

Appendix "C"



W12A Landfill Property Value Protection Plan

This agreement is between:

The Corporation of the City of London ("City")

and the owner(s) of 5861 White Oak Road, London, Ontario -Schedules "B" & "C"

Phillip Ignatius Johnston (the "Owner(s)")

The owners acknowledge that they wish to sell their property according to the procedures set forth in the W12A Landfill Property Value Protection Plan. These procedures are:

- a) The City will retain a qualified appraiser to estimate the value of the property as if there is no landfill nearby. Added value to the property by the presence of the landfill such as improved water supply or "right of first refusal" payments under this program shall not be reflected in the appraised value. The value of the property shall be determined as at the date of the notice.
- b) The property owner has the right to hire a qualified property appraiser of their choice and at their cost should there be disagreement the appraisal obtained by the City.
- c) If the difference between the two values is less than 10%, the City will accept the higher value as the appraised value of the property and guarantee this value.
- d) The Civic Administration will create a pool of qualified appraisers acceptable to the Manager of Realty Services. If the difference between the City's and the Owner's appraisals is more than 10% higher than the lower appraisal, the City and the Owner shall select a mutually agreed upon third appraiser from the pre-qualified pool who will conduct a peer review of the original appraisals and determine the fair market value of the property based on the information contained in the original appraisals. If the parties can not agree on the choice of the third appraiser, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market. The City and the Owner will share equally in the cost of the third appraiser.

If the difference between the City's and the Owner's appraisals is more than 20% higher than the lower appraisal, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market.

- e) The values determined by the appraisers shall govern the determination of the value of the property for the purposes of the Property Value Protection Plan for a period of at least twelve months following the date of the written notice from the property owner. If an owner wishes to invoke the Property Value Protection Plan again after this twelve month period, the owner may do so subject to paragraph (j) following.
- f) Following the establishment of the appraised value of the property, the City may offer to purchase the property at the appraised value. If the City does not make such an offer, the owner will list the property with a realtor who will actively promote the property by advertising and by use of the Multiple Listing Service.

- g) If the owner does not receive a bona fide Offer to Purchase within six months of the date of listing with a realtor who has actively promoted the property by advertising and use of the Multiple Listing Service, then the owner may require the City to purchase it at the appraised value.
- h) If the owner receives a bona fide Offer to Purchase within six months which is less than the appraised value, then the owner may require the City to pay the difference between the purchased price and the appraised value qualified by a right of first refusal in any sale as per paragraph.
- i) The Property Value Protection Plan is qualified by the retention by the City of a right of first refusal in any sale. In other words, rather than paying the difference between the offered price and the appraised value, the City may elect to purchase the land at the appraised value. The right of first refusal will be exercised by the City within twenty business days of receipt of the offer, where a business day is Monday through Friday inclusive and does not include a Statutory Holiday. The owner shall notify prospective third party purchasers of the existence of the City's right of first refusal.
- j) The following governs the cost of the appraisals if an owner invokes the plan more than once.
 - In the event an owner invokes the Property Value Protection Plan after twelve months but prior to thirty-six months of having previously invoked the plan, the owner shall pay the full cost of all appraisals.
 - If the owner invokes the Plan between three to six years after last invoking the Plan, the cost of all of the appraisals shall be paid 50% by the owner.
 - If the owner invokes the Plan after six years of having previously invoked the Plan, paragraphs a), b) and d) would govern with respect to the cost of appraisals.
- k) Nothing in paragraphs j) shall prevent an application to the City by the owner to waive these subsections on compassionate grounds in extenuating circumstances.
- l) The Property Value Protection Plan will not apply to subsequent purchasers of the land.
- m) The Property Value Protection Plan will apply to sales by the estate of a deceased owner who would have been eligible if they were still alive. Subsequent owners who acquire the land by inheritance from an eligible owner are eligible.
- n) A subsequent owner who acquires land without application of the Property Value Protection Plan from a parent, spouse or person with who he or she has cohabited, as defined in the Family Law Act, is also an eligible owner under the Plan.

Signed:


Date:

The Corporation of the City of London

Mayor, Matt Brown

City Clerk, Catharine Saunders

Owners



Philip Ignatius Johnston

Appendix "C"



W12A Landfill Property Value Protection Plan

This agreement is between:

The Corporation of the City of London ("City")

and the owner(s) of 5751 Wellington Road South, London, Ontario - Schedules "B" & "C"

Milan & Ana Jugovic and Eva & Rudi Komsic (the "Owner(s)")

The owners acknowledge that they wish to sell their property according to the procedures set forth in the W12A Landfill Property Value Protection Plan. These procedures are:

- a) The City will retain a qualified appraiser to estimate the value of the property as if there is no landfill nearby. Added value to the property by the presence of the landfill such as improved water supply or "right of first refusal" payments under this program shall not be reflected in the appraised value. The value of the property shall be determined as at the date of the notice.
- b) The property owner has the right to hire a qualified property appraiser of their choice and at their cost should there be disagreement the appraisal obtained by the City.
- c) If the difference between the two values is less than 10%, the City will accept the higher value as the appraised value of the property and guarantee this value.
- d) The Civic Administration will create a pool of qualified appraisers acceptable to the Manager of Realty Services. If the difference between the City's and the Owner's appraisals is more than 10% higher than the lower appraisal, the City and the Owner shall select a mutually agreed upon third appraiser from the pre-qualified pool who will conduct a peer review of the original appraisals and determine the fair market value of the property based on the information contained in the original appraisals. If the parties cannot agree on the choice of the third appraiser, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market. The City and the Owner will share equally in the cost of the third appraiser.

If the difference between the City's and the Owner's appraisals is more than 20% higher than the lower appraisal, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market.

- e) The values determined by the appraisers shall govern the determination of the value of the property for the purposes of the Property Value Protection Plan for a period of at least twelve months following the date of the written notice from the property owner. If an owner wishes to invoke the Property Value Protection Plan again after this twelve month period, the owner may do so subject to paragraph (j) following.

- f) Following the establishment of the appraised value of the property, the City may offer to purchase the property at the appraised value. If the City does not make such an offer, the owner will list the property with a realtor who will actively promote the property by advertising and by use of the Multiple Listing Service.
- g) If the owner does not receive a bona fide Offer to Purchase within six months of the date of listing with a realtor who has actively promoted the property by advertising and use of the Multiple Listing Service, then the owner may require the City to purchase it at the appraised value.
- h) If the owner receives a bona fide Offer to Purchase within six months which is less than the appraised value, then the owner may require the City to pay the difference between the purchased price and the appraised value qualified by a right of first refusal in any sale as per paragraph.
- i) The Property Value Protection Plan is qualified by the retention by the City of a right of first refusal in any sale. In other words, rather than paying the difference between the offered price and the appraised value, the City may elect to purchase the land at the appraised value. The right of first refusal will be exercised by the City within twenty business days of receipt of the offer, where a business day is Monday through Friday inclusive and does not include a Statutory Holiday. The owner shall notify prospective third party purchasers of the existence of the City's right of first refusal.
- j) The following governs the cost of the appraisals if an owner invokes the plan more than once.
- In the event an owner invokes the Property Value Protection Plan after twelve months but prior to thirty-six months of having previously invoked the plan, the owner shall pay the full cost of all appraisals.
 - If the owner invokes the Plan between three to six years after last invoking the Plan, the cost of all of the appraisals shall be paid 50% by the owner.
 - If the owner invokes the Plan after six years of having previously invoked the Plan, paragraphs a), b) and d) would govern with respect to the cost of appraisals.
- k) Nothing in paragraphs j) shall prevent an application to the City by the owner to waive these subsections on compassionate grounds in extenuating circumstances.
- l) The Property Value Protection Plan will not apply to subsequent purchasers of the land.
- m) The Property Value Protection Plan will apply to sales by the estate of a deceased owner who would have been eligible if they were still alive. Subsequent owners who acquire the land by inheritance from an eligible owner are eligible.

- n) A subsequent owner who acquires land without application of the Property Value Protection Plan from a parent, spouse or person with who he or she has cohabited, as defined in the Family Law Act, is also an eligible owner under the Plan.

Signed:

Date:

THE CORPORATION OF THE CITY OF LONDON

Matt Brown, Mayor

Catharine Saunders, City Clerk

OWNERS:

M. Jugovic
Witness

Milan Jugovic
Milan Jugovic

Dec. 29 - 2014
Date

M. Jugovic
Witness

Ana Jugovic
Ana Jugovic

Dec. 29 - 2014
Date

Suzanna Lusa
Witness

Eva Komsic
Eva Komsic

2014-12-16
Date

Suzanna Lusa
Witness

Rudi Komsic
Rudi Komsic

2014-12-16
Date

Appendix "B" – Settlement Agreement

THIS SETTLEMENT AGREEMENT made this 6th day of November, 2014.

B E T W E E N:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter referred to as the "City")

OF THE FIRST PART

- and -

ROZELUK AND COMPANY INC.
(hereinafter referred to as the "Owner")

OF THE SECOND PART

WHEREAS the Owner is the owner of the property described in Schedule "A" hereto;

WHEREAS the City has expropriated from the Owner part of the lands described in Schedule "A" hereto which expropriated land is more particularly described in Schedule "B" hereto (the "Expropriation");

WHEREAS Notice of Expropriation under The Expropriations Act, R.S.O., 1990, c E.26 was served on the Owner;

WHEREAS the Owner and the City wish to resolve the compensation to which the Owner is entitled pursuant to the provisions of The Expropriation Act and arising out of the Expropriation;

WITNESSETH that in consideration of the mutual covenants and agreements herein and subject to the terms and conditions in this Agreement, the parties agree as follows:

1.00 SETTLEMENT

1.01 The City and the Owner agree that the recitals contained in this Agreement are true and correct in fact and in substance.

1.02 The City shall pay to the Owner the sum of One Hundred Thirteen Thousand One Hundred and Fifty Dollars (\$113,150.00) in full, final and complete settlement of all claims of the Owner, including fair market value of the lands, injurious affection, disturbance damages, business loss and interest, as against the City arising out of or in any way connected with the Expropriation.

1.03 The Owner directs the City to allocate the payment of the sum of \$113,150.00 referred to in paragraph 1.02 above, as follows:

- a) the sum of Seventy-Five Thousand Dollars (\$75,000.00) payable to the Owner, receipt of which is hereby acknowledged by the Owner; and,
- b) the further sum of Thirty-Eight Thousand One Hundred and Fifty Dollars (\$38,150.00) payable to the Owner, as full and final payment for the loss of paved areas, the loss of a parking lot, relocation costs for existing security lights and the power outlet (within requirement area), any and all landscaping within the property, any and all loss, costs or damage of any kind that the Owner has suffered or may suffer as a result of the proposed property acquisition, which sum shall include injurious affection. The disturbance costs as related to work shall be completed by the Owner in a timely manner and if the Owner transfers the property to another owner he shall be obligated to disclose to the purchaser that such work is to be completed by the Owner to the City's satisfaction. This condition shall survive closing.

- 1.04 The City agrees to arrange for and to pay for the installation and connection of municipal water service to the building including the cost for the water meter, and all necessary connections with the water line size and meter, as proposed by the Owner in point 1 of the correspondence dated September 30th, 2014. The City will also be responsible to arrange and pay for the costs of decommissioning the existing well(s) in accordance with all existing legislation and regulations. Any repair and/or replacement costs to the parking, sidewalks, landscaping, building, etc., related to the installation of the water service and/or the decommissioning of the well(s) will be the City's sole responsibility and will be completed in a first class manner reasonably satisfactory to the Owner."
- 1.05 The Owner consent upon a mutually agreed time to enter on the subject property by the City, its contractors and employees, for the purpose of receiving quotes, decommissioning of existing well(s) and connecting property to municipal water.
- 1.06 The City shall pay the Owner's reasonable appraisal fees. The Owner consents to the City negotiating the appraisal costs with the appraiser subject to the provision that in the event the City is able to negotiate a reduced appraisal amount, (the details of which are currently in the City's possession), and the appraiser agrees to accept a lesser amount, the City will obtain a release from the appraiser to the Owner and its legal counsel releasing the Owner and the legal counsel from any balance that would otherwise be owing under the existing invoice which has been provided to the City. The City shall also pay the Owner's reasonable legal fees, subject only to assessment, with such legal fees and disbursements not restricted to the expropriation process but shall include inter alia all legal fees related inter alia to reviewing earlier Agreements of Purchase and Sale, numerous meetings, correspondence and discussions with the Owner, numerous meetings, correspondence and discussions with the City's representatives, obtaining an outside legal opinion related to the water line issue, between July 2013 and closing, etc., general details of which have been provided to the City as to the quantum (to August 30th, 2014), legal counsel's hourly rate, etc. The City agrees that under no circumstance shall the legal fees of the Owner and any assessment be restricted to the expropriation proceedings."

2.00 RELEASE

- 2.01 The Owner hereby forever releases and discharges the City for and from all actions, causes of actions, suits, claims and demands of every nature or kind arising out of or in any way related to or connected with the Expropriation including all claims for the market value of land taken, any damages attributable to disturbance, any claims for injurious affection to remaining lands, business loss, interest and any special difficulties in relocation now known or which may be known or anticipated but which may arise in the future as a result of the Expropriation.

3.00 BINDING EFFECT

- 3.01 The City and the Owner agree that this Agreement shall be binding upon each of the Parties hereto and their respective heirs, executors, successors, administrators and assigns.

4.00 GOVERNING LAW

- 4.01 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and each of the Parties hereto hereby attorn to the jurisdiction of the Court thereof.

5.00 PAYMENTS

- 5.01 Any payment required to be made by the City to the Owner pursuant to this Agreement shall be paid within thirty-five (35) days of the acceptance of this Agreement by the City.

6.00 IRREVOCABLE DATE

6.01 This Agreement shall be irrevocable by the Owner until considered by the Council of The Corporation of the City of London at a meeting to be held no later than January 30, 2015, after which date, if not accepted, this Agreement shall be null and void.

7.00 HST

7.01 If this transaction is subject to Harmonized Sales Tax (H.S.T.) then such H.S.T. shall be in addition to and not included in the settlement amount and H.S.T. shall be collected and remitted in accordance with applicable legislation. If this transaction is not subject to H.S.T., the Vendor agrees to provide, on or before completion, to the Purchaser's solicitor, a certificate in a form satisfactory to the Purchaser's solicitor certifying that the transaction is not subject to H.S.T.

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the 4TH day of DECEMBER 2014

ROZELUK AND COMPANY INC.

Per: 

Name: JOHN ROZELUK

Title: PRESIDENT
I/We Have the Authority to Bind the Corporation

The Corporation of the City of London hereby accepts the terms and conditions of this Agreement and agrees to carry out and be bound by the provisions, terms and conditions herein contained, and has hereunto caused to be affixed its Corporation Seal attested by the hands of the proper signing officers pursuant to the authority pertained in By-Law No. A-1-11012 of the Council of The Corporation of the City of London passed on the 28th day of February, 2011.

THE CORPORATION OF THE CITY OF LONDON

Matt Brown, Mayor

Catharine Saunders, City Clerk

**APPENDIX 'A'
CONFIDENTIAL**

#15008

January 9, 2015

(Settlement Agreement-Expropriation)

Chair and Members
Corporate Services Committee

**RE: Settlement Agreement - Expropriation
Capital Budget Project No. TS1477-2 Hyde Park Rd. Widening - Phase 2
1570 Hyde Park Road - Rozeluk and Company Inc.**

FINANCE REPORT ON THE SOURCES OF FINANCING:

Finance confirms that the total cost of this purchase can be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Manager of Realty Services, the detailed source of financing for this purchase is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Committed To Date</u>	<u>This Submission</u>	<u>Balance For Future Work</u>
Engineering	\$1,000,000	\$650,596		\$349,404
Land Purchase	1,250,000	195,174	145,670	909,156
Construction	2,361	2,361		0
Relocate Utilities	773,339	178,370		594,969
City Related Expenses	24,300	24,300		0
NET ESTIMATED EXPENDITURES	\$3,050,000	\$1,050,801	\$145,670 1)	\$1,853,529

SOURCE OF FINANCING

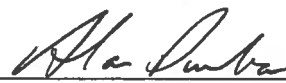
Debenture By-law W-15548-320	\$818,900	\$252,438	\$41,274	\$525,188
Drawdown from Industrial Oversizing R.F.	45,300	45,300		0
Drawdown from City Services - Roads 2) Reserve Fund (Development Charges)	2,185,800	753,063	104,396	1,328,341
TOTAL FINANCING	\$3,050,000	\$1,050,801	\$145,670	\$1,853,529

1) **Financial Note:**

Settlement Agreement - Expropriation	113,150
Add: Legal Fees & Appraisal costs	30,000
Sub-Total	143,150
Add: HST @13%	18,610
Less: HST Rebate	(16,090)
Total Cost	145,670

- 2) Development charges have been utilized in accordance with the underlying legislation and the Development Charges Background Studies completed in 2014.

EH



Alan Dunbar

Manager of Financial Planning & Policy