

Clause 18 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 28, 2018.

18

Expropriation of Land

Rutherford Road from Peter Rupert Avenue to Bathurst Street  
City of Vaughan

Committee of the Whole recommends adoption of the following recommendations contained in the report dated June 7, 2018 from the Commissioner of Corporate Services:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Peter Rupert Avenue and Bathurst Street, in the City of Vaughan.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the Expropriations Act (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the Act.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested and not withdrawn in accordance with the Act. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the Act.
5. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the Act.
6. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

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Report dated June 7, 2018 from the Commissioner of Corporate Services now follows:

Expropriation of Land  
Rutherford Road from  
Peter Rupert Avenue to Bathurst Street  
City of Vaughan

## 1. Recommendations

It is recommended that:

1. Council authorize an application for approval to expropriate the lands set out in Attachment 1, for the widening and reconstruction of Rutherford Road, between Peter Rupert Avenue and Bathurst Street, in the City of Vaughan.
2. The Commissioner of Corporate Services be authorized to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate Land (the "Notice") and to serve and publish the Notice, as required under the *Expropriations Act* (the "Act").
3. The Commissioner of Corporate Services be authorized to forward to the Chief Inquiry Officer any requests for an inquiry that are received and to represent the Region, as necessary, at an inquiry (Hearing of Necessity) held under the *Act*.
4. Council, as approving authority, approve the expropriation of the lands provided there is no Hearing of Necessity requested and not withdrawn in accordance with the *Act*. Council approval is deemed to be given effective 31 days following the publication of the Notice and when a Hearing of Necessity is not requested in accordance with the *Act*.
5. Where approval to expropriate the lands is given, the Commissioner of Corporate Services be authorized to register a plan of expropriation and execute and serve any notices required under the *Act*.
6. Where approval to expropriate the lands is given, Council authorize the introduction of the necessary bylaw to give effect to these recommendations.

## 2. Purpose

This report seeks Council approval for an application to expropriate property interests required for the widening and reconstruction of Rutherford Road from Peter Rupert Avenue to Bathurst Street, in the City of Vaughan, as shown on the map in Attachment 2.

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This report seeks Council approval to expropriate any of the lands for which no Hearing of Necessity is requested, and have not otherwise been acquired by the Region through ongoing negotiations.

### 3. Background

Rutherford Road is proposed to be widened from Jane Street to Bathurst Street

The need for improvements to Rutherford Road from Jane Street to Bathurst Street in the City of Vaughan has been identified in the Region's recently updated Transportation Master Plan. These improvements have also been included in the approved 2018 10-Year Roads and Transit Capital Construction Program.

The Environmental Assessment (EA) study for improvements to Rutherford Road (named Carrville Road east of Bathurst Street) from Jane Street to Yonge Street was completed in mid-2016.

The design on this portion of the project includes a proposed widening of Rutherford road to six lanes to accommodate HOV/transit priority lanes, multiuse paths on both sides, transit bus pads/shelters, and a landscaped median where sufficient space is available. Also included is the widening of the existing bridge over the Canadian National Railway tracks at the MacMillan Yard.

Construction for Rutherford Road from Peter Rupert Avenue to Bathurst Street is scheduled to commence in 2022. The land requirements that are the subject of this report are located within this section of the project.

The Rutherford Road improvements will tie into the Metrolinx grade separation project at the Peter Rupert Avenue intersection

The Regional Express Rail project is being implemented by Metrolinx where the Barrie GO Rail intersects Rutherford Road. The Region and Metrolinx have agreed in principle that Metrolinx will undertake the grade separation works as well as the required improvements to Rutherford Road from Westburne Drive to Peter Rupert Avenue. Given the juncture of these two initiatives at the Peter Rupert Drive intersection, staff continues to work in collaboration with Metrolinx as detailed design progresses to ensure a seamless tie-in.

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Possession of the lands is required by fall of 2019 to allow for utility relocation

Utility relocations are the first construction related item to be scheduled. Privately owned lands are often required to complete the relocations within the new boulevard along the edge of the roadway. Possession of the land is required by fall of 2019 for utility relocations to commence in the spring of 2020. Securing the property through the expropriation process will provide certainty that the works can proceed as scheduled.

#### 4. Analysis and Implications

Staff will negotiate with property owners throughout the expropriation process

Land requirements for the construction of this portion of the project will affect 17 property owners. Two properties, one owned by the City of Vaughan and the other owned by Toronto and Region Conservation Authority, are not subject to expropriation. The land requirement from these owners will be acquired through negotiated agreements and have not been included in this report. The remaining 15 properties are the subject of this report.

Staff will commence discussions with property owners to acquire the property needed for construction upon receipt of survey plans. In accordance with the Region's land acquisition policy, an independent property appraiser is being engaged to provide individual market value appraisals to support negotiations.

Initiating the expropriation process will allow access to the lands and timely delivery of infrastructure

The preferred approach to obtaining land is to negotiate a transaction with the property owner. However, in many cases various events affect the timing of negotiations, such as owners who prefer to finalize negotiations at the completion of the project. In this regard, expropriation is deemed a necessary approach to ensure possession of lands for the needs of a project.

In an effort to secure possession and complete the property acquisitions for this corridor, it is recommended that the expropriation process proceed concurrently with ongoing negotiations.

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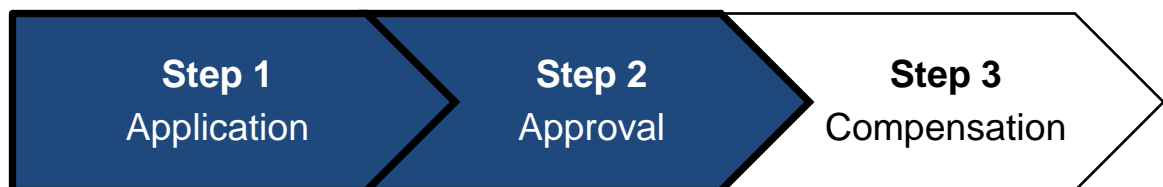
Staff will negotiate agreements of purchase and sale for the required interests along with the expropriation process, until an expropriation plan has been registered.

Council Approval is required at three stages of the expropriation process

Approval by Council is required at three stages in the expropriation process. These include the request to Council to authorize an application for approval to expropriate the lands, the expropriation itself, and the offer of compensation made to the former owner of the lands.

In an effort to ensure possession of the lands to meet the coordinated construction schedule, the first and second steps in the Council approval process have been combined for this report, as indicated in Figure 1 below. The third step will be the subject of a future report to Council, in the event the expropriation proceeds. Possession of the lands cannot be obtained until this third step has been completed and each owner is served an offer of compensation.

**Figure 1**  
**Council Approval Steps**



Owners have the right to request a Hearing of Necessity upon receipt of a Notice of Application for Approval to Expropriate

The first step in the expropriation process is to serve the registered owners with a notice of intention to expropriate, following Council approval. Upon receipt of the Notice of Application for Approval to Expropriate, each owner has the right within 30 days of receipt to request an inquiry (Hearing of Necessity) to determine whether the taking of the lands by the Region is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.

If an owner requests a Hearing of Necessity, then subsequent to the Hearing, an inquiry officer will provide a report providing an opinion as to whether the taking is fair, sound and reasonably necessary in the achievement of the objectives of

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the expropriating authority, including an explanation for the Inquiry Officer's findings.

Registration of expropriation plans will secure ownership of the lands by the Region

If no Hearing of Necessity is requested, an expropriation plan will be registered at the Land Registry Office within three months of Council granting approval of a bylaw to proceed with the expropriation. This is the second step in the expropriation process, and registration of the plans is anticipated to be in the winter of 2019.

Registration of the expropriation plan is a key step in the expropriation process. It is at this point that the Region acquires ownership of the lands. However, further steps are required to obtain possession, or the right to access the lands.

Following the registration of the expropriation plan, the notice of expropriation and possession will be served on the owner. Under the *Act*, possession of the lands is to take place no sooner than three months after registration of the expropriation plans. In addition, offers of compensation must be served on the owner to obtain possession.

Environmental due diligence will be completed prior to the Region taking ownership of the lands

A Contamination Overview Study was completed as part of the Class Environmental Assessment Study and identified Areas of potential environmental concern. A Phase One Environmental Site Assessment (ESA) will be performed to assess the potential environmental condition of the lands. Based on the results of the Phase One ESA, a Phase Two ESA may be completed to confirm the presence or absence of environmental impacts identified in the Phase One ESA. Prior to registration of the expropriation plans, the results of the environmental due diligence conducted for the lands will be reviewed by staff, including consultation with Legal Services. In the event environmental impacts are identified, staff will take the necessary steps to minimize the Region's exposure to environmental risk and liability and may report to Council with recommendations depending on the nature and extent of the impacts.

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## 5. Financial Considerations

The funding required to complete the property acquisitions that are the subject of this report is included in the 2018 Capital Budget for Transportation Services, Capital Planning and Delivery.

Under section 25 of the Act, the Region is obligated to serve offers of compensation on owners within three months of the registration of the expropriation plan. The appraisals required to support these offers will be prepared and the proposed offers will be the subject of a further report to Council.

## 6. Local Municipal Impact

Once construction is complete, the widening and reconstruction of Rutherford Road will provide upgraded capacity to improve traffic operations for the travelling public and will support the forecasted growth per the York Region Official Plan.

## 7. Conclusion

The widening and reconstruction of Rutherford Road from Peter Rupert Avenue to Bathurst Street, in the City of Vaughan requires the acquisition of interests in land from the subject property owners.

Negotiations with the property owners to acquire the lands are proceeding concurrently with the expropriation process, in an effort to obtain the lands by the Fall of 2019. It is necessary to initiate the expropriation process to ensure the timely acquisition of the required lands to meet construction timelines.

Staff will negotiate the acquisition of the required properties until expropriation plans are registered. The expropriation proceedings will be abandoned for individual properties in the event negotiations are successful.

The expropriation process requires various approvals by Council. Upon approval of the recommendations of this report, staff will notify the affected property owners of the Region's intent to expropriate, and will proceed with the expropriation of lands if no Hearing of Necessity is requested. The Region will not take possession of the lands until Council approves the offers of compensation to owners, which will be the subject of a future report.

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For more information on this report, please contact Michael Shatil, Director,  
Property Services at 1-877-464-9675 ext. 17684.

The Senior Management Group has reviewed this report.

June 7, 2018

Attachments (2)

#8547041

Accessible formats or communication supports are available upon request



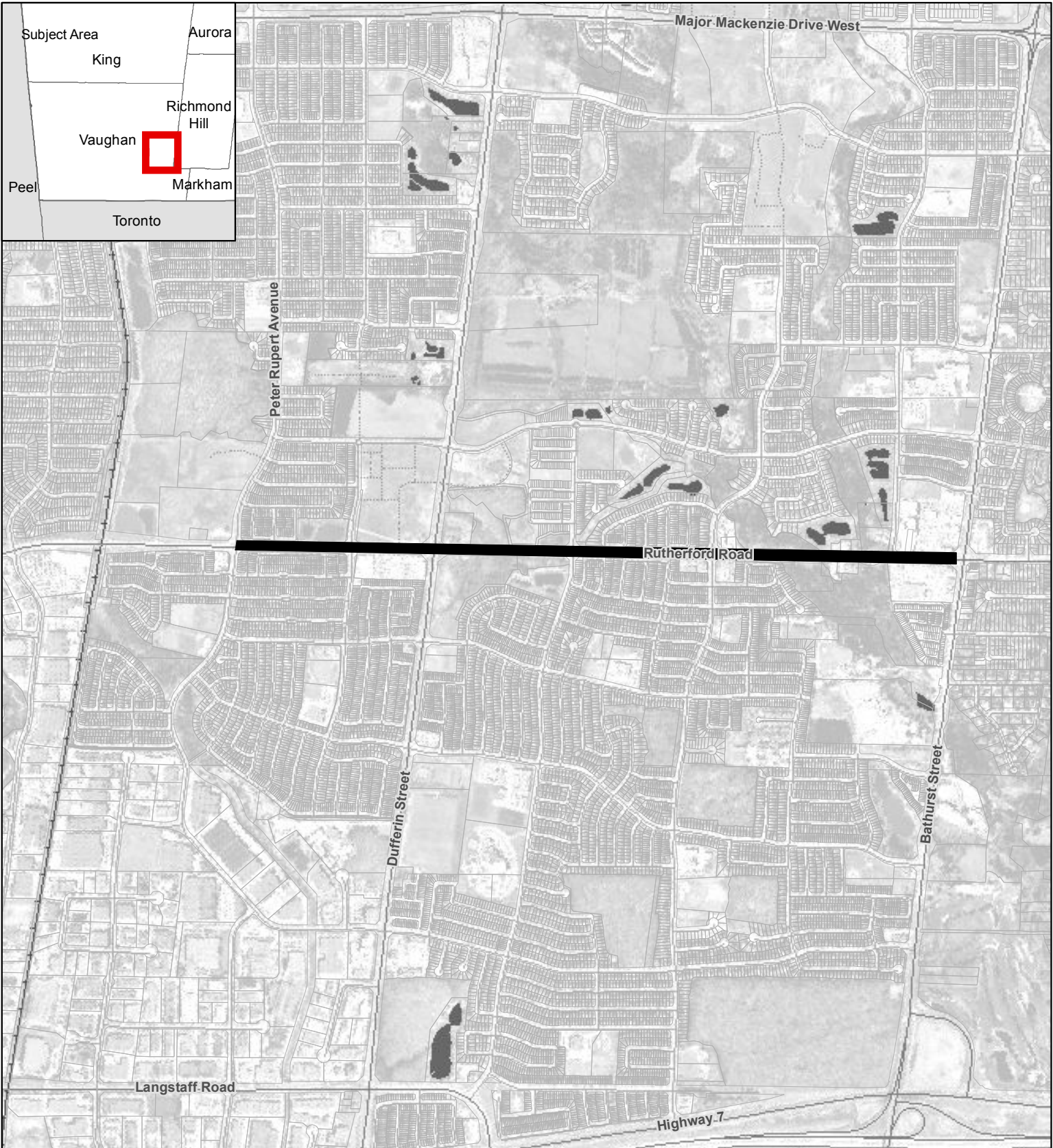
**Property Schedule  
Expropriation of Land  
Rutherford Road from Peter Rupert Avenue to Bathurst Street  
City of Vaughan**

<b>No.</b>	<b>Owner</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Interest Required</b>
1.	Ritajo Developments.	1611 Rutherford Road	Parts 1 & 2, Draft Plan of Survey L12-012421	Permanent Easement
2.	Nine-Ten West Ltd	Plan 65M-3973, Block 148	Part 3, Draft Plan of Survey L12-012421	Permanent Easement
			Parts 4, 5, 6, 7, & 8, Draft Plan of Survey L12-012421	Fee Simple
3.	Nine-Ten West Ltd	Plan 65M-4486, Block 40	Part 7, Draft Plan of Survey L12-012422	Permanent Easement
			Part 8, Draft Plan of Survey L12-012422	Fee Simple
4.	Norstar Building Corporation	1176 Rutherford Road	Part 14, Draft Plan of Survey L12-012422	Permanent Easement
			Part 15, Draft Plan of Survey L12-012422	Fee Simple
5.	Rutherford Contwo Investments Limited	1277 Rutherford Road	Parts 16, 17 & 20, Draft Plan of Survey L12-012422	Permanent Easement
			Parts 18, 19 & 22, Draft Plan of Survey L12-012422	Fee Simple
			Parts 21 & 23, Draft Plan of Survey L12-012422	Permanent Easement
6.	Heatherwood Properties Inc.	1101 Rutherford Road	Parts 1, 2 & 3, Draft Plan of Survey L12-012423	Permanent Easement
7.	Heatherwood Properties Inc.	N/A	Part 1, Draft Plan of Survey L12-012424	Permanent Easement
			Part 2, Draft Plan of Survey L12-012424	Permanent Easement
			Part 3, Draft Plan of Survey L12-012424	Fee Simple
8.	Nine-Ten West Ltd.		Parts 10, 11 & 12, Draft Plan of Survey L12-012424	Permanent Easement





<b>No.</b>	<b>Owner</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Interest Required</b>
9.	Heatherwood Properties Inc.	1081 Rutherford Road	Parts 15, 17, 18, 19, 20 & 21, Draft Plan of Survey L12-012424	Fee Simple
			Part 16, Draft Plan of Survey L12-012424	Permanent Easement
10.	FCHT Holdings (Ontario) Corporation	9320/9360 Rutherford Road	Parts 1, 2, & 3, Draft Plan of Survey L12-012425	Permanent Easement
11.	Calloway Reit (Rutherford) Inc.	9200 Bathurst Street	Parts 4 & 5, Draft Plan of Survey L12-012425	Permanent Easement
			Parts 6, 7, 38, 39, 40, 42 & 43 Draft Plan of Survey L12-012425	Fee Simple
12.	1359763 Ontario Inc.	856 Rutherford Road	Parts 8, 11, & 12, Draft Plan of Survey L12-012425	Permanent Easement
			Parts 9 & 10, Draft Plan of Survey L12-012425	Fee Simple
13.	Maon Noam Congregation of Canada	910 Rutherford Road	Parts 13 & 14, Draft Plan of Survey L12-012425	Permanent Easement
14.	The Church of The Christian Community in Canada	Lot 15, Concession 2	Parts 27 & 41, Draft Plan of Survey L12-012425	Fee Simple
			Parts 28, 44, 45, 46 & 47, Draft Plan of Survey L12-012425	Permanent Easement
			Parts 26, 29, 30, 31 & 32, Draft Plan of Survey L12-012425	Permanent Easement
15.	2077117 Ontario Inc.	941 Rutherford Road	Part 33, Draft Plan of Survey L12-012425	Fee Simple
			Parts 34, 35 & 36, Draft Plan of Survey L12-012425	Permanent Easement

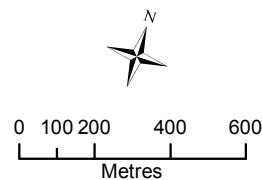
The permanent easements required are described as a limited interest in perpetuity in, under, over, along and upon and for municipal purposes including, but not limited


No.	Owner	Municipal Address	Legal Description	Interest Required
<p>to, entering on the lands with all vehicles, machinery, workmen and other material (i) to construct and maintain permanent municipal infrastructure which may include installation, maintenance, relocation and/or removal of traffic turning loops and associated signalization equipment and controls, retaining walls, pedestrian/cyclist access, multiuse-paths and walkways, parking measures including re-striping of aisles, lanes, and parking stalls, noise walls, watermains, storm sewers, sanitary sewers, shoring and formwork and/or drainage, erosion or sediment control measures, and (ii) for construction purposes which include, but are not limited to, (1) relocation of existing services and utilities, (2) work that supports the construction of municipal infrastructure within the Region’s right-of-way (3) staging and storage of materials and equipment, (4) geotech testing, borehole testing, and other investigative works, (5) removal, relocation and/or installation of signage, (6) hard and soft landscaping, paving, grading and reshaping the lands to the limit of the reconstruction of municipal road fronting the lands herein described, (7) the installation and removal of temporary infrastructure related to the construction (i) pedestrian access and walkways, (ii) parking measures including re-striping of aisles, lanes, and parking stalls, (iii) shoring and formwork, (iv) drainage and erosion/sediment control measures, (v) traffic signals, (vi) fencing, and (vii) handrails, and (8) works ancillary to any of the foregoing and necessary to the works to be performed in association with the purpose of implementing road and intersection improvements along Rutherford Road, including associated local roads, and to provide designated lanes for the vivaNext transit and York Region Transit systems and works ancillary thereto. The registered owner of the servient lands is to keep the lands free and clear of any buildings, fencing, landscaping, construction, structures of obstructions; is not to deposit on or remove any fill from the lands and not to do or suffer to be done any other thing which might interfere with the rights and easements hereby acquired.</p>				



**Location Plan**  
 Expropriation of Land  
 Rutherford Road from  
 Peter Rupert Avenue to  
 Bathurst Street  
 City of Vaughan  
 June 21, 2018

- Legend**
-  Subject Corridor
  -  Parcel
  -  Road
  -  Railway



  
 Produced by:  
 The Regional Municipality of York  
 (Branch Name), (Department Name)  
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