

Authority: Toronto and East York Community Council Item 34.23,  
as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

## CITY OF TORONTO

### BY-LAW No. 1039-2014

**To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to the lands municipally known in the year 2014 as 50-60, 62 and 64 Charles Street East and 47 and 61 Hayden Street.**

Whereas authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an *owner* of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the *owner* of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the *owner* of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law on the *lot* are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 of this By-law, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 of this By-law, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the

provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.

3. None of the provisions of Sections 2(1) with respect to *lot*, *grade* and *height*, *bicycle parking space - occupant*, *bicycle parking space - visitor*, *residential amenity space*, 4(2)(a), 4(5)(b), 4(5)(d)(i), 4(8)(b), 4(12), 4(13), 8(3) PART I 1, 8(3) PART I 2, 8(3) PART I 3, 8(3) Part II 1, 12(2)84 and 12(2)132 of By-law No. 438-86, of the former City of Toronto, being "A By-law to regulate the use of land and the erection, use, bulk, *height*, spacing and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, apply to prevent the erection or use of a *mixed-use building*, and a *commercial parking garage* on the *lot* provided that:
- (a) this By-law applies to the lands delineated by broken lines on Map 1 attached to and forming part of this By-law and include *Part A*, *Part B* and *Part C* as defined in this By-law, however "*lot*" means the lands comprising *Part A* and *Part B*;
  - (b) the combined *residential gross floor area* and *non-residential gross floor area* on the *lot* must not exceed 47,250 square metres, of which not more than 38,500 square metres will be *residential gross floor area* and not less than 8,550 square metres will be *non-residential gross floor area*;
  - (c) the *height* of each portion of a building or structure erected above *grade* on the *lot*, in respect of each *building envelope* area, have a maximum *height* in metres as shown following the symbol "H" on Map 2 for the corresponding *building envelope* area, including mechanical and roof top elements, except for:
    - (i) railings, parapet, window washing equipment, stair towers, terrace guards and dividers, lightning rods, and exhaust flues, landscape features, aircraft warning lights, decorative screens extending to a maximum vertical projection of not more than 2.0 metres above the *height* limits shown on Map 2; and
    - (ii) roof canopy and columns extending to a maximum vertical height of not more than 4.5 m above the height limits shown on Map 2;
  - (d) the number of *storeys* of each portion of a building on the *lot* must not exceed the numbers as shown following the symbol "ST" on Map 2 for the corresponding *building envelope* area, excluding mechanical and roof top elements;
  - (e) no portion of the building erected on the *lot* may be located above *grade* other than wholly within the *building envelope* area delineated by heavy lines on the attached Map 2 subject to the following:
    - (i) cornices, eaves, vents, safety or wind protection, lighting fixtures, ornamental elements, trellises, window sills, planters, balustrades, guard rails, stairs, stair enclosures, wheelchair ramps, railings, landscape and

- public art features, awnings, canopies and architectural fins, all of which may project beyond the *building envelope*; and
- (ii) balconies and balcony piers located above *grade* may project beyond the building envelope to a maximum of 1.8 metres; and
  - (iii) ornamental cladding on the roof may project beyond the building envelope to a maximum of 1.0 metre;
- (f) *medical offices* shall not exceed forty percent of the total *non-residential gross floor area* on the *lot*;
- (g) *residential amenity space* must be provided and maintained as follows:
- (i) a minimum of 2 square metres of indoor *residential amenity space* for each *dwelling unit* must be provided on the *lot*, provided that such indoor *residential amenity space* must be provided in a multi-purpose room or rooms, at least one of which contains a kitchen or a washroom; and notwithstanding the definition of *residential gross floor area* all indoor *residential amenity space* shall be excluded from the *residential gross floor area* calculation; and
  - (ii) a minimum of 1.7 square metres of outdoor *residential amenity space* must be provided on the *lot*, provided that at least 40 square metres of the outdoor *residential amenity space* is provided in a location adjoining or directly accessible from a portion of the indoor *residential amenity space*;
- (h) a minimum of 523 square metres of privately owned publicly accessible open space must be provided on the *lot*, and a privately owned publicly accessible walkway at ground level must be provided on the *lot* having a minimum width of 5.0 metres and a minimum length of 25 metres;
- (i) *bicycle parking spaces* per *dwelling unit* shall be provided on the *lot* in accordance with the following:
- (i) Residential:
    - (1) a minimum of 0.9 *bicycle parking spaces* - *occupant* per *dwelling unit*; and
    - (2) a minimum of 0.1 *bicycle parking spaces* - *visitor* per *dwelling unit*;
  - (ii) Non-Residential:
    - (1) a minimum of 19 *bicycle parking spaces* - commercial occupant;
    - (2) a minimum of 22 *bicycle parking spaces* - commercial visitor;

- (j) *parking spaces* must be provided and maintained on the *lot* in accordance with the following requirements:
- (i) Non-Residential:
    - (1) a minimum of 26 *parking spaces* must be provided for the non-residential uses on the *lot*;
  - (ii) Residential:
    - (1) a minimum of 0.19 *parking spaces* per bachelor *dwelling unit*;
    - (2) a minimum of 0.31 *parking spaces* per one bedroom *dwelling unit*;
    - (3) a minimum of 0.47 *parking spaces* per two bedroom *dwelling unit*;
    - (4) a minimum of 0.74 *parking spaces* per *dwelling unit* containing three or more bedrooms;
    - (5) provided further that a reduction of 5 resident *parking spaces* will be permitted for each *car-share parking space* to a maximum of 10 *car-share parking spaces* provided that the maximum reduction permitted by this means be capped by the application of the following formula:
      - (A)  $5 \times (\text{Total No. of residential units divided by } 60)$ , rounded down to the nearest whole number;
    - (6) the requirement for *parking spaces* - residential visitor must be satisfied by the provision of non-residential *parking spaces* listed under subsection 3(j)(i)(1) above;
  - (iii) Shared Parking
    - (1) the total number of *parking spaces* provided under subsection 3(j)(i)(1) above must be provided for the shared use of residential visitors and non-residential uses on the *lot* and all such *parking spaces* may be provided within a *commercial parking garage*;
- (k) a maximum of 25 *parking spaces* which are obstructed on one or two sides in accordance with Section 4(17)(e) of By-law No. 438-86, as amended, may have minimum dimensions of 5.6 metres in length and 2.6 metres in width;
- (l) a minimum of one *loading space - type "B"*, one *loading space - type "C"* and one *loading space - type "G"* be provided and maintained on the *lot*; and

- (m) a *temporary sales office* may be permitted on the *lot*, and none of the other provisions of this By-law apply to such use.
4. For the purpose of this By-law, the terms set forth in italics have the same meaning as such terms have for the purposes of By-law No. 438-86, as amended except that the following definitions apply and supercede in the event of an inconsistency:
- (a) "*bicycle parking space*" means an area that is equipped with a bicycle rack, bicycle ring, bicycle stacker or bicycle locker for the purpose of parking and securing bicycles and:
- (i) where the bicycles are to be parked in a horizontal position, except in the case of a bicycle stacker and bicycle ring, has horizontal dimensions of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
- (ii) where the bicycles are to be parked in a vertical position, has horizontal dimensions of at least 0.6 metres by 1.2 metres and a vertical dimension of at least 1.9 metres;
- (b) "*building envelope*" means a building envelope for each *height* area as shown by an "H", and as delineated by the heavy lines on Map 2 attached hereto;
- (c) "*car share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit *car-sharing* organization and where such organization may require that use of cars to be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
- (d) "*car-share parking space*" means a parking space that is reserved and actively used for *car-sharing*;
- (e) "*City*" means the City of Toronto;
- (f) "*grade*" means 115.5 metres above Canadian Geodetic Datum;
- (g) "*height*" means the vertical distance between *grade* and the highest point of the building or structure except for those elements otherwise expressly prescribed in this By-law;
- (h) "*lot*" means the lands comprising *Part A* and *Part B*;
- (i) "*Part A*" means those parts of the lands shown hatched on Map 1 which parts are located below the Canadian Geodetic Datum of 114.2 metres and above the Canadian Geodetic Datum of 125.7 metres;
- (j) "*Part B*" means the lands shown as *Part B* on Map 1;

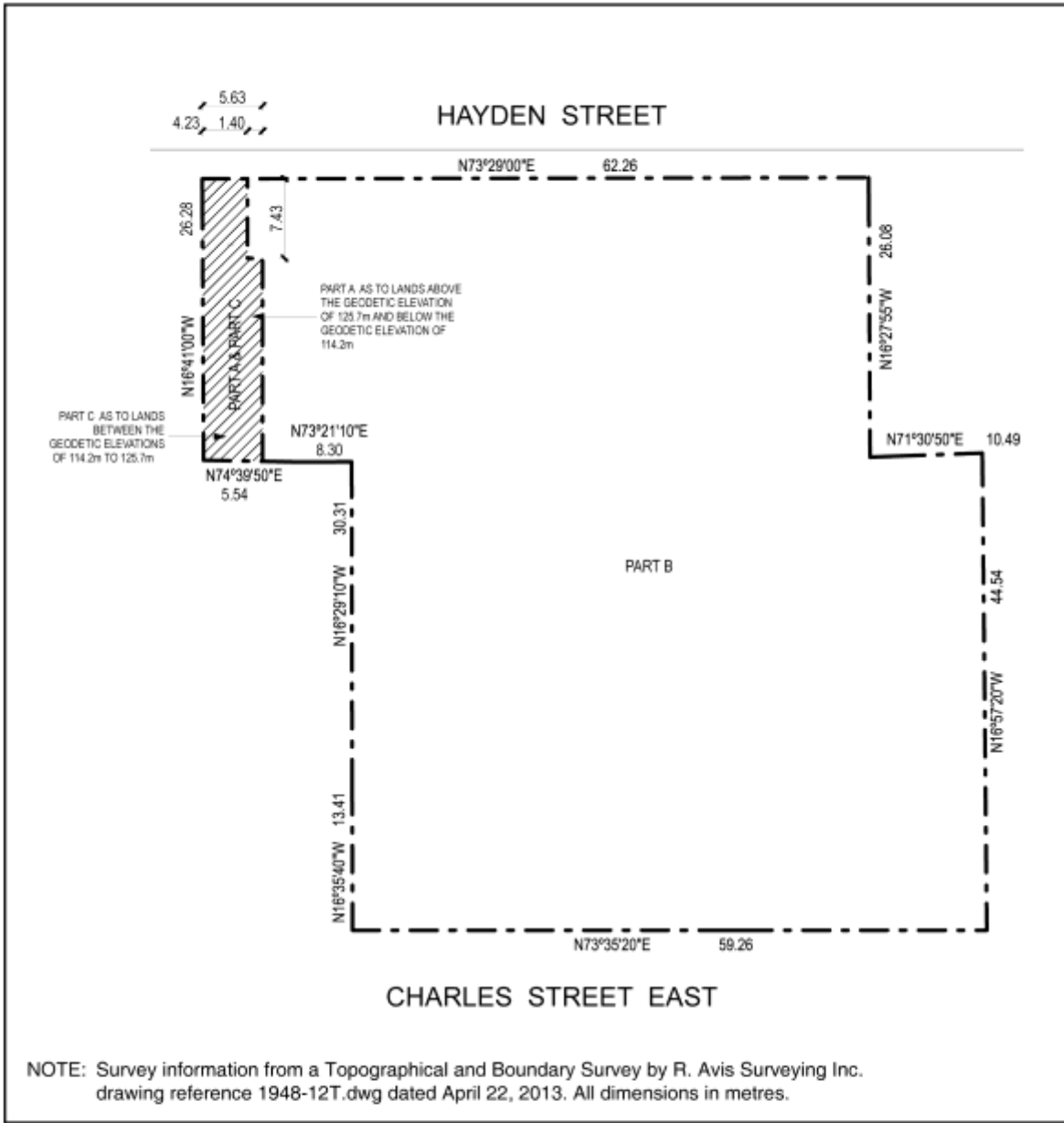
- (k) "*Part C*" means those parts of the lands shown hatched on Map 1 located between Canadian Geodetic Datum of 114.2 metres and Canadian Geodetic Datum of 125.7 metres;
  - (l) "*residential amenity space*" means a common area or areas within a *lot* which are provided for the use of the residents of a building for recreational or social purposes, and may include 4 guest suites each having a maximum area of 46.5 square metres;
  - (m) "*temporary sales office*" means a temporary building, structure, facility or trailer on the *lot* used exclusively for the purpose of the initial sale of *dwelling units* to be erected on the *lot*;
  - (n) "*owner*" means the registered owner of the *lot*; and
  - (o) each other word or expression which is italicized in this By-law must have the same meaning as each such word or expression is defined in By-law No. 438-86, as amended.
5. Despite any existing or future severance, partition, or division of the *lot*, the provisions of this By-law must apply to the whole of the *lot* as if no severance, partition or division occurred.
6. None of the provisions of By-law No. 438-86, as amended, of the former City of Toronto and none of the provisions of this By-law shall apply to prevent the continued maintenance and use of the existing non-residential buildings located at 62 and 64 Charles Street East, provided the buildings are not enlarged.
7. Within the lands shown on Map 1 attached to this By-law, no person must use any land or erect or use any building or structure unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
- (a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and
  - (b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

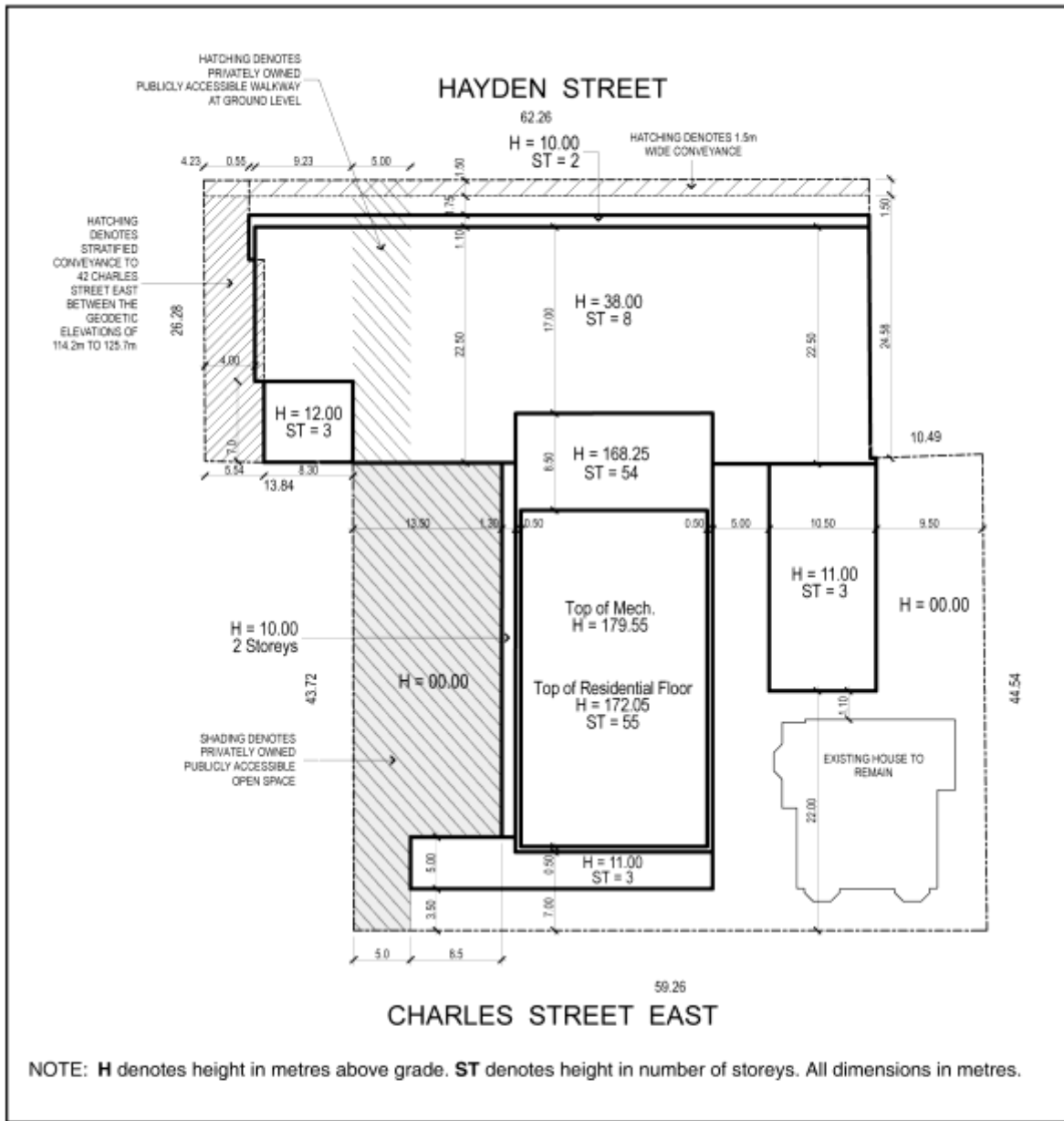
Enacted and passed on August 28, 2014.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)







**APPENDIX 1****Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the *owner* of the *lot* at their expense to the *City* in accordance with one or more agreements pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of the first above grade building permit, the *owner* must pay to the *City* a cash contribution in the amount of \$4,000,000.00, with such amount to be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date of final approval of the Bills to the date the payment is made, to be applied toward the following:
  - (i) \$400,000 towards the *City's* Capital Revolving Fund for Affordable Housing for the purpose of maintaining and constructing affordable rental housing units in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor;
  - (ii) \$1,000,000 for local area park and streetscape improvements in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor. Notwithstanding the foregoing requirement for the submission of a cash contribution, at the discretion of the *City*, the owner may be required to submit a letter of credit in such amount as the *City* may require for the streetscape improvements component of this contribution, in which case, the owner shall install such streetscape improvements to the satisfaction of the *City* and shall be entitled to release of its letter of credit;
  - (iii) \$2,600,000 towards the *City's* Capital Revolving Fund for Affordable Housing for new affordable housing in Ward 27 and/or community, cultural and/or recreational space improvements in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor;
  - (iv) the payment amounts referenced above in Section 1(i), (ii) and (iii) to be increased by upwards indexing in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada or its successor, calculated from the date of final approval of the Bills to the date of each such payment to the *City*.
  
2. In the event the cash contributions referred to in Section 1 above have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner, and Executive Director of City Planning, in consultation with the local

Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the *lot*.

3. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support the development:
  - (i) a privately owned publicly accessible ground floor courtyard and a privately owned publicly accessible walkway connecting Charles Street East and Hayden Street, as surface easements, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor in consultation with the local Councillor;
  - (ii) a pet care facility on site to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor in consultation with the local Councillor;
  - (iii) a minimum 1.5 metre wide conveyance along the Hayden Street frontage to the City, to the satisfaction of the Executive Director, Engineering and Construction Services, the Chief Planner and Executive Director, City Planning Division and the City Solicitor;
  - (iv) a minimum of 10% of the dwelling units in the development must be 3 bedrooms or 2+1 bedrooms with a minimum size of 83.61 square metres per dwelling unit; and
  - (v) the *owner* shall enter into a Heritage Easement Agreement with the City for the properties located at 62-64 Charles Street East to the satisfaction of the Manager, Heritage Preservation Services and the City Solicitor, including registration of such agreement to the satisfaction of the City Solicitor by June 1, 2015.
4. The *owner* of the Lands must enter into and register on title to the Lands one or more agreements with the City pursuant to Section 37 of the *Planning Act*, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning Division, to secure the facilities, services and matters set forth in this Appendix.