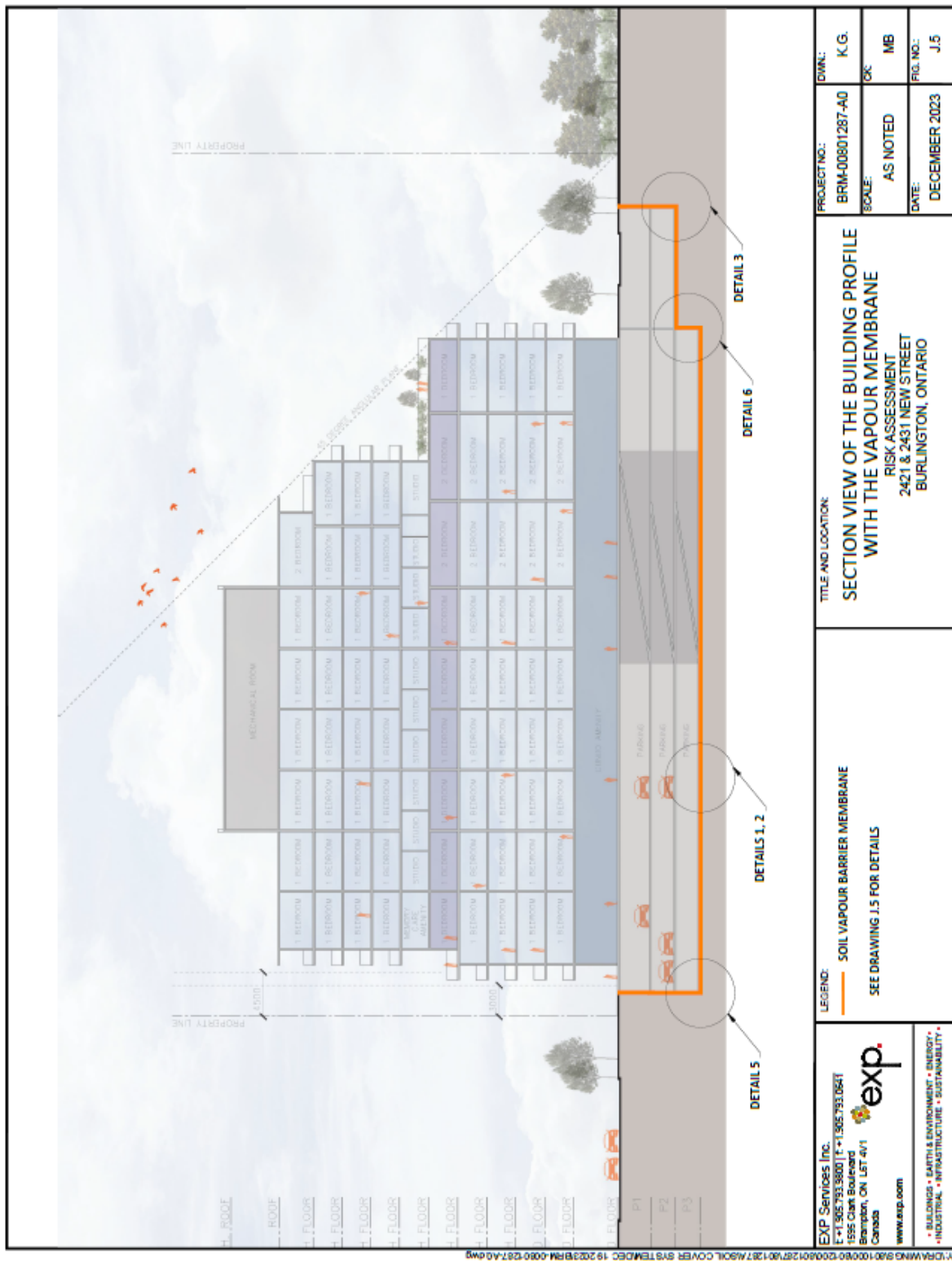


Figure J.6, Soil Vapour Barrier Membrane Engineering RMM Details, prepared by EXP Services Inc., dated December 2023 and sealed by R. K. Helik, P.Eng.

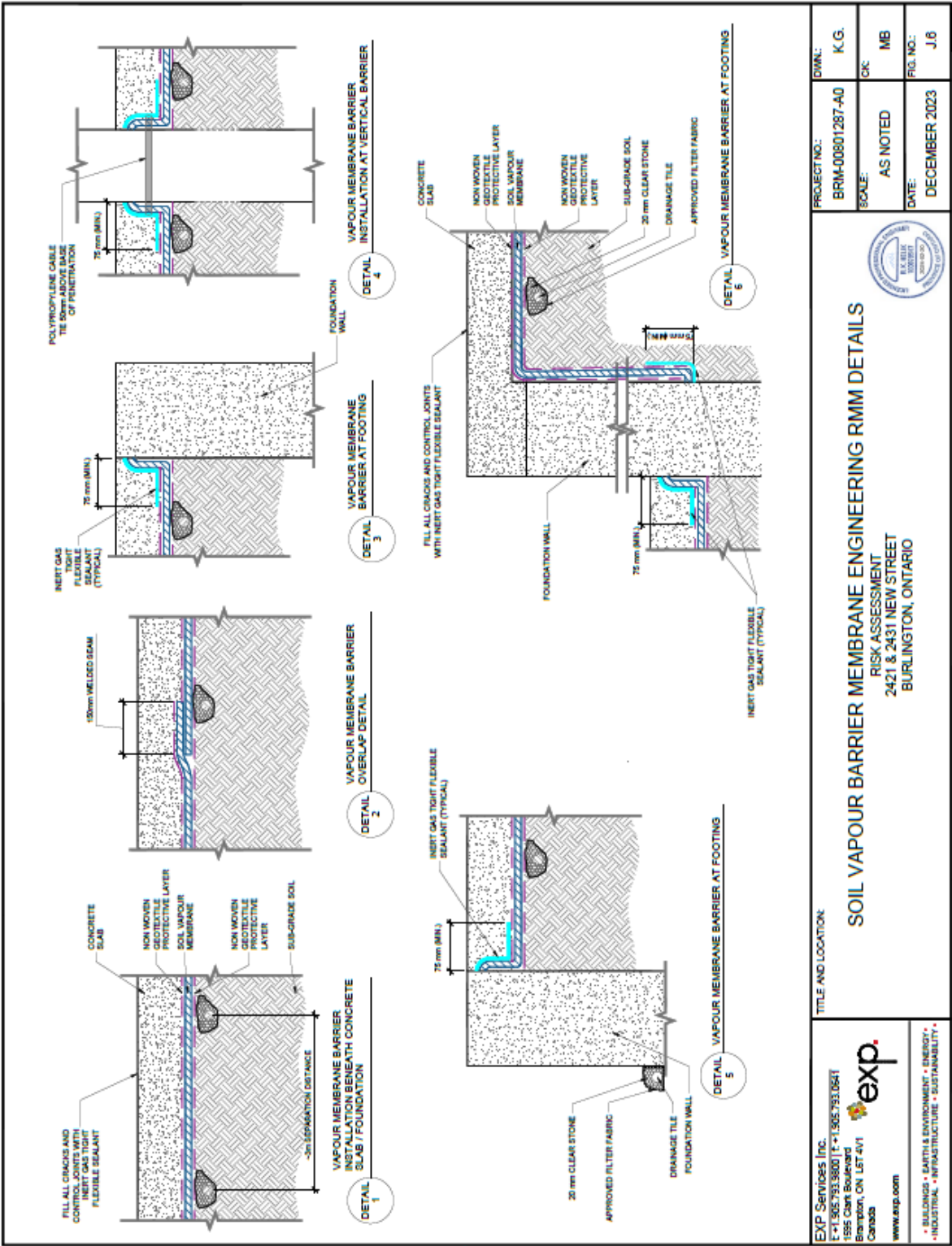


Figure J.7, Vapour Barrier Installation Notes and Conditions, prepared by EXP Services Inc., dated December 2023 and sealed by R. K. Helik, P.Eng.

<p>GENERAL NOTES/CONDITIONS</p> <ol style="list-style-type: none"> 1. CONFORM TO ALL INSTRUCTIONS AND CONDITIONS. 2. ALL EXISTING SERVICES ARE TO BE MAINTAINED DURING CONSTRUCTION. 3. ALL UNDERGROUND UTILITIES SHALL BE IDENTIFIED AND MARKED BY THE UTILITY SUPPLIERS OR THEIR DESIGNATED REPRESENTATIVES PRIOR TO COMMENCEMENT OF WORK. 4. ALL DRAWINGS SHALL BE CONSIDERED DIAGRAMMATIC AND ALL MEASUREMENTS SHALL BE TAKEN AT THE SITE. 5. MANUFACTURER'S INSTRUCTIONS ARE TO BE FOLLOWED FOR THE INSTALLATION OF ALL EQUIPMENT/MATERIALS. 6. ALL MATERIALS SHALL BE CSA APPROVED AND SHALL BEAR CSA LABELS. 7. CONTRACTOR SHALL PROVIDE AS BUILT DRAWINGS UPON COMPLETION OF WORK. <p>VAPOUR BARRIER</p> <ol style="list-style-type: none"> 1. MEMBRANE SPECIFICATION SHALL BE SUBMITTED FOR APPROVAL BY DESIGN ENGINEER. 2. SHALL BE IMPERMEABLE TO VOLATILE ORGANIC COMPOUNDS (VOCs), PETROLEUM HYDROCARBONS (PHCs) AND CHLORINATED SOLVENTS AS PER ASTM 1434. 3. SHALL BE IMPERMEABLE TO METHANE AS PER ASTM D1434. 4. SHALL MEET ASTM E1745 FOR WATER VAPOUR PERMEANCE (ASTM E96/F1249/F154 SECTIONS 7, 8, 11, 12, 13), PUNCTURE RESISTANCE (ASTM D1709), AND TENSILE STRENGTH (ASTM E154 SECTION 9). 5. MEMBRANE SPECIFICATION SHALL BE IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS. 6. THE INSTALLED BARRIER TO BE SMOKE TESTED TO VERIFY AIR TIGHTNESS AND SEALS. A SMOKE TEST TO BE CONDUCTED BY CONTRACTOR AND WITNESSED BY EXP. 		<p>PROJECT NO.: BRM-00801287-A0</p> <p>SCALE: AS NOTED</p> <p>DATE: DECEMBER 2023</p> <p>DRAWN: K.G.</p> <p>MB</p> <p>FIG. NO.: J.7</p>
<p>EXP Services Inc. E: +1 905.793.3800 F: +1 905.793.0541 1595 Clair Boulevard Brampton, ON L6T 4V1 Canada www.exp.com</p> <p>exp.</p> <p>BUILDINGS • EARTH & ENVIRONMENT • ENERGY • INFRASTRUCTURE • SUSTAINABILITY</p>		<p>VAPOUR BARRIER INSTALLATION NOTES AND CONDITIONS RISK ASSESSMENT 2421 & 2431 NEW STREET BURLINGTON, ONTARIO</p>

Figure J.8, Sub-Slab and Perimeter Drainage Specification, prepared by EXP Services Inc., dated December 2023 and sealed by R. K. Helik, P.Eng.

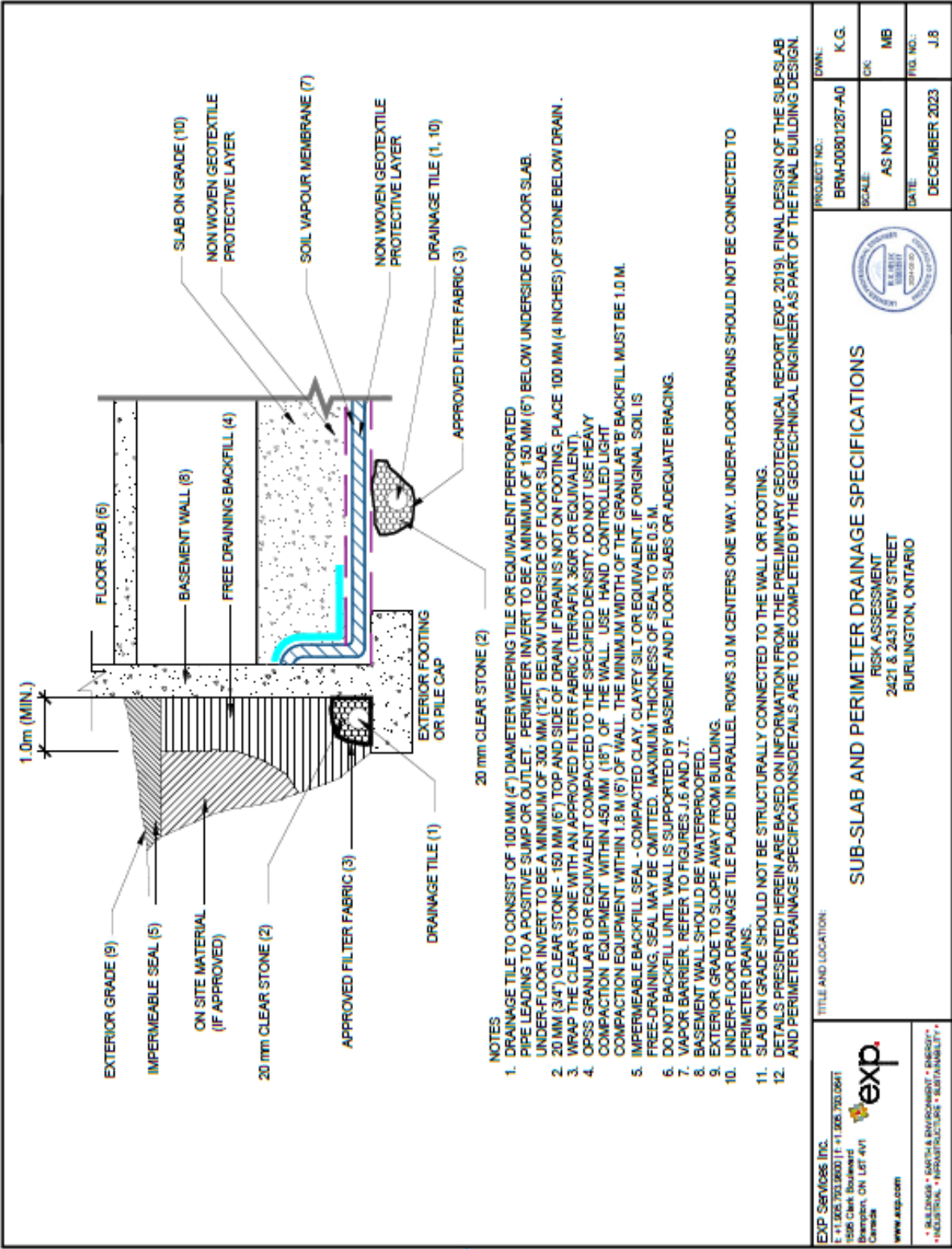


Figure 5A, Borehole Location Plan, prepared by EXP Services Inc., dated May 2021.



Figure R.1, Proposed Monitoring Well and Injection Well Location Plan or Ongoing Groundwater Monitoring, prepared by EXP Services Inc., dated September 2023.

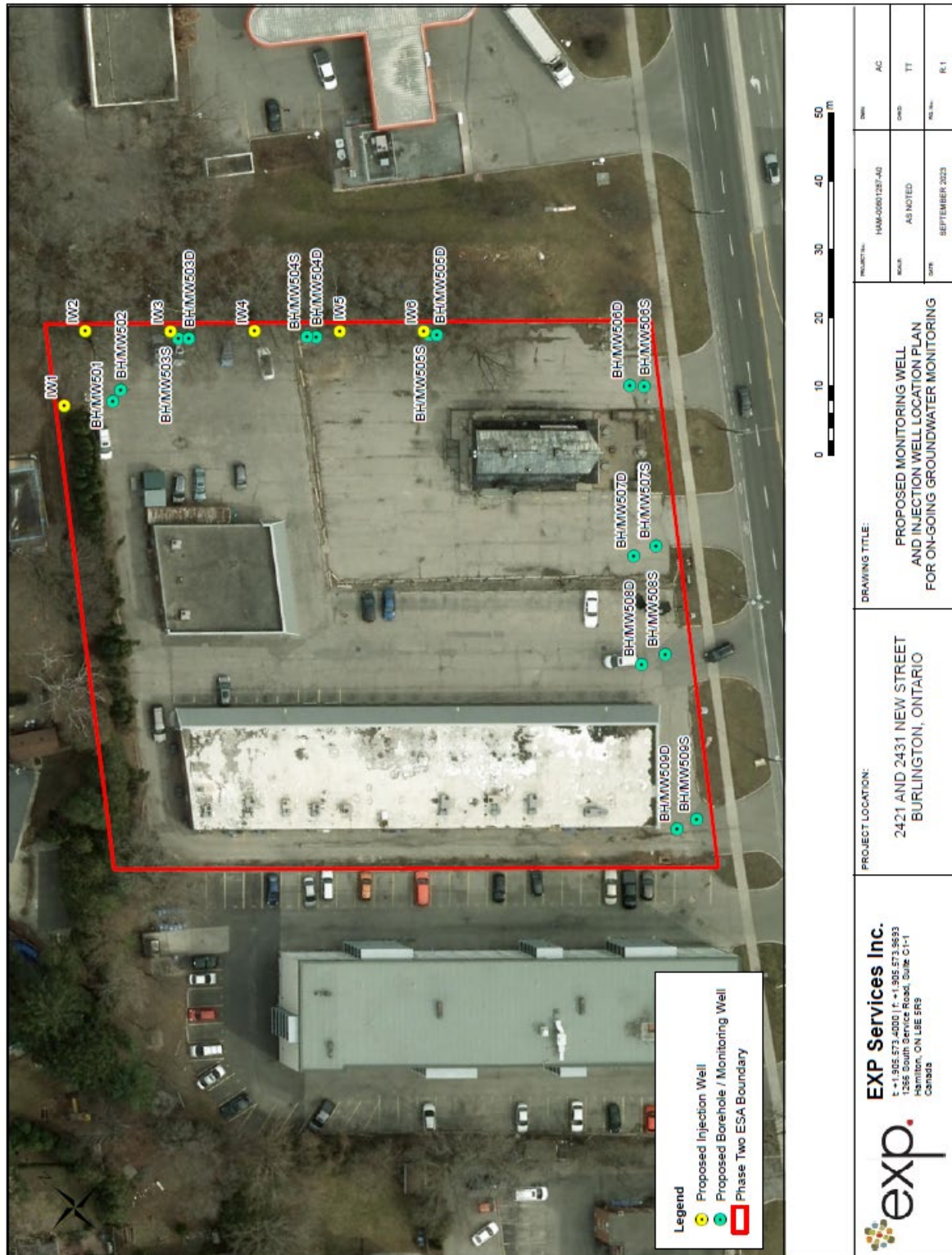


Figure R.2, Proposed Indoor Air Quality Monitoring Location Plan, prepared by EXP Services Inc., dated November 2023.

