

THE CORPORATION OF THE TOWN OF LASALLE

BY-LAW NO. 8090

A By-law to authorize the execution of a Release with Her Majesty the Queen in Right of Canada regarding the sanitary sewer forcemain across the plaza for the Gordie Howe International Bridge.

WHEREAS Her Majesty the Queen in Right of Canada as represented by the Minister of Infrastructure, Communities and Intergovernmental Affairs ("HMQ Canada") is the registered owner of the lands upon the which the plaza for the new Gordie Howe International Bridge is to be constructed;

AND WHEREAS it is the intention of HMQ Canada to convey to the Essex Terminal Railway the title to portions of the former Chappus Street, Page Street, Healy Street and Wright Street, under which the Corporation's existing sanitary sewage forcemain is located;

AND WHEREAS HMQ Canada has undertaken to grant easements to the Corporation over the said lands prior to completing the transfer of the said lands to the Essex Terminal Railway, in consideration of the Corporation signing a Release of HMQ Canada with regard to the granting of the said easements;

AND WHEREAS the Corporation deems it expedient to agree to grant the Release to HMQ Canada in exchange for an undertaking from HMQ Canada to grant the requisite easements to the Corporation;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF LASALLE HEREBY ENACTS AS FOLLOWS:

1. That the Corporation hereby agrees to execute a Release in favour of HMQ Canada with regard to the obligation of HMQ Canada to comply with the provisions of Section 13 of a previous Agreement between The Corporation of the City of Windsor and the Corporation dated April 22, 2003 with regard to various rights to maintain the existing sanitary sewer forcemain, and the right to protect and reserve lands to the Corporation for future construction of a second sanitary sewer forcemain by the Corporation, which Release shall be in a form substantially similar to the draft Release attached hereto, the final form of which Release shall be subject to the approval of the Town Solicitor.

2. The Mayor and the Clerk be and the same are hereby authorized to execute the said Release on behalf the Corporation, and to affix the corporate seal thereto, as well as to any and all documents that may be necessary to give effect to the terms of this By-law.

3. This By-law shall come into force and take effect on the final passing thereof.

Read a first and second time and FINALLY PASSED this 12th day of December, 2017.

1st Reading – December 12, 2017

MAYOR

2nd Reading – December 12, 2017

3rd Reading – December 12, 2017

CLERK

UNDERTAKING

TO: THE CORPORATION OF THE TOWN OF LaSALLE ("LaSalle")

FROM: HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Infrastructure, Communities and Intergovernmental Affairs ("HMQ Canada")

RE: Undertaking in respect of Easements for an Existing LaSalle Sewer Forcemain over Former City of Windsor Road Lands in the City of Windsor

WHEREAS:

- A. Pursuant to Section 13 of an Agreement between The Corporation of the City of Windsor ("Windsor") and LaSalle dated April 22, 2003, Windsor agreed to the following obligation (the "Obligation") in favour of LaSalle with respect to certain property (the "Property") described therein:

"Windsor and the Town agree that the right-of-way lands owned or controlled by Windsor, to the east side of the existing forcemain which carries LaSalle sewage to the LRWRP will, to the maximum extent legally possible by Windsor, be protected and reserved to the Town for the future construction of a second forcemain by the Town, and that Windsor will not grant the right to use, or permit or condone any person to use, any portion of the right-of-way east of the existing forcemain without the express prior written consent of the Town's Chief Engineer".

- B. Pursuant to an agreement of purchase and sale between HMQ Canada and Windsor dated July 16, 2009, HMQ Canada acquired the Property and agreed to be primarily bound by the Obligation which agreement was confirmed in a document entitled Acknowledgment addressed to LaSalle and to Windsor.
- C. HMQ Canada intends to transfer administration and control of the Property to HMQ Ontario, and HMQ Ontario and LaSalle have come to an arrangement satisfactory to HMQ Ontario and LaSalle as set out in a letter of understanding dated March 1, 2017, in respect of the discharge of the Obligation.
- D. LaSalle is willing to release HMQ Canada from the Obligation on the terms and conditions attached as Appendix "A" hereto (the "Release"), provided that Canada undertakes to grant easements to LaSalle over those portions of the former Chappus St., Page St., Healy St. and Wright St. road-crossings over the Essex Terminal Railway right of way (being Parts 2, 3, 4 and 5 on Reference Plan 12R-26390) (the "Crossing Lands") upon which LaSalle's existing sewage forcemain is located, prior to divesting of such lands to the Essex Terminal Railway or any other third party; such easements to be on substantially similar terms, conditions and dimensions as those contained in the grant of easement from The Essex Terminal Railway Company to Her Majesty the Queen in right of Ontario registered on February 12, 1980 as Instrument No. R801079 in the registry office for the Registry Division of Essex (No. 12) (, subject to any reasonable requirements of the Essex Terminal Railway.

[NTD: Peter Feren OLS has advised that 12R-26390 corrected Plan 12R25782.]

NOW THEREFORE in consideration of LaSalle's granting of the Release to HMQ Canada, HMQ Canada hereby undertakes as follows:

UNDERTAKING

1. HMQ Canada hereby acknowledges, undertakes and agrees to grant easements over the Crossing Lands to LaSalle on substantially similar terms, conditions and

dimensions as those contained in the grant of easement from The Essex Terminal Railway Company to Her Majesty the Queen in right of Ontario registered on February 12, 1980 as Instrument No. R801079 in the registry office for the Registry Division of Essex (No. 12) (the "**Easements**") prior to any divestiture of the Crossing Lands to the The Essex Terminal Railway or any other third party, subject to any reasonable requirements of the Essex Terminal Railway.

2. HMQ Canada will consult with LaSalle prior to registering the Easements.

Signed this _____ day of _____,
2017 at the City of Ottawa, in the Province of
On. **HER MAJESTY THE QUEEN IN RIGHT
OF CANADA** as represented by the Minister of
**Infrastructure, Communities and
Intergovernmental Affairs**

Per: _____
Name:
Title:

Signature of Witness
(Print name) _____

I have authority to bind Her Majesty

Appendix "A"

RELEASE

TO: HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Infrastructure, Communities and Intergovernmental Affairs ("**HMQ Canada**")

FROM: THE CORPORATION OF THE TOWN OF LaSALLE ("**LaSalle**")

RE: **Release of Obligation in respect of certain real property in the City of Windsor.**

WHEREAS:

- A. Pursuant to Section 13 of an Agreement between Windsor and LaSalle dated April 22, 2003, Windsor agreed to the following obligation (the "**Obligation**") in favour of LaSalle with respect to certain property referenced therein (the "**Property**"):

"Windsor and the Town agree that the right-of-way lands owned or controlled by Windsor, to the east side of the existing forcemain which carries LaSalle sewage to the LRWRP will, to the maximum extent legally possible by Windsor, be protected and reserved to the Town for the future construction of a second forcemain by the Town, and that Windsor will not grant the right to use, or permit or condone any person to use, any portion of the right-of-way east of the existing forcemain without the express prior written consent of the Town's Chief Engineer".

- B. Pursuant to an agreement of purchase and sale between HMQ Canada and Windsor dated July 16, 2009, Canada acquired the Property and agreed to be primarily bound by the Obligation which agreement was confirmed in a document entitled Acknowledgment addressed to LaSalle and to Windsor.
- C. HMQ Canada intends to transfer administration and control of the Property to HMQ Ontario, and HMQ Ontario and LaSalle have come to an arrangement satisfactory to HMQ Ontario and LaSalle in respect of the discharge of the Obligation as set out in a letter of understanding dated March 1, 2017.
- D. LaSalle is willing to release HMQ Canada from the Obligation provided that Canada grants an undertaking in the form attached as Appendix "A" hereto (the "**Undertaking**")

NOW THEREFORE in consideration of Canada granting the Undertaking to LaSalle, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

RELEASE

1. LaSalle, on its own behalf and on behalf of any person or persons claiming by, through or under LaSalle, in consideration of the HMQ Canada's granting of the Undertaking, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, does hereby release, remise and forever discharge HMQ Canada (hereinafter called the "**Releasee**") and which term includes Her respective successors, assigns, elected officials, officers, agents, employees, contractors and consultants) of and from any and all claims, manner of actions, causes of action, proceedings, suits, debts, dues, accounts, bonds, covenants, contracts, statutory entitlements, claims and demands of any kind or nature whatsoever which against the said Releasee that LaSalle ever had, now has or hereafter can, shall or may have for or by any reason of the Obligation, save and except for any and all claims which arise out of, are based upon or related to the Releasee's performance, purported performance or non-performance of its obligations pursuant to the Undertaking (collectively, the "**Release**").
2. LaSalle further agrees not to make any claim or commence any action or proceeding against any person, corporation or partnership who might claim contribution and/or indemnity from the Releasee in respect of the matters discharged by this Release, and if, despite this Release, LaSalle makes any such claim or commences any such action or proceeding, LaSalle also agrees to indemnify and save the Releasee harmless from any claims or demands of any nature in respect of the subject matter of this Release which might be brought against the Releasee by any party as a result of such claim by LaSalle or action or proceeding by LaSalle.
3. LaSalle acknowledges and agrees that it has not been induced to enter into this settlement by reason of any representation or warranty of any nature or kind whatsoever, and that there is no condition expressed or implied or collateral agreement affecting this settlement. LaSalle hereby declares that it fully understands the terms of this Release that it has had an opportunity to obtain independent legal advice with respect to this Release.

THE CORPORATION OF THE TOWN OF LASALLE

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I have authority to bind the corporation.