

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

TRACKING NO.: 2019-232

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:	Mike Saffran	Division:	Corporate Real Estate Management
Date Prepared:	August 9, 2019	Phone No.:	(416) 392-7205

Purpose	To authorize an Amending Agreement to amend the Licence Agreement authorized in DAF 2019-179 between the City of Toronto (the Licensor) and Enwave Energy Corporation (the "Licensee") regarding a nominal licence agreement for access to part of the City's Property near the Toronto Islands, Water Filtration Plant, as shown on Schedule "A" attached (the "Licensed Lands"), for the purposes of inspection of the City's east and west raw water intakes in accordance with the revised work plan dated July 25, 2019 (the "Revised Work Plan"), shown on Schedule "C".
Property	The Water Filtration Plant on the Toronto Islands is located at 446 Lakeshore Boulevard at the south end of the island. The area covered by the proposed license is shown on Schedule "A", attached.
Actions	<ol style="list-style-type: none"> 1. Authorize an Amending Agreement to amend the License Agreement between the City and Enwave to extend the licence term to September 13, 2019 and the Revised Work Plan, substantially on the terms and conditions set out below and on any other or amended terms and conditions as may be determined by the Deputy City Manager, Corporate Services (the "DCM, CS"), and in a form acceptable to the City Solicitor. 2. The Director of Real Estate Services shall administer and manage the Amending Agreement, including the provision of any consents, approvals, waivers, notices and notice of termination provided that the DCM, CS may, at any time, refer consideration of such matters (including their content) 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>This is a nominal sum licence agreement. A Legal Services Fee of \$504.21 (plus HST) will be paid by the Licensee to the City as required by the Municipal Code, Chapter 441.</p> <p>The Chief Financial Officer & Treasurer has reviewed this DAF and agrees with the financial impact information.</p>
Comments	On July 10, 2019, the Acting Manager, Transaction Services, in DAF 2019-179, authorized the acceptance of the Licence Agreement submitted by Enwave to enter upon the City's Property near the Toronto Islands, Water Filtration Plant, the Licenced Lands, shown on Schedule "A", for the purposes of inspection of the City's east and west raw water intakes in accordance with the Work Plan submitted to the City on May 15, 2019, attached as Schedule "B". During initial Work Plan, investigations revealed a need to broaden the scope of work. As a result a Revised Work Plan was submitted to the City on July 25, 2019 to complete the investigations, attached as Schedule "C".
Terms	<i>[For additional space, use page 4]</i>

Property Details	Ward:	10 – Spadina-Fort York
	Assessment Roll No.:	N/A
	Approximate Size:	Irregular shape
	Approximate Area:	N/A
	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/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 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 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 checked="" 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:	Joe Cressy				Councillor:				
Contact Name:	Bushra Mir				Contact Name:				
Contacted by:	<input checked="" type="checkbox"/> Phone	<input checked="" type="checkbox"/> E-Mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other	Contacted by:	<input type="checkbox"/> Phone	<input type="checkbox"/> E-mail	<input type="checkbox"/> Memo	<input type="checkbox"/> Other
Comments:	No objection – August 7, 2019				Comments:				
Consultation with Divisions and/or Agencies									
Division:	Toronto Water				Division:	Financial Planning			
Contact Name:	Niall Robertson				Contact Name:	Filisha Jenkins			
Comments:	Concurs with submission of DAF – August 8, 2019				Comments:	Concurs with FIS – August 7, 2019			
Legal Division Contact									
Contact Name:	Vanessa Bacher – August 7, 2019								

DAF Tracking No.: 2019-232	Date	Signature
Concurred with by: Acting Manager, Policy and Programming, Melanie Hale-Carter	Aug. 9, 2019	Signed by Melanie Hale-Carter
<input type="checkbox"/> Recommended by: Acting Manager, Transaction Services, Daran Somas	Aug. 9, 2019	Signed by Daran Somas
<input checked="" type="checkbox"/> Approved by:		
<input type="checkbox"/> Approved by: Acting Director, Real Estate Services Nick Simos		X

General Conditions ("GC")

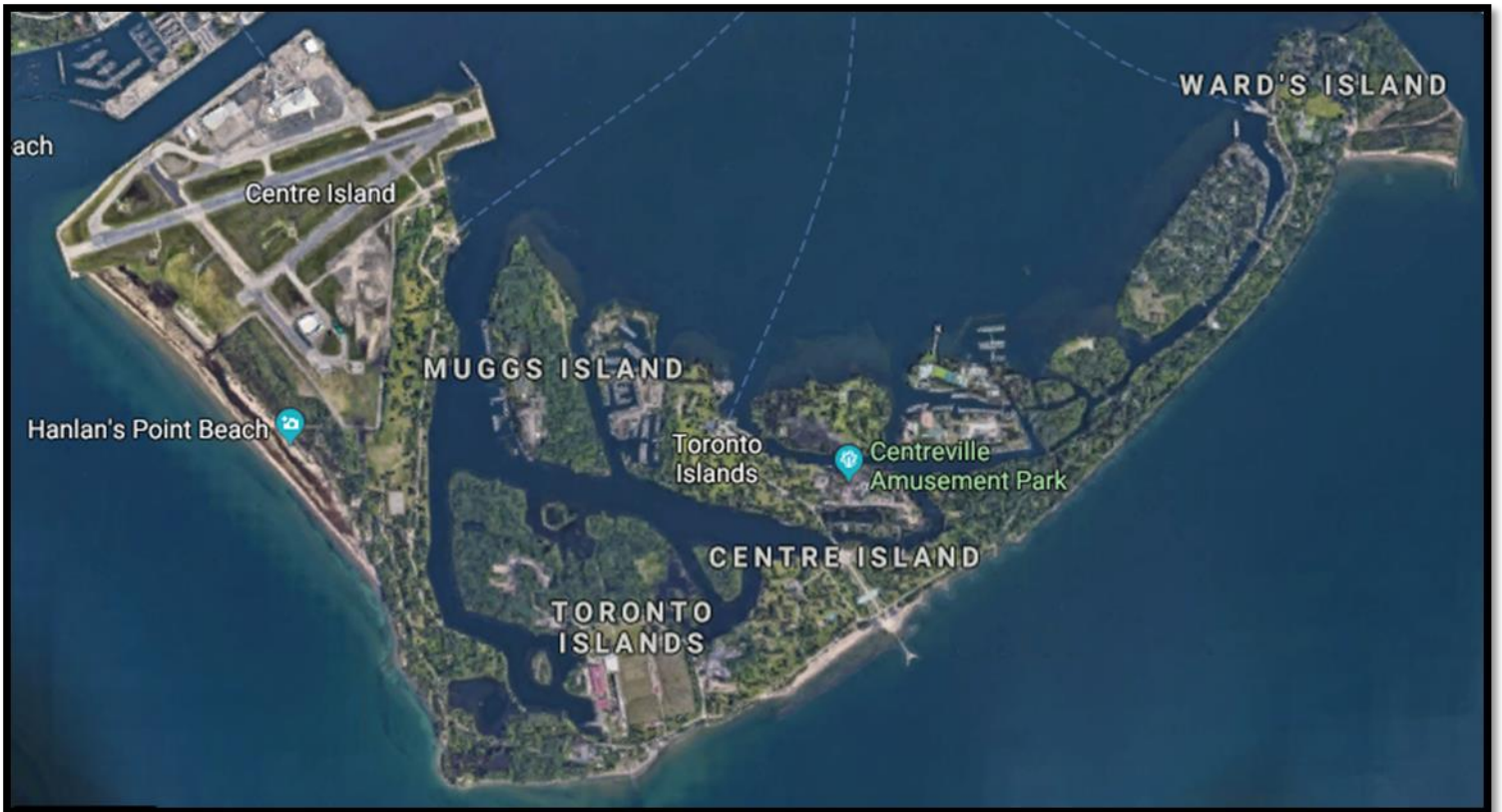
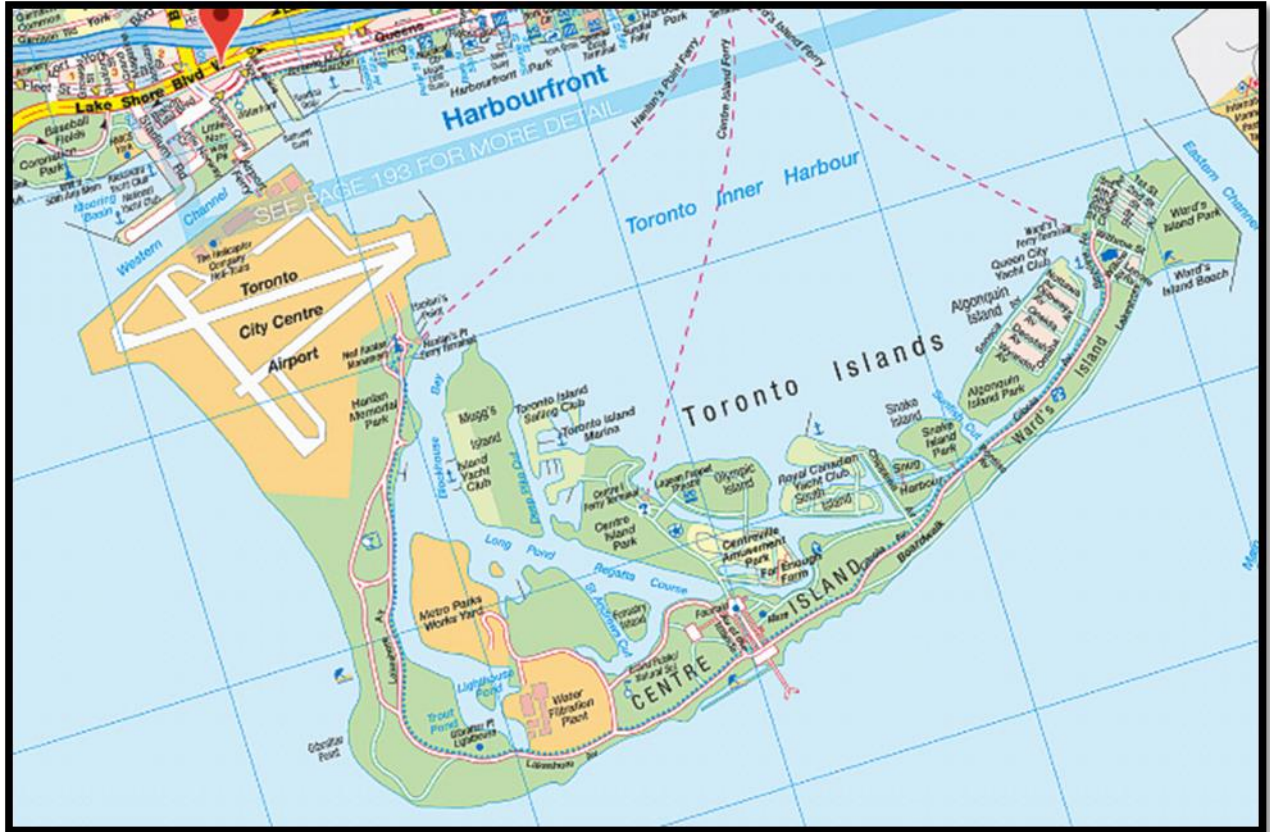
- (a) The local Councillor (or local Councillors if the subject property is located on a ward boundary or if the transaction involves an exchange of properties in more than one ward), will be consulted prior to the exercise of delegated Approving Authority by staff for all Acquisitions, Disposals, Land Exchanges and Leases. 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").

DAF 2019-232 – Major Terms and Conditions:

Owner:	City of Toronto
Licencee:	Enwave Energy Corporation
Licensed Area:	Shown on Schedule "A"
Licence Commencement Date:	August 19, 2019
Licence Expiry:	September 13, 2019
Permitted Use:	<p>1. The Licensee acknowledges and agrees that it shall use the Licensed Area solely and actively during the Term (as defined below) only for the purposes of the inspection of the City's east and west raw water intakes forming part of the City's infrastructure under its Drinking Water Works Permit in accordance with the Work Plan dated May 15, 2019 submitted by the Licensee to the City on May 21, 2019 and for no other purpose whatsoever (the "Licensee's Work") within the Licensed Area.</p> <p>2. Where the City terminates this Licence Agreement, the Licensee shall immediately cease all operations on the Licensed Area, make whatever arrangements are necessary to leave the Licensed Area in a clean, tidy and safe condition as required by the City.</p>
Indemnity & Insurance:	<p>Enwave indemnifies and holds the City harmless from and against liability and damage to the property, personal injury or death incurred by the City arising out of or due to the activities of Enwave and its agents.</p> <p>Enwave must maintain Commercial General Liability Insurance of \$5 million dollars, Contractor's Pollution Liability of \$1 million dollars and Standard Automobile Insurance of \$2 million dollars.</p>

Appendix "A"

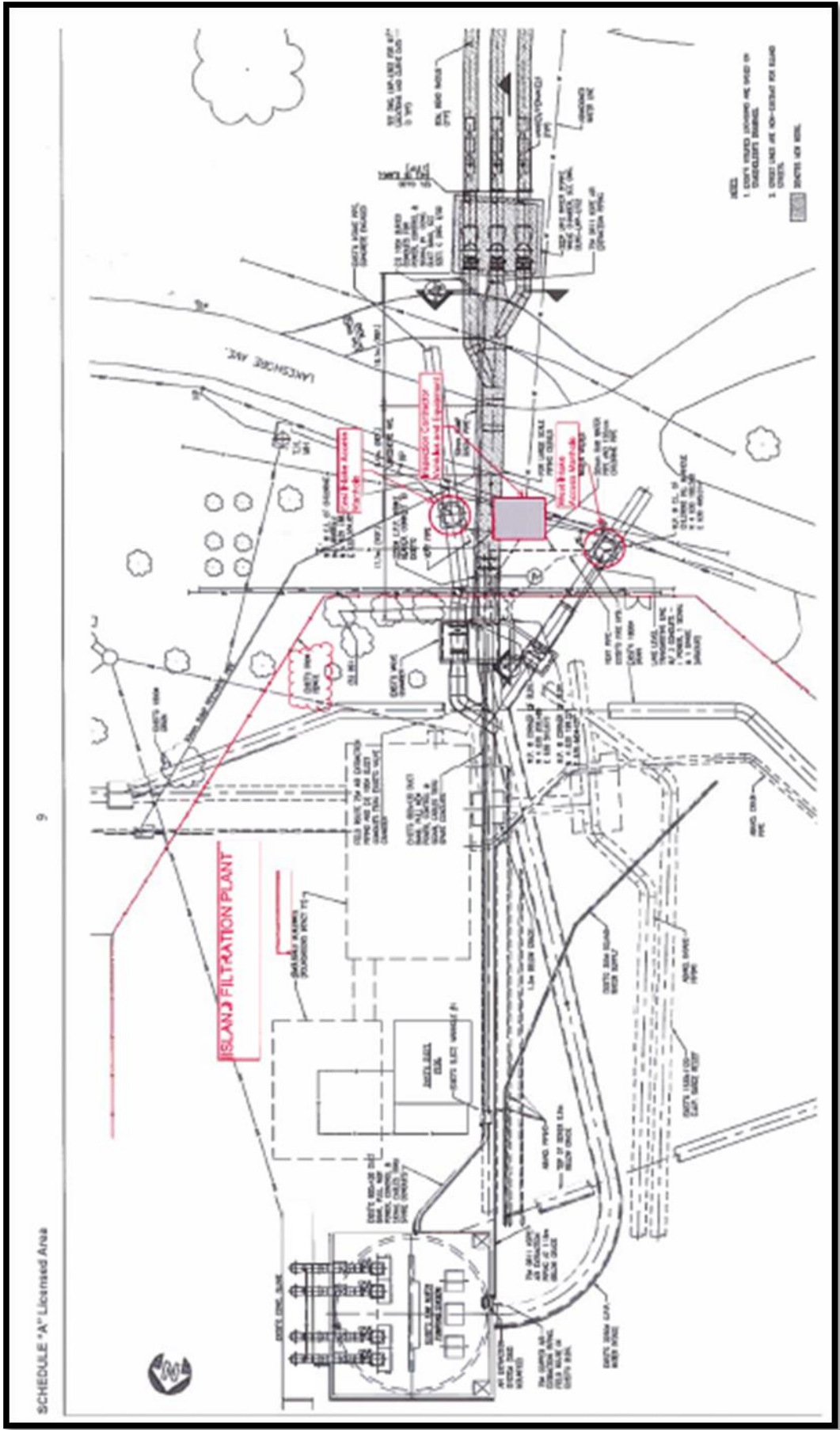
Site Map and Aerial Maps



Aerial – Toronto Island Water Filtration Plant



Schedule "A" - Licenced Area



SCHEDULE "A" Licenced Area

Schedule "B"

Work Plan - May 15, 2019

Schedule "C"

Revised Work Plan - July 25, 2019