

File Number: 39T-12503
Alanna Riley/Frank Gerrits

FROM:	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT	SUBDIVISION AGREEMENT – SWM FACILITY COLONEL TALBOT DEVELOPMENTS INC. 3924 – 4138 COLONEL TALBOT ROAD 39T-12503 MEETING ON MAY 8, 2017

RECOMMENDATION

That, on the recommendation of the Manager of Development Services and Planning Liaison, the following actions be taken with respect to entering into a subdivision agreement between The Corporation of the City of London and Colonel Talbot Developments Inc. for the subdivision municipally referred to as 3924-4138 Colonel Talbot Road;

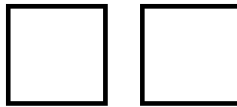
- (a) the attached Subdivision Agreement between The Corporation of the City of London and Colonel Talbot Developments Inc. – Phase 1, (39T-12503) attached as Schedule “A”, **BE APPROVED**;
- (b) the applicant **BE ADVISED** that the Director, Development Finance has summarized the claims and revenues for 39T-12503 are attached as Schedule “B”;
- (c) the financing for eligible works associated with 39T-12503 **BE APPROVED** as set out in the Source of Financing Report attached as Schedule “C”;
- (d) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any amending agreements and all documents required to fulfill its conditions; and

PURPOSE

The attached subdivision agreement is required to facilitate the transfer of lands to the City for the construction of the Stormwater Management Facility (SWMF) North Lambeth P9 and provide for reimbursement for SWMF lands in accordance with the Development Charges (DC) By-law. The SWM Block to be transferred is located within the Colonel Talbot Subdivision (39T-12503) located at 3294-4138 Colonel Talbot Road.

BACKGROUND

The Colonel Talbot Draft Plan of Subdivision application was initiated in 2012 and was subsequently appealed by the applicant to the Ontario Municipal Board based on the City’s inaction on the file. The Board agreed to a settlement reached between the parties based on testimony and submissions of counsel. The Board issued a decision on the matter in the spring of 2016 and requested that the applicant work with City staff to make minor adjustments to the draft plan, conditions of draft approval and zoning for these lands. This was completed earlier this year. The proposed SWM Facility to service the Colonel Talbot Subdivision, North Lambeth P9, is a City led City Services Reserve Fund (CSRF) pond scheduled for construction in 2017.

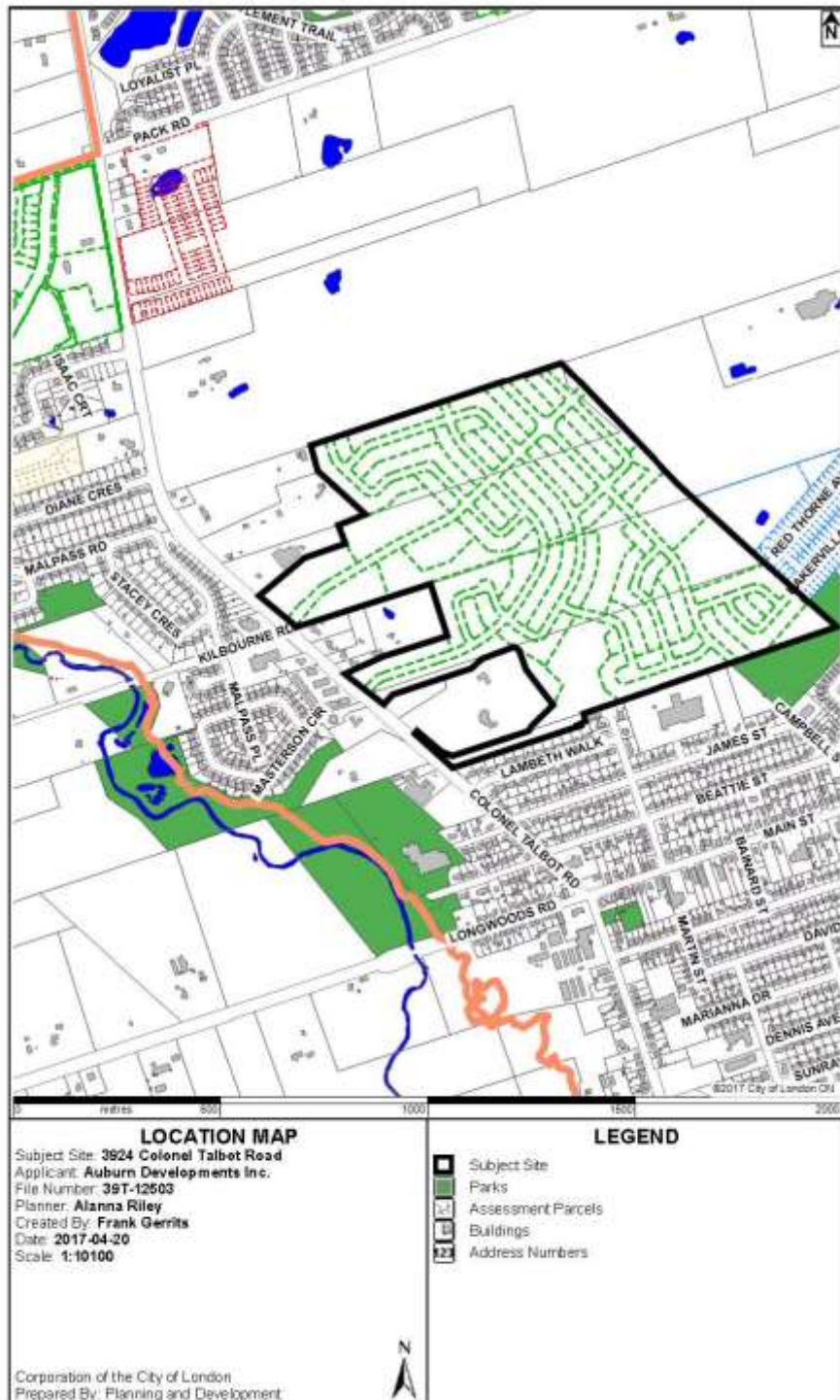


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The subdivision is currently progressing through review of detailed servicing drawings. Advancing a subdivision agreement for the SWMF lands will facilitate the transfer of the SWM Block to the City which will allow the tendering process to proceed. This subdivision agreement will only be registered against the SWM Facility Block of the draft approved plan.

The Subdivision Agreement includes clauses outlining terms for eligible claims to the City Services Reserve Fund. Anticipated reimbursements from the Fund for lands transferred to the City for the construction of North Lambeth P9 SWM Facility are estimated in the amount of \$632,664.00 Dollars (CDN), which is comprised of 1.8856 ha of developable land at \$308,880/hectare (\$125,000/acre) equating to \$582,425.00; and 3.7422 ha of non-developable land at \$13,590/hectare (\$5,502.02/acre) equating to \$50,240.00, plus applicable taxes. All claims shall be administered in accordance with the DC By-law.

Location Map: 39T-12503





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Draft Approved Plan of Subdivision: 39T-12503

Stantec
1000 15th Street SW
Aurora, ON M7A 1A7
Tel: 905.747.0000
Fax: 905.747.0001
www.stantec.com

LEGEND
SUBDIVISION BOUNDARY
STREETS
WALKWAY

KEY PLAN
N1A

DATE: 14-05-2014
BY: [Signature]
CHKD BY: [Signature]

PROJECT INFORMATION
PROJECT NO: 39T-12503
SUBJECT: DRAFT PLAN OF SUBDIVISION
COLONEL TALBOT PROPERTY
LOCALITY: COLONEL TALBOT
CITY: AUBURN
COUNTY: WOODBINE

PROPOSED LAYOUT
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OWNER'S CERTIFICATE
I, the undersigned, being the owner of the land described in the above plan, do hereby certify that the same is a true and correct copy of the original plan as filed in the office of the Registrar of Land Titles.

DATE: 14-05-2014
BY: [Signature]

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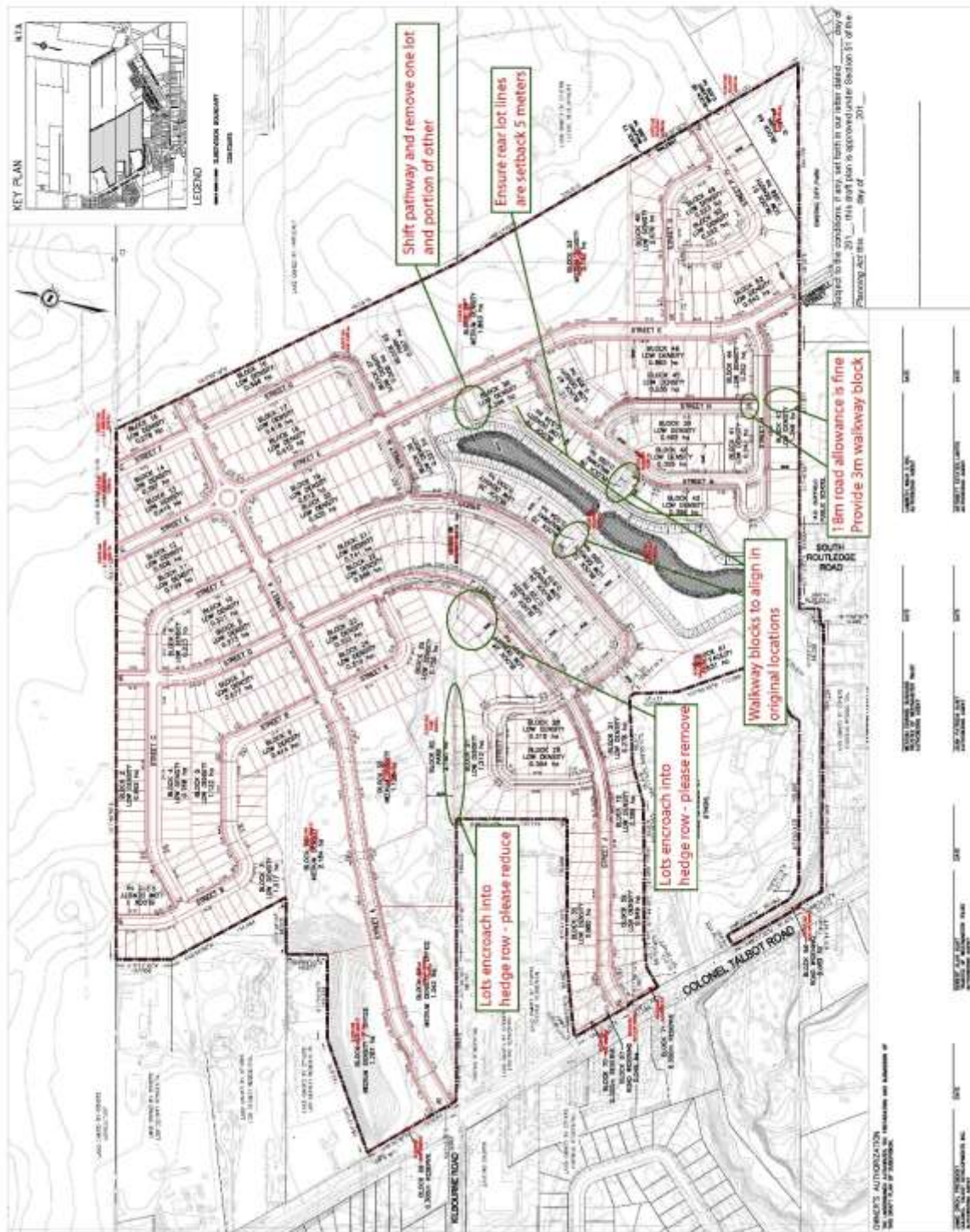
DATE: 14-05-2014
BY: [Signature]

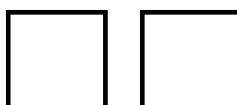
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CITY: AUBURN
COUNTY: WOODBINE

DATE: 14-05-2014
BY: [Signature]

PROJECT INFORMATION
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COLONEL TALBOT PROPERTY
LOCALITY: COLONEL TALBOT
CITY: AUBURN
COUNTY: WOODBINE

DATE: 14-05-2014
BY: [Signature]





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This report has been prepared in consultation with the City's Solicitors Office and Development Services.

PREPARED BY:	RECOMMENDED BY:
ALANNA RILEY SENIOR PLANNER DEVELOPMENT SERVICES	ALLISTER MACLEAN MANAGER, DEVELOPMENT PLANNING DEVELOPMENT SERVICES
CONCURRED BY:	SUBMITTED BY:
JENNIE A. RAMSAY P. ENG. MANAGER, DEVELOPMENT SERVICES	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

am/fg
Attach.
April 28, 2017



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Schedule "A"
LAND ACQUISITION AGREEMENT

THIS AGREEMENT made this _____ day of May, 2017

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called the "City")

OF THE FIRST PART

AND

COLONEL TALBOT DEVELOPMENTS INC.
(hereinafter called "the Owner")

OF THE SECOND PART

WHEREAS the Owner represents that it is seized of those lands situate in the City of London, (formerly the Township of Westminster) in the County of Middlesex, more particularly described on **Schedule "A"** attached "the Lands" and desires to obtain the approval of the City of London for the Draft plan of Subdivision (39T-12503) of the said lands.

AND WHEREAS approval of this Plan of Subdivision would be premature, would not be in the public interest, and would not be lands for which municipal services are or would be available unless assurances were given by the Owner that the matters, services, works and things referred to in this Agreement were done in the manner and in the order set out in this Agreement;

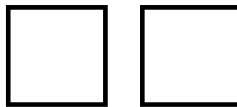
AND WHEREAS the Approval Authority has required as a condition precedent to his approval of the said Plan of Subdivision that the Owner enter into this Agreement with the City;

AND WHEREAS the City proposes to construct a Stormwater Management Facility on the Land;

NOW THEREFORE THIS AGREEMENT WITNESSETH that for other valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada, paid by the City to the Owner (the receipt whereof is hereby acknowledged) the parties hereto covenant and agree each with the other to comply with, keep, perform and be bound by each and every term, condition and covenant herein set out to the extent that the same are expressed to be respectively binding upon them, and the same shall enure to the benefits of and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

1. DEFINITIONS

The words and phrases defined in this paragraph shall for all purposes of this Agreement and of any subsequent agreement supplemental hereto have the meanings herein specified unless the context expressly or by necessary implication otherwise requires.



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- (a) "Director - Development Finance" means that person who from time to time, is employed by the City as its Director of Development Finance.
- (b) "City Engineer" means that person who, from time to time, is employed by the City as its Engineer.
- (c) "CSRF" of "Fund" means the City Services Reserve Fund.
- (d) "Land" means the land described on Schedule "A".
- (e) "Planning Act" means the Planning Act R.S.O. 1990, c. P.13, as amended;
- (f) "SWM" means Stormwater Management; and
- (g) "SWM Facility Works" means those acts necessary for the construction of North Lambeth P9 SWM Facility.

2. LANDS FOR NORTH LAMBETH P9 SWM FACILITY:

Upon registration of this Agreement, the Owner shall transfer Parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, on Reference Plan 33R-19758) to the City, free and clear of all encumbrances, all at no cost to the City and all to the satisfaction of the City Engineer. This land dedication is eligible for reimbursement from the CSRF as described in Section 4(a) of this Agreement to be paid in accordance with Section 3.

Upon registration of this Agreement, the Owner shall transfer to the City, Part 1, on Reference Plan 33R-19758) for road widening purposes, free and clear of all encumbrances, all at no cost to the City and all to the satisfaction of the City Engineer. This land dedication is not eligible for reimbursement from the CSRF.

3. CLAIMS AGAINST THE CITY SERVICES RESERVE FUND

Following the transfer of the Land, the Owner may submit a claim to the City for the future reimbursement of the SWM facility land value. The claim shall contain confirmation of the transfer of Land and the final land value, refined from the estimate contained in this Agreement.

- (a) The anticipated reimbursements from the Fund are:
 - i) for lands transferred to the City for the construction of North Lambeth P9 SWM Facility, (being Parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, on Reference Plan 33R-19758) the estimated cost of which is \$632,664.00 Dollars (CDN), which is comprised of 1.8856 ha of Developable Land at \$308,880/hectare (\$125,000/acre) equivalent to \$582,425.00 and 3.7422 ha of Non-developable land at \$13,590.00/hectare (\$5,502.02/acre), equating to \$50,240.00 plus applicable taxes.
- (b) As defined in the procedures for the Design and Construction of Stormwater Management Facilities, the City will review the number of building permits issued and associated DC payments received from new development within the catchment area shown on Schedule 'B' of this Agreement. A running total will be maintained by the City. Once the total DC payments received as a result of new development from within the catchment area is equal to \$12.6 million, the City will reimburse the Owner for the land cost in the quarter following the achievement of the identified dollar threshold.



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4. EASEMENTS

The Owner shall grant to the City a temporary multi-purpose easement for municipal services and temporary access across lands owned by the Owner that are adjacent to the Land in favor of the City, its consultants, contractors and employees, for the purpose of constructing the SWM Facility Works and completing any peripheral grading work on said lands. The temporary access shall run from the date of closing until the project is complete.

5. RELEASE

Subject to the terms hereof, the Owner releases the City of and from all claims, suits, demands, actions, causes of action, and damages accruing to the Owner resulting directly or indirectly from the use of the Owner's lands, to the date of this Agreement.

6. INCONTESTABILITY

The Owner will not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative or other tribunal the right of the City to enter into this Agreement and to enforce each and every term, covenant and condition thereof and this provision may be pleaded by the City in any such action or proceeding as a complete and conclusive estoppel of any denial of such right.

7. REGISTRATION DOCUMENTS

The City agrees to register the transfer of Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, on Reference Plan 33R-19758) (North Lambeth P9 SWM Facility) forthwith upon the delivery thereof to the City and authorize the claims to the CSRF as specified in Section 4 of this Agreement.

8. GENERAL PROVISIONS

- (a) The parties hereby to authorize, empower and instruct their solicitors to enter into an appropriate escrow arrangement to facilitate the completion of those parts of this Agreement to be completed upon registration of this Agreement and those to be completed thereafter. In default of agreement between the parties' solicitors as to the terms such appropriate escrow arrangement; the Documentation Registration published by the Law Society of Upper Canada on its website shall be employed.
- (b) The division of this Agreement into sections and headings (or paragraphs) herein are for convenience or reference only and are not be used in the interpretation of the provisions related to them.
- (c) The Owner and its successors shall not assign this Agreement in whole or in part without the written consent of the City, which consent shall not be unreasonably withheld.
- (d) Subject to the provisions herein, the Owner shall be subject to all By-laws of the City. In the event of a conflict between the provisions of this Agreement and the provision of any By-law of the City, the provisions of the By-law shall prevail.
- (e) All of the provisions of this Agreement are, and are to be construed as, covenants and agreements as though the words importing such covenants and agreements were used in each separate clause hereof. Should any provision of this Agreement be adjudged unlawful or not enforceable, it shall be considered separate and severable from the agreement and its remaining provisions as though the unlawful or unenforceable provision had never been included.



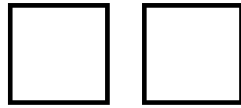
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SCHEDULE "A"

This is Schedule "A" to the Subdivision Agreement dated this ____ day of May, 2017, between The Corporation of the City of London and Colonel Talbot Developments Inc. to which it is attached and forms a part.

(North Lambeth P9 SWM Facility)

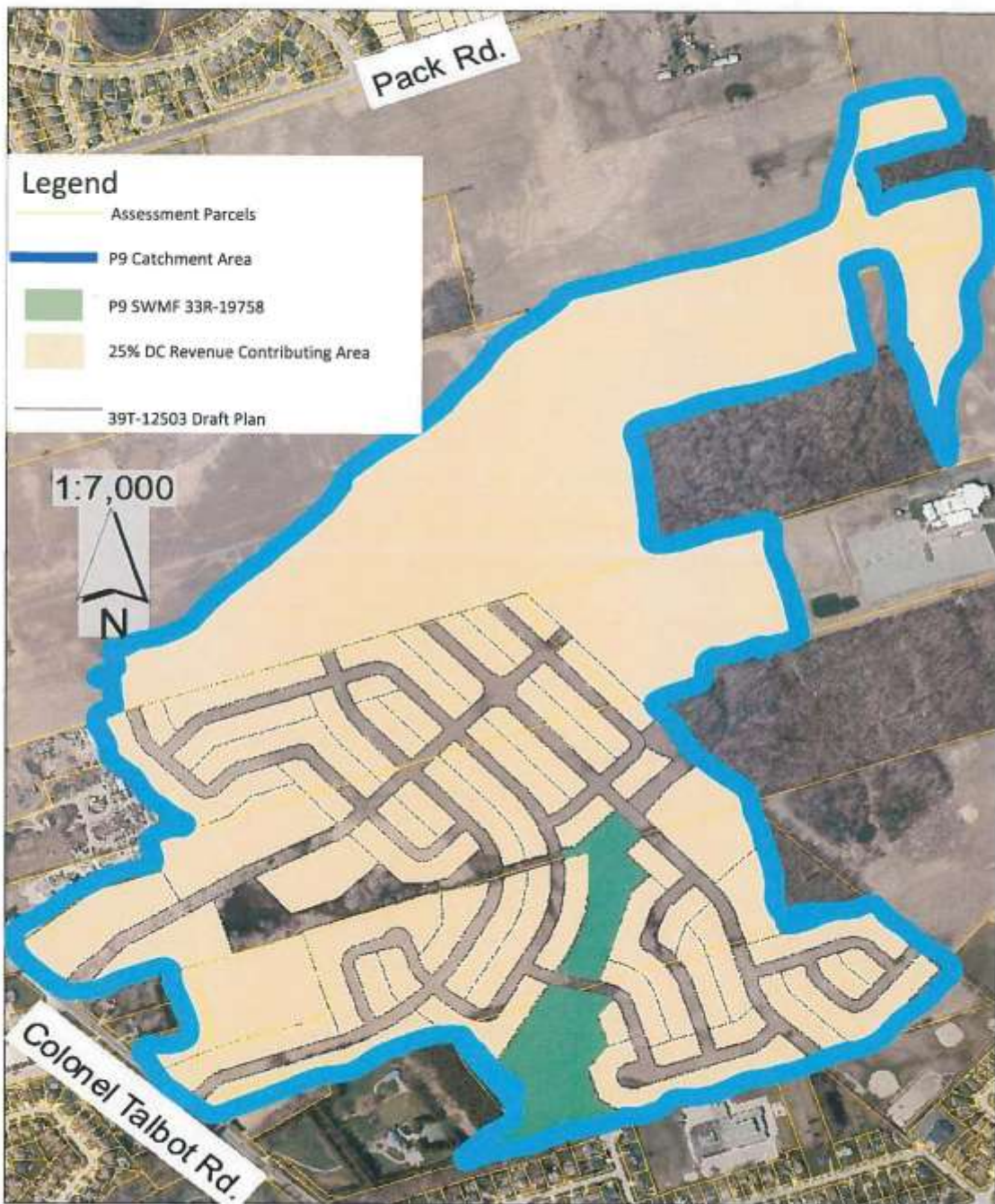
ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying, and being Part of Lot 72, Concession "B", Designated as Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, on Reference Plan 33R-19758) (geographic Township of Westminster), Designated as now in the City of London, County of Middlesex.

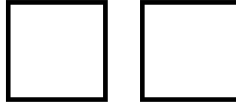


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SCHEDULE "B"

North Lambeth P9 SWMF Catchment Area Mapping





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Schedule "B"
RELATED ESTIMATED COSTS AND REVENUES

North Lambeth P9 SWMF Land Repayment Analysis

Figure 1: Land Area & Valuation Breakdown – per DC By-law 1496-244 Schedule 8 s.4.7

Category	Area (hectares)	DC By-law rate per ha	Totals
Developable	1.885601911	\$308,880	\$582,425
Non-Developable	3.696805089	\$13,590	\$50,240
Total	5.582407		\$632,664

DC Project #: DC14-MS00025
Capital Account: ESSWM-DCNLP9

E+OE

Figure 2: 25% DC Revenue Land Payment Trigger Calculation - per SWM Land Payment Policy, Staff Report July 29, 2013.

Category	Yields	DC Rate	Estimated DC Revenue
Minor & Major Flows to SWMF P9			
LDR	925	\$29,561	\$ 27,343,925
MDR	1034	\$22,173	\$ 22,926,882
HDR <2	0	\$13,755	\$ -
HDR >= 2	0	\$18,561	\$ -
INST	0	\$145.12	\$ -
COMM	0	\$257.51	\$ -
IND	0	\$177.98	\$ -
Total Projected Revenues			\$ 50,270,807

25% **\$12,568,000**

E+OE

Notes:

- 1) Completed April 21, 2017
- 2) SWMF area calculations based on Registered Plan 338-19758, Parts 2-12
- 3) Yields based on Vacant Land Inventory as of December 31, 2016
- 4) 2017 DC rates used for estimated revenue figures

Approved By: Matt Feldberg
Manager, Development Finance

Date: Apr. 127/2017



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Schedule "C"
SOURCE OF FINANCE

Chair and Member
Planning & Environment Committee

#17092
May 8, 2017
(39T-12503)

RE: Subdivision Agreement - SWM Facility - 3924 - 4138 Colonel Talbot Road
(Subledger LD170024)
Capital Budget Project No. ESSWM-DCNLP9 - Dingman Creek North Lambeth No. P9
Colonel Talbot Developments Inc. - \$632,664.00

FINANCE & CORPORATE SERVICES REPORT ON THE SOURCES OF FINANCING:

Finance & Corporate Services confirms that the 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 Managing Director, Development and Compliance Services and Chief Building Official, the detailed source of financing for this purchase is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Revised Budget</u>	<u>Committed To Date</u>	<u>This Submission</u>	<u>Balance For Future Work</u>	
Engineering	\$769,960	\$770,414	\$770,414		\$0	
Land Acquisition	700,000	700,000		652,927	47,073	
Construction	3,000,000	3,000,000			3,000,000	
City Related Expenses	680,040	679,586	4,496		675,090	
NET ESTIMATED EXPENDITURES	\$5,150,000	\$5,150,000	\$774,910	\$652,927	\$3,722,163	
SOURCE OF FINANCING						
Drawdown from City Services-Mjr. SWM Reserve Fund (Development Charges)	2)	2,187,185	2,187,185	774,910	652,927	759,348
Debenture By-Law No. W.-5584-183 Serviced through City Services Mjr. SWM Reserve Fund (Development Charges)	2 & 3)	2,962,815	2,962,815			2,962,815
TOTAL FINANCING		\$5,150,000	\$5,150,000	\$774,910	\$652,927	\$3,722,163

1) <u>Financial Note:</u>	<u>Total</u>
Purchase Cost	\$632,664
Add: Land Transfer Tax	9,128
Add: HST @13%	82,246
Less: HST Rebate	(71,111)
Total Purchase Cost	\$652,927

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

3) **NOTE TO CITY CLERK:**
The City Clerk be authorized to increase Debenture By-Law No. W.-5584-183 by \$2,378,040 from \$584,775 to \$2,962,815.

EH


 Jason Senese
 Manager of Financial Planning & Policy