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Laura Blease
Land Use Policy (Environment and Climate Change)
40 St. Clair Avenue West
Foster Building, 10th floor
Toronto, ON
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Dear Laura,

Re: Proposed regulatory amendments, Ontario Regulation 406/19: On-Site and Excess Soil Management (O.Reg.406/19), ERO 019-2462

I am writing on behalf of the City of Toronto (the "City") regarding the proposed regulatory amendments to the On-Site Excess Soil Management Regulation (O. Reg. 406/19) (the "Regulation").

The City is actively working towards implementing the Regulation and understands the value of reusing excess clean soil as a resource. City staff are reviewing contracts, specifications and design guidelines to reduce excess soil and promote reuse of excavated material.

Most City construction-related procurements involve two distinct procurements, awards, and contracts – one for design work and one for the resulting construction work. The design work for construction projects currently proceeding toward the procurement stage (late-2020 and early 2021) has been completed. Therefore, compliance with the requirements associated with the current phase-in date of January 1, 2021 may incur scheduling delays and additional costs. The proposed extension of the effective date for project registration, planning and tracking requirements from January 1, 2021 to January

1, 2022 will benefit City construction projects, particularly those delayed as a result of Covid-19.

Further, the expansion to the grandparenting of soil management contracts to include soil-related studies completed prior to January 1, 2022 will allow projects for which the design scope has been tendered for delivery in 2021 to proceed without additional cost or delay. It is my understanding that construction projects for which design studies have been completed but the construction contract itself has not yet been tendered would also fall under this grandparenting expansion. I would welcome the Ministry's confirmation on this point of understanding.

I would also welcome the Ministry's clarification on multi-year design contracts. Specifically, contracts for which the geotechnical and environmental design scope was awarded for multiple years but the design work itself has not yet been started. Consequently, if the contracts for soil studies were signed before January 1, 2022, these contracts will need to be amended.

The City respectfully requests that the Ministry consider whether Section 8 (2) (b) "a contract with another person with respect to the management of excess soil" might include design contracts already awarded, such that construction works scheduled for 2022 may occur using the current design scope. The City recognizes that receiver sites may drive additional testing requirements. These requirements will be addressed during the construction tendering portion of the project. This flexibility would provide cost and schedule certainty for projects already in the design pipeline.

The City welcomes the clarity provided in regards to the amendments related to stockpiled soil as this will allow City projects to temporarily stockpile soil within rights-of-way for short durations prior to hauling off-site.

With regards to the proposed amendment to include mechanical breakdown of rock to soil sized particles during tunneling, the City looks forward to working with the Ministry and industry stakeholders to clarify the regulatory requirements while ensuring tunneling projects are not burdened with sampling, analytical and reporting requirements to meet environmental requirements for soil that is not geotechnically suitable for reuse.

The City looks forward to continuing our ongoing work with the Ministry in implementing the requirements enshrined in the Regulation.

Kind regards,

A handwritten signature in blue ink, appearing to be 'Rick Gibson', written in a cursive style.

Rick Gibson, M.Sc., P.Geo., QP_{ESA}
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