

Certificate of Property Use

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

Certificate of Property use number 4332-DP2LYX
Risk Assessment number 8662-CKRK8Q

Owner: 1071 KG Inc. (registered Owner)
Suite 200 - 474 Wellington Street West
Toronto, ON M5V 1E3.

Hullmark (1071 King West) Ltd., by its general partner (beneficial Owner)
on behalf and for First Capital 1071 Corporation and
Hullmark (071 King West) LP

Site: 1071 King Street West (Development Block), Toronto, ON

with a legal description as set out below:

Being Part 1 on the Plan of Survey completed on August 31, 2021, and prepared
and signed on July 19, 2022 Piratheepan Ramchandran, Ontario Land Surveyor
with R. Avis Surveying as attached to the CPU, City of Toronto.

Being Part of PIN 21299-0006 (LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.

Summary:

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

- i) CPU requirements addressed in Part 4 of the CPU, Director Requirements, are summarized as follows:
- a. Installing/maintaining any equipment No

- | | | |
|----|---|-----|
| b. | Monitoring any contaminant | No |
| c. | Refraining from constructing any building specified | Yes |
| d. | Refraining from using the Property for any use specified | No |
| e. | Other: preparing and implementing a groundwater management plan for the Property. | Yes |
- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
- a. The groundwater management plan shall be required for the Property during any activities potentially in contact with or exposing groundwater for as long as the Contaminants of Concern are present on the Property.
 - b. All other Risk Management Measures shall continue indefinitely until the Director alters or revokes the CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- a. impairment of the quality of the natural environment for any use that can be made of it;
- b. injury or damage to property or to plant or animal life;
- c. harm or material discomfort to any person;
- d. an adverse effect on the health of any person;
- e. impairment of the safety of any person;
- f. rendering any property or plant or animal life unfit for human use;
- g. loss of enjoyment of normal use of property; and,
- h. interference with the normal conduct of business.

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

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

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

“Building Code” means Ontario Regulation 163/24 (Building Code) made under the *Building Code Act*, 1992, S.O. 1992, c.23.

“Contaminant” has the same meaning as in the Act; namely any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them, resulting directly or indirectly from human activities that causes or may cause an Adverse Effect.

“Contaminants of Concern” has the meaning as set out in section 3.2 of the CPU.

“CPU” means this Certificate of Property Use as may be altered from time to time and bearing the document number 4332-DP2LYX..

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

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

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

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

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

“O. Reg. 153/04” means Ontario Regulation 153/04, “Record of Site Condition – Part XV.1 of the Act” made under the Act.

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

“Owner” means the owner(s) of the Property, beginning with the person(s) to whom the CPU is issued, described in the “Owner” section on Page 1 above, and any beneficial or subsequent owners of the Property.

"OWRA" means the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40.

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

“Property Specific Standards” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in section 3.2 of the CPU and are the same standards specified in the Risk Assessment.

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

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

- a. Holds a license, limited licence or temporary licence under the *Professional Engineer Act*, or

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

"Risk Assessment" means the Risk Assessment number 8662-CKRK8Q accepted by the Director on December 4, 2025 and set out in the following documents:

- Report entitled "Risk Assessment, Development Block, 1071 King Street West, Toronto, Ontario" prepared by GHD Limited., dated May 2, 2023;
- Report entitled "Risk Assessment, Development Block, 1071 King Street West, Toronto, Ontario" prepared by GHD Limited., dated November 20, 2023;
- Report entitled "Risk Assessment, Development Block, 1071 King Street West, Toronto, Ontario" prepared by GHD Limited., dated March 12, 2025; and
- Report entitled "Risk Assessment, Development Block, 1071 King Street West, Toronto, Ontario" prepared by GHD Limited., dated August 29, 2025.

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

"Storage Garage" has the same meaning as in the Building Code.

"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 Section 168.6 (1) of the Act states that if a risk assessment related to the property has been accepted under clause 168.5 (1) (a), the Director may issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
- 1. Take any action that is specified in the certificate and that, in the Director's opinion,

- is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
2. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- a. alter any terms and conditions in the certificate or impose new terms and conditions; or
 - b. revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property,
- a. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
 - b. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
 - c. the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 2.8 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.
- 2.9 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.10 Subsection 197(4) of the Act states that a dealing with real property by a person who is

subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

- 3.1 The Risk Assessment was undertaken for the Property on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: “residential use”, as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present above the residential/parkland/institutional Property Use Standards within **Table 3** (and **Table 7** for volatile groundwater) of the ***Soil, Ground water and Sediment Standards for Use under Part XV.1 of the Act*** for coarse textured soils published by the Ministry and dated April 15, 2011, for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards for the Contaminants of Concern are set out in Schedule ‘A’ as attached to and forming part of the CPU with the following figures:
- Plan of Survey with Property outlined in red.
- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.

Part 4: Director’s Requirements

Pursuant to the authority vested in me under section 168.6(1) of the Act, I hereby require the owner to do or cause to be done the following:

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Item 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:
- a. A groundwater management plan shall be prepared for the Property and implemented during any activities potentially coming in contact with or exposing groundwater. A copy of the plan shall be kept by the Owner and made available for review by a Provincial Officer upon request. Implementation of the plan shall be overseen by a Qualified Person and shall include, but not be limited to, provisions for characterization, disposal and record keeping specified below:

- i. Management of excavated materials or equipment that may have come into contact with groundwater which may include cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment, as required.
 - ii. Any groundwater collected during future intrusive activities or collected for groundwater drainage shall be characterized and disposed of appropriately in accordance with applicable regulations and municipal by-laws.
 - iii. Excavation dewatering shall require that impacted groundwater be either loaded directly into containers or trucks for off-Site disposal or placed in a designated storage tank on Site pending off-Site disposal. Containerized material for off-Site disposal will be properly stored until transported. Should it be necessary or required to temporarily store impacted groundwater (while awaiting receipt of waste characterization results for instance), the water will be placed in appropriate storage tanks away from catch basins in a controlled area protected from potential vehicle impacts and storage tanks be located away from public accessible areas on the Property as per Risk Assessment.
 - iv. Record keeping including dates and duration of work, weather and site conditions, location and depth of excavation activities, groundwater removed and drainage from the Property, names of the Qualified Person, contractors, haulers and receiving sites for groundwater removed from the Property and any complaints received relating to site activities potentially coming in contact with or exposing groundwater on the Property.
- b. Refrain from constructing any Building on, in or under the Property unless the Building includes a Storage Garage, as defined in Building Code and meets the following requirements:
- i. The multi-storey Storage Garage is constructed at or below the Grade of the Building along with any waterproofing if applicable.
 - ii. The Storage Garage area covers the entire Building Area at Grade; and
 - iii. The Storage Garage is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing the following:
 - 1. design of the mechanical ventilation system as set out in Division B, subsection 6.2.2.3, Ventilation of Storage and Repair Garages;
 - 2. interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2); and,
 - 3. air leakage as set out in Division B, section 5.4.
 - iv. 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 0.6 litres per second for each square metre of floor area and activate at a higher ventilation rates by carbon monoxide or nitrogen dioxide monitoring devices at a rate of not less than 3.9 litres per second for each square metre of floor area as required by the Building Code and by the Risk Assessment.

- c. An inspection and maintenance program shall be prepared and implemented to ensure the continued operation of any Storage Garages on the Property. The inspection program shall include, at a minimum, annually (once a year) inspections to identify any new penetrations or cracks on lowest level of Storage Garage along with an inspection of the active elements of the Storage Garage. Any deficiencies and repairs shall be recorded in a log-book maintained by the Owner and made available upon request by a Provincial Officer.
 - d. The Owner shall prepare by March 31 each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements:
 - i. a copy of all records related to the groundwater management plan on the Property;
 - ii. a copy of all records related to the inspection and maintenance program of Storage Garage; and
 - iii. confirmation that the Storage Garage is constructed at or below the Grade of the Building and covers the entire Building Area and ventilation runs continuously as described in per item 4.2 b of the CPU.
- 4.3 Refrain from using the Property for any of the following use(s): NA
- 4.4 Refrain from constructing the following building(s): No building construction unless construction is in accordance with Item 4.2 b. of the CPU.
- 4.5 The Owner shall ensure that every occupant of the Property, is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 4.3 and 4.4, unless noted N/A. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

Site Changes

- 4.6 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or any underlying basis for the Risk Management Measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

Reports

- 4.7 Retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and

within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Property Requirement

- 4.8 For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property as a result of the dealing.

Certificate of Requirement

- 4.9 Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act and as set out in Schedule 'B', register the certificate of requirement on title to the Property, in the appropriate land registry office.
- 4.10 Immediately after registration of the certificate of requirement, provide to the Director written verification that the certificate of requirement has been registered on title to the Property.

Owner Change

- 4.11 While the CPU is in effect, the Owner shall forthwith report in writing, to the Director any changes of ownership of the Property, except that while the Property is registered under the Condominium Act, 1998, S.O.1998 c.19, no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

Financial Assurance

- 4.12 The Director has not included in the CPU a requirement that the Owner provide financial assurance

Part 5: General

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.
- 5.2 An application under sub section 168.6(3) of the Act to,
- a. alter any terms and conditions in the CPU or impose new terms and conditions; or
 - b. revoke the CPU;

shall be made in writing to the Director, with reasons for the request.

- 5.3 The Director may alter the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.
- 5.4 Subsection 186(3) of the Act provides that failure to comply with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve the Owner from,
- a. complying with any other applicable order, statute, regulation, municipal, provincial or federal law; or
 - b. obtaining any approvals or consents not specified in the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require. The Director shall also alter the CPU where the approval or acceptance of the Director is required in respect of a matter under the CPU and the Director either does not grant the approval or acceptance or does not grant it in a manner agreed to by the Owner.
- 5.7 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
- a. natural phenomena of an inevitable or irresistible nature, or insurrections,
 - b. strikes, lockouts or other labour disturbances,
 - c. inability to obtain materials or equipment for reasons beyond your control, or
 - d. any other cause whether similar to or different from the foregoing beyond your control, the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.
- 5.8 Failure to comply with a requirement of the CPU by the date specified does not absolve the Owner from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 5.9 In the event that the Owner complies with the provisions of Items 4.9 and 4.10 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the Condominium Act, 1998, S.O. 1998, c.19, as amended, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be

carried out by the condominium corporation on behalf of the new Owners of the Property.

- 5.10 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

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land Tribunal (the “Tribunal”), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.
- 6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU, or to rely on a ground, that is not stated in the notice requiring the hearing.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: *Service of Documents*, made under the Act. The address, email address and fax numbers of the Director and the Tribunal are:
- Registrar Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Email: OLT.Registrar@ontario.ca
- and
- District Manager
Ministry of the Environment, Conservation and Parks
5775 Yonge Street, 8th Floor
Toronto, Ontario
M2M 4J1
Fax: 416-326-5536
Email: Environment.Toronto@ontario.ca
- 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 EBR registry. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Environmental Commissioner of Ontario who will place it on the EBR registry. The notice must be delivered to the Environmental Commissioner at 605-1075 Bay Street, Toronto, Ontario M5S 2B1 by the earlier of:

- 6.5.1 two (2) days after the day on which the appeal before the Tribunal was commenced; and
 - 6.5.2 fifteen (15) days after service on you of a copy of the CPU.
- 6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 6.7 For your information, under section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Under section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:
- 6.7.1 fifteen (15) days after the day on which notice of the issuance of the CPU is given in the EBR registry; and
 - 6.7.2 if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the EBR registry.
- 6.8 The procedures and other information provided in this Part 6 are intended as a guide. The legislation should be consulted for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws.

Issued at Toronto this XX day of XXXX 2025.

DRAFT

Jimena Caicedo
Director, section 168.6 of the Act

Schedule 'A'

Property Specific Standards (Groundwater) for each Contaminant of Concern

Contaminants of Concern (COC)	Property Specific Standards for Groundwater (µg/L)
Acenaphthylene	1.7
Anthracene	1.7
Benzene	25
Ethylbenzene	348
Naphthalene	8.9
Petroleum Hydrocarbons F1 (C8-C10)	2280
Petroleum Hydrocarbons F2 (C10-C16)	2400
Petroleum Hydrocarbons F3 (C16-C34)	2040
Xylenes, Total	1440

Schedule 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Item 4.8 of Certificate of Property Use number 4332-DP2LYX issued by Jimena Caicedo, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on XXXX 2025, being a Certificate of Property Use and order under subsection 197(1) of the Environmental Protection Act relating to the Property municipally known as 1071 King Street West, Toronto, ON being All of Property Identifier 21299-0006 (LT) (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

1071 KG INC.

and any other persons having an interest in the Property, are required before dealing with the Property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the Property.

Under subsection 197(3) of the Environmental Protection Act, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the Property.

Plan of Survey with Property outlined in red

