

**DELEGATED APPROVAL FORM**  
**DIRECTOR, REAL ESTATE SERVICES**  
**MANAGER, REAL ESTATE SERVICES**

**TRACKING NO.: 2018-296**

Approved pursuant to the Delegated Authority contained in Item EX27.12, as adopted by City Council on October 2, 3 & 4, 2017, as amended by Item GM27.12, adopted by City Council on May 22, 23 & 24, 2018 or, where applicable, in Item EX28.8, as adopted by City Council on November 7, 8 & 9, 2017.

Prepared By:	Joe Corigliano / Bruno Iozzo	Division:	Real Estate Services
Date Prepared:	August 15, 2018	Phone No.:	(416) 392-1167 / (416) 392-8151

<b>Purpose</b>	To obtain authority to enter into an easement transfer agreement and a temporary easement transfer agreement, together with the associated easement agreements (collectively the "Agreements") with First Gulf Don Valley Limited (the "Transferor") to acquire permanent easement rights, negative support easement rights and temporary easement rights (the "Easement Rights") on a portion of the Transferor's lands to enable the completion of the first stage of the City's Don River & Central Waterfront Wet Weather Flow System Project (the "Project"), also known as the Coxwell Bypass, which consists of constructing a subsurface tunnel for the storage and conveyance of storm water and sanitary sewage.
<b>Property</b>	Portion of lands owned by the Transferor at 21 Don Roadway (also known as 21 Don Valley Parkway - the Unilever site) (the "Easement Area") as depicted on Schedule "B" and located in the Lake Shore Boulevard East and Don Valley Parkway Area, the Studio District, as shown on Schedule "A"
<b>Actions</b>	<ol style="list-style-type: none"> <li>1. Authority be granted for the City to enter into the Agreements substantially on the terms and conditions set out in in Appendix "A" together with such other terms and conditions as may be satisfactory to the Deputy City Manager, Internal Corporate Services (the "DCM") and in a form acceptable to the City Solicitor;</li> <li>2. The Director of Real Estate Service shall administer and manage the Agreements, including the provision of any consents, approvals, waivers, notices and notice of termination provided that the DCM may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction; and</li> <li>3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto, including but not limited to the execution of the Licence.</li> </ol>
<b>Financial Impact</b>	<p>The City will incur costs of up to \$50,000 (inclusive of applicable HST) associated with the Agreements. These costs include the reimbursement of the qualifying legal expenses of the Transferor associated with the completion of the Agreements, registration costs and title review costs associated with the Agreements.</p> <p>Funding for these costs is available in the 2018-2027 Council Approved Capital Budget and Plan for Toronto Water under account CWW480-03.</p> <p>The Interim Chief Financial Officer has reviewed this DAF and agrees with the financial impact information.</p>
<b>Comments</b>	<p>The Project is a multi-stage endeavor being completed by Engineering and Construction Services on behalf of Toronto Water. In the first stage, it consists of the Coxwell Bypass Tunnel, being a series of shafts and a 10.6 kilometer tunnel to capture, store and convey combined sewer overflows, bored at a depth of 50 meter below surface (on average).</p> <p>Once fully implemented, the Project will improve water quality, particularly in the Taylor Massey Creek, Lower Don River and Inner Harbour areas, as well as provide redundancy and security of operation for the Coxwell Sanitary Trunk Sewer.</p> <p>The permanent easement agreement is required to construct, operate, maintain, and protect the combined sewer tunnel. The temporary easement agreement is required to provide access to the construction areas for the adjacent shaft site (LDS-3B) and the related portion of the tunnel located on adjacent land owned by TEDCO (TPLC). The City's contractor will be responsible for security and fencing requirements as part of the Project.</p>
<b>Terms</b>	Major Terms are set out in Appendix "A"

<b>Property Details</b>	<b>Ward:</b>	30 – Toronto-Danforth
	<b>Assessment Roll No.:</b>	19 04 071 230 008 10
	<b>Approximate Size:</b>	N/A
	<b>Approximate Area:</b>	1485.3 m <sup>2</sup> (Temp. Easement) + 1,685.4 m <sup>2</sup> (Perm. Easement) + 4,341.1 m <sup>2</sup> (Negative Support Easements)
	<b>Other Information:</b>	N/A

A.	Manager, Real Estate Services has approval authority for:	Director, Real Estate Services has approval authority for:
1. Acquisitions:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
2. Expropriations:	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$50,000.	<input type="checkbox"/> Statutory offers, agreements and settlements where total compensation does not cumulatively exceed \$1 Million.
3. Issuance of RFPs/REOs:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Issuance of RFPs/REOs.
4. Permanent Highway Closures:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Initiate process & authorize GM, Transportation Services to give notice of proposed by-law.
5. Transfer of Operational Management to Divisions and Agencies:	<b>Delegated to a more senior position.</b>	<b>Delegated to a more senior position.</b>
6. Limiting Distance Agreements:	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
7. Disposals (including Leases of 21 years or more):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
8. Exchange of land in Green Space System & Parks & Open Space Areas of Official Plan:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Exchange of land in Green Space System and Parks and Open Space Areas of Official Plan.
9. Leases/Licences (City as Landlord/Licensor):	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation (including options/renewals) does not exceed \$1 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.
	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>	<b>Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.</b>
10. Leases/Licences (City as Tenant/Licensee):	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$50,000.	<input type="checkbox"/> Where total compensation (including options/renewals) does not exceed \$1 Million.
11. Easements (City as Grantor):	<input type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> (a) Where total compensation does not exceed \$1 Million.
	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input checked="" type="checkbox"/> Where total compensation does not exceed \$50,000.	<input type="checkbox"/> Where total compensation does not exceed \$1 Million.
13. Revisions to Council Decisions in Real Estate Matters:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	<b>Delegated to a more senior position.</b>	<input type="checkbox"/> (a) Approvals, Consents, Notices and Assignments under all Leases/Licences
		<input type="checkbox"/> (b) Releases/Discharges
		<input type="checkbox"/> (c) Surrenders/Abandonments
		<input type="checkbox"/> (d) Enforcements/Terminations
		<input type="checkbox"/> (e) Consents/Non-Disturbance Agreements/Acknowledgements/Estoppels/Certificates
		<input type="checkbox"/> (f) Objections/Waivers/Caution
		<input type="checkbox"/> (g) Notices of Lease and Sublease
		<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"/> (j) Documentation relating to Land Titles applications
		<input type="checkbox"/> (k) Correcting/Quit Claim Transfer/Deeds

**B. Director, Real Estate Services and Manager, Real Estate Services each has signing authority on behalf of the City for:**

- Documents required to implement matters for which he or she also has delegated approval authority.
- Expropriation Applications and Notices following Council approval of expropriation (Manager, Acquisitions & Expropriations is only Manager with such signing authority).

**Director, Real Estate Services also has signing authority on behalf of the City for:**

- Agreements of Purchase and Sale and all implementing documentation for purchases, sales and land exchanges not delegated to staff for approval.
- Community Space Tenancy Leases approved by delegated authority by Deputy City Manager, Internal Corporal Services and any related documents.

Consultation with Councillor(s)					
Councillor:	Paula Fletcher			Councillor:	
Contact Name:	Susan Serran – Executive Assistant			Contact Name:	
Contacted by:	Phone	X	E-Mail	Memo	Other
Comments:	Supports the proposed transaction (Aug/10/2018)			Comments:	
Consultation with Divisions and/or Agencies					
Division:	Engineering and Construction Services			Division:	Financial Planning
Contact Name:	Caroline Kaars Sijpesteijn			Contact Name:	Patricia Libardo
Comments:	Details included (Aug/14/2018)			Comments:	No issues (Aug/15/2018)
Legal Division Contact					
Contact Name:	Jennifer Davidson and Catherine Thomas (Aug/9/2018)				

DAF Tracking No.: 2018-296	Date	Signature
Concurred with by: Manager, Real Estate Services Peter Cheng	Aug. 15, 2018	Signed by Peter Cheng
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Tim Park	Aug. 15, 2018	Signed by Tim Park
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Director, Real Estate Services David Jollimore		

#### 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. In the event of a vacancy in the Ward in which the subject property is located, the Mayor's office shall be consulted in the alternative.
- (b) Where approving power has been delegated to staff, the Deputy City Manager, Internal Corporate Services, in consultation with any other 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 being available from third party sources, except for "Strategic Property Acquisitions" as set out in EX44.22 adopted by Council August 25, 26, 27 and 28, 2014, which identifies alternative funding mechanisms subject to additional approval requirements.
- (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, except for property acquisitions of 50M<sup>2</sup> or less for transit shelter purposes.
- (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 as defined in the *Toronto Waterfront Revitalization Corporation Act, 2002* 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 of City Planning, 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 Landlord) but not Licences (City as Licensor) is limited to periods (including options/renewals) of less than twenty-one (21) years, as leases of 21 years or more may be authorized based on the delegated Approving Authority for disposals in **A.7**.
- (o) Total compensation in leasing matters where the City is landlord (**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 landlord (**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, including ancillary agreements, 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) 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.
- (aa) All residential leasing documents shall adhere to the *Residential Tenancies Act, 2006* and any successor legislation.
- (bb) Despite GC(n), Approving Authority in residential leasing matters is not limited to periods of less than twenty-one (21) years and total compensation in residential leasing matters where the City is landlord is to be calculated based on an assumed term of ten years unless the lease term expressly identified therein is longer.
- (cc) Where Approving Authority has been delegated to the Manager level, such authority shall be conditional upon the Manager first having secured the written concurrence of a second Manager within the Real Estate Services Division.
- (dd) Where the City is transacting with a public agency, and such agency requires that an unqualified environmental indemnity be granted by the City, the authority to acquire property includes authority to grant such an indemnity, provided that the Phase I and Phase II environmental site assessments undertaken on behalf of the City have identified no significant environmental impacts or human health threats, with no, or minor action required ("Low Risk").

## Appendix "A"

### Major Terms – Temporary Easement Agreement

**Consideration:** Nominal (\$10.00)

**Commencement Date:** August 1, 2018

**Term:** Five (5) years

**Extension Rights:** City shall have the unfettered right to extend the Term for up to five (5) periods of one (1) year each, upon delivery of written notice to the Transferor, not less than one (1) month prior to the expiry date

**Temporary Easement Lands:** Parts 1 & 2 on Plan 66R-30171

**Temporary Easement Rights:** (i) Rights to excavate, grade and re-grade the Temporary Easement Lands and clear the same of buildings, structures, pavement, trees, landscaping, physical encumbrances, improvements and/or works of any kind;  
(ii) Rights to use the Temporary Easement Lands for storage, marshalling and/or assembly of vehicles, cranes, supplies, machinery, equipment and materials;  
(iii) Rights to erect and maintain staging, hoarding and fencing along the Temporary Easement Lands, as agreed upon between the parties; and  
(iv) Rights for gaining ingress and egress from the permanent easement lands, on foot and/or with all necessary or incidental vehicles, supplies, machinery, equipment and materials.

**Restoration:** At the expiry of the Term, the City will return the Temporary Easement Lands to the condition it was in prior to the commencement of the Term.

### Major Terms – Permanent Easement Agreement

**Consideration:** Nominal (\$10.00)

**Permanent Easement Lands:** Parts 1 & 2 on Plan 66R-30170

**Negative Support Easement Lands:** Parts 3, 4, 5, 6, 11, 12 on Plan 66R-30170

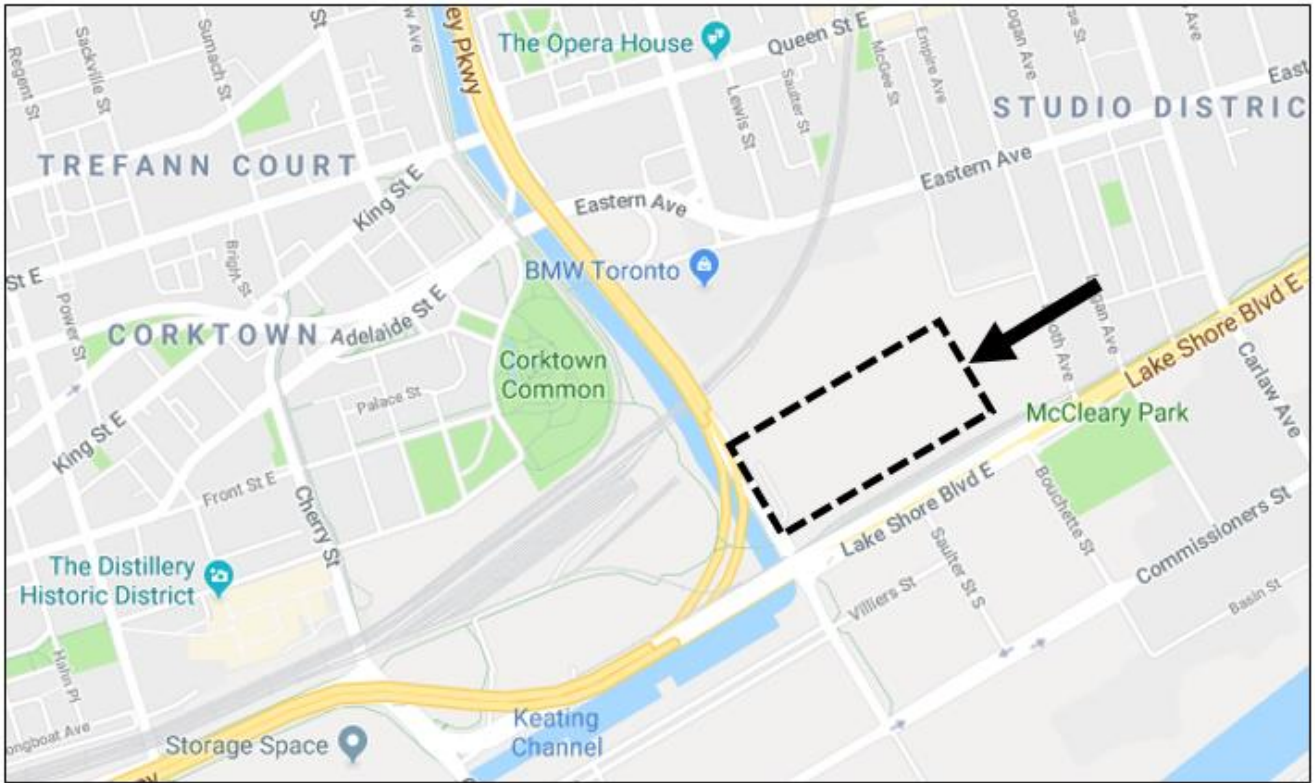
**Negative Support Easement:** Permanent, free and uninterrupted easement or right in the nature of an easement, exercisable at all times and from time to time in perpetuity for the purposes of providing support for and ensuring the safe operation of the works in/under the Permanent Easement Lands

**Permanent Easement Rights:** (i) Rights to enter, access, pass and re-pass for ingress and egress in/under the Permanent Easement Lands at any time or times, on foot and with vehicles, equipment, gear, apparatus, heavy machinery, tools, implements, supplies, stores and materials;  
(ii) Rights to take proactive and remedial measures to prevent and correct any circumstances or condition that is having or could have the effect of interfering with or derogating from the attainment of such purposes, including measures to (1) remove from the Permanent Easement Lands any natural or manmade fixtures or chattels, including boulders, rocks, accumulations, fences or apparatus related to utilities; and (2) sever, fell, remove or control the growth of any roots, trees, stumps, sediment, brush or vegetation or water in/under the Permanent Easement Lands; and (3) secure and protect the works from hazard; and  
(iii) Rights to operate the works situate within the Permanent Easement Lands.

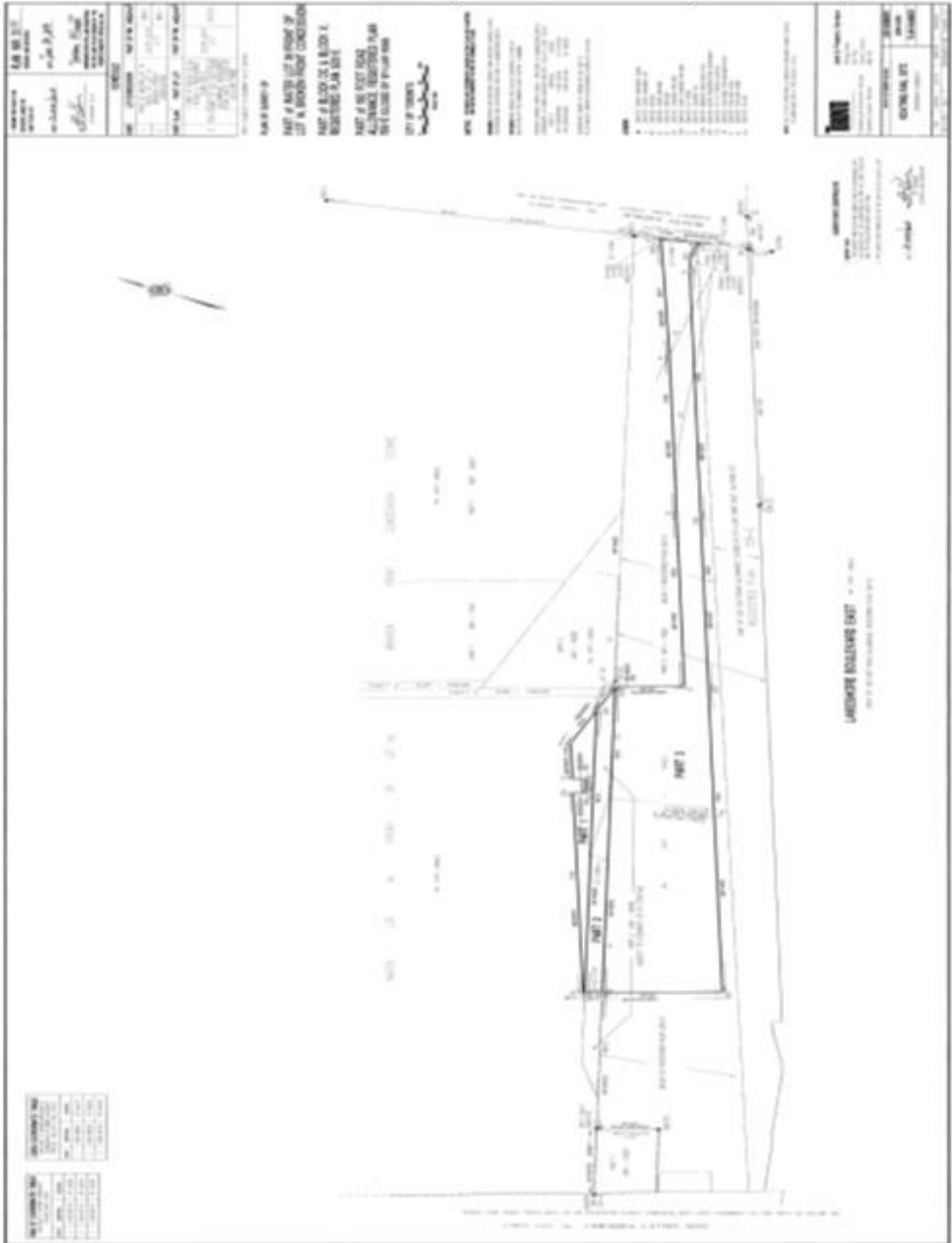
**Qualifying Legal Expenses:** The City agrees to deliver to the Transferor's solicitor on the closing date, Qualifying Legal Expenses in an amount up to but not exceeding the available funds within the Financial Impact Section (less other costs associated with the Agreements)

**Indemnity:** The City shall indemnify and save harmless the Transferor from and against all claims which may be brought against or made upon the Transferor and against all losses which may be incurred, sustained, or paid by the Transferor by reason of the breach by the City of the Agreements, save and except those that occur by the negligent act or omission or wilful misconduct of any representative of the Transferor

### Schedule "A" – Location of the Property



### Schedule "B" – Temporary Easement Area (Parts 1 & 2)



### Schedule "B" – Permanent Easement Area (Parts 1-6, 11 & 12)

