

**DELEGATED APPROVAL FORM
CHIEF CORPORATE OFFICER
DIRECTOR OF REAL ESTATE SERVICES**

TRACKING NO.: 2016-020

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX43.7 entitled **"Delegation of Authority in Certain Real Estate Matters"** adopted by City Council on May 11 and 12, 2010 (City Council confirmatory By-law No. 532-2010, enacted on May 12, 2010), as amended by GM24.9 entitled **"Minor Amendments to Delegation of Authority in Certain Real Estate Matters"** adopted by City Council on October 8, 9, 10 and 11, 2013 (City Council confirmatory By-Law No. 1234-2013 enacted October 11, 2013), as amended by DAF 2013-307 and DAF 2014-087.

Approved pursuant to the Delegated Authority contained in Executive Committee Item EX33.44 entitled **"Union Station Revitalization Implementation and Head Lessee Selection"** adopted by City Council on August 5 and 6, 2009. City Council confirmatory By-law No. 749-2009, enacted on August 6, 2009.

Prepared By:	Adam Pressick	Division:	Real Estate Services
Date Prepared:	April 6, 2016	Phone No.:	416-392-1166

Purpose	To obtain authority for the City (as Landlord) to consent to a portion of the Paul Kane House (the "Leasehold Lands" as shown on Schedule "A" and "B") being used for shoring and tie-backs ("Tiebacks") to facilitate construction of an abutting development, and for the City (as Landlord) to enter into a Consent Agreement with Church-Isabella Residences Co-Operative Inc. (the "Tenant") and Wellesley Residences Corp. (the "Developer") on the terms outlined below.
Property	The Leasehold Lands are municipally known as 56 Wellesley Street East. The shoring and tie-backs subsurface area is approximately 2,422 square feet (as shown on Schedule "C").
Actions	<ol style="list-style-type: none"> Authority be granted to the City (as Landlord) to consent to use of a portion of the Leasehold Lands for the Tiebacks and for the City (as Landlord) to enter into a Consent Agreement with the Tenant and Developer substantially on the terms and conditions set out below and on any other amended terms and conditions as may be determined appropriate by the Chief Corporate Officer (the "CCO"), and in a form acceptable to the City Solicitor; The CCO or his or her designate shall administer and manage the Consent Agreement including the provision of any consents, approvals, waivers, notices and notice of termination provided that the CCO may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction; and, The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	There is no compensation to be paid for the consent.
Comments	The Deputy City Manager & Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.
Terms	<p>City Council adopted Report 7, from Executive Committee on February 11, 1985, authorizing a long-term lease to the Tenant commencing March 15, 1985, expiring March 14, 2030, subject to renewal for a further 45 year period, (the "Lease") to construct and operate co-operative housing on the Leasehold Lands. The Developer of the abutting property at 50 Wellesley Street East has requested permission from the Tenant, to use portions of the Leasehold Lands for Tiebacks commencing April 15, 2016 and terminating January 14, 2018, to facilitate construction of its nearby condominium. The Tenant has requested permission from the City (as Landlord), in accordance with the Lease, to use a portion of the Leasehold Lands for the Tiebacks. The installation of the Tiebacks will commence upon execution of both the agreement between the Tenant and the Developer (the "Tieback and Shoring Agreement") and the Consent Agreement among the City (as Landlord), the Tenant and the Developer. In providing the City consent under the Consent Agreement, the City is not acknowledging or approving any of the terms of the Tieback and Shoring Agreement. Under the terms of the Tieback and Shoring Agreement, the Tieback installations will have a duration not to exceed one year and nine months. Separate authority (via DAF 2016-021) has been sought for the City to enter into a licence agreement to permit tie-backs and flying forms with the Developer for use of portions of the City-owned Paul Kane House Parkette.</p> <p>The Tenant will obtain its own legal, financial, and technical review and will bear all responsibility for the Tieback Agreement. As the Leasehold Lands are designated as heritage, the Heritage Services division has been contacted and has provided concurrence to the Tiebacks.</p> <p>Real Estate Services staff consider the proposed Consent Agreement to be fair and reasonable to both parties. Major Terms and Conditions of the Consent Agreement are contained on page 4.</p>

Property Details	Ward:	27 - Toronto Centre - Rosedale
	Assessment Roll No.:	190406829003400000
	Approximate Size:	Irregular
	Approximate Area:	2,422 square feet (357 square metres) of subsurface area
	Other Information:	Heritage building used as co-operative housing

A.	Director of Real Estate Services has approval authority for:	Chief Corporate Officer has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$3 Million.
3. Issuance of RFPs/REOs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	Delegated to a more senior position.	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to ABCDs:	Delegated to a more senior position.	<input type="checkbox"/> Transfer of Operational Management to ABCDs.
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	Delegated to a more senior position.	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as City/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 Million;	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$3 Million;
	<input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding three (3) months, including licences for environmental assessments and/or testing, etc.	<input type="checkbox"/> (b) Where compensation is less than market value, for periods not exceeding six (6) months, including licences for environmental assessments and/or testing, etc.
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$3 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
	<input type="checkbox"/> (b) When closing road, easements to pre-existing utilities for nominal consideration.	Delegated to a less senior position.
12. Easements (City as Grantee):	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.	<input type="checkbox"/> Where total compensation does not exceed \$3 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$500,000).	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and may include increase not to exceed the amount of the original decision by the lesser of 10 per cent and \$1 Million).
14. Miscellaneous:	<input checked="" type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences;	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences;
	<input type="checkbox"/> (b) Releases/Discharges;	<input type="checkbox"/> (b) Releases/Discharges;
	<input type="checkbox"/> (c) Surrenders/Abandonments;	<input type="checkbox"/> (c) Surrenders/Abandonments;
	<input type="checkbox"/> (d) Enforcements/Terminations;	<input type="checkbox"/> (d) Enforcements/Terminations;
	<input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;	<input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates;
	<input type="checkbox"/> (f) Objections/Waivers/Cautions;	<input type="checkbox"/> (f) Objections/Waivers/Cautions;
	<input type="checkbox"/> (g) Notices of Lease and Sublease;	<input type="checkbox"/> (g) Notices of Lease and Sublease;
	<input type="checkbox"/> (h) Consent to regulatory applications by City, as owner;	<input type="checkbox"/> (h) Consent to regulatory applications by City, as owner;
	<input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title;	<input type="checkbox"/> (i) Consent to assignment of Agreement of Purchase/Sale; Direction re Title;
	<input type="checkbox"/> (j) Documentation relating to Land Titles applications;	<input type="checkbox"/> (j) Documentation relating to Land Titles applications;
	<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.	<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds.

B. Chief Corporate Officer and Director of Real Estate Services each has signing authority on behalf of the City for:

- 1. Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- 2. Expropriation Applications and Notices following Council approval of expropriation.
- 3. Documents required to implement the delegated approval exercised by him.

Chief Corporate Officer also has approval authority for:

- Leases/licences/permits at Union Station during the Revitalization Period, if the rent/fee is at market value.

Consultation with Councillor(s)										
Councillor:	Councillor Kristyn Wong-Tam					Councillor:				
Contact Name:	Tristan A. Downe-Dewdney					Contact Name:				
Contacted by:	Phone	x	E-Mail	Memo	Other	Contacted by:	Phone	E-mail	Memo	Other
Comments:	Concurs					Comments:				
Consultation with ABCDs										
Division:	PF&R/Heritage Services					Division:	Financial Planning			
Contact Name:	Patrick McCabe/Mary Macdonald					Contact Name:	Filisha Mohammed			
Comments:	Concurs					Comments:	Concurs			
Legal Division Contact										
Contact Name:	Kathleen Kennedy									
DAF Tracking No.: 2016 - 020				Date		Signature				
Recommended by: Manager, Wayne Duong				Apr/6/2016		Sgd.\ Wayne Duong				
<input type="checkbox"/> Recommended by: Director of Real Estate Services Joe Casali				Apr/6/2016		Sgd.\ Joe Casali				
<input checked="" type="checkbox"/> Approved by:										
<input type="checkbox"/> Approved by: Chief Corporate Officer Josie Scioli						X				

General Conditions ("GC")

- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases.
- (b) Where approving power has been delegated to staff, the Chief Corporate Officer, in consultation with the applicable Deputy City Manager or the City Manager, may determine that such matter is of such special interest that same should be returned to the relevant Committee and Council for consideration and determination.
- (c) Exercise of delegated authority is subject to all applicable Council policies, statutes or other applicable law.
- (d) Authority to approve financial commitments/expenditures is subject to all amounts being available in an approved budget [or funding is available from alternative sources].
- (e) Property interests are to be based on appraised value, and no interest shall be granted at less than market value unless otherwise specifically authorized.
- (f) Authority to approve transactions at less than market value is subject to statutory anti-bonusing provisions.
- (g) Total compensation means the aggregate of all types of payments, including land value, estimated clean-up costs, potential arbitration awards, loss claims, etc, but exclusive of any applicable taxes and registration costs.
- (h) Authority to acquire property is conditional upon provision being made to bring the property into compliance with applicable MOE or other requirements such that it will be fit for its intended municipal purpose.
- (i) Authority to initiate the permanent road closure process in **A.4** is conditional upon confirmation by the GM of Transportation Services that it is feasible to permanently close the highway.
- (j) Disposal authorities in **A.7** are subject to the property having been declared surplus, and the disposal policy complied with.
- (k) Land exchanges, except for those in **A.8**, may be authorized based on the delegated Approving Authority for Disposals in **A.7**.
- (l) Approving Authority with respect to land located in the Designated Waterfront Area is conditional upon the approval of the Director, Waterfront Secretariat.
- (m) Authority to approve an exchange of land in **A.8** is conditional upon confirmation by the Chief Planner and Executive Director, and the GM of Parks, Forestry & Recreation, that the land being exchanged is (i) nearby land of equivalent or larger area, and (ii) of comparable or superior green space utility.
- (n) Approving Authority in **A.9** Leases (City as City) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years.
- (o) Total compensation in leasing matters where the City is City (**A.9**) includes the value of tenant improvements if factored into tenant's rental payments.
- (p) Total compensation in leasing matters where the City is the tenant (**A.10**) includes the value of any tenant improvements to be paid by the City.
- (q) Where options/renewals are included in leases, if the renewal rent is to be determined at a date later than the original approval date, total compensation is to be calculated as though all options are exercised, estimating the renewal rent based on the highest rent payable in the first term of the lease.
- (r) Total compensation in leasing matters where the City is City (**A.9**) or tenant (**A.10**) is to be calculated from the date of approval pursuant to this delegation (ie. first allowing for the expiry of any prior approvals, whether by Council or a delegated authority).
- (s) Approving Authority in leasing matters includes authority to approve renewals/extensions within the parameters of the delegated Approving Authority.
- (t) Approving Authority includes authority for amendments within the parameters of the delegated Approving Authority, the cumulative total of which may not exceed the delegated financial limit.
- (u) Where proposed additional amounts in **A.13** exceed 10 per cent of the original decision, even if otherwise in compliance with all other conditions, then approving authority is transferred upwards to the next more senior level of approving authority having the relevant overall financial limit.
- (v) Approving Authority includes authority for all documents necessary to implement the authority, on terms and conditions satisfactory to the Approving Authority, in consultation with the relevant operating Division(s).
- (w) Staff positions referred to in this delegation include successors from time to time.
- (x) Documents are to be in a form satisfactory to the City Solicitor (including indemnity and insurance provisions).
- (y) Delegated signing authorities in **B** are conditional upon the documents having received the City Solicitor's prior "Approval as to Form".
- (z) This delegation does not affect sales, acquisitions and leases over which the Affordable Housing Committee has responsibility.
- (aa) Authority to use land acquired by the City for parking purposes by the Toronto Parking Authority is conditional upon Council enacting a by-law designating such use.
- (bb) All residential leasing documents shall adhere to the *Residential Tenancies Act* and any successor legislation.
- (cc) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years.

Major Terms and Conditions

City Consent

The City in providing consent does not acknowledge or approve of any of the terms of the Tieback and Shoring Agreement between the Developer and Tenant. For greater certainty, the City shall not be considered a party to the Tieback and Shoring Agreement or bound by any of the provisions of the Tieback and Shoring Agreement. The City Consent is conditional that the Tieback installations will have a duration not to exceed one (1) year and nine (9) months.

Removal of Tiebacks from Leasehold Lands

If the Lease is terminated or expires and the City revokes its consent, upon written Notice from the City to the Developer, the Developer may enter those parts of the Leasehold Lands as may be necessary to fulfill its obligations hereunder and at its own cost, charge and expense, and without any entitlement to any compensation whatsoever. Upon receipt of Notice from the City, and if required by the City, the Developer shall alter or remove the Tiebacks from the Leasehold Lands and restore the Leasehold Lands to the satisfaction of the Chief Corporate Officer of the City (the "**CCO**"), within such period of time as required by the CCO, having regard to public health and safety, the time reasonably required to effect the alteration or removal of the Tiebacks, to the satisfaction of the CCO to the same condition that the Leasehold Lands are in at the execution of this Agreement.

If the Developer fails to alter or remove the Tiebacks from the Leasehold Lands within the period of time required by the CCO or to the satisfaction of the CCO such work may be undertaken by the City, its employees, agents and contractors. The Developer agrees to pay to the City, upon demand, all costs of the City associated with such work (and in this connection, a certificate of costs signed by the CCO will be conclusive as to the costs of such work). The City may retain, sell or dispose of the Tiebacks, or any portions thereof, that have been removed by the City as the City deems fit without any payment or compensation to the Developer or any persons claiming through the Developer and without being accountable in any manner whatsoever to the Developer or persons claiming through the Developer.

Release

The City shall have no liability whatsoever with respect to any losses or damages (including indirect, consequential, losses of profit and pure economic losses) howsoever caused or contributed to, arising out of or in connection with the Tiebacks. Each of the Developer and the Tenant hereby releases, waives and forever discharges the City and each of its elected and appointed officials, officers, employees, directors and agents, of and from all claims, demands, damages, costs, expenses, actions and causes of action, whether in law or equity, which they now have or may have at any time in the future against any of the released persons arising out of or connection with the Tiebacks or the consent granted by the City under this Agreement.

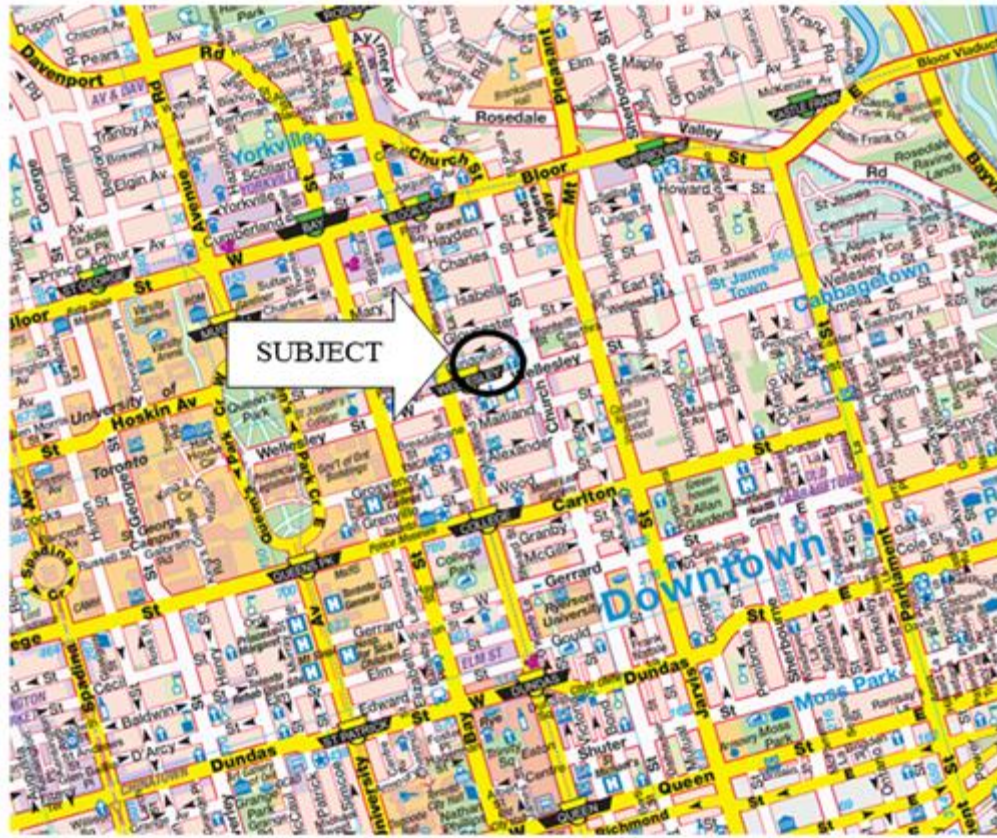
Indemnity

Each of the Developer and the Tenant will, from time to time, and at all times, save, defend and keep harmless and fully indemnify the City and each of its elected and appointed officials, officers, employees, directors, agents, and those for whom it is responsible in law, and any other City corporation, board, commission or body having utilities or services which may in any manner be affected by the erection or maintenance of the Tiebacks from and against all actions, claims, and demands whatsoever which may be brought against or made upon any or all of them and from and against all losses, costs, charges, damages and expenses whatsoever which may be sustained, incurred or paid by any or all of them, regardless of whether or not they are parties to this Agreement, for or by reason of or on account of the City granting consent as City of the Leasehold Lands, or in any manner relating to the Tiebacks.

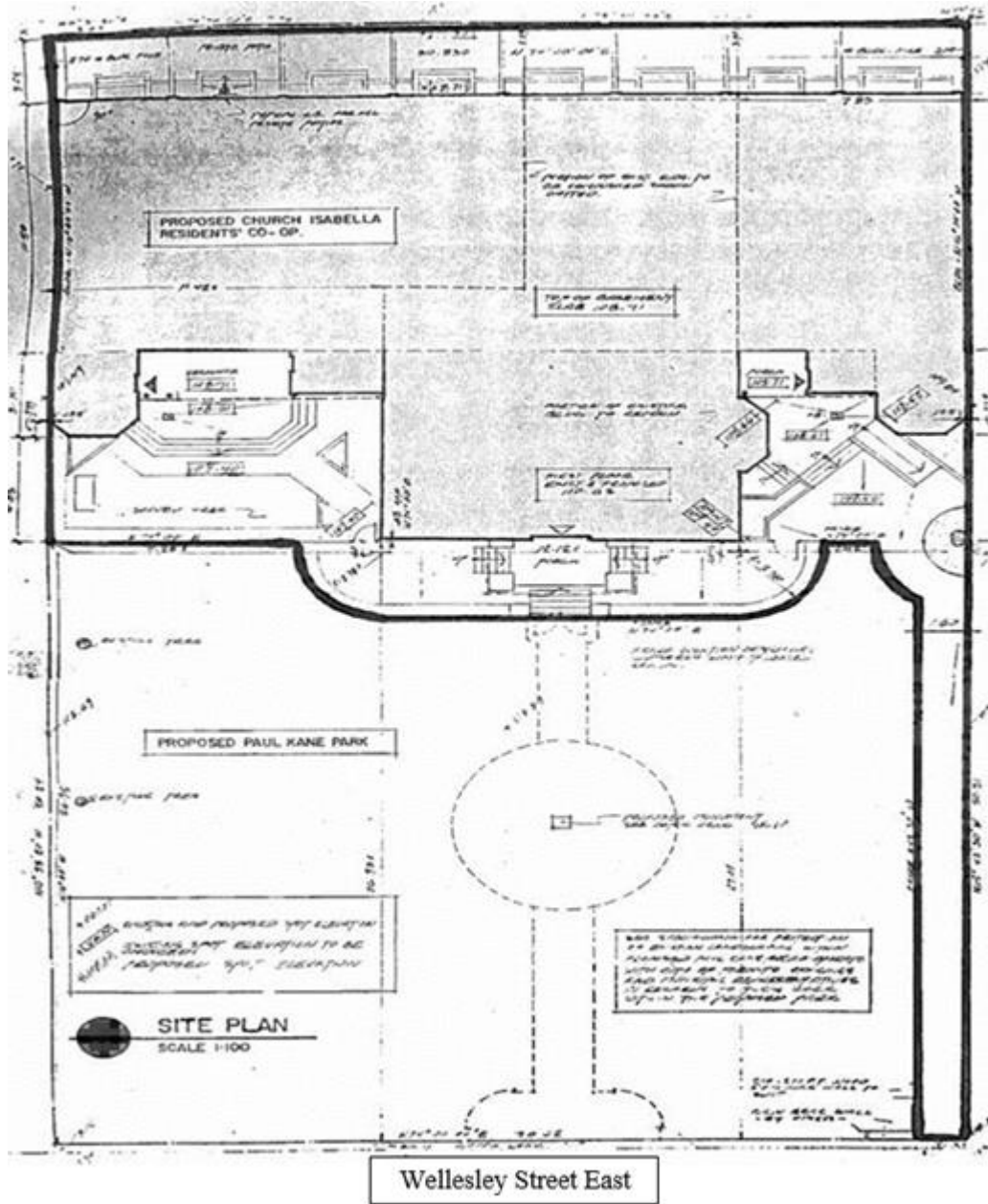
Insurance

The Developer shall obtain and maintain commercial general liability and all-risk property insurance (builders' all-risk property insurance during the period of construction of the Tiebacks) with an insurer acceptable to the CCO in respect of the Tiebacks in the amount of Ten Million Dollars (\$10,000,000), naming the City as an additional insured under the commercial general liability insurance coverage. Every policy or policies of insurance shall provide a cross-liability coverage/severability of interest clause, a provision that the insurance is primary before the insurance of the City, a waiver of subrogation in favour of the City and those for whom in law it is responsible, and shall also contain a thirty (30) days advance written notice of cancellation clause in favour of the City. The Developer shall provide a certificate of insurance to the City upon execution of this Agreement, within thirty (30) days of renewal, and at such other times that the City may require from time to time to evidence compliance with this Section.

Schedule "A" – Location of Leasehold Lands



Schedule "B" – Sketch of Paul Kane House, the "Leasehold Lands" (outlined)



Schedule "C" – Shoring and Tie-Back Plans, Tie-Backs Area (Outlined)

