

## ACCESS AGREEMENT

This Agreement is made effective the \_\_\_\_ day of September 2024 (the “Effective Date”) between:

**THE CORPORATION OF THE COUNTY OF GREY**  
(the “County”)

- and -

**THE CORPORATION OF THE MUNICIPALITY OF WEST GREY**  
 (“West Grey”)  
(each, a “Party” and, collectively, the “Parties”)

**WHEREAS** Grey County is the registered owner of certain lands situated in the Municipality of West Grey, in the County of Grey more particularly described in Schedule “A” hereto (the “County Lands”), which lands are depicted in purple in the diagram contained in that Schedule;

**AND WHEREAS** West Grey is considering the acquisition and development of a portion of the County Lands for a new municipal well;

**AND WHEREAS** West Grey proposes to carry out certain works including hiring a drill contractor to drill a well and perform pump tests on a portion of the County Lands (the “Municipal Well Lands” shown in green in the diagram contained in Schedule A and further depicted in Schedule B – Well Location Plan);

**AND WHEREAS** the Parties have agreed that it would be mutually beneficial to outline the terms and conditions pursuant to which the County will provide its consent to West Grey accessing a portion of the County Lands to carry out such works;

**NOW THEREFORE** in consideration of the mutual terms, conditions and covenants contained herein, the sum of Ten Dollars (\$10.00) now given by each party to the other, and the exchange of other good and valuable consideration (the receipt and sufficiency of all of which is confirmed) the Parties agree and covenant with each other as follows:

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1. Definitions:**

- (a) “Business Day” means a day on which the County’s administrative office in Owen Sound is open for the conduct of administrative business;
- (b) “County Costs” means the reasonable and verifiable costs and expenses of the County, including the cost of labour, equipment and materials, plus a reasonable overhead charge of 10%;
- (c) “County Representative” means the Deputy CAO or the individual designated by them;
- (d) “Emergency” means an unforeseen situation where immediate action must be taken to preserve the environment, public health, safety or an essential service;
- (e) Rockwood Terrace General Contractor is the contractor that has been retained by the County to build the new Rockwood Terrace being Melloul-Blamey.
- (f) “Site” means the Municipal Well Lands and the lands required to access the Municipal Well Lands depicted as the Access Lands on Schedule A;
- (g) “Users” means West Grey’s officers, employees, agents, invitees, consultants and contracting parties;

- (h) West Grey's Well Contractor means any subject matter expert employed, contracted or retained by West Grey for the purposes of performing the planning, design, construction, testing, managing or maintain the well works and includes, but is not limited to, Engineers or contractors.
- (i) "Work" means any activity by any person engaged or directed by West Grey and any of its employees, consultants, agents, contractors or sub-contractors;

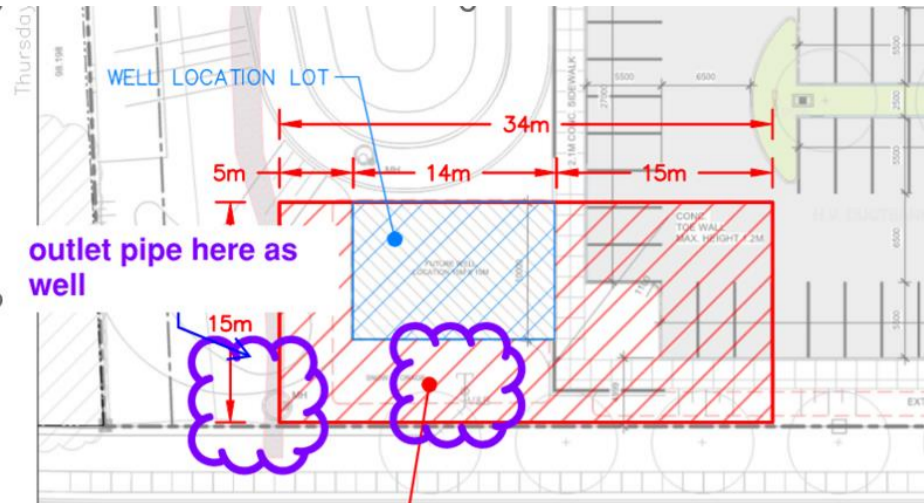
and the terms defined in the recitals above have the same meaning.

1.2. The recitals above are true in substance and fact.

## **2. USE OF SITE**

2.1. The County hereby consents to West Grey accessing and using the Municipal Well Lands for the purpose of drilling a well and performing pump tests for its proposed use for development and construction of a new municipal well (collectively, the "Access Purposes"), and for such purposes grants West Grey a limited license to access the Municipal Well Lands and the Access Lands, which license may be enjoyed by West Grey and its Users (the "License") subject to the following conditions:

- (a) That West Grey and West Grey's Well Contractor will coordinate any works associated with the well project with the Rockwood Terrace General Contractor to ensure that the well works will not interfere or cause any disruption with the Rockwood Terrace Long-term Care project works.
- (b) That any requirements associated with the well works will be the responsibility of West Grey and/or West Grey's Well Contractor
- (c) That any access upgrades (both design and construction) required for the well works to access the well works project area will be the responsibility of West Grey.
- (d) Installing temporary construction fence surrounding the well works project area to provide proper site separation of the well works from the Rockwood Terrace construction project.
- (e) Ensuring that the proposed inlet and outlet(s) for discharge of well water as depicted on Schedule C – Water Well Pump Discharge Plan is adequately sized to handle the well water discharge and that no impacts will be caused to the storm drains and/or any properties from the well water discharge. Any damage to the storm drains caused by the water well pumping will be the responsibility of West Grey.
- (f) Obtaining any permits and/or permissions to perform drilling of well, extraction of well water, and discharge of well water.
- (g) If the well site is discontinued by West Grey, that any well drilled on site would need to be properly decommissioned.
- (h) The areas shown in the purple bubbled areas on the sketch below shall be avoided as a result of infrastructure associated with the Rockwood Terrace Early Works project already being installed within these areas.



- (i) The road base for South Street East has been installed and therefore should be respected, protected and restored to same or better condition, in accordance with Article 5 of this Agreement, based on any damage caused by accessing to the Municipal Well Lands and Access Lands.
  - (j) Restoring the area of the Municipal Well Lands and Access Lands to the same or better condition in accordance with Article 5 of this Agreement.
  - (k) Ensuring that the West Grey Well Contractor performing the works associated with the municipal well implements proper Erosion and Sediment Control Measures.
  - (l) Any due diligence and liability associated with the well project will be solely the responsibility of West Grey and the West Grey Well Contractor.
  - (m) The County, its elected and appointed officials, officers, employees, contractors, agents, successors and assigns and any consultants working on the County's behalf (including but not limited to, Melloul-Blamey, Kasian, Ted Handy and Associates, Colliers, EXP, JT Excavating, etc.) on the Rockwood Terrace Redevelopment project shall be indemnified from any and all matters associated with the well project works.
- 2.2. The License includes Work carried on in support of the Access Purposes and any other Work as may be approved by the County Representative including, but not limited to, any survey work on the Municipal Well Lands, provided that all Work to be carried on is subject to the terms and conditions of this Agreement and to be performed in accordance with all applicable municipal by-laws, rules, policies, standards and guidelines ("Municipal Rules").
- 2.3. West Grey agrees that neither it nor its Users, in the exercise of their rights under this Agreement, may interfere with the use and enjoyment of the County Lands, except as may be reasonably necessary to carry out the Work.
- 2.4. Grey County makes no representations or warranties as to the state of repair of the Site or the suitability or fitness of the Site for any activity or purpose whatsoever, and West Grey hereby agrees that the User's entry onto the Site is on an "as is" basis.
- 2.5. The Parties acknowledge and agree that the use of the Site under this Agreement shall not create nor vest in West Grey any ownership or property rights in the Site, and that this Agreement does not create any relationship between the Parties in the nature of a partnership or joint venture or establish any other common intention or purpose.
- 3. PERMISSION TO CONDUCT SPECIFIC WORK**
- 3.1. Unless otherwise agreed to by the County, West Grey shall, prior to any Work

being undertaken submit the following to the County Representative:

- (a) plans of the proposed Work, showing the nature and locations where the Work is proposed to take place and the remediation Work to return the Site to its original condition;
- (b) information as to who will do the Work at the Site and confirmation that such person(s) have full Workplace Safety and Insurance Board coverage or alternate satisfactory insurance coverage against workplace injury and confirmation of insurance against liability claims of any person not a party to this Agreement in an amount not less than \$2 million per incident.

3.2. No Work proposed by West Grey pursuant to section 3.1 may be commenced until the County's consent is provided by the County Representative, which consent shall not be unreasonably withheld.

#### 4. MANNER OF WORK

4.1. All Work shall be conducted and completed in accordance with all applicable laws, the Municipal Rules and the plans provided to obtain the consent contemplated in Article 3 of this Agreement.

4.2. The County may order the stoppage of the Work for any Emergency, other *bona fide* municipal purpose or cause relating to public health and safety or for non-compliance with section 4.1.

4.3. West Grey and the County shall provide to each other a list of 24-hour emergency contact personnel, available at all times, including contact particulars, and shall ensure that the list is kept current.

#### 5. REMEDIAL WORK

5.1. Following the completion of any Work, West Grey shall, at its sole and absolute expense, leave the Site in a neat, clean, and safe condition free from nuisance and as close as possible to the condition of the Site prior to the Work, all subject to the satisfaction of the County.

#### 6. FEES AND OTHER CHARGES

6.1. West Grey covenants and agrees to pay to the County the County Costs relating to any Work Grey County is left to do in order to achieve compliance by West Grey and its Users with this Agreement.

#### 7. TERM AND TERMINATION

7.1. This Agreement shall have a Term of one year commencing on the Effective Date.

7.2. Either Party may terminate this Agreement without further obligation to the other Party, upon providing at least 5 business days notice. Notwithstanding the expiry or earlier termination of this Agreement, each Party shall continue to be liable to the other Party for all payments due and obligations incurred hereunder prior to the date of such expiry or termination.

#### 8. INSURANCE

8.1 West Grey shall during the entire term of this Agreement and any renewals thereof, at its own cost and expense, take out and keep in full force the following insurance coverage with respect to all activities arising from this Agreement and shall provide proof thereof (by way of a copy of a certificate of insurance) to the County. This

insurance shall be primary, non-contributing with and not excess of any other insurance available to the County. The policies shall be underwritten by an insurer licensed to do business in the Province of Ontario. Such policies shall include but not be limited to:

- (a) General Liability insurance on a per occurrence basis for an amount of not less than Five Million Dollars (\$5,000,000); such policy to include, but not be limited to, non-owned automobile liability; personal injury; broad form property damage; blanket contractual liability; owners and contractors protective liability; products and completed operations liability; contingent employers' liability; and, shall include cross liability and severability of interest clauses, in which the Corporation of the County of Grey shall be named as an Additional Insured thereunder, with respect to the operations, acts and omissions of West Grey and its Users relating to the West Grey's obligations under this Agreement, and which policy shall not be invalidated as respects the interests of the County by reason of any breach or violation on any warranties, representations, declarations or conditions; and
- (b) Automobile Liability insurance for an amount not less than Two Million Dollars (\$2,000,000) on forms meeting statutory requirements covering third party property damage and bodily injury liability (including accident benefits) covering all licensed vehicles used in any manner in connection with the performance of the terms of this Agreement and as required by applicable laws.

## 9. LIABILITY AND INDEMNIFICATION

9.1 For the purposes of this Article 9, the following definitions shall apply:

- (a) "County" means the County and its elected and appointed officials, officers, employees, contractors, agents, successors and assigns;
- (b) "Claims" means any and all claims, actions, causes of action, complaints, demands, suits or proceedings of any nature or kind;
- (c) "Losses" means, in respect of any matter, all losses, damages, liabilities, deficiencies, Costs and expenses;
- (d) "Costs" means those costs (including, without limitation, all legal and other professional fees and disbursements, interest, liquidated damages and amounts paid in settlement, whether from a third party or otherwise) awarded in accordance with the order of a court of competent jurisdiction, the order of a board, tribunal or arbitrator or costs negotiated in the settlement of a Claim; and
- (e) "Hazardous Substance" means any harmful substance including, without limitation, electromagnetic or other radiation, contaminants, pollutants, dangerous substances, dangerous goods and toxic substances, as defined, judicially interpreted or identified in any applicable law (including the common law);
- (f) "West Grey" means West Grey and its elected and appointed officials, officers, employees, contractors, agents, successors and assigns;

9.2 Indemnification by West Grey

- (a) West Grey shall indemnify the County from Claims, Losses and Costs made by or awarded to any person, including but not limited to West Grey's Users, arising out of activities arising under this Agreement or in connection with

the use of the Site by West Grey and its Users, whether or not such Claims, Losses and Costs are caused by the negligence of West Grey or its Users. This indemnity shall extend to protect the County from construction liens by contractors, mechanics, and suppliers (which are expressly prohibited), which shall be deemed to include all purchases of expendables, consumables, and other merchandise.

(b) In the event of any Claims, the County shall give West Grey timely written notice thereof, and West Grey shall have the right to defend or settle the same to the extent of its interest hereunder. West Grey shall promptly accept all responsibility to defend or settle such matters. Further, in the event it is necessary for the County to incur any expenses whatsoever to enforce this provision, all such expenses shall in their entirety be paid by West Grey.

9.3 West Grey agrees that the County is not responsible, either directly or indirectly, for any damage to the natural environment or property, including any nuisance, trespass, negligence, or injury to any person, howsoever caused, arising from the presence, deposit, escape, discharge, leak, spill or release of any Hazardous Substance in connection with the occupation or use of the Site by West Grey and its Users unless such damage was caused directly by the negligence or wilful misconduct of the County or those for which it is responsible in law.

9.4 West Grey agrees to assume all environmental liabilities, claims, fines, penalties, obligations, costs or expenses whatsoever relating to its use of the Site, including, without limitation, any liability for the clean-up, removal or remediation of any Hazardous Substance on or under the Site that result from:

(a) The occupation, operations or activities of West Grey or its Users, or by any other person with the express or implied consent of West Grey within the Site; or

(b) Any equipment brought or placed within the Site by West Grey or its Users, or by any other person with the express or implied consent of West Grey;

unless such damage was caused directly by the negligence or wilful misconduct on the part of the County or those for which it is responsible in law.

## 10. NOTICES

10.1 Any notice required to be given, served or delivered must be in writing and sent to the other party at the address indicated below, or to such other address as may be designated by notice provided by either party to the other.

If to the County:

County Clerk  
County of Grey Administration Building  
595 9th Ave East  
Owen Sound, ON N4K 3E3  
Fax: 519-376-8998  
[countyclerk@grey.ca](mailto:countyclerk@grey.ca)

If to West Grey:

Jamie Eckenswiller, Director of Legislative Services/Clerk  
The Municipality of West Grey  
402813 Grey County Road 4, RR.2  
Durham, ON N0G 1R0

Fax: 519-369-5962  
[clerk@westgrey.com](mailto:clerk@westgrey.com)

10.2 Any notice to be given by either party to the other shall, in the absence of proof to the contrary, be deemed to have been received by the addressee if delivered personally on the day of delivery, if sent by prepaid registered post, then on the second business day following the registration thereof sent by ordinary mail, then on the fifth business day following the date on which it was mailed; or if sent by facsimile or email on a business day, or the following business day, upon confirmation of successful transmission of the notice.

## 11 GENERAL

- 11.1 This Agreement, together with the Schedules attached hereto, constitutes the complete and exclusive statement of the understandings between the Parties with respect to the rights and obligations hereunder and supersedes all proposals and prior agreements, oral or written, between the Parties.
- 11.2 In this Agreement, words importing the singular include the plural and vice versa, words importing gender, include all genders.
- 11.3 The division of this Agreement into sections and subsections and the insertion of headings are for convenience of reference only and do not affect the interpretation of this Agreement. Unless otherwise indicated, references in this Agreement to a section, subsection or schedule are to the specified section or subsection of or schedule to this Agreement.
- 11.4 A reference to a statute includes all regulations and rules made pursuant to the statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes the statute or the regulation.
- 11.5 Where the word "including" or "includes" is used in this Agreement it means "including (or includes) without limitation as to the generality of the foregoing".
- 11.6 Unless otherwise indicated, references in this Agreement to money amounts are to the lawful currency of Canada.
- 11.7 This Agreement may not be assigned, in whole or in part, without the prior written consent of the other Party.
- 11.8 Each Party shall at all times act reasonably in the performance of its obligations and the exercise of its rights and discretion under this Agreement.
- 11.9 Except as expressly provided in this Agreement, no modification of or amendment to this Agreement shall be effective unless agreed to in writing by the County and West Grey.
- 11.10 The terms and conditions contained in this Agreement that by their sense and context are intended to survive the performance thereof by the Parties hereto shall so survive the completion of performance, the expiration and termination of this Agreement, including, without limitation, provisions with respect to indemnification and the making of any and all payments due hereunder.
- 11.11 This Agreement shall be governed by the laws of the Province of Ontario and all federal laws of Canada applicable therein.
- 11.12 Failure by either Party to exercise any of its rights, powers or remedies hereunder or its delay to do so shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy

shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

11.13 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect.

11.14 This Agreement is and shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and permitted assigns.

11.15 Either Party may, in addition to any other remedies it may have at law or equity, seek equitable relief, including without limitation, injunctive relief, and specific performance to enforce its rights or the other Party's obligations under this Agreement.

11.16 This agreement may be executed in counterparts, each of which is deemed an original, but all of which constitute one and the same agreement. Delivery of an executed counterpart of this agreement electronically shall be effective delivery of an original executed counterpart of this agreement.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by their duly authorized representatives.

**THE CORPORATION OF THE MUNICIPALITY OF WEST GREY**

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Kevin Eccles, Mayor

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Jamie Eckenswiler, Director of Legislative Services/Clerk

**THE CORPORATION OF THE COUNTY OF GREY**

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Brian Milne, Warden

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Tara Warder, Clerk



SCHEDULE "A"

LEGAL DESCRIPTION OF COUNTY LANDS – Highlighted in purple below and the MUNICIPAL WELL LANDS – highlighted in green below and Site (Municipal Well Lands and Access Lands) – highlighted in yellow and green

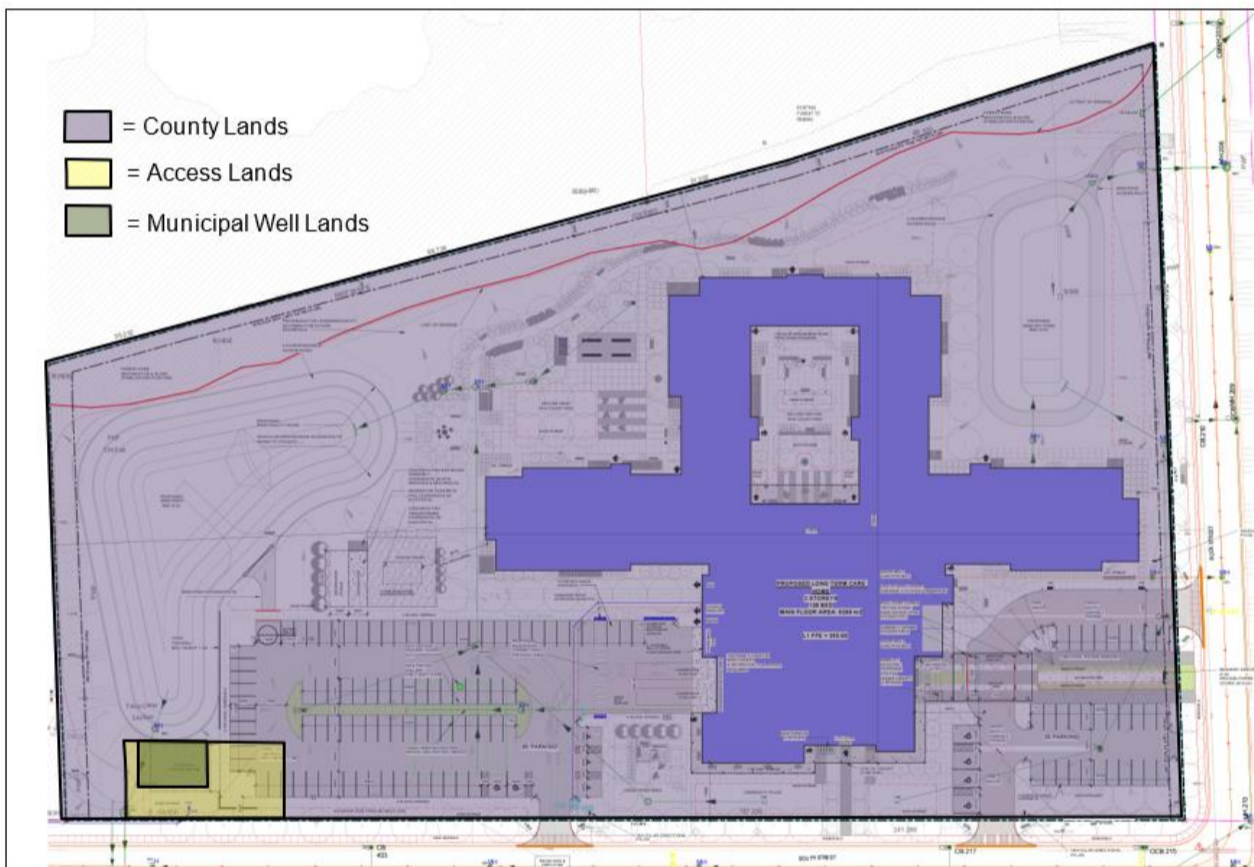
**County Lands**

Firstly: Part of Park Lots 9, 10 and 11 North Side of South Street East, Plan 500 Durham; Part of South Street and Part of Rock Street (Closed by Inst. DH5059), Plan 500 Durham; Being Parts 2, 6 and 7 Plan 16R-11435, Part 2 Plan 16R-12011; Municipality of West Grey, County of Grey being Part of PIN 37320-0230 (LT); and

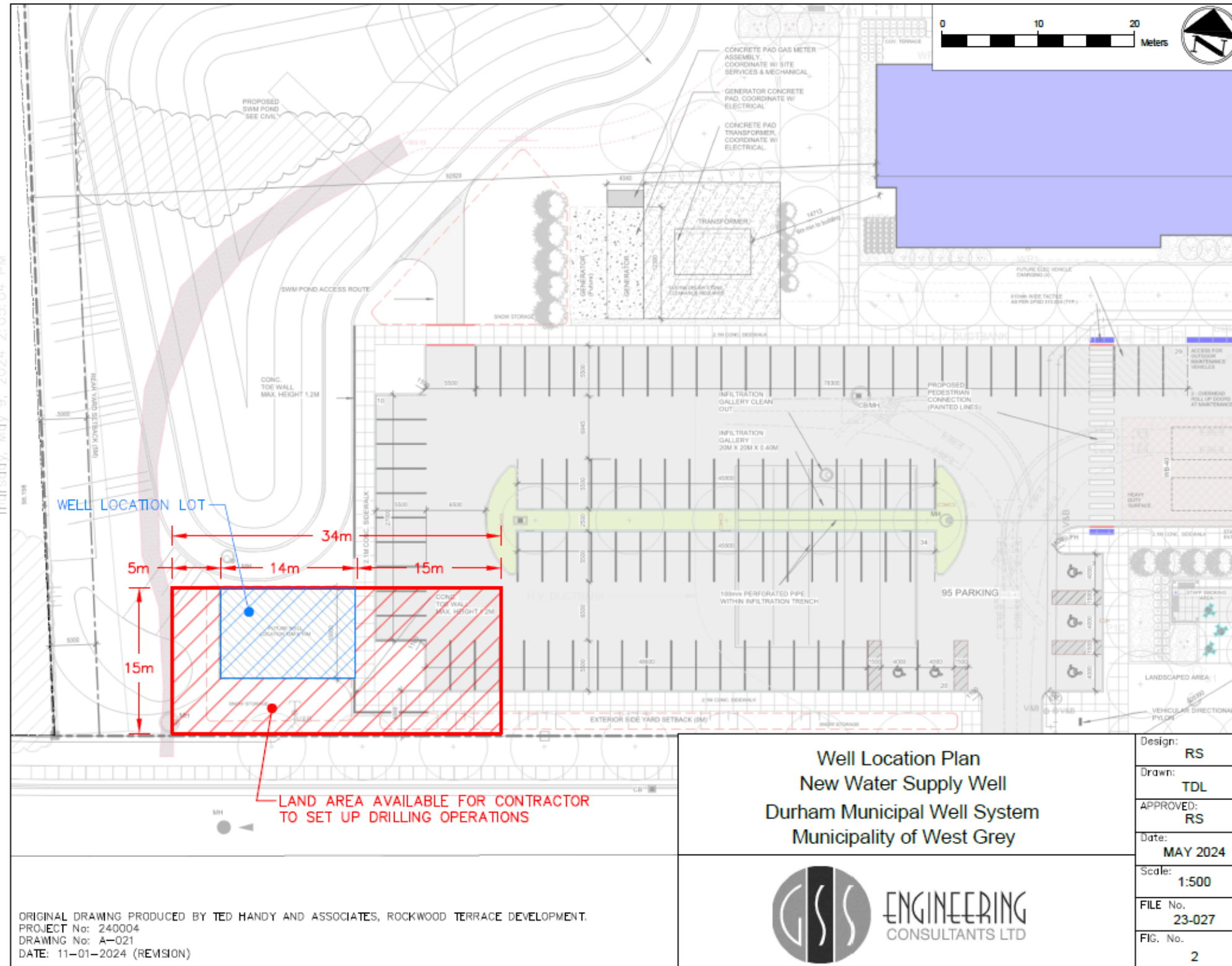
Secondly: Part of Park Lot 11 North Side of South Street East Plan 500 Durham being Part 1 17R-1602 (Closed by Bylaw 2024-041 Registered as GY260473); Together with and Easement as in GS142617; Municipality of West Grey, County of Grey being all of PIN 37320-0234.

Municipal Well Lands and Access Lands

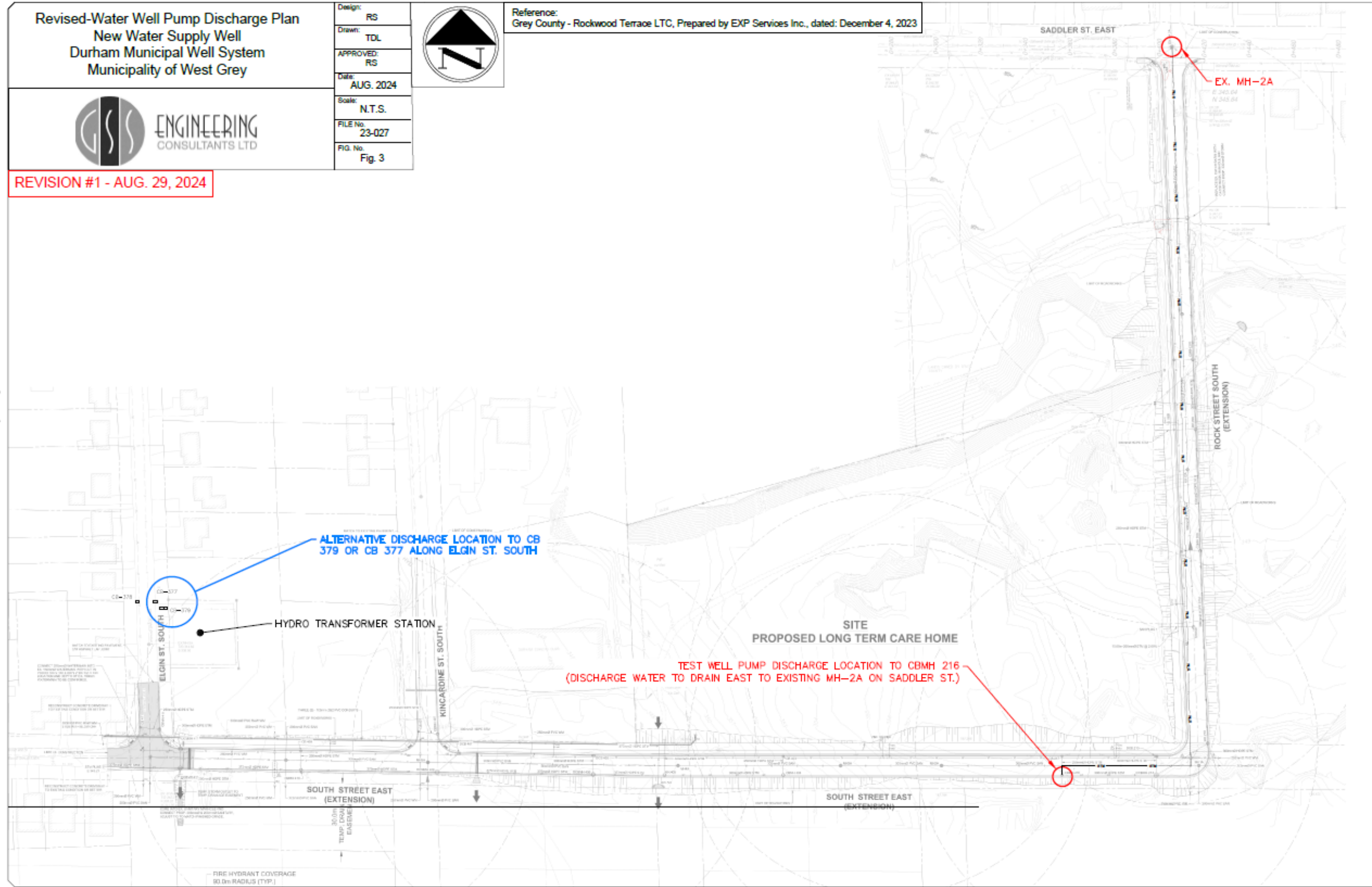
Part of Park Lot 9 North of South Street East, Plan 500 Durham; Being a portion of the lands identified as Part 2 Plan 16R-11435; Municipality of West Grey, County of Grey; Said lands consisting of an area approximately 15 metres by 34 metres and are more particularly shown in the diagram attached to Schedule "B" of this Agreement.  
Part of PIN 37320-0230 (LT)



SCHEDULE "B"  
Well Location Plan



SCHEDULE "C"  
Water Well Pump Discharge Plan



Revised-Water Well Pump Discharge Plan  
New Water Supply Well  
Durham Municipal Well System  
Municipality of West Grey



Design:	RS
Drawn:	TDL
APPROVED:	RS
Date:	AUG. 2024
Scale:	N.T.S.
FILE No.	23-027
FIG. No.	Fig. 3



Reference:  
Grey County - Rockwood Terrace LTC, Prepared by EXP Services Inc., dated: December 4, 2023

REVISION #1 - AUG. 29, 2024

Thursday, August 29, 2024 4:43:04 PM

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