

## Report to Planning and Environment Committee

**To:** Chair and Members  
Planning & Environment Committee

**From:** George Kotsifas, P. Eng  
Managing Director, Development & Compliance Services and  
Chief Building Official

**Subject:** Application By: 748094 Ontario Ltd.  
1635 Commissioners Road East and 2624 Jackson Road  
Stormwater Management (SWM) Facility  
Land Acquisition Agreement

**Meeting on:** May 28, 2018

## Recommendation

That, on the recommendation of the Manager, Development Planning, the following actions be taken with respect to entering into an Agreement between The Corporation of the City of London and 748094 Ontario Ltd. for the subdivision of land over Part of Lots 11 and 12, Concession 1, (Geographic Township of Westminster), City of London, County of Middlesex, situated on the east side of Jackson Road between Commissioners Road East and Bradley Avenue, municipally known as 1635 Commissioners Road East and 2624 Jackson Road:

- (a) the attached Agreement between The Corporation of the City of London and 748094 Ontario Ltd. (39T-06507) attached as Appendix "A", **BE APPROVED**;
- (b) the financing for this project **BE APPROVED** as set out in the Source of Financing Report attached as Appendix "B"; and,
- (c) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any amending agreements and all documents required to fulfil its conditions.

## Background

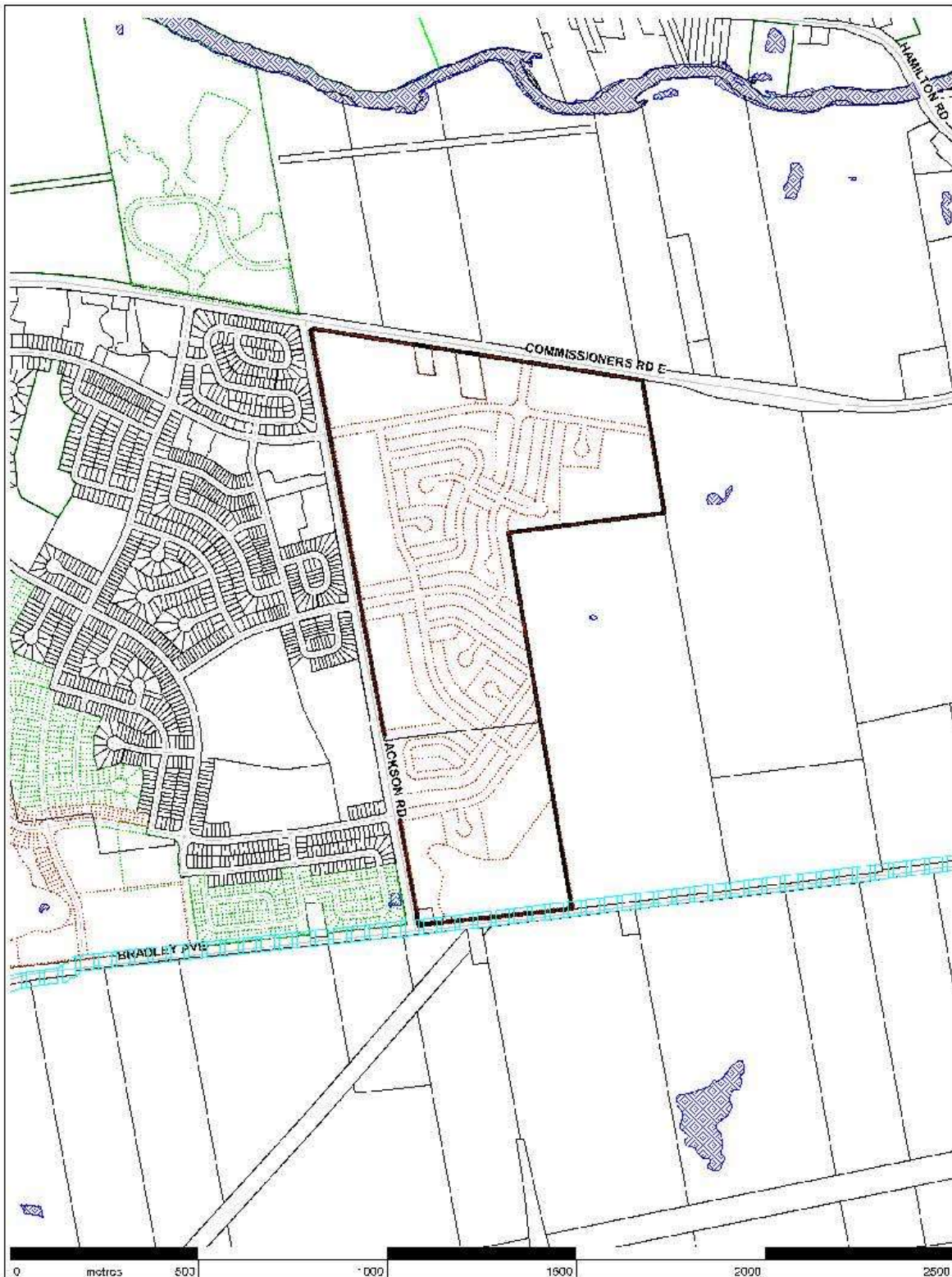
The lands which are the subject of this agreement are within a Draft Approved Plan of Subdivision located at 1635 Commissioners Road East and 2624 Jackson Road; east side of Jackson Road between Commissioners Road East and Bradley Avenue, having a total area of approximately 81.5 hectares (201 acres).

The draft plan consists of 37 low density residential blocks, 17 medium density residential blocks, 3 open space blocks, 2 open space buffer blocks, 5 park blocks, 3 park/walkway blocks, 1 part block, 1 access/servicing block, 1 school block, 1 stormwater management block, 1 existing hydro corridor block, 2 future development blocks, 12 reserve blocks, and 4 road widening blocks. The public meeting to consider the draft plan was held on September 25, 2017. The subdivision was Draft Approved by the Approval Authority on March 14, 2018.

The Development Services Division has reviewed these special provisions with the Owner who is in agreement with them.

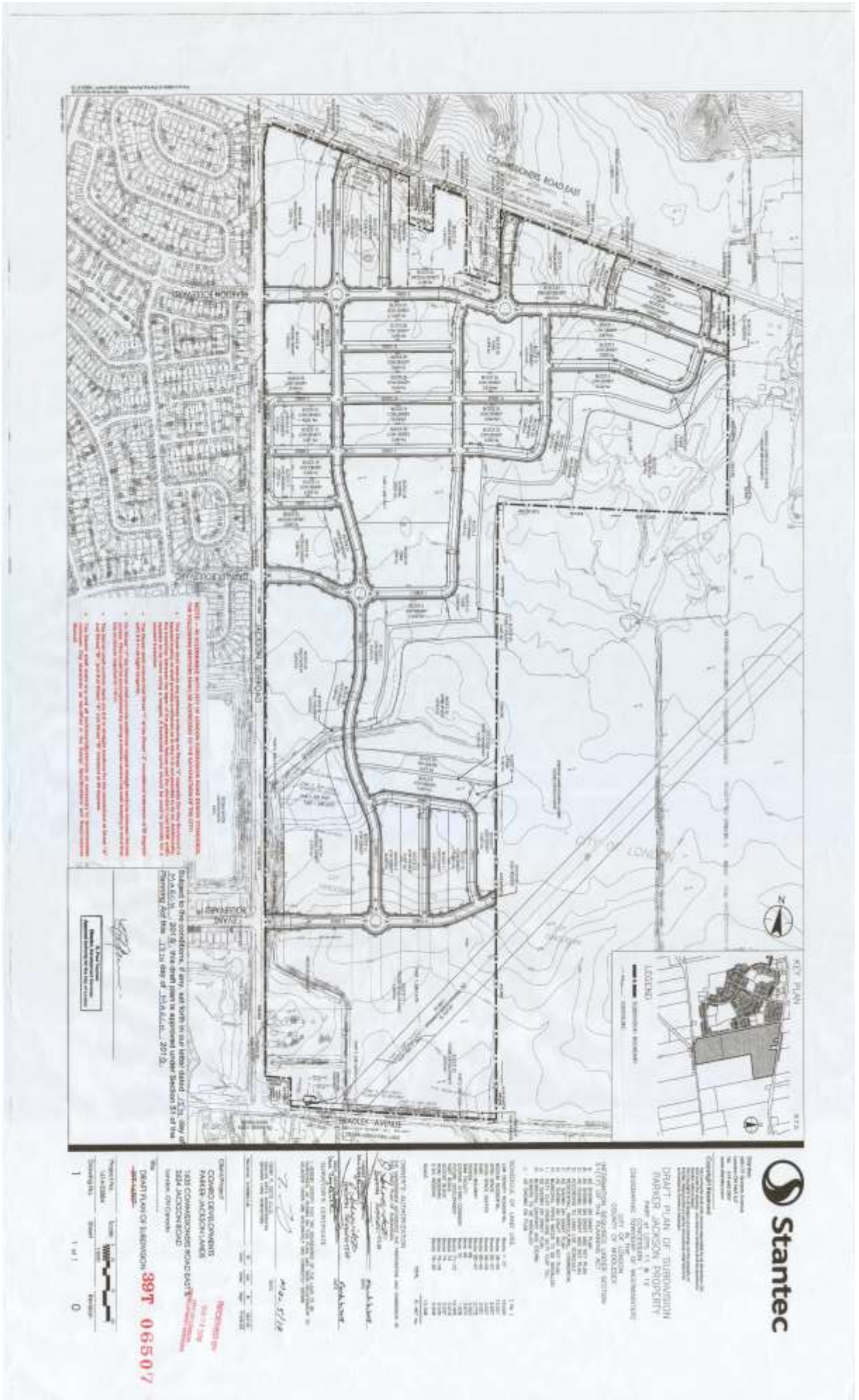
This report has been prepared in consultation with the City's Solicitors Office.

# Location Map



<b>LOCATION MAP</b>		<b>LEGEND</b>	
<p><b>Subject Site: East side of Jackson Road between Commissioners Road East and Bradley Avenue</b></p> <p><b>Applicant &amp; File Number</b> 39T-06507/OZ-7176 Z-Group O-7178 City of London</p>		<p><b>Planner: Jeffrey Leunissen</b></p> <p><b>Created By: Jeffery Leunissen</b></p> <p><b>Date: 6/1/2006</b></p>	
<p>CORPORATION OF THE CITY OF LONDON Prepared By: PD - Planning</p>		<p>N</p>	
<p> Subject Site</p> <p> Water</p> <p> Draft Approved Parcels</p> <p> Submitted Parcels</p> <p> Union Gas Pipeline (20 m buffer)</p> <p> Park</p>	<p> Parcel</p> <p> Buildings</p>		

Draft Plan of Subdivision



**NOTES:**

1. The proposed subdivision is subject to the approval of the Planning Commission.
2. The proposed subdivision is subject to the approval of the Planning Commission.
3. The proposed subdivision is subject to the approval of the Planning Commission.
4. The proposed subdivision is subject to the approval of the Planning Commission.
5. The proposed subdivision is subject to the approval of the Planning Commission.

Submitted to the Commission, City of Jackson, Mississippi, on this 13th day of March, 2013.

*[Signature]*  
 City Engineer

**DRAFT PLAN OF SUBDIVISION 39T 06507**

COMMISSIONERS ROAD EAST  
 JACKSON, MISSISSIPPI

1" = 100'

0 100 200

**PREPARED BY:**  
 STATTEC ENGINEERING, INC.  
 1000 N. GULF BLVD., SUITE 100  
 JACKSON, MISSISSIPPI 39201  
 (601) 948-1111

**DESIGNED BY:**  
 STATTEC ENGINEERING, INC.

**CHECKED BY:**  
 STATTEC ENGINEERING, INC.

**DATE:**  
 03/13/2013

**PROJECT ADMINISTRATION:**  
 STATTEC ENGINEERING, INC.

**CLIENT:**  
 STATTEC ENGINEERING, INC.

**DATE:**  
 03/13/2013

**LEGEND:**

- 1. EASEMENT
- 2. EASEMENT
- 3. EASEMENT
- 4. EASEMENT
- 5. EASEMENT
- 6. EASEMENT
- 7. EASEMENT
- 8. EASEMENT
- 9. EASEMENT
- 10. EASEMENT

**STATTEC**

Stattec Engineering, Inc.  
 1000 N. Gulf Blvd., Suite 100  
 Jackson, Mississippi 39201  
 (601) 948-1111

<b>Prepared by:</b>	<b>Larry Mottram Senior Planner, Development Services</b>
<b>Recommended and Reviewed by:</b>	<b>Lou Pompilii, MCIP RPP Manager, Development Planning (Subdivision)</b>
<b>Reviewed by:</b>	<b>Matt Feldberg Manager, Development Services (Subdivision)</b>
<b>Concurred in by:</b>	<b>Paul Yeoman, RPP, PLE Director, Development Services</b>
<b>Submitted by:</b>	<b>George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official</b>

May 18, 2018

LM/FG Y:\Shared\DEVELOPMENT SERVICES\4 - Subdivisions\2006\39T-06507 ~ 2624 Jackson Road & 1635 Commissioners Rd E\SWMF AGREEMENT\39T-06507 - Z-Group - Parker-Jackson SWM - PEC Report.docx

## Appendix "A" – Special Provisions

THIS AGREEMENT made this \_\_\_\_ day of May, 2018

BETWEEN:

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

OF THE FIRST PART

AND

**748094 ONTARIO LTD.**  
(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-06507) 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 ensure 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.

- (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" or "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;
- (g) "SWM Facility Works" means those acts necessary for the construction of Parker SWM Facility; and

## **2. LANDS FOR PARKER SWM FACILITY:**

Upon registration of this Agreement, the Owner shall transfer Part 1 of Plan 33R-20075 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 3(a) of this Agreement to be paid in accordance with Section 3(b).

## **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:

for lands dedicated to the City for the construction of Parker SWM Facility, (being Part 1, on Reference Plan 33R-20075) the estimated cost of which is \$1,132,045.00 Dollars (CDN), which is comprised of 3.665 hectares of Developable Land at \$308,880/hectare (\$125,000/acre), plus applicable taxes.

- (b) On a quarterly basis following the execution of this Agreement, the City will review the building permits and associated Development Charge payments received from new development within the catchment area. A running total will be maintained by the City. Once Development Charge payments totaling \$8.835 million has been received as a result of new development within the stormwater catchment area, as shown on **Schedule "B"** of this Agreement, the City will reimburse the Owner for the land cost in the quarter following achievement of the \$8.835 million threshold.

## **4. TEMPORARY ACCESS**

The Owner shall grant 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 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, in relation to the City works outlined herein, to the date of this Agreement; save and except for any and all liability, loss, claims, demands and costs caused by or resulting from the actions or omissions of the City, its consultants, contractors, employees and/or agents.

## **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 transfers of Part 1 on Plan 33R-20075 (Parker 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 do 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.





## **SCHEDULE "A"**

This is Schedule "A" to the Subdivision Agreement dated this \_\_\_\_ day of May, 2018, between The Corporation of the City of London and 748094 Ontario Limited to which it is attached and forms a part.

(Parker SWM Facility)

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying, and being Part of Lot 12, Concession 1, Designated as Part 1 on Plan 33R-20075 (geographic Township of Westminster), now in the City of London, County of Middlesex.

**SCHEDULE "B"**



# Parker SWMF Land Calculations

## 1. Land Valuation

Reference Plan	Area (hectares)	DC By-law Classification	Rate (\$ per hectare)	Valuation
Part 1 33R-20075	3.665	Developable	\$308,880	\$1,132,045

## 2. 25% Payment Trigger

ID Label	Category	Yields	DC Rate	Estimated DC Revenue
39T-06507 (Manual Lot Count)	LDR	520	\$ 27,926	\$ 14,521,520
	MDR	476	\$ 20,934	\$ 9,964,584
			Subtotal	\$ 24,486,104
39T-06507 (1) 3.197 hectares (OP Designation - Gross 16 Uph)	LDR (60%)	30	\$ 27,926	\$ 837,780
	MDR (25%)	13	\$ 20,934	\$ 272,142
	HDR (15%)	5	\$ 12,990	\$ 64,950
		3	\$ 17,531	\$ 52,593
			Subtotal	\$ 1,227,465
JC-703 (1) 23.976 hectares (OP Designation - Gross 16 Uph)	LDR (60%)	230	\$ 27,926	\$ 6,422,980
	MDR (25%)	96	\$ 20,934	\$ 2,009,664
	HDR (15%)	35	\$ 12,990	\$ 454,650
		23	\$ 17,531	\$ 403,213
			Subtotal	\$ 9,290,507
JC-703 (2) 0.876 hectares (OP Designation - Gross 16 Uph)	LDR (60%)	8	\$ 27,926	\$ 223,408
	MDR (25%)	4	\$ 20,934	\$ 83,736
	HDR (15%)	1	\$ 12,990	\$ 12,990
		1	\$ 17,531	\$ 17,531
			Subtotal	\$ 337,665
GRAND TOTAL				\$ 35,341,741
25%				\$ 8,835,000

# Appendix "B" – Source of Financing

## APPENDIX "B"

Chair and Members  
Planning & Environment Committee

#18095  
May 28, 2018  
(39T-06507)

**RE: Stormwater Management Facility (SWM) Land Acquisition Agreement  
748094 Ontario Ltd. (Subledger 2434037)  
Capital Budget Project No. ESSWM-PKR - SWM Facility - Parker  
1635 Commissioners Road East and 2624 Jackson Road**

### 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 & Compliance Services & Chief Building Official, 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	\$703,077	\$703,077		\$0
Land Acquisition	1,175,000		1,171,085	3,915
Construction	5,455,271	2,370,815		3,084,456
City Related Expenses	5,652	5,652		0
<b>NET ESTIMATED EXPENDITURES</b>	<b>\$7,339,000</b>	<b>\$3,079,544</b>	<b>\$1,171,085</b>	<b>\$3,088,371</b>
<b>SOURCE OF FINANCING</b>				
Drawdown from City Services-Mjr SWM Reserve Fund (Development Charges)	2) 5,351,924	1,795,544	1,171,085	2,385,295
Debenture By-law No. W -5594-39 (Serviced through City Services Mjr SWM Reserve Fund (Development Charges))	2) 703,076			703,076
Other Contributions	1,284,000	1,284,000		0
<b>TOTAL FINANCING</b>	<b>\$7,339,000</b>	<b>\$3,079,544</b>	<b>\$1,171,085</b>	<b>\$3,088,371</b>

1) Financial Note:

Purchase Cost	\$1,132,045
Add: Land Transfer Tax	19,116
Add: HST @13%	147,166
Less: HST Rebate	(127,242)
Total Purchase Cost	<u>\$1,171,085</u>

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

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Jason Davies  
Manager of Financial Planning & Policy