

BY-LAW NUMBER 3057-2021

BEING A BY-LAW TO AUTHORIZE THE CORPORATION OF THE TOWNSHIP OF BROCK TO ENTER INTO A SITE PLAN AGREEMENT WITH THE BROCK COMMUNITY HEALTH CENTRE (BCHC) REGARDING PART OF LOT 6 AND LOT 5, BROCK; THE TRUSTEES OF THE TRINITY CONGREGATION OF THE UNITED CHURCH OF CANADA (UCC) REGARDING LOTS A, 2, 33 AND 35 WEST OF LAIDLAW STREET ON PLAN 110, BROCK; AND THE TRUSTEES OF CANNINGTON BAPTIST CHURCH (CBC) REGARDING PART OF LOT 20, CONCESSION 12, BROCK; AND PART OF LOTS 33 AND 34, BROCK

WHEREAS Section 41 of the Planning Act, R.S.O. 1990 provides that a municipality may enter into agreements dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned therein;

AND WHEREAS the Council of the Corporation of the Township of Brock deems it expedient to enter into an agreement with the BCHC, UCC and CBC for the development and use of the lands described therein;

NOW THEREFORE BE IT ENACTED by the Council of the Corporation of the Township of Brock as follows:

- 1. **THAT** the Mayor and Deputy-Clerk are hereby authorized to sign and affix the Corporate Seal to a Site Plan Agreement between the Corporation of the Township of Brock and the BCHC, UCC and CBC as contained in **Schedule 1 – Site Plan Development Agreement** attached to and forming part of this by-law.

THIS BY-LAW READ TWICE THIS 28th DAY OF JUNE, A.D., 2021.

<hr/>	<hr/>
Mayor John Grant	Deputy-Clerk Maralee Drake

THIS BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 28th DAY OF JUNE, A.D., 2021.

<hr/>	<hr/>
Mayor John Grant	Deputy-Clerk Maralee Drake

SITE PLAN DEVELOPMENT AGREEMENT

THIS AGREEMENT made this 28th day of June, 2021

BETWEEN:

BROCK COMMUNITY HEALTH CENTRE
(hereinafter called “BCHC”)

OF THE FIRST PART,

and

**TRUSTEES OF THE TRINITY CONGREGATION OF
THE UNITED CHURCH OF CANADA**
(hereinafter called “UCC”)

OF THE SECOND PART,

and

TRUSTEES OF CANNINGTON BAPTIST CHURCH
(hereinafter called “CBC”)

OF THE THIRD PART

and

THE CORPORATION OF THE TOWNSHIP OF BROCK
(hereinafter called the “Township”)

OF THE FOURTH PART

WHEREAS BCHC, UCC and CBC (hereinafter collectively called the “Owners”) are collectively the registered owners of the lands described and further defined in Schedule "A" annexed hereto, which lands are hereinafter referred to as the "Lands";

AND WHEREAS this Agreement has been entered into pursuant to Section 41 of the Planning Act, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS Subsection 10 of Section 41 of the Planning Act, as amended, provides for the registration of Site Plan Development Agreements on the title of the Lands;

AND WHEREAS the Owners warrant and represent that there are no encumbrancers of the Lands, save and except the Encumbrancers herein;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of mutual covenants herein contained and other good and valuable consideration, the parties hereby covenant and agree as follows:

1. Prohibition

The Owner hereby agrees that no development or redevelopment will proceed or take place on the Lands except as shown on plans, drawings and specifications approved by Council of the Township (hereinafter referred to as the "Site Development Plans"), and without limiting the generality of the foregoing, development or redevelopment shall include the construction, erection or placing of one or more buildings or structures that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot, or the construction, erection, installation or placement on the Lands of any loading spaces, parking areas, garbage container areas, landscaping, lighting, drainage facilities, access driveways or fencing.

2. Conditions

Unless otherwise approved by the Township pursuant to Paragraph 1 hereof, the Owner shall develop the Lands and any adjoining abutting municipal property being part of the road allowance but not part of the travelled roadway (hereinafter referred to as the "Boulevard") in accordance with the Site Development Plans identified in Schedule "B" attached hereto and the conditions contained in Schedule "C" attached hereto.

3. Conformity with Site Development Plans and Conditions

The Owner further agrees that if any structures, buildings, facilities, services, works or landscaping improvements are constructed on the Lands and Boulevard, they will be constructed in conformity with the Site Development Plans and conditions contained in Schedule "C" attached hereto. It is understood and agreed that if construction is not commenced within one year of the approval or any part thereof by the Council of the Township of the Site Development Plans, such approval shall at the option of the Township become null and void and Site Development Plans must be resubmitted to the Township for approval pursuant to the terms of this Agreement and in accordance with the provisions of the Planning Act, R.S.O. 1990. In such event, the Owner hereby acknowledges that the Township may alter, amend or revoke any or all of the conditions of approval previously given and substitute new conditions of approval.

4. Completion and Security

- a) The Owner agrees that it shall construct and provide the structures, buildings, facilities, services or works shown on the Site Development Plans within two years of approval by Council of the Site Development Plans. As a condition of approval of any Site Development Plans, the Owner shall lodge with the Township cash security for the works and services described in Schedule "D" attached in such amount as specified therein ("Security"). The Township will accept an irrevocable letter of credit for the Security drawn on a chartered bank of Canada acceptable to the Township in lieu of the cash amount referred to above, provided such letter of credit shall be in a form acceptable to the Township and contain the following provisions:
 - i) the letter of credit shall be security for any obligations of the Owner pursuant to the provisions of this agreement, without any limitations whatsoever;
 - ii) drawings on the letter of credit shall be permitted upon presentation of the letter from the Township to the bank claiming default by the Owner under the terms of this agreement, and such default shall not be limited to the actions of the Owner;
 - iii) partial drawings shall be permitted;
 - iv) if the Township has not determined the extent of the default or the amount required to rectify the default or compensate the Township or third parties as a result thereof, the Township may draw on the full amount of the letter of credit without any requirement to justify the amount of the draw;
 - v) if the letter of credit is not renewed at least thirty (30) days prior to the date of expiry by an irrevocable letter of renewal or replacement letter of credit in such form and on such terms acceptable to the Township may be permitted to draw on up to 100% of the letter of credit on or before the date of expiry.
- b) Notwithstanding anything else herein contained, approval of the Site Development Plans shall be deemed not to have been given, and the Owner hereby agrees not to undertake any development or redevelopment or construction of any structures for which a building permit has been issued, unless the provisions of sub-paragraph (a) hereof have been fully complied with and this agreement has been executed by all registered Owners and Encumbrancers of the Lands and has been registered on the title to the Lands.

- c) All reduction of the Security shall be in the sole discretion of the Township and the Township shall not be obligated to reduce the Security by any amounts based on actual work performed by the Owner, which discretion shall be exercised on the basis of the Township's opinion of the value of the uncompleted obligations of the Owner pursuant to this agreement together with 15% for Engineering and 15% for contingencies where appropriate.
- d) At no time during this Agreement shall the Security lodged with the Township be reduced to an amount less than 25% of the amount specified in Schedule "D".

5. Release of Security

Upon certification by the Township that all conditions imposed by this agreement have been satisfied and provided the Owner is not in default with respect to any other provisions of this agreement, the Owner shall be entitled to the release of the balance of the Security held by the Township at the time of such certification. The Township shall not be required to refund or account for any Security utilized by the Township as a result of any default by the Owner under the provisions of this agreement.

6. Construction

The Owner shall undertake all construction activity on the Lands in such a manner so as not to unreasonably interfere with adjoining lands or traffic on adjacent streets. The Owner shall control all dust, mud and debris resulting from any construction activities and remove the same promptly from any municipal catch basin, manhole, sewer, ditch, culvert, roadway, boulevard or sidewalk. The Owner shall reimburse the Township for any damage to any municipal services, facilities or works resulting from the development or redevelopment of the Lands, howsoever caused and the determination of the Director of Public Works or his designate with respect to whether or not said damage was caused by the owner or with respect to the extent of the damage shall be final and binding on all parties.

7. Maintenance

The Owner shall maintain in good repair and in a safe and clean condition the Lands and Boulevard, vegetation, structures, buildings, facilities, services, works and landscaping improvements on the Lands and Boulevard at his own expense and shall do all acts necessary to comply with and properly carry out and provide for the maintenance and use thereof, including the replacement or repair of broken, damaged or worn material or parts and the replacement of dead or deceased vegetation. The Owner shall further keep the Lands and Boulevard free and clear of all refuse, debris and obstructions. Without limiting the generality of the foregoing, and in addition to anything else contained herein, the Owner shall be bound by, do and perform those obligations more particularly set out in Schedule "E" attached hereto.

8. Connections to Municipal Services

All connections to the Township's storm sewers shall be made by contractors approved by the Director of Public Works or his designate and under his inspection at the Owner's expense. All storm sewers constructed on or under the Lands shall be constructed to the satisfaction of the Director of Public Works or his designate. Relocation of any municipal services, facilities or utilities (including any curbs, gutters, catchbasins, poles, bus shelters, manholes, telephone boxes, drains, or transformers (if applicable), whether owned by the Township or any utility company, board or commission) shall be carried out at the Owner's expense.

9. Building or Demolition Permits

Notwithstanding the provisions of this agreement, the Owner hereby acknowledges that the Township is not obligated to issue any building permits or demolition permits or grant any other permits or consents with respect to any development or redevelopment on the Lands unless:

- a) all federal, provincial and municipal statutes, regulations, by-laws, ordinances, orders and requirements have been complied with;
- b) any other agreements with the Township, the Regional Municipality of Durham or any other governmental body or agency are not in default; and
- c) all property and business taxes with respect to the Lands have been paid in full.

In the event the development or redevelopment of the Lands herein contemplated requires any other municipal or other governmental approvals, including but not limiting the generality of the foregoing, a building permit, a consent for a severance or rezoning or a variance pursuant to the provisions of the Planning Act, R.S.O. 1990, a permit for access, ingress or egress, approvals pursuant to the provisions of the Environmental Assessment Act, R.S.O. 1990, or the Environmental Protection Act, R.S.O. 1990, the approval of the Medical Officer of Health, the approval of the Conservation Authority having jurisdiction, the approval of the Minister of Health or the approval of any other governmental body or agency, then in such event the Owner hereby agrees not to commence any work on the Lands or demolish or alter any structures on the Lands unless all such approvals, permits or rezoning have been obtained.

10. Hard Surfaced Areas

The Owner shall provide and maintain to the satisfaction of the Director of Public Works or his designate those parts of the Lands and Boulevard not occupied by buildings or structures and shown as being for vehicular or pedestrian use on the Site Development Plans in a hard surface condition such as lockstone, asphalt or concrete or as more particularly specified on the Site Development Plans, at a grade satisfactory to the Director of Public Works or his designate and further shall keep them clear of refuse, debris, snow, potholes, cracks, holes and any other obstruction whatsoever which would either directly or indirectly interfere with the reasonable use of such areas for parking, access to parking, walkways, boulevard aprons, driveways, garbage storage or collection or such other use as more particularly shown on the Site Development Plans.

11. Parking Area

The parking spaces shall be laid out and clearly marked on the site by painted lines or such other method approved by the Director of Public Works or his designate in accordance with the Site Development Plans.

12. Landscaping

Landscaping shall be completed in accordance with the site development plans as set out in Schedule "B" attached and those special conditions set out in Schedule "C" attached. All approved landscaping shall be maintained in a healthy growing condition at all times.

13. Garbage

The Owner shall store all garbage in the garbage storage facilities as shown on the Site Development Plans. If the garbage storage facilities are designed for the use of a bulk lift container, it shall be the Owner's responsibility to provide for such container and for the regular removal and replacement of the same as may be reasonably required. In the event no garbage storage facilities are shown on the Site Development Plans, all garbage shall be stored indoors.

14. Hydro

The Owner shall, at its sole cost, comply with the requirements of Ontario Hydro, or its successor, and Veridian Connections, including bearing the cost of the relocation of existing hydroelectric facilities if applicable.

15. Costs

The Owner shall pay to the Township, forthwith upon demand, all reasonable costs and expenses incurred by the Township, whether directly or indirectly, in connection with this Agreement and the approval of any Site Development Plans. Without limiting the generality of the foregoing, such costs and expenses shall include a charge for the processing of the Site Development Plans by the consultants retained by the Township incurred in connection with this Agreement, the supervision of all of the works undertaken in connection therewith or in ensuring compliance with this agreement and the registration thereof on title to the Lands.

16. Fire Access Routes

The Owner shall designate such driveways as shown on the Site Development Plans as fire access routes (if applicable) or hereafter so designated by the Fire Chief for the Township and shall keep them clear and unobstructed at all times. The Owner shall erect and maintain signs approved by the Chief Building Official for the Township designating the fire access routes.

17. Lighting

The Owner agrees that any lights used for the illumination of the building or parking areas shall be so arranged by diverting the lights away from adjoining lands so as to minimize the light affecting adjoining lands.

18. Owner's Expense

The Owner acknowledges that where this Agreement obliges the Owner to perform any work or do anything it is to be done at the Owner's expense and not at the Township's expense.

19. Registration

The Owner hereby consents to the registration of this Agreement on the title of the Lands.

20. Acknowledgment by Encumbrancers

The Encumbrancers (if applicable) hereby acknowledge that they are aware of all of the terms, covenants and conditions contained in this Agreement and agrees to be bound by such terms, covenants and conditions in the event that it should obtain control, possession or equitable ownership of the Lands.

21. Indemnification by Owner

The Owner shall defend, indemnify and save harmless the Township against all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly by reason of this agreement or the Owner undertaking the development or redevelopment herein referred to.

22. Insurance

Prior to the commencement of any construction of any Services or grading on the Lands or issuance of any building permit for the Lands, the Owner shall maintain commercial general liability insurance, and continue to maintain such insurance until the Chief Building Official for the Township certifies that any building or structure located on the Lands is fit for

occupancy and has issued an unconditional Lot Clearance Certificate therefore, against all damages or claims for damage with an insurance company satisfactory to the Township. Such policy or policies shall include the Township as an additional insured and a certificate of insurance shall be delivered to the Township and be in full force and effect until such certification by the Township's Engineer. Such certificate of insurance shall be in a form acceptable to the Township's Solicitor and without limiting the generality of the foregoing, such insurance shall provide:

- (a) that the minimum limits shall be not less than \$5,000,000.00 for any single occurrence;
- (b) that it includes a cross-liability and completed operation coverage;
- (c) that it shall not contain an exclusion for blasting, shoring, underpinning raising or demolition of any building or structure, collapse of any structure or subsidence of any structure or land from any cause;
- (d) that the insurance premium has been prepaid for a period of not less than one year;
- (e) that the policy will provide that it is not cancellable unless prior notice by registered mail has been received by the Township from the insurer not less than thirty (30) days prior to the cancellation date;
- (f) in the event of claims made against the Township to which the deductible applies, the Owner shall be solely responsible for paying the deductible; and
- (g) Where a subcontractor is retained for work where Professional Liability coverage is a contract requirement, the Owner must ensure that the Professional Liability insurance is in an amount not less than two million dollars (\$2,000,000) per claim.

23. Right of Entry

The Owner covenants and agrees with the Township to grant and hereby grants to the Township or its authorized representatives the right to enter upon the Lands or any part thereof in order to ascertain whether or not the provisions of this Agreement have been complied with in full.

24. Default

In the event of any default by the Owner pursuant to any of the terms of this Agreement, in addition to any other remedies available to the Township and without any limitation thereof, the Township may:

- a) draw on the Security in whole or in part;
- b) undertake or compete any obligation of the Owner hereunder;
- c) enter upon the Lands through its servants or agents for any purpose whatsoever;
- d) issue a stop work order with respect to any further development, redevelopment or work upon the Lands; and
- e) recover from the Owner all costs and expenses incurred by the Township whether directly or indirectly, with respect to the default or the remedy thereof and collect such costs and expenses in like manner as municipal taxes.

25. Drainage

The Owner shall not take any action or cause any work to be done that will adversely affect drainage from or onto properties adjoining the Lands, and the Owner shall with the prior approval of the Township, at the Owner's expense, construct such drainage works as may be required. Notwithstanding the aforesaid, the Owner shall indemnify and save harmless the

Township with respect to drainage from or onto lands adjoining the Land as a result of the development or redevelopment hereby contemplated and the construction of any works, facilities or structures on the Lands.

26. Occupancy

The Owner covenants and agrees that there shall be no occupancy of buildings until all requirements of this Agreement have been complied with and the Chief Building Official has issued an Occupancy Certificate. The Chief Building Official may, however, issue a conditional Occupancy Certificate provided the Letter of Credit is sufficient to cover any outstanding works.

27. Successors and Assigns

The parties hereto hereby covenant and agree that this Agreement shall be binding upon them, their respective heirs, executors, administrators, successors and assigns. In the event that the Lands are sold, conveyed, assigned, or transferred, or otherwise parted with possession or ownership, the proposed purchaser, successor or assignee ("Successor") shall, prior to closing, execute an assumption agreement acceptable to the Township's Solicitors which provides that all provisions of this Agreement will continue to be binding on the Successor to the Owner as if such Successor had entered into this Agreement in the place of the Owner and in the event of more than one Successor all of the parties collectively shall be deemed to be the Owner pursuant to the terms hereof. Further, the Owner shall be released and discharged from the obligations and provisions of this Agreement upon the execution of an assumption agreement by the Successor.

28. Invalidity

If a Court of competent jurisdiction should declare any section or part of a section of this Agreement to be invalid or unenforceable, such section or part of a section shall not be construed as being an integral part of the Agreement or having persuaded or influenced a party to this Agreement to execute the same, and it is hereby agreed that the remainder of the Agreement shall be valid and in full force and effect.

29. Counterparts

This Agreement may be executed electronically and in one or more counterparts, which together shall be deemed to be an original and such counterparts together shall constitute but one and the same instrument. Such counterparts may be delivered by electronic transmission.

30. Interpretation

In construing this Agreement, words in the singular shall include the plural and vice versa and words importing the masculine shall include the feminine, and the neuter and vice versa, and words importing persons shall include corporations and vice versa. In the event of any conflict or ambiguity in the Site Development Plans or Schedules to this Agreement, the decision of the Township shall be final and binding.

31. Notice

All notices, demands or requests provided for or permitted to be given pursuant to this agreement shall be made in writing as follows:

- a) if made to the Township, shall be addressed to the CAO & Municipal Clerk, The Corporation of the Township of Brock, P.O. Box 10, Cannington, Ontario, L0E 1E0;
- b) if made to the Owner, at his respective address for service shown on the Document General attached to this Agreement in the Registry Office in which this Agreement is registered;

All notices, demands or requests shall be deemed to have been properly delivered

IN WITNESS WHEREOF, the individual parties hereto have hereunto set their hands and seals and the Corporate parties have hereunto affixed their Corporate Seal as attested to by the hands of their proper signing officers in that behalf duly authorized.

Authorized to be
executed by By-law No.
3057-2021 enacted on
the 28th day of June,
2021.

{L1812240.1}

)	
	)	Per:_____
_____ Witness	)	Name:_____
)	
)	
)	
)	
_____ Witness	)	Per:_____
	)	Name:_____
)	
	)	I/We have authority to bind the Corporation.
)	
)	
)	
)	
	)	TRUSTEES OF CANNINGTON BAPTIST CHURCH
)	
)	
_____ Witness	)	Per:_____
	)	Name:_____
)	
)	
)	
_____ Witness	)	Per:_____
	)	Name:_____
)	
)	
_____ Witness	)	Per:_____
	)	Name:_____
)	
	)	I/We have authority to bind the Corporation.:

SCHEDULE “A”

LEGAL DESCRIPTION OF THE LANDS

ALL AND SINGULAR that certain parcel or tract of land and premises situated, lying and being in the Township of Brock, in the Regional Municipality of Durham and being composed of:

Firstly:

PIN: 72018-0208 (LT)

Part of Lot 6 and Lot 5 north of Cameron Street and west of Ann Street on Plan 14 (aka Lumsden’s Pl) designated as Part 3 on Plan 40R-3073.

Owner: Brock Community Health Centre

Secondly:

PIN: Lots A, 2, 33 and 35 west of Laidlaw Street on Plan 110; Part of Lot 20, Concession 12 as in CO151193, CN893, CN1015.

Owner: Trustees of the Trinity Congregation of the United Church of Canada

Thirdly:

PIN: 72016-0208 (LT)

Part of Lots 33 and 34 on Plan H50055 as in D262437.

Subject to CO200257

Together with CO200257

Owner: Trustees of Cannington Baptist Church

SCHEDULE “B”

Site Development Plans

Name of Drawing or Specification	Number of Sheet or Page & Project Number	Rev No.	Date of Plan Drawing or Specification	Prepared By	Date of Acceptance by Township
BCHC Land Plans					
Site Plan	AS-101	6	Jan 11, 2021	Lett Architects Inc.	June 16, 2021
Site Details	AS-102	6	Jan 11, 2021	Lett Architects Inc.	June 16, 2021
Legend and Notes	C1	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Removals, Erosion and Sediment Control Plan	C2	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Site Servicing	C3	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Site Grading Plan	C4	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Details 1	C5	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Details 2	C6	8	Jan 8, 2021	Engage Engineering	June 16, 2021
Site Plan -Lighting Calculations	E101	3	Jan 11, 2021	HHAngus &Associates Limited Consulting Engineers	June 16, 2021
Brock Community Health Centre Functional Servicing and Stormwater Management Report			October 2019	Engage Engineering	June 16, 2021
UCC Land Plans					
Legend and Notes	L&N		June 10, 2021	Engage Engineering	June 16, 2021
Removals, Erosion and Sediment Control Plan	ES1		June 10, 2021	Engage Engineering	June 16, 2021
Grading Plan	GP1		June 10, 2021	Engage Engineering	June 16, 2021
Details	DT1		June 10, 2021	Engage Engineering	June 16, 2021
Stormwater Management Memo -Trinity Church Parking Lot			April 9, 2021	Engage Engineering	June 16, 2021
CBC Land Plans					
Legend and Notes	L&N		June 10, 2021	Engage Engineering	June 16, 2021
Removals, Erosion and Sediment Control Plan	E&S		June 10, 2021	Engage Engineering	June 16, 2021
Grading Plan	GP-2	2	June 10, 2021	Engage Engineering	June 16, 2021
Details	DT1	2	June 10, 2021	Engage Engineering	June 16, 2021
Stormwater Management Memo -Baptist Church Parking Lot			April 9, 2021	Engage Engineering	June 16, 2021

SCHEDULE “C”

Special Conditions

1. UCC shall only be responsible for such works, and shall only be liable, pursuant to this Agreement as it relates to the portions of the Lands of which it is shown to be the owner of on Schedule “A” hereto. CBC shall only be responsible for such works, and shall only be liable, pursuant to this Agreement as it relates to the portions of the Lands of which it is shown to be the owner of on Schedule “A” hereto.
2. The Owner shall comply with all of the terms and conditions imposed by the Regional Municipality of Durham Works Department. The Township’s Chief Building Official (the “CBO”) will withhold the issuance of a building permit until such time as all approvals and permits are issued by the Regional Municipality of Durham Works Department. The Owner shall provide copies of all permits received to the Township prior to building permit issuance.
3. The Owner agrees and warrants that all works shall be constructed and maintained in accordance with the Site Development Plans contained within Schedule “B” of this Agreement and in accordance with the Township of Brock Design Criteria and Standard Drawings.
4. The Owner acknowledges and agrees that prior to the occupancy of any buildings or structures provided under the approval, the CBO shall be satisfied with respect to fire safety and emergency services requirements of the Township’s Fire Chief, including the provisions of an adequate water supply for fire-fighting purposes are provided.
5. The Owner agrees that the Fire Access Route is to be designed to meet the requirements of Section 3.2.5.6 of the Ontario Building Code. The Owner also agrees that the placement of Fire Hydrants shall meet the requirements of Section 3.2.5.7 of the Ontario Building Code.
6. The Owner agrees that the earthworks and grading associated with this Agreement are to take place only between the hours of 7:00 a.m. and 7:00 p.m. and shall not take place on Sundays and Statutory Holidays.
7. The Owner shall maintain the Lands in a tidy condition and free from the accumulation of waste products and debris and shall cut all grasses and weeds at any time and from time to time to prevent growth in excess of six (6) inches in height. When all work is substantially performed pursuant to this Agreement, the Owner shall remove surplus products, tools, construction machinery, equipment, waste products and debris from the Lands, including any waste products caused by Third Parties.
8. The Owner acknowledges that fires shall not be set on the Lands. Should an illegal fire be set, the Owner hereby agrees to pay any costs which may be incurred as a result of the illegal fire.

Landscaping

9. The Owner is solely responsible for ensuring that sufficient topsoil is available for the Lands. All areas shall be sodded and/or seeded as soon as possible and by no later than June 30, 2023 as indicated on the Site Development Plans identified on Schedule “B” of this Agreement.
10. The trees, shrubs, and other groundcover required, as noted on Schedule “B” shall be planted no later than June 30, 2023 and the trees, shrubs, and other groundcover shall thereafter continuously be maintained in a healthy living state by the Owner, and shall be replaced if necessary to ensure that at all times healthy living plants. If the Owner fails to complete or maintain the landscaping in accordance with this condition, the Township may undertake to do so, and the Letter of Credit may be drawn on to the extent necessary to complete or maintain the landscaping.

Stormwater Management

11. The Owner shall construct all storm drainage and stormwater management facilities in accordance with the Site Development Plans and with the approval of the Township or the Lake Simcoe Region Conservation Authority (“LSRCA”).
12. The Owner of the BCHC Lands agrees that all work shall comply with the recommendations of the report Entitled “Brock Community Health Centre Functional Servicing and Stormwater Management Report” dated October 2019 prepared by Engage Engineering Ltd.
13. The Owner of the UCC Lands agrees that all work shall comply with the recommendations of the report Entitled “Stormwater Management Memo -Trinity Church Parking Lot” dated April 9, 2021 prepared by Engage Engineering Ltd.
14. The Owner of the CBC Lands agrees that all work shall comply with the recommendations of the report Entitled “Stormwater Management Memo -Baptist Church Parking Lot” dated April 9, 2021 prepared by Engage Engineering Ltd.
15. The Owner shall construct all temporary or permanent erosion and siltation control devices required by the Township prior to commencement of any construction and maintain these facilities in good working order. The Owner shall provide additional erosion and siltation control devices as may be required by the Township or the LSRCA during and after construction of the project.
16. The Owner covenants and agrees to keep in a proper state of repair all storm drainage systems, Stormwater management facilities, and to do all maintenance and repairs as the Owner may be directed to do in writing by the Township. The Owner shall complete annual inspections of the storm drainage system, by a qualified professional and to file such inspection reports with the Township.
17. The Owner shall inspect all erosion and sedimentation control measures weekly and after each rainfall event and twice per day during prolonged rainfall events. Sediment accumulation of more than one-half the height of the sedimentation control device will require the contractor to remove the sediment or install a second sediment control device.
18. The Owner agrees to maintain all erosion and sedimentation control measures until such time that all disturbed areas have received a healthy growth of vegetation. The Owner acknowledges and agrees that they are solely responsible for repairing off-site sedimentation damage resulting from the failure of the erosion and sedimentation control measures.
19. The Owner agrees to implement all of the recommended inspection and maintenance measures as contained within the Brock Community Health Centre Functional Servicing and Stormwater Management Report” dated October 2019 prepared by Engage Engineering Ltd. and noted within Schedule “B”.

Drainage & Servicing Easements

20. The Owner covenants and agrees that such drainage and servicing easements as may be required for utilities, servicing, and drainage purposes shall be obtained and granted at the sole cost and expense of the Owner to the appropriate authority and shall be in the form as may be required by the appropriate authority or the Township’s solicitor.

Lighting

21. The Owner acknowledges and agrees that full cut-off (FCO) lighting fixtures shall be used to ensure that all site lighting shall be directed to the ground so as to ensure that lighting does not trespass onto adjacent lands.
22. The Owner shall be responsible for all financial arrangements and obligations with

Veridian Connections or Hydro One for the installation of the below ground electrical distribution system and site lighting and agrees to submit proof of this arrangement to the Township.

Pre-Construction Meeting

23. The Owner shall convene a meeting, prior to commencement of construction to be attended by the Owner's consulting engineer, all contractors to be employed on the site to construct the services, such persons as the Township may direct, and the Township's Director of Public Works, where involved, to review the schedules of construction.

Construction Access

24. The Owner shall ensure that all construction traffic to and from the Lands is restricted to Cameron Street, with Site access from Ann Street North.
25. The Owner agrees that any damage to public roads and services as a result of the works provided in this Agreement shall be repaired by the Owner at their sole cost and to the satisfaction of the Township. The Owner further agrees it is the sole responsibility of the Owner to control mud-tracking, dust and debris from the Lands, and shall undertake whatever remedies are required by the Township at the sole cost of the Owner, forthwith upon notification by the Township.
26. The Owner shall not be permitted to store any materials and/or equipment on opened and maintained public road allowances under the jurisdiction of the Township of Brock.

Architectural

27. The Owner agrees that the exterior finish of the building shall be consistent with the renderings provided as noted within Schedule "B".

Risk Management Plan

28. The Owner acknowledges and agrees that the lands comprising the 39 Cameron Street Property are subject to contaminants as identified by a Phase II Environmental Site Assessment Report dated January 15, 2020 prepared by Cambium Inc. ("EA") and a Risk Assessment Report dated August 5, 2020 prepared by Cambium Inc. ("RA" and "Risk Assessment").
29. The Owner further acknowledges and agrees that there are contaminants that exceed the Table 3 Site Condition Standards in the *Soil, Ground Water and Sediment Standards for Use Under Part xv.1 of the Environmental Protection Act* and pose a health and safety risk without appropriate mitigation and risk management requirements to reduce on-site human health and ecological risks to acceptable levels for the following risks:
 - Inhalation of benzene in indoor air vapours by indoor occupants of the premises;
 - Inhalation of benzene in vapours from groundwater by outdoor workers;
 - Inhalation of benzene and xylenes in vapours from soil by outdoor workers;
 - Direct contact with benzene in soil and groundwater by outdoor workers; and
 - Plants and soil organisms exposure to petroleum hydrocarbons in soil.
30. The Owner agrees that the EA and RA are public documents to be made accessible to the public at request at the expense of the Owner and will maintain copies for public viewing on the Property at all times after occupancy is granted by the Chief Building Official.
31. The Owner further acknowledges and agrees to implement and comply with the following risk management requirements at the Owner's expense:
 - i. Passive Soil Vapour Intrusion Mitigation System (PSVIMS)
A PSVIMS is required beneath all new enclosed building on the Site to mitigate inhalation risk from vapour migration to indoor air. The SVIMS consists of sub-slab

venting layer in combination with a vapour intrusion barrier, with the following requirements.

1. Underneath the slab of the entire building area, a sub-slab venting layer consisting of:
 - a. A network of perforated collection pipes (or geocomposite vapour collection drains) embedded in granular materials of appropriate permeability and thickness, and
 - b. Vent boxes or junctions (or other suitable venting products) that convey all collected vapour into vent risers.
2. Immediately above the vapour venting layer, a geosynthetic vapour barrier meeting appropriate gas permeability and chemical resistance specifications, with a suitable protective geotextile between the venting layer and the geosynthetic vapour barrier.
3. Sealing of any penetrations through the geosynthetic vapour barrier to ensure integrity of the SVIMS.
4. Immediately above the geosynthetic vapour barrier and below the slab, a protective marker layer capable of providing warning to persons disturbing the slab of the existence of the geosynthetic vapour barrier and the vapour venting layer.
5. Vent risers to convey the vapour from the sub-slab vapour venting layer to the outside air above the top of the building(s) by means of wind-driven turbines designed and installed to be readily capable of conversion to active venting by means of an electrical fan or other powered device.
6. Monitoring ports in the vent risers to allow for sampling and assessment of vapour from beneath the slab.

The design and installation of the SVIMS shall be completed and signed by a qualified licensed professional engineer. Within 90 days of installation, the owner shall provide to the CBO as-built drawings and detailed design specifications for the SVIMS.

Sub-Slab Venting Layer

To depressurize the sub-slab environment and create a negative pressure with respect to the interior of the building, a sub-slab venting layer is included in the construction of a new building. The sub-slab venting layer consists of a network of perforated collection pipes (or geocomposite vapour collection drains) embedded in granular materials, connected to vent boxes or junctions that convey collected vapour into vent risers. Wind driven turbines draw vapour through the risers, which are vented to the outside air above the building. Pressure differentials created by this system will mitigate vapours from entering the building.

Geosynthetic Vapour Barrier

The vapour barrier applied immediately above the vapour venting layer shall consist of a high-density polyethylene (HDPE) geomembrane and/or spray-applied membrane. The membrane must surround the building structure completely at its contact with the ground.

An HDPE geomembrane system generally consists of three parts:

1. Base HDPE liner
2. Spray-applied composite material
3. Additional HDPE liner

The base HDPE liner is applied in a grid pattern over the sub-slab venting layer, with the grid shape and size designed prior to application and determined based on site conditions. The HDPE liner is produced in an egg carton/honeycomb pattern, which

is wrapped in geotextile material. It is referred to as a low-profile system due to its size, about 2.5cm (1”) high by 30 cm (12”) wide and is provided in 30 m (100’) rolls. The wrapped HDPE liner is applied immediately over the sub-slab venting layer, followed by application of the spray-applied composite material, the additional HDPE liner, and the protective marker layer.

ii. Fill/Hard Cap

A fill/hard cap is required in areas where PHC F1 impacts were identified in soil to protect Plants & Soil Organisms from exposure via direct contact. Figure 9 and Appendix B of the Risk Assessment indicate required area and cap drawings. The fill cap Risk Management Measure (RMM) includes covering of all areas of the Site where Contaminants Of Concern (COCs) are present at or within 1.0 m below the solid surface, except areas where a hard cap is present, such that an unimpacted soil cap barrier is in place to prevent exposure to the COCs.

The hard cap RMM consists of the capping of impacted soil on the Site not covered by at least 1.0 m of unimpacted soil with asphalt, concrete, a building slab, or a building foundations and floor slab, consisting of at least 150 mm of Granular “A” or equivalent material overlain by at least 75 mm of hot mix asphalt or concrete.

In addition, deep rooting plants and trees (i.e. with roots that extend through the 1.0 m fill cap) should be avoided. Alternatively, these plants/trees can be accommodated by planting in raised beds.

The fill/hard cap must be maintained for as long as the COCs are present at the Site at concentrations greater than the Final PSS for PHC F1.

A Professional Engineer (P.Eng.) licensed to practice in Ontario, also referred to as a Qualified Person (QP), should be retained by the owner to prepare a Monitoring and Maintenance Plan. The Monitoring and Maintenance Plan should include, at a minimum, the frequency of inspections for the fill/hard cap and detailed contingency plans to address any breaches or deficiencies related to the performance of the engineered barriers. The plan should include, as a minimum, the following requirements:

- The fill/hard cap should be inspected on a semi-annual basis, to ensure that the cap has not been breached. Inspection logs should be maintained documenting the cap inspections.
- In the event of a cap breach whereby solid impacts are exposed, the cap must be repaired in a timely manner and restored to meet the fill/hard cap requirements. Temporary fencing may need to be erected during cap repairs to prevent contact with exposed soil impacts. All repair and restoration work should be documented by the property owner.

iii. Health and Safety Plan (HASP)

A site-specific HASP must be implemented during sub-surface activities (e.g., excavation). Appendix C of the Risk Assessment report contains the HASP for Construction/Maintenance Workers.

iv. Other Required Measures

The following additional measures are required.

- Trench Plugs to prevent off-site migration of COCs along utility trenches servicing the Site.
- A soil management plan will be required to support on-site excavations. The affected area is the entire Site.
- A groundwater management plan will be required to support on-site excavations. The affected area is the entire Site.

Trench Plugs

New service connections to the Site will be equipped with trench plugs consisting of either clay plugs or cut-off collars at or near the property boundary.

Clay plugs should be 1 m thick measured along the pipe / conduit and should completely replace the embedment and backfill material surrounding the service. Clay plugs should meet the content requirements and be compacted to the specifications determined by a QP.

Alternatively, cut-off collars comprising unshrinkable dill can be installed around services, with watertight connections made between the collar and service wall. Collars should not be placed within 1 m of a pipe joint, and appropriate precautions should be employed to ensure that backfill placed around the collars is appropriately compacted.

Soil Management

The soil management plan is prepared to support excavation activities. As a minimum, the Plan will document:

1. Management of excess soil (e.g. direct loaded for disposal at an approved landfill facility or stockpiled on-site for further characterization). If the material is stockpiled on-site, the following measures should be taken:
 - Stockpile material will be placed within an appropriately constructed berm on a low-permeability surface (e.g. polyethylene sheeting).
 - Stockpile material should be covered at the end of each workday to limit dust generation and the potential for erosion and run-off.
 - Stockpile material should be sampled by an environmental consultant (QP_{ESA}) to assess the soil quality prior to reuse or disposal. At a minimum, soil samples should be submitted for analysis of the COCs.
2. Methods for soil tracking from the Site by vehicles, equipment, and personnel.
3. Information to be supplied by the contractor related to the off-site disposal of any impacted soil:
 - Soil disposal location
 - Proof of soil disposal (i.e. waybills or tonnage tracking sheets provided by the receiver)
 - Environmental Compliance Approval for the receiving facility or acceptance letter from the receiving property's QP_{ESA}
4. Dust control measures and prevention of soil tracking by vehicles and personnel from the Site, including wetting of soil with potable water, reduced speeds for on-Site vehicles, tire washing stations, and restricting working areas in high wind conditions.
5. Sampling of soil received at the Site in accordance with the requirements set out in Clause 34 of Schedule E of O.Reg. 153/04.
6. Record keeping, including dates and duration of work, weather and Site conditions, locations and depth of excavation activities, dust control measures, stockpile management and drainage, all material characterization results, names of the QP, contractors, haulers and receiving locations for any material removed from the Site, and any complaints received relating to Site activities.

Excavated soil with COCs in excess of the Final PSS, may not remain at the surface of the Site after the completion of a construction project, unless it is capped in accordance with the fill/hard cap RMM.

Excavated materials requiring off-site disposal should be disposed consistent with O.Reg. 347. Excavated material meeting the PSS may be placed on-site below the base of a fill/hard cap, if deemed suitable by the QP_{ESA} and a Professional Engineer in consideration of the requirements of the risk assessment and proposed development.

Excavated material meeting the generic Table 3 SCS applicable for the Site may be placed on-site at any depth, if deemed suitable by the QP_{ESA} in consideration of the requirements of the Risk Assessment.

The characterization of excavated materials to determine whether it may be placed below the fill/hard cap, or incorporated within the fill cap, should include the collection and analyses of soil samples in accordance with the requirements set out in Clause 34 of Schedule E of O.Reg. 153/04.

Groundwater Management

A groundwater management plan shall be developed and implemented prior to commencing any intrusive works at the Site that will or may potentially involve removals of groundwater from the subsurface.

The plan shall be developed and overseen by, or under the supervisions of a QP_{ESA} per Section 5 (2) of O.Reg. 153/04 and describe requirements to:

1. Management of groundwater removals (e.g. off-site disposal or on-site treatment of disposal by a contractor with an Environmental Compliance Approval), including temporary containment, environmental quality characterization, treatment, and final disposition requirements.
2. Record keeping, including dates and duration of work, weather and Site conditions, location and depth of water extractions, names of the QP_{ESA}(s), contractors, waste haulers and receiving locations for any water removed from the Site, and any complaints received relating to site activities, proof of disposal, Environmental Compliance Approval for the receiving facility.

v. Monitoring and Maintenance Requirements

Fill/Hard Cap

The hard cap/fill RMM requires on-going inspection and maintenance of the capping to ensure the continuing integrity of the capping, including:

1. Semi-annual (spring and fall) inspections of the capping by the Owner or an assigned representative.
2. Identification of any deficiencies observed during the inspection or at any other time.
3. Timely repair of any such deficiencies.
4. A permanent record of inspections, deficiencies, and repairs in a logbook maintained by or on behalf of the Owner.

PSVIMS

An inspection and maintenance program will be developed by a professional engineer. A qualified professional or other representative of the Owner will inspect the PSVIMS to ensure the continuing integrity of the system to mitigate the entry of vapours from contaminated soil and groundwater to indoor air. The program should include:

1. Semi-annual (spring and fall) inspections of the capping by the Owner or an assigned representative.
2. Identification of any deficiencies observed during the inspection or at any other time.
3. Timely repair of any such deficiencies.
4. A permanent record of inspections, deficiencies, and repairs in a logbook maintained by or on behalf of the Owner.

A qualified engineer will prepare a report verifying that the system was constructed in conformance with the design specifications and certifying that the system adequately depressurizes the sub-slab void space. Leak testing will be undertaken to demonstrate a minimum depressurization of 0.02 inches H₂O or another depressurization target as specified by the engineer. Smoke testing may be used to identify leaks through

preferential pathways between the sub-slab space and the building interior. The engineer’s report will include the original design drawings that show the as=built locations of risers and monitoring ports in plan view and include recommendations for inspection, maintenance, and on-going performance monitoring.

To ensure that concentrations of vapours in indoor air within future on-site buildings do not represent a risk to residents and indoor workers, sub-slab vapour samples will be collected from each monitoring port of newly constructed buildings following completion of construction and prior to building occupancy. Samples are required to meet the modified HBIAC for commercial property (HBIAC divided by an attenuation factor of 0.004). If all samples meet the modified HBIAC, building occupancy may proceed. If an exceedance of a trigger value is identified, indoor air sampling should be conducted.

The sub-slab vapour sampling program must include the following:

- 1. The sub-slab vapour sampling must be completed consistent with requirements of the Draft Technical Guidance: Soil Vapour Intrusion Assessment Guideline (MOECC, 2013).
- 2. Sampling must be protective of human health for any persons using or occupying the buildings on the Site.
- 3. The monitoring program must include analysis of the COCs identified in the risk assessment as representing a potential concern via the vapour migration pathway.
- 4. Records of all sampling data should be maintained.
- 5. If the sub-slab vapour concentration for any COC exceeds the modified HBIAC, resampling should occur within ten days.

Following occupancy, sampling at each monitoring port will be conducted on a quarterly basis for two years. Samples should be collected during periods that are reflective of seasonal variability (i.e. spring, summer, fall and winter). If the sub-slab results during the two-year period show that the COCs meet the modified HBIAC the frequency of sub-slab vapour monitoring may be reduced or eliminated at the Qualified Person’s recommendation.

If sub-slab vapour results at any location exceed the modified HBIAC on one occasion, another sample should be collected and analyzed within ten days. If the second sample meets the modified HBIAC, no further actions is required. If two consecutive sub-slab vapour samples exceed the modified HBIAC, indoor air samples should be collected to provide additional assessment of indoor air risks as described below.

One or more indoor air samples should be collected over a 24-hour, or other representative duration, from the occupied spaces of the building using summa canisters or sorbent tubes and submitted to an accredited laboratory for analysis consistent with the recommendations provided in the draft technical guidance (MOECC, 2013). If the indoor air sample meets the MBIAC, sub-slab vapour sampling may proceed at the existing frequency.

If indoor air results at any location are above the HBIAC another sample must be collected from that same locations and analyzed within ten days. If the second sample meets the HBIAC, no further action is required. If two consecutive indoor air samples exceed the HBIAC, the building occupant(s) should be notified (if feasible access to the indoor area should be restricted) and a professional engineer will prepare a detailed plan to mitigate exposures.

HBIAC and modified HBIAC values for the soils and groundwater COCs that represent a vapour migration risk to human health are:

Parameter	HBIAC ^a (µg/m ³)	Modified HBIAC (µg/m3)
Benzene	1.63	408
Toluene	3580	890,500
Ethylbenzene	209	52,250

Xylenes	501	125,250
PHC F1	8540	2,135,000
PHC F2	1610	402,500
Naphthalene	2.65	662.5

A – HBIAC for commercial land use in the MGRA Model (MOECC, 2016)

Groundwater Monitoring

Semi-annual sampling for one year is required to assess the stability of the BTEX and PHC concentrations in the groundwater.

- 32. The Owner acknowledges and agrees that the requirements set out in items i., ii, iii. and iv. above are imposed as a condition of any demolition or building permit applied for for the 39 Cameron Street Property and these requirements and such other requirements as may be imposed as a condition of a permit shall be subject to review by a Professional Engineer duly qualified to conduct inspections as required and certify compliance to the Chief Building Official. The Owner shall retain such a qualified professional engineer who shall provide an engineering review commitment certificate before the issuance of a demolition or building permit. The Engineering Review Commitment Certificate shall confirm that the engineer shall perform all obligations required in accordance with the requirements of the demolition and/or building permits and the RA and in accordance with the professional obligations pursuant to s.78 of O.Reg. 941 of the Professional Engineers Act.
- 33. The Owner agrees to comply with the monitoring and maintenance requirements set out under item v. above and shall provide a written inspection and maintenance program for the approval of the Chief Building Official before occupancy is granted. The approved inspection and maintenance program shall be incorporated into an amended site plan agreement to be registered on title before occupancy is granted.
- 34. The Owner shall reimburse the Township for all costs incurred in connection with the review and approval of the provisions of the above noted paragraphs, including the cost of conducting a peer review of any of the risk management requirements.
- 35. The parties hereto hereby covenant and agree that this Agreement, including all Risk Management Plan requirements shown above in items 28 through 34, shall be binding upon them, their respective heirs, executors, administrators, successors and assigns. In the event that the Lands are sold, conveyed, assigned, or transferred, or otherwise parted with possession or ownership, the proposed purchaser, successor or assignee (“Successor”) shall, prior to closing, execute an assumption agreement acceptable to the Township’s Solicitors which provides that all provisions of this Agreement will continue to be binding on the Successor to the Owner as if such Successor had entered into this Agreement in the place of the Owner and in the event of more than one Successor all of the parties collectively shall be deemed to be the Owner pursuant to the terms hereof. Further, the Owner shall be released and discharged from the obligations and provisions of this Agreement upon the execution of an assumption agreement by the Successor.
- 36. The Owner hereby agrees to provide the Township with a letter, stamped and signed by a Professional Engineer, certifying that all construction and all works on the Lands have been completed in accordance with the Site Development Plan and in conformity with this Agreement. This letter shall also certify that all requirements contained within this Agreement have been fulfilled prior to the final release of the letter of credit.

SCHEDULE “D”

Financial Obligations

1. Allowance for fencing, grading, road, driveway and parking lot construction, sidewalk, storm sewers and appurtenances, topsoiling, sodding and or/seeding, landscaping, paving, lighting, damage to municipal roads, and consulting costs.

TOTAL VALUE OF LETTER OF CREDIT

\$350,000.00

If the above letter of credit is not sufficient to rectify any default, the Township may recover from the owner all costs and expenses incurred by the Township, whether directly or indirectly, with respect to the default or the remedy thereof, and collect such costs and expenses in like manner as Municipal taxes.

Note: The estimates contained in this Schedule are for information purposes only, and shall not restrict the rights of the Township, as set out in Sections 4 and 24 of this Agreement, to draw on the cash or Letter of Credit up to the full remaining balance thereof, to rectify any default, nor to require any increase in said security, as set out therein.

2. Development Charges

The Owner hereby agrees to pay a Development Charge for the structure to be constructed, at the time of issuance of a building permit for that structure. The amount of the Development Charge payable shall be the Development Charge in effect at the time of the issuance of a building permit. The Owner acknowledges and agrees that the Development Charge has been set pursuant to The Township’s current Development Charges By-Law. The Owner further acknowledges and agrees that said By-law provides for an indexing of the Development Charge, annually on July 1.

The Owner hereby covenants and agrees that if the payment described above is not paid on the due date, the Township may, in its sole discretion, place the total amount due, plus any administrative charges, on the taxes of the Lands.

SCHEDULE "E"

Maintenance

1. The Owner covenants and agrees to keep in a proper state of repair and operation, all entrances to the Lands and driveways located on the Lands, to the satisfaction of the Township.
2. The Owner covenants and agrees to keep in a proper state of repair and operation, all storm drainage systems to the satisfaction of the Township.
3. Without limiting the generality of the foregoing, the Owner hereby agrees as follows:
 - a) To rectify, replace or repair any part of the development not constructed in accordance with the Site Development Plans or in accordance with the “as constructed” drawings which the Owner hereby agrees to provide to the Township upon completion of construction;
 - b) To do all maintenance and repairs pursuant to this Agreement as the Owner may be directed to do in writing by the Township; and
 - c) That all snow shall either be placed, stored or deposited on the Lands.
4. If, in the reasonable opinion of the Township, the Owner is not adequately performing its obligations pursuant to this Agreement, or such obligations are not being performed expeditiously or in the best interests of the Township, the Township may, upon providing ten (10) days’ written notice to the Owner respecting such non-performance, and an opportunity to rectify same within that time, enter upon the Lands and repair, replace or otherwise maintain the Works at the Owner’s expense.