

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

TRACKING NO.: 2019-117

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:	Seamus Shanahan	Division:	Real Estate Services
Date Prepared:	April 23, 2019	Phone No.:	416-392-4017

Purpose	To obtain authority to enter into a Permission to Enter/Licence Agreement (the "Agreement") with Costco Wholesale Canada Ltd. (the "Licensee") to allow the Licensee access to the Licensed Area (as defined below) to conduct surveying works and environmental investigations for the purpose of conducting a Phase Two Environmental Site Assessment, including boreholes and test pits (the "Permitted Activities").
Property	Part of the property municipally known as 9b Canadian Road, Toronto and along with part of the adjacent City-owned lands to the east of 9b Canadian Road, Toronto, as shown on the location map attached hereto as Appendix "B" and described as Part 1 on Property Sketch PS-2018-006, attached hereto as Appendix "C" (the "Licensed Area").
Actions	<ol style="list-style-type: none"> 1. Authority be granted to enter into the Agreement with the Licensee, substantially on the terms and conditions outlined herein, for a term of thirty (30) days commencing on April 24, 2019 to May 23, 2019, to permit the Licensee to complete the Permitted Activities as part of the Licensee's due diligence investigations to determine whether the site is suitable to lease. 2. The Acting Director, Real Estate Services ("Director of RES"), or his or her designate shall administer and manage the Agreement, including the provision of any consents, amendments, approvals, waivers, notices and notices of termination provided that the Director of RES may, at any time, refer consideration of such matters to City Council for its determination and direction. 3. The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.
Financial Impact	<p>There is no financial impact.</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	<p>The Licensed Area is part of the City-owned abandoned rail spur between Ellesmere and Lawrence Avenue. Jurisdiction of the Licensed Area falls partly under Real Estate Services and partly under Toronto Water. The Licensed Area is used mainly to collect storm water/waste water flow from Canadian Road to the north.</p> <p>The Licensee operates the Costco Warehouse located at 1411 Warden Avenue, Toronto, ON, which is adjacent to the Licensed Area. The Licensee is in negotiations with the City to lease the Licensed Area for the expansion of the Licensee's fueling station queuing line and to add additional parking spaces to their site. As part of the Licensee's due diligence, the Licensee wishes to enter the Licensed Area to allow their environmental consultants, Terraprobe Inc., WSP Canada Group Limited (or such other environmental consultant, who is acceptable to the Director of RES acting reasonably), to undertake the Permitted Activities to determine whether or not the Licensed Area is suitable for their intended use.</p> <p>The Licensee will be required to provide to the City with the results of the survey and environmental investigations completed on the Licensed Area.</p>
Terms	Refer to Appendix "A".

Property Details	Ward:	21 – Scarborough Centre
	Assessment Roll No.:	Multiple Assessment Roll No.
	Approximate Size:	N/A – Irregular Dimensions – See Appendix "C"
	Approximate Area:	5,904.4 m ² ± (63,554 ft ² ±)
	Other Information:	

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/REOIs:	Delegated to a more senior position.	<input type="checkbox"/> Issuance of RFPs/REOIs.
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 Divisions and Agencies:	Delegated to a more senior position.	Delegated to a more senior position.
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:	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 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 checked="" 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.
	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.	Leases pursuant to the Community Space Tenancy Policy delegated to a more senior position.
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.
	Delegated to a more senior position.	<input type="checkbox"/> (b) When closing roads, easements to pre-existing utilities for nominal consideration.
12. Easements (City as Grantee):	<input 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:	Delegated to a more senior position.	<input type="checkbox"/> Amendment must not be materially inconsistent with original decision (and subject to General Condition (u)).
14. Miscellaneous:	Delegated to a more senior position.	<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, Transaction Services 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, Corporate Services and any related documents.

Consultation with Councillor(s)															
Councillor:	Councillor Michael Thompson					Councillor:									
Contact Name:	Debbie Gedz					Contact Name:									
Contacted by:	Phone	<input checked="" type="checkbox"/>	E-Mail		Memo		Other	Contacted by:	Phone		E-mail		Memo		Other
Comments:	No objections – 04/18/2019					Comments:									
Consultation with Divisions and/or Agencies															
Division:	Toronto Water					Division:	Financial Planning								
Contact Name:	Lawrence Shintani					Contact Name:	Lauren Birch								
Comments:	No objections – 04/18/2019					Comments:	Included – 04/23/2019								
Legal Division Contact															
Contact Name:	Shirley Chow – 416 397-4410					Comments Included – 04/23/2019									

DAF Tracking No.: 2019-117	Date	Signature
Concurred with by: Manager, Real Estate Services Alex Schuler	April 23, 2019	Signed by Alex Schuler
<input type="checkbox"/> Recommended by: Manager, Real Estate Services Tim Park	April 23, 2019	Signed by Tim Park
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos		

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, 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 50M² 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 and Conditions

Licensor: City of Toronto

Licensee: Costco Wholesale Canada Ltd.

Licensed Area: Part 1 on PS Sketch 2018-006, being approximately 63,554 square feet, as shown on Appendix "C".

Use: To permit temporary access to the Licensee and its consultants to conduct the Permitted Activities on the Licensed Area.

Term: Thirty (30) days during the period between April 24, 2019 to May 23, 2019, with such dates to be mutually agreed upon between the Licensee and the City.

Fee: Nominal consideration, however, the Licensee is responsible for providing the results of the testing and all reports to the City.

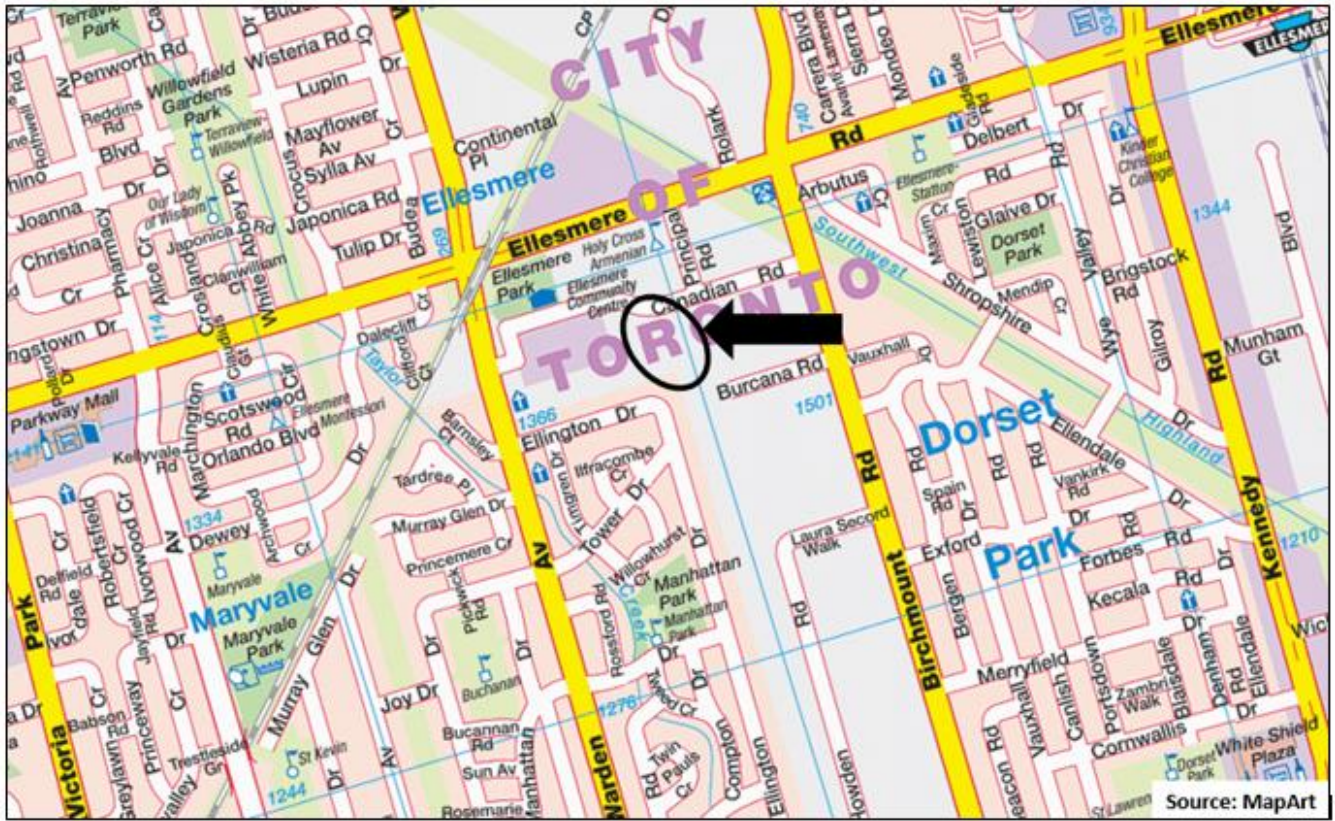
Insurance: Commercial General Liability not less than \$2 Million Dollars per occurrence.

Indemnity: The Licensee shall at all times indemnify and save harmless the City from any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever, made or brought against, suffered by or imposed on the City in respect of any loss, damage or injury (including fatal injury) to any person or property including, without restriction, employees, agents and property of the City or of the Licensee directly or indirectly arising out of or resulting from or sustained as a result of the Licensee's occupation of or use of the Licensed Area.

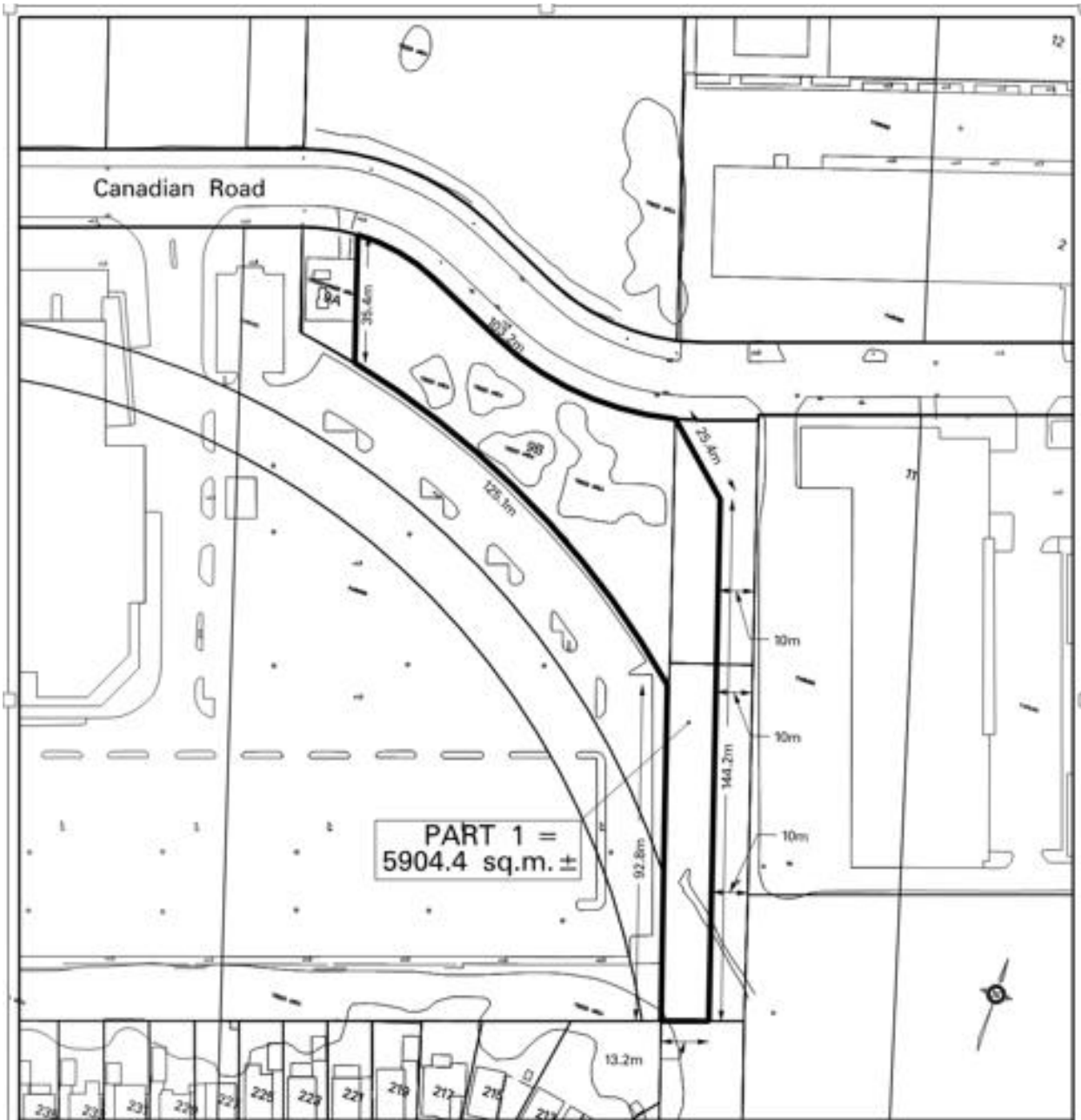
Other:

1. The Licensee shall not be permitted to remove any trees or conduct any environmental investigations until the Licensee obtains all necessary City permits, including without limitation, a tree removal permit from Parks, Forestry and Recreation, and provides a copy of all necessary permit(s) to Real Estate Services.
2. The Licensee will not use, store or deposit upon the Licensed Area any substance which is hazardous to persons or property.
3. The Licensee will be responsible for any and all costs associated with the use of the Licensed Area and the Permitted Activities conducted thereon, and shall restore the Licensed Area to as close as is practicable to its original condition immediately prior to the Licensee's occupancy, at the Licensee's sole expense, and to the satisfaction of the Director of RES, acting reasonably.
4. The Licensee will acknowledge that granting access to the Licensed Area for the Permitted Activities in no way obligates the City to subsequently grant further rights of use in relation to the Licensed Area.
5. The Licensee will acknowledge that the Permitted Activities may indicate that the Licensed Area is not suitable for the purposes for which the Licensee is attempting to identify a suitable location.

Appendix "B" – Location Map & Aerial Picture



Appendix "C" – PS Sketch No. PS-2018-006



PART 1 =
5904.4 sq.m. ±

PROPERTY INFORMATION SHEET

SKETCH SHOWING
CITY OWNED LAND ON THE SOUTH SIDE OF
CANADIAN ROAD EAST OF WARDEN AVENUE



NOTE:
THIS SKETCH HAS BEEN
COMPILED FROM OFFICE
RECORDS. MEASUREMENTS
ARE APPROXIMATE

CHECK BY JOHN HOUSE
PREPARED BY: DWAYNE PITT

WARD 37 - SCARBOROUGH CENTRE
DATE: JANUARY 15, 2018

SKETCH No. PS-2018-006