

**PRE-SERVICING AGREEMENT**

THIS AGREEMENT dated the \_\_\_\_ day of \_\_\_\_, 2024.

B E T W E E N:

**KEELE WEST DEVELOPMENTS LP**

(hereinafter called the "Owner")

- and -

**THE CORPORATION OF THE TOWNSHIP OF KING**

(hereinafter called the "Township")

**WHEREAS** the Owner is the registered owner of lands described in Schedule "A" (the "Lands");

**AND WHEREAS** the Owner proposes to develop the Lands in accordance with the Zoning By-Law Amendment Application Z-2021-15, and By-law 2022-083, being a By-law to amend Zoning By-law 2017-066;

**AND WHEREAS** the Owner wishes to commence the installation, construction and provision of certain works on the Lands and on the public right-of-way adjacent to the Lands, which includes any public highways, easements or reserves, which are owned or controlled by the Township (hereinafter referred to as "Township Lands") and the Regional Municipality of York (hereinafter referred to as "Region Lands") prior to the execution of the site plan agreement with the Township, such works being more particularly set out in Schedule "B" (the "Works");

**AND WHEREAS** the Township has agreed to permit the Owner to install, construct and provide the Works on the Lands and on Township Lands as requested, on the following terms and conditions;

**AND WHEREAS** the parties to this Agreement declare that the recitals herein are true.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of other good and valuable consideration, the parties hereto hereby covenant, promise and agree with each other as follows:

**1. Permission to Construct**

The Township grants permission to the Owner to commence construction and installation of the Works on the Lands and the Township Lands, prior to the execution of a site plan agreement between the Owner and the Township, subject to the provisions of this Agreement.

The Owner shall obtain all necessary permissions from the Toronto and Region Conservation Authority and the Regional Municipality of York to commence construction and installation of the Works on the Lands, Township Lands and Region Lands.

**2. Construction of Works**

The Owner covenants and agrees to retain a qualified and accredited professional engineer experienced in the municipal engineering field, who will carry out all necessary engineering requirements associated with the construction and installation of the Works. The Owner covenants and agrees to provide full-time engineering inspection during all construction activity within the municipal road allowance. The Owner further covenants and agrees that the Works shall be constructed and installed in a good and workmanlike manner and in

accordance with all of the Township's standards and practices and only in accordance with the plans for the Works and any subsequent drawings ("Approved Plans") approved by the Director of Public Works for the Township (the "Director").

The Owner covenants and agrees to a mandatory pre-construction meeting held with all parties involved including the Township, Regional Municipality of York, Toronto and Regional Conservation Authority, Owner or Owner's representative/agent, Owner's Engineer and the contractor performing the work. A detailed construction schedule must be provided to the Township, for approval by the Director, demonstrating all tasks and sequence of proposed works and in a time frame that is acceptable to the Township.

### **3. Acknowledgment**

The Owner acknowledges and agrees that:

- a) by proceeding with the Works in advance of execution of the Subdivision Agreement and Site Plan Agreement, it is doing so at its sole and absolute risk;
- b) its decision to proceed with the Works in advance of execution of the Subdivision Agreement and Site Plan Agreement is not based upon any representation from the Township as to when any remaining site servicing of the Lands may be permitted;
- c) it is bound by the terms and conditions of the OLT Decision if applicable, and the Subdivision Agreement and Site Plan Agreement when executed, and that nothing contained in this Agreement or in the Township's permission to proceed with the installation and construction of the Works will prevent the Township from imposing or enforcing any of its standard conditions and requirements pertaining to the installation of public works or from enforcing its authority to require the Owner to fully comply with all applicable Township standards and by-laws and conditions of approval in the OLT Decision;
- d) it shall comply with every direction issued or given by the Director, whether delivered in writing or orally, during the course of pre-servicing. In the event that, in the opinion of the Director:
  - i. work is not being carried out in accordance with the Approved Plans;
  - ii. an adjustment to the Approved Plans is required to suit actual conditions not known at the time of approval of the Approved Plans;
  - iii. the work is being performed in a manner that may result in a completed installation that would not be satisfactory to the Director, acting reasonably; and
  - iv. the Works have been commenced without the Township's approval;

Without limiting the generality of the foregoing, the Director may give directions to cease work, install or carry out additional works, whether within or beyond the limits of the Lands or Township Lands, phase works or any other matter which is deemed reasonable and which the Director deems to be in the interest of the proper development of the Lands and the Owner shall forthwith comply with such direction(s).

### **4. Inspection and Right of Entry**

The Owner covenants and agrees that the Township, Toronto and Region Conservation Authority, Regional Municipality of York and any of their respective employees, servants or agents may enter onto the Lands at all reasonable times and for all reasonable purposes in order to make all necessary inspections and to correct any deficiencies, remedy any other defects or eliminate any nuisances arising from or relating to the construction and installation of the Works but such inspection shall in no way relieve the Owner from its responsibility to inspect the said Work itself. On demand by the Township, the Owner shall forthwith

reimburse the Township for all costs incurred by the Township in undertaking any of the aforesaid actions.

#### **5. Erosion, Sedimentation, Mud Tracking and Dust Control**

The Owner covenants and agrees to implement the erosion, sedimentation, and dust control plan, as approved by the Director, prior to the commencement of any site work in accordance with the Approved Plans, in order to effectively reduce soil erosion, minimize the transport of silt, minimize standing water, control dust and to minimize and manage mud tracking onto adjacent roads.

#### **6. Compliance with All Laws and Regulations**

The Owner covenants and agrees to comply with all federal, provincial, and municipal laws, rules, by-laws and regulations, and to obtain all permits, licenses or other approvals required of other bodies having jurisdiction.

#### **7. General Liability Insurance Policy**

Prior to commencing any work with respect to the pre-servicing, the Owner shall take out and at all times keep in force comprehensive general liability insurance against claims for personal injury, death or property damage resulting from any accident or other occurrence. The Owner shall deliver with this Agreement (if not previously delivered) a certified copy of the policy of liability insurance or a certificate of insurance setting out the essential terms and conditions of insurance, the form and content of which shall be satisfactory to the Township and naming the Township as an additional insured. Such policy shall be kept in full force and effect until execution of the Site Plan Agreement and shall comply with the following provisions:

- (a) the minimum limit shall be \$5,000,000.00 per occurrence, all inclusive, for property damage and personal liability;
- (b) it shall not contain a clause for exclusion for blasting;
- (c) the premium must be paid initially for a period of one year and the policy shall be renewed for further one-year periods until all Services required under this Agreement are installed and assumed by the Township;
- (d) if the policy contains a deductible clause, the Owner shall be liable and responsible for the deductible amount;
- (e) the policy shall provide for cross-liability and severability of interest protecting the Township against claims by the Owner as if it were separately insured and shall provide that the Township shall be insured notwithstanding any breach of any condition in the policy by any other insured;
- (f) the policy shall provide that the insurer shall not cancel or refuse to renew it without first giving the Township at least sixty (60) days prior written notice;
- (g) the issuance of the policy of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which the Owner is or may be liable under this Agreement or at law; and
- (h) if the Township receives notice from the insurer that it has cancelled or refused to renew the insurance, or that it intends to do so, or if the Township otherwise determines that the insurance has lapsed or is about to lapse without renewal or replacement, the Township may, on written notice to the Owner and at the sole cost and expense of the Owner, obtain insurance. In such circumstances, the Township shall be entitled to obtain new insurance or add the necessary insurance coverage to the Township's blanket insurance. The Owner shall forthwith, upon receipt of written notice thereof from the Township, reimburse the Township for the cost of such insurance payable as noted above. In addition, the Township shall, at its sole discretion and option, be entitled to draw upon any security posted under this Agreement to cover the costs of the insurance.

## 8. Indemnification and Release

The Owner acknowledges and agrees that all Works under this Agreement shall be carried out at the Owner's sole risk. Further, the Owner covenants and agrees to indemnify and save harmless the Township, its servants, agents, contractors and employees, from and against any loss, cost and expense, including legal fees, because of any actions, suits, claims or demands which may arise either directly or indirectly by reason of the permission granted hereunder and the construction and installation of the Works on the Lands or within the public right-of-way adjacent to the Lands or by reason of the maintenance or lack of maintenance of the Works by the Owner or as required under any agreement with the Township, or by reason of any defect in workmanship or material, including without limitation, damages to existing municipal infrastructure, and the costs to rectify; deficiencies, repair any defects and eliminate any nuisances. The Owner further covenants and agrees to release and forever discharge the Township from and against any and all actions, suits, claims or demands which may arise either directly or indirectly by reason of the permission granted hereunder and the construction and installation of the Works in advance of the execution of a Site Plan Agreement.

The Owner covenants and agrees to indemnify and save the Township harmless from any claim or demand howsoever arising in the performance of the Works.

## 9. Security

- a) In order to guarantee compliance with all of the obligations under this Agreement, the Owner covenants and agrees to deposit with the Township, upon execution of this Agreement, a letter of credit in the amount set out on Schedule "D" hereto. The letter of credit shall be in a form set out on Schedule "E". The Owner shall keep the letter of credit in full force and effect and shall pay all premiums as the letter of credit becomes due or until such time as the Township releases or reduces the letter of credit in accordance with the provisions of this Agreement. The Owner acknowledges and agrees that should there be a default of any of the Owner's obligations in this Agreement, including deficiency in or failure to carry out any work or matter required by any clause of this Agreement and the Owner fails to comply within thirty (30) business days (or by such later time as may be agreed upon by the Township's Director in writing) of written notice from the Township's Director to carry out such work or matter, the Township may draw on the security and enter onto the Lands and complete any and all outstanding works or matters, and pay all costs and expenses incurred thereby or owing to the Township from the proceeds so drawn. For this purpose the decision of the Director as to whether a default has occurred shall be final and binding;
- b) In lieu of a letter of credit, the Owner may deposit cash or a certified cheque to be cashed, in an amount equal to the security required by clause 9(a) above and such deposit shall be held by the Township as security for the Owner's obligations in this Agreement, provided that no interest shall be payable on any such deposit;
- c) The Owner acknowledges and agrees that upon execution of a site plan agreement, additional security may be required;
- d) No interest shall be payable on any cash deposits or certified cheques provided as security under this Agreement;
- e) Notwithstanding any provision to the contrary in this Agreement specifying the reduction or release of security, in the event that the Township determines that any reduction in the letter of credit would create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Owner pursuant to this Agreement, the Township shall not be obligated to reduce or release the letter of credit as by the particular provision until such time as such work is satisfactorily completed or the Township has sufficient security to ensure that such work will be completed; and

- f) Upon the transfer of ownership of any of the Lands (except the transfer of Lots for the purposes of occupancy of dwellings by residents), the Township shall not return any letter of credit required under this Agreement until the new owner files a substitute letter of credit or letters of credit in the required amounts with the Township.

#### **10. Fees, Lawful Levies and Rates, Letter of Credit**

1. Concurrent with the delivery of executed copies of this Agreement to the Township, the Owner shall provide to the Township, by cash or certified cheque, the total amount of cash shown on Schedule "C".

In addition, the Owner shall pay to the Township, in full and no later than thirty (30) days from the date it is presented with an invoice from the Township, the following amounts:

- (i) legal expenses and disbursements incurred by the Township for the preparation and processing of this Agreement, which amount includes the cost of registration of documents in the land registry office and all documents and all agents' fees related to such registrations;
  - (j) engineering peer review expenses incurred by the Township in relation to the design review and construction monitoring of the Owner's obligations under this Agreement, including administrative costs;
  - (k) any and all such other or additional costs and expenses that may be incurred by the Township in relation to the enforcement of the Owner's obligations under this Agreement, including administrative costs.
2. Notwithstanding any of the provisions of this Agreement, the Lands shall remain liable in common with all other assessable property in the Township for all lawful rates and levies of the Township.

#### **11. The No Waiver of Default**

No condonation, excuse, overlook or delay in action by the Township in respect of any default, breach or non-observance by the Owner at any time or times in respect of any covenant, provision or condition in this Agreement shall operate as a waiver of the Township's rights under this Agreement in respect of any such or continuing or subsequent default, breach or non-observance and no waiver shall be inferred front or implied by anything done or omitted by the Township except an express waiver in writing.

#### **12. Transfer of Ownership**

The Owner covenants and agrees that in the event it transfers or conveys the Lands or any part thereof to a third party prior to the execution of a sit plan agreement, it shall, prior to completing the transfer, provide the Township with an executed assignment of this Agreement from the third party in a form satisfactory to the Township's solicitor whereby the third party, for itself, its heirs, executors, administrators, successors and assigns agrees to be bound by the terms of this Agreement. The Owner acknowledges that upon the transfer of ownership of any of the Lands, the Township shall not be required to return any security deposited pursuant to this Agreement until the new Owner(s) files substitute security in the required amounts.

#### **13. Notice**

If any notice is required to be given by one Party herein to the other with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile or electronic (email) transmission to:

- (a) To the Owner at:  
Keele West Developments LP  
c/o Signature Communities  
45 Rodinea Road, Suite B  
Maple, ON L6A 1R3  
Attention: Krystina Chang

- (b) To the Township of King at:  
 2585 King Road  
 King City, Ontario, L7B 1A1  
 Attention: Township Clerk

or such other address of which the Party has notified the Clerk, in writing, and any such notice mailed or delivered shall be deemed good and sufficient notice under the terms of this Agreement on the day mailed, delivered or transmitted.

#### **14. Termination of Agreement**

The Owner covenants and agrees that it will proceed diligently with installation and construction of the Works. If the Works proposed to be installed or constructed pursuant to this Agreement are not commenced within six (6) months of the date of execution of this Agreement, or if installation or construction is interrupted for a period in excess of six (6) months, or if a site plan agreement relating to the Lands has not been executed between the Owner and the Township within twelve (12) months from the date of execution of this Agreement, the Township may, at its option and on thirty (30) days written notice to the Owner, declare this Agreement null and void and of no further effect and the Owner shall forthwith cease installation or construction of the Works and shall restore, regrade, top soil and seed the Lands to the satisfaction of the Director and shall take such other remedial steps as are required by the Director, weather permitting, to remove the Works or render safe the Works and the Lands. In the event that this Agreement is terminated in accordance with this provision, the fees payable to the Township, set out in Schedule "C" hereto, shall not be refunded, reduced or prorated.

#### **15. Obligation**

The Owner covenants and agrees that upon execution of a required site plan agreement for the Lands, the obligations contained in this Agreement will be transferred to the site plan agreement and this Agreement shall be of no further effect.

#### **16. Registration of Agreement**

The Owner covenants and agrees that this Agreement and any schedules attached hereto may be registered upon the title to the Lands and that such registration shall be at the instance of the Township and at its sole and absolute discretion. The Owner further covenants and agrees to pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Township as a result of the registration of any other documents pertaining to this Agreement, including but not limited to, any amendment thereto.

#### **17. Applicable Law**

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

#### **18. Binding on Successors and Assigns**

This Agreement shall be binding on the Parties hereto and it shall ensure to the benefit of their successor and assigns.

#### **19. Severability**

If any of the provisions of this Agreement are found by a court of competent jurisdiction to be unenforceable it shall not affect the enforceability of each and every other clause contained herein.

#### **20. No Fettering of Discretion**

Notwithstanding any other provision of this Agreement, the Owner expressly acknowledges and agrees that none of the provisions of this Agreement (including a provision stating the parties' intention) is intended to operate, nor shall have the effect of operating, in any way to fetter the discretion of the Township and its Council in the exercise of any of its discretionary power, duties or authorities, including without limitation, the authority to approve, approve with conditions, amend, or deny any application or request filed by the Owner. The Owner expressly acknowledges and agrees that it will not obtain any advantageous planning or other consideration or treatment, including approval or release for registration of a Site Plan Agreement, by virtue of it having entered into this Agreement.

#### **21. Entitlement to Building Permits**

The Owner agrees to not apply for any Building Permit, until issuance of the final Order of the Ontario Land Tribunal and approval of its Site Plan and registration of the Site Plan Agreement on title to the Lands. This provision may be pleaded by the Township in any action or proceeding as an estoppel of any denial of such right.

#### **22. Township Not Obligated to Complete Any Outstanding Works**

The Owner agrees that should it fail to complete any of the Works contemplated by this Agreement, the Township is under no obligation whatsoever to complete all or any portion of the Works but the Township has the right to complete the Works if it chooses to. The Owner agrees that the Township shall, acting reasonably and with prior written notice to the Owner, have the right to enter onto the Lands to take reasonable actions to safeguard the health and welfare of the residents of the Township including, but without limiting the generality of the foregoing, to filling in holes, blocking off access, posting signs and leveling terrain. The Township may draw upon the Security provided under Section 9 in order to complete the Works or ensure the Lands are safeguarded as noted above.

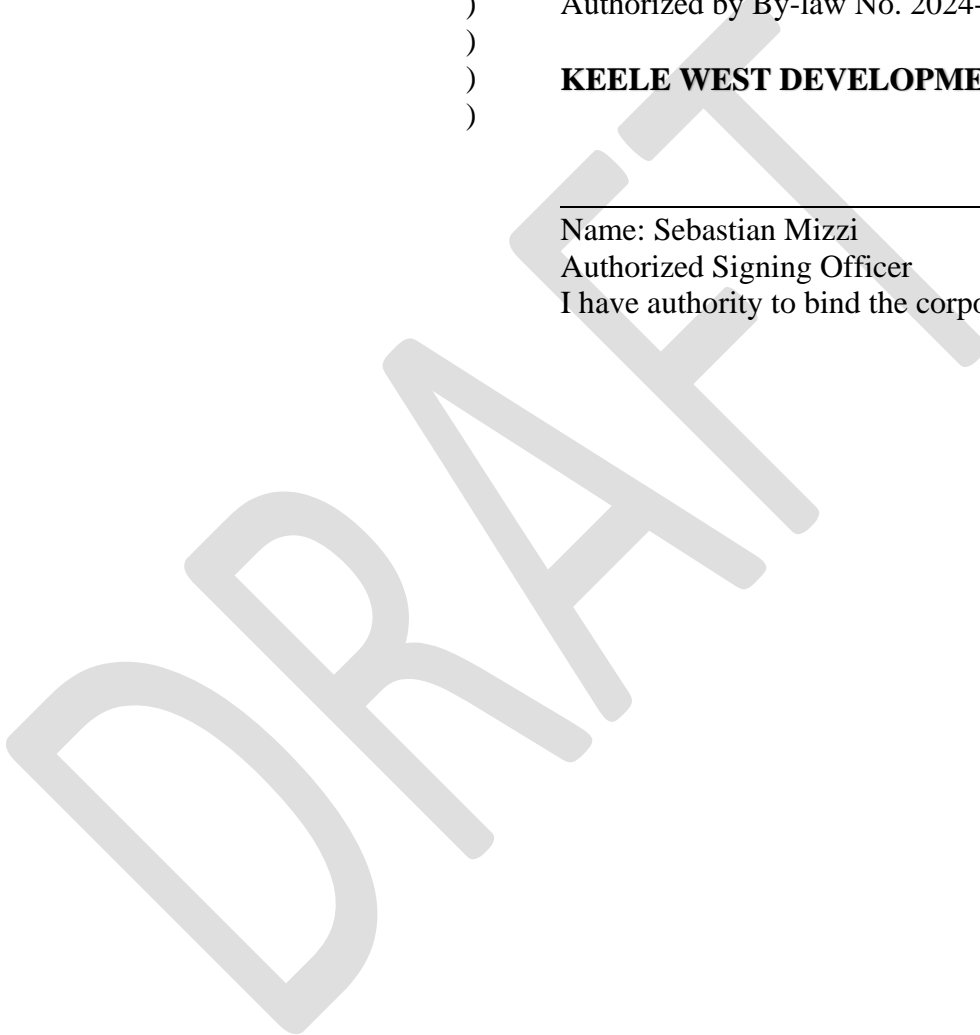
#### **23. Schedules**

The following schedules attached hereto form part of this Agreement:

- (a) Schedule A – Legal Description of Lands
- (b) Schedule B – Works to be Constructed
- (c) Schedule C – Cash Payments
- (d) Schedule D – Letter of Credit
- (e) Schedule E – Form of Letter of Credit

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

<b>SIGNED, SEALED AND</b>	)	<b>THE CORPORATION OF THE</b>
<b>DELIVERED</b> in the presence of	)	<b>TOWNSHIP OF KING</b>
	)	Per:
	)	
Authorized to be executed by By-law	)	_____
_____, passed on the ____ day of	)	Steve Pellegrini,
_____, 2024.	)	Mayor
	)	
	)	_____
	)	Denny Timm,
	)	Clerk
	)	
	)	Authorized by By-law No. 2024- __
	)	
	)	<b>KEELE WEST DEVELOPMENTS LP</b>
	)	
	)	_____
	)	Name: Sebastian Mizzi
	)	Authorized Signing Officer
	)	I have authority to bind the corporation.





SCHEDULE "A"LEGAL DESCRIPTION OF LANDS

ALL AND SINGULAR THAT certain parcel or tract of land and premises situate, lying and being in the Geographic Township of King, in the Regional Municipality of York, being composed of: Firstly, Lot 35 Plan 84; Part Lot 34 Plan 84 as in B40263B Except Part 11 Expropriation Plan B58027B, being all of PIN 03369-0122(LT); Secondly, Part Lot 33 Plan 84, Part Lot 34 Plan 84 as in R665851, being all of PIN 03369-0121 (LT); Thirdly, Part Lot 32 Plan 84 & Part Lane Plan 109, Part 2 65R37159, Part Lots 26 to 31 Plan 84, Part 1 65R37159 Except Part 1, Expropriation Plan YR3458762, Subject to an Easement in Gross over Part 2, Expropriation Plan YR3458762 as in YR345872, shown as Part 3 of the Survey and being part of PIN 03369-0572 (LT).

Land Registry Office for the Land Titles Division of York No. 65.

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SCHEDULE "B"WORKS TO BE CONSTRUCTED

The Owner covenants and agrees to construct the public works as shown on a set of drawings prepared by Urban Watershed Group Ltd., stamped on TBD:

<b>Drawing/Figure No.</b>	<b>Drawing Description</b>
21008.2-PP1	Easement Plan & Profile
21008.2-PP2	Easement Plan & Profile
21008.2-ES1	Erosion and Sediment Control Plan
21008.2-CN1	Construction Notes and Details Plan
21008.2-CN2	York Region Construction Notes

**Pre-Servicing Estimate of Costs**

Storm Sewers and Appurtenances	\$625,593.60
<b>Total</b>	<b>\$625,593.60</b>

SCHEDULE "C"CASH PAYMENTS

1.	Taxes, including interest and penalties	\$ N/A
2.	All other outstanding fees/accounts.	\$ N/A
3.	Local improvement contribution, cost sharing, external servicing:	
	a) To Township of King	\$ N/A
	b) Reimbursement to third party landowner.	\$ N/A
4.	Development Charges and Special (Township – Hard Services Area Development Charges	\$ N/A
5.	Engineering Fees Less previous payment = \$0.00 Total fees owing = \$0.00	\$ N/A
6.	Engineering Fee Deposit*	\$N/A
7.	Waste management blue box/green bin per unit	\$ N/A
8.	Harmonized Sales Tax (H.S.T.) payable on items 5 to 7 inclusive.	\$N/A
9.	DWWP Approval Fee	\$N/A
10.	Testing & Flushing Deposit (\$155 per unit). Water used for testing and flushing water distribution system to be reconciled with meter data.	\$N/A
11.	Construction Water (\$155 per unit)	\$N/A
	TOTAL AMOUNT OF CASH	\$N/A

SCHEDULE "D"LETTER OF CREDIT

1.	50% of Estimated Cost of Works	\$N/A
	<b>TOTAL AMOUNT OF LETTER OF CREDIT</b>	<b>\$N/A*</b>

\*The Owner shall be responsible to provide security for the Works to the satisfaction of the Regional Municipality of York.

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SCHEDULE "E"FORM OF LETTER OF CREDIT

Financial Institution:  
*(Name of Financial Institution)*  
*(Address of Financial Institution)*

Date of Issue:  
 Irrevocable Letter of Credit  
*Identification # of Letter of Credit*

Applicant:  
*(Name of Applicant)*  
*(Address of Applicant)*

Beneficiary:  
 The Corporation of the Township of  
 King

Amount: *(in figures)*(CAD)  
*(in words)*(CAD)

We hereby authorize you to draw on *(name and address of financial institution)* for the account of *(name of applicant)* up to an aggregate amount of *(maximum amount of letter of credit in words)*(CAD)*(maximum amount of letter of credit in figures)*(CAD), available with ourselves, on demand, by payment, against presentation of the document(s) detailed herein and of your draft(s) at sight drawn on ourselves.

Pursuant to the request of our customer, the said *(name of applicant)*, we, the *(name and address of financial institution)*, hereby establish and give to you an irrevocable standby letter of credit in your favour in the total amount of *(maximum amount of letter of credit in figures)*(CAD)*(maximum amount of letter of credit in words)*(CAD) which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we shall honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to the *(name and address of financial institution)*, at such time as a written demand for payment is made upon us, a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this credit are to be and/or have been expended pursuant to obligation incurred or to be incurred by you relative to a Subdivision Agreement between *(name of owner)* and the Township of King under File No. (\_\_\_\_\_).

The amount of this standby letter of credit may only be reduced by drawings endorsed hereon or as advised by notice in writing to us by you.

This standby letter of credit will continue up to *(date of expiry of letter of credit)* and will expire at our counters on that date and you may call for payment of the full amount outstanding under this letter of credit at any time prior to that date subject to the following:

It is a condition of this letter of credit that it shall be deemed to be automatically extended without amendment for one year from the present or any future expiry date hereof, unless 30 (thirty) days prior to such expiry date, we notify you in writing by registered mail/courier, that we elect not to consider this standby letter of credit to be renewable for an additional period. Upon receipt by you of such notice, you may draw hereunder by means of your signed demand for payment certifying

that the amount drawn will be retained and used by you to meet obligations incurred or to be incurred with the above. Further that you will release any amounts not required by you directly to the applicant.

Partial drawings are permitted.

The drafts drawn under this standby letter of credit are to state on their face that they are drawn under ***(name and address of financial institution)*** standby letter of credit stating its number and date.

We hereby agree that drafts drawn under this standby letter of credit will be duly honoured upon presentation provided that all terms and conditions of the standby letter of credit have been complied with.

This standby letter of credit is subject to the “Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce, Publication No. 500”, and engages us in accordance with the terms thereof.