

THIS FRONT-ENDING AGREEMENT is made this 10 day of August, 2021.

BETWEEN:

HILLSBURGH HEIGHTS INC.
(the "Participating Owner")

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF ERIN
(the "Town")

OF THE SECOND PART

WHEREAS:

1. In 2015, the Town completed the Urban Centre Wastewater Servicing Class EA, the purpose of which was to identify the preferred wastewater servicing solution to the existing residents and future development within the communities of Erin Village and Hillsburgh (collectively, the Communities);
2. The Class EA recommended a wastewater collection system conveying all wastewater flows to a single wastewater treatment plant ("Wastewater Collection System"), to meet the existing Communities wastewater servicing needs and to support future population growth. The preferred solution further presented that the wastewater treatment plant would be located at the intersection of 10th Line and Wellington Road 52 south of Erin village, with treated effluent being discharged to the West Credit River on the west side of the bridge on Winston Churchill Boulevard on Wellington Road 52;
3. The Town has completed a study under the Development Charges Act, 1997, S.O. 1997, c. 27 (the "DCA"), that relates to the provision of services for which there will be an increased need as a result of development within the Communities and the Town proposes to enact a new Development Charge By-law to implement that study's recommendations;
4. The study under the DCA included the estimated costs of the initial services and studies necessary to be front ended in order to consider the registration of plans of subdivision in that part of the Communities described in Schedule "A", (the "Benefitting Lands"), the costs of which services and studies include:
 - A. the costs of all necessary studies and engineering design required to commence servicing of the Benefitting Lands, and

- B. the cost of designing and constructing the Wastewater Collection System which will convey sanitary sewage to the proposed wastewater treatment plant, and which are required to service the Benefitting Lands.

These services and studies are more particularly described in clause 2.C. and Schedule "B" of this Agreement (the "Front Ended Services");

5. The Director of Infrastructure Services and Engineering (the "Director") has allocated the estimated costs of the Front Ended Services into the portions necessary to service each of the lands owned by the Front-Ending Owners in accordance with Schedule "C";
6. The Participating Owner is the owner of the Participating Owner Lands, as defined in Section 1 of this Agreement;
7. The Parties have agreed to enter into this Agreement for the purpose of providing for the construction, installation and financing of the Front Ended Services and the financing thereof, including the immediate payment of all costs by the Front-Ending Owners before any construction of the Front Ended Services commences and the collection of front ended payments from owners of the Benefitting Lands who may wish to connect to the Front Ended Services and who are not parties to this Agreement;
8. Council of the Town at its meeting of March 16, 2021 authorized the execution of this Agreement;

IN CONSIDERATION of the covenants expressed in this Agreement and other good and valuable consideration, the Parties covenant and agree, one with the other, as follows:

1 – Definitions and Interpretation

In this Agreement, including the Recitals above and the Schedules hereto, unless there is something in the subject matter or context inconsistent therewith, the following terms and expressions have the following meanings:

- a. **"Agreement"** means this Agreement and the Schedules hereto;
- b. **"Allocation Agreement"** means the Agreement, and schedules thereto, made under section 27 of the DCA between the Participating Owner, the Participating Purchaser and the Town and "Allocation Agreements" means all of them;
- c. **"Benefitting Area"** means all land located in the Town;
- d. **"Benefitting Lands"** means benefitting lands as defined in Recital 4.
- e. **"Benefitting Owner"** means an owner of Benefitting Lands intended for

development;

- f. **"Business Day"** means a day other than Saturday or Sunday or any day upon which the principal commercial banks in the Town are not open for business during normal banking hours;
- g. **"Capacity"** means Wastewater Services capacity expressed in SDEs;
- h. **"Consent Agreement"** means an agreement under subsection 53(12) of the PA;
- i. **"Construction Security"** shall mean the Security posted in accordance with clause 5.B;
- j. **"Cost Change"** means the difference between the total costs of the Front Ended Services as per the contracts awarded by the Town, or the updated estimates for the Front Ended Services, and the total estimated costs of the Front Ended Services as shown in Schedule "C" and includes changes resulting from the addition, deletion, deferral, or delay of Front Ended Services;
- k. **"DC"** means the development charges under the DCB;
- l. **"DCA"** means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended or revised from time to time and any successor legislation;
- m. **"DCB"** means By-law No. 19-32, as may be amended from time to time and any successor by-law;
- n. **"Default"** means a failure by the Participating Owner to comply with an obligation of a Participating Owner under this Agreement by the date for complying;
- o. **"Defaulting Owner"** means the Participating Owner who is in Default;
- p. **"Director"** means the director as defined in Recital 5;
- q. **"Engineer"** means the engineer as defined in clause 5.D.;
- r. **"Financing Security"** means the Security that is provided in accordance with clause 6.B.II;
- s. **"Front Ender"** means the front ender as defined in clause 5.C.;

- t. **"Front Ended Payment"** means front ended payments as defined in clause 2.C.;
- u. **"Front Ended Services"** means the front ended services as described in Recital 4;
- v. **"Government Approval"** means any approval, permission, licence, permit or any other approval of any kind whatsoever required from the federal or provincial government or any agency or board thereof or a conservation authority for the construction and operation of the Projects;
- w. **"Holiday"** in this Agreement has the same meaning as the word "holiday" in section 88 of the Legislation Act, 2006, S.O. 2006, c. 21, Sch. F., as amended or revised from time to time and any successor legislation;
- x. **"Judicial and/or Administrative Proceedings"** means any judicial or administrative applications, actions, proceedings, appeals or reviews of any kind whatsoever related indirectly or directly to the subject matter of this Agreement;
- y. **"Letter of Credit"** means an unconditional and irrevocable demand letter of credit in favour of the Town that provides for automatic renewals and partial draws issued by a financial institution in the form set out in Schedule "D" hereto provided both the financial institution and letter of credit are acceptable to the Town;
- z. **"Linear Segment #1"** means the sanitary sewer and related infrastructure described in Schedules "B" and "B1" of the Agreement;
- aa. **"Linear Segment #2"** means the sanitary sewer and related infrastructure described in Schedules "B" and "B2" of the Agreement;
- bb. **"Linear Segment #3"** means the sanitary sewer and related infrastructure described in Schedules "B" and "B3" of the Agreement;
- cc. **"Linear Segment #4"** means the sanitary sewer and related infrastructure described in Schedules "B" and "B4" of the Agreement;
- dd. **"Notice"** means any Notice, demand, acceptance, request or other communication permitted or required to be given hereunder;
- ee. **"Planning Act"** means the Planning Act, R.S.O. 1990, c.P.13 as amended or revised from time to time and any successor legislation;
- ff. **"Participating Owner Lands"** means the lands of the Participating Owner described in Schedule "A" hereto and depicted in the sketch attached hereto as Schedule "A" hereto;
- gg. **"Parties"** means the Participating Owner and the Town;



- hh. **"Proportionate Share"** means the ratio obtained when the number of SDE reserved to the Participating Owner as shown in Schedule "B" hereto is divided by the total number of SDEs available;
- ii. **"Recoverable Amount"** means the costs described in Schedule "B" per SDE and as may be adjusted from time to time and at any time, and which Recoverable Amount does not include any component of the costs of Front Ended Services that benefit the Participating Owner Lands;
- jj. **"Refunded Share"** means the refunded share as defined in clause 10.F.;
- kk. **"SDE"** means a single detached equivalent residential Dwelling Unit and shall include a second dwelling unit in a new residential building, even though the said second unit may be otherwise exempt from the payment of a DC as a result of subsection 2(3.1) of the DCA and subsection 2(3) of O.Reg 82/98 enacted thereunder;
- ll. **"Security"** means one or more Letter(s) of Credit in the form attached as Schedule "D" to this Agreement;
- mm. **"Site Plan"** means a plan under section 41 of the Planning Act;
- nn. **"Site Plan Agreement"** means an agreement under section 41(7) of the Planning Act;
- oo. **"Subdivision Agreement"** means an agreement under clause 51(25)(d) of the Planning Act;
- pp. **"Substantial Completion"** means a Front Ended Service is ready for use or is being used for purposes intended as certified in writing by the Town Director, his or her successor, equivalent or delegate;
- qq. **"Third Party Participating Owner(s)"** means an Owner of land in the Benefitting Area who has entered into a separate front ending agreement
- rr. **"Town"** means The Corporation of the Town of Erin;
- ss. **"Wastewater Collection Overcontribution"** means the Wastewater Collection Overcontribution referred to in Clause 2.C.IV. and as set out in Schedule "C";
- tt. **"Wastewater Collection System"** means Linear Segments #1, #2, #3, and #4 which will convey sanitary sewage to the proposed Wastewater Treatment Plant;
- uu. **"Wastewater Treatment Plant"** means the Wastewater Treatment Plant approved by the urban Centre Wastewater Servicing Class EA in 2015.



2 – Front Ending Agreement

- A. The Participating Owner acknowledges and agrees that the Town has the statutory authority to enter into this Agreement and the Participating Owner agrees that it shall not challenge the validity of this Agreement before a court of law or the Ontario Land Tribunal, or its successor.
- B. The Parties agree that the Front Ended Services are not local services as defined in s. 2(5) of the DCA, and are services which are:
- I. required to enable the Participating Owners Lands and the balance of the lands within the Benefitting Area to be developed;
 - II. services for which development charges are payable under the development charge by-law; and,
 - III. eligible for inclusion in a front-ending agreement under the DCA.
- C. The Parties agree that all costs of design, construction and installation of the Front Ended Services used for the purpose of calculating the Front Ended Payments by the Participating Owner and the Benefitting Owners shall be the reasonable costs of such construction and installation incurred by the Town or the Front-Ending Owners, as the case may be. For greater certainty such costs shall include the following:
- I. all payments on contracts entered into for such design, construction or installation, as certified and accepted by the Director;
 - II. the cost of all acquisition of land or rights in land required to be acquired from owners not front-ending;
 - III. all engineering and other consulting fees, and all legal fees, whether paid to consultants or to the Town; and,
 - IV. the payment of part of the cost of any studies and design required by this Agreement. Such costs shall not include:
 - i. any indirect overhead expense of a Participating Owner;
 - ii. any financing cost of a Participating Owner;
 - iii. the cost of any Security required by this Agreement; and
 - iv. the Wastewater Collection Overcontribution.

These costs shall form the basis of the payments which the Participating Owner and Benefitting Owners shall pay to the Town in accordance with clause 8 and clause 9 of this Agreement (the "Front Ended Payment").

3 – Allocation Agreement

- A. The Participating Owner shall execute an Allocation Agreement for all of the Participating Owner Lands at the same time as the Participating Owner executes this Agreement with the Town. It shall be a condition precedent to the validity of this Agreement that the Participating Owner has also executed an Allocation Agreement to the satisfaction of the Town.

- B. In order to be in good standing pursuant to this Agreement, the Participating Owner must not be in Default under:
 - I. this Agreement; or
 - II. the Allocation Agreement.

4 – Timing and Construction of the Front Ended Services

- A. Despite any payments by the Front-Ending Owners under this Agreement pursuant to clause 8., and subject to clause 10., the Town shall:
 - I. be responsible for the design, engineering, tender, construction, installation, operation and maintenance of the Front Ended Services;
 - II. own the Front Ended Services; and,
 - III. be entitled to impose, from time to time and at any time, such fees and charges directly and indirectly related to the collection, transmission, treatment and disposal of wastewater as the Town considers necessary or desirable under Part XII (Fees and Charges) of the MA, 2001, or any other user fee or charge permitted by statute.
- B. The Town may delay, defer, or cancel one or more of the Front Ended Services, in its sole and absolute discretion, and in whole or in part, if one or more of the Participating Owner fails to:
 - I. execute this Agreement;
 - II. execute the Allocation Agreement;
 - III. subscribe to all of the available SDE units, in whole or in part.

The Town and the Participating Owner agree to undertake best efforts to work together to address any shortfall respecting subscription to available SDE units.

- C. The Participating Owner agrees and acknowledges that the deferral, delay, or cancellation of one or more Front Ended Services under clause 4.B. may delay the completion of one or more Front Ended Services, which, in turn, may delay development of the Participating Owner Lands and lands within the Benefiting Area.
- D. If the Town exercises its rights of deferral, delay, or cancellation under clause 4.B., the Town shall give 30 Business Days of Notice to the Participating Owner of the Front Ended Services it intends to delay, defer, or cancel, and the length of the delay, if known at the time the Notice is given.
- E. The Town and the Participating Owner agree and acknowledge that clause 4.B. is for the sole benefit of the Town, and the Town may waive such clause, in whole or in part, or be modified from time to time and at any time by the Town in its sole and absolute discretion.
- F. Despite clause 4.A., the Town may, in its sole and absolute discretion, permit one or more of the Front Ended Services to be designed or constructed or both by the Participating Owner or Third Party Participating Owners pursuant to the requirements outlined in clause 5.
- G. Despite clause 4.F., and despite the contents of Schedule "B", the Town may, in its sole and absolute discretion, change or delete Front Ended Services contained on Schedule "B". Schedule "B" is deemed conclusively to be amended without formal amendment to this Agreement. If the

Town changes any of the Front Ended Services on Schedule "B", the Town shall give Notice to the Owner within 30 Business Days of making such change.

5 – Election by Front-Ending Owners to Construct Services

- A. The Participating Owner may elect to construct and install a part or the whole of the Front Ended Services in accordance with clause 5 of this Agreement through strict compliance with the requirements of clause 5.B. After such compliance and obtaining all necessary Government Approvals, subject to the terms of this Agreement, construction and installation of the Front Ended Services may be commenced. In the case of that part of the Front Ended Services which services only the Participating Owner, the election may be submitted by that Participating Owner alone. In the case of that part of the Front Ended Services which services Third Party Participating Owners in addition to the Participating Owner, the election shall only be considered by the Town if it is submitted by all of the Third Party Participating Owners and the Participating Owner serviced by those portions of the Front Ended Services.
- B. If any one or all of the Participating Owner and Third Party Participating Owners desire to construct all or any portion of the Front Ended Services as described in Schedule "B", they shall first apply to the Director for the following:
- I. approval of the choice of the Engineer for the Participating Owner and/or Third Party Participating Owner;
 - II. an up-to-date estimate of the cost of the portion to be installed and constructed, together with any additional requirements of the Director not provided for in this Agreement; and
 - III. the amount of the Security required to be posted in order to guarantee the Front Ended Services to be installed and constructed ("**Construction Security**"). The quantum of the Construction Security shall be prescribed by the Director in his sole and absolute discretion based upon the extent of the services to be installed and constructed, which amount will not be less than 110% and not more than 125% of the cost of the Front Ended Services to be installed and constructed. The Construction Security shall be in the form attached hereto as Schedule "D".

Before commencing any installation or construction, the Participating Owner shall together with the Third Party Participating Owner(s) deliver to the Director a Notice of election to proceed together with the following:

- IV. a description of the portion of the Front Ended Services to be installed and constructed which must be one of the portions described in Schedule "B",
 - V. a certified cheque equal to 15% of the up-to-date costs of the services to be installed and constructed as engineering fees; and,
 - VI. Construction Security from a Canadian chartered bank in a form satisfactory to the Town in the amount prescribed by the Director. The Town, in its sole and absolute discretion, may require that the Security be from a Schedule "1" Canadian chartered bank. The Construction Security will be held by the Town as Security for the obligations of the Participating Owner in accordance with this Agreement.
- C. Notwithstanding anything else contained in this Agreement, the Participating Owner and Third Party Participating Owner(s) that comply with clause 5.B. shall be permitted to construct part or the whole of the Front Ended Services, if and only if the Town first grants its consent to such Participating Owner together with the applicable Third party Participating Owner(s) (referred to hereinafter as the "Front Ender(s)"), in writing, which consent may be arbitrarily withheld.
- D. The Front Ender(s) agree to retain a competent consulting engineer experienced in the municipal engineering field (the "Engineer"). The Engineer or his successor shall be approved by the Director and shall carry out all necessary engineering requirements in accordance with this

Agreement and with the Guideline for Engineering Services to Municipalities. The Engineer shall be retained by the Front Ender until all requirements of this Agreement have been completed to the satisfaction of the Director.

- E. The Front Ender(s) agree to construct the Front Ended Services as shown on a set of drawings approved and signed by the Director. The preparation of the drawings shall be undertaken according to the Town's design criteria, design standards and specifications and procedures as amended from time to time.
- F. The Front Ender(s) agree not to let any contract for the performance of any of the works unless the contractor has been first approved by the Director, which approval may be unreasonably withheld. The contract(s) shall provide that the Director may inspect the construction of the Front Ended Services and shall have authority to instruct the contractor(s) to stop work should any construction be undertaken contrary to the provisions of this Agreement and the Town's design criteria, standards and specifications.
- G. The Front Ender(s) agree to provide the Town with ten Business Days of Notice before commencing the installation or construction of the Front Ended Services.
- H. The Front Ended Services shall be completed within a maximum of 18 months from commencement.
- I. The Front Ender(s) agree that the Director may inspect the construction work under any contract, but such inspection shall in no way relieve the Front Ender(s) from its responsibility to inspect the work itself. If, at any time, the construction of all works is not, in the opinion of the Director, being carried out in accordance with the provisions of this Agreement, and in accordance with good engineering practices, the Director may issue instructions to the Front Ender(s) or to the Engineer to take such steps as deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be written, or may be verbal, in which case the Director shall confirm them in writing within 24 hours. In the event that neither the Front Ender(s) nor the Engineer is present at the site of the works to receive such verbal instructions, the Director may instruct the contractor(s) or workers to cease work forthwith.
- J. The Front Ender(s) shall undertake and pay for a sewer video inspection program for the Front Ended Services installed and constructed. These works shall be undertaken by a qualified company and be approved by the Director prior to the work being undertaken. The Front Ender(s) shall provide a copy of such video inspection and written reports to the Town in a format as specified by the Town. The sewer video inspection shall be carried out prior to acceptance for maintenance by the Town. The said video shall demonstrate to the Director's satisfaction that the Front Ended Services function to the Town's satisfaction, failing which the Front Ended Services shall be corrected to the satisfaction of the Director.
- K. The Front Ender(s) agree that all streets in the vicinity of construction of the Front Ended Services shall be kept in a good and usable condition during the construction period and, if damaged by the Front Ender or Parties employed by the Front Ender(s) in the construction of the Front Ended Services, or by contractors so employed, will be repaired or restored immediately.
- L. The Front Ender(s) agree not to foul any public streets and further agrees to provide the necessary persons and equipment, to be available on reasonable Notice at all times, to keep such streets clean. All trucks making deliveries to or taking materials from the construction site shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish, or debris on the abutting streets.
- M. If, in the opinion of the Director, these requirements are not complied with, the Town may do the work as required and upon demand, the Front Ender(s) shall forthwith pay to the Town the full cost thereof. If the Front Ender(s) fail to make the payment as required by the Town, such failure will constitute a Default and the Town may, subject to meeting the requirements of clauses 15.C and 15.D, draw upon the Construction Security.
- N. The Front Ender(s) agree that all public works on adjoining lands shall be kept in a good and

usable condition during the construction period and, if damaged by the Front Ender(s) or parties employed by the Front Ender(s) during construction or by contractors so employed, will be repaired and restored immediately.

- O. When, after the Front Ender(s) have commenced construction of the Front Ended Services but before the assumption thereof by the Town, the Front Ended Services do not function, or do not function properly, and in the sole opinion of the Director, repairs are necessary to be made immediately to prevent damage or hardship to persons or property, the Front Ender agrees that the Town, its servants, employees or agents, may make whatever repairs may be deemed necessary. The Front Ender further covenants and agrees to reimburse the Town for any expense incurred in making the repairs. If the Front Ender(s) fail to make the payment as required by the Town, the Town may, subject to meeting the requirements of clauses 15.C and 15.D, draw upon the Construction Security.
- P. The Town agrees to give Notice to the Front Ender(s) within 2 Business Days from the date of entry by the Town of the nature and extent of the emergency and repairs which were necessary.
- Q. The Front Ender(s) agree to maintain and keep in a proper state of repair and operation the Front Ended Services installed and constructed by the Front Ender(s) for a minimum period of 24 months from the date of acceptance for maintenance by the Town.
- R. The Front Ender(s) agree that the whole or any part of the Front Ended Services, when constructed and assumed by the Town, shall vest in the Town and the Front Ender(s) shall have no claims or rights thereto other than those accruing to it as an owner of land abutting on streets on which services have been installed.
- S. Performance and maintenance guarantees:
 - I. The Security provided to the Town in accordance with clause 5.B.III and 5.B.VI may be, subject to clauses 15.C and 15.D, drawn upon by the Town for any Default by the Front Ender under this Agreement and for any other purpose specified in this Agreement. If any lien is filed or registered under the *Construction Act*, R.S.O. 1990, c. C.30, as amended, this shall constitute a Default. Upon such Default, the Town may draw upon the Security for payment into court of the hold-back moneys, plus interest and costs, if deemed necessary by the solicitor for the Town to satisfy its requirements under the *Construction Act*.
 - II. The Front Ender(s), when not in Default of this Agreement, may apply for acceptance for maintenance by the Town of the Front Ended Services after completion of construction and compliance with clauses H., T., and U. Upon the Director approving such acceptance, any security held by the Town may be reduced up to 25% of the value of the work at the commencement of construction as estimated by the Director. Prior to the reduction of security held by the Town for any Front Ended Services, the Front Ender(s) must supply the Town with the following documentation:
 - i. statutory declaration of works completed and contractors and subcontractors having been paid;
 - ii. Workplace Safety and Insurance Board clearance certificate; and,
 - iii. expiration of the construction lien period.
 - IV. Upon application by a Front Ender after the expiry of the maintenance period of 2 years, and after compliance with this Agreement satisfactory to the Director, the Town will release all Security held to secure the construction of the whole or the portion of the Front Ended Services for which assumption is granted.



- T. Before commencing any of the works provided for in this Agreement, the Front Ender(s) shall supply the Town with a liability insurance policy in the minimum amount of \$5,000,000.00 in a form satisfactory to the Town solicitor, indemnifying the Town from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Front Ender. The policy shall contain a completed operations clause and shall have no exclusion for blasting. In the event any renewal premium is not paid, the Town, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Front Ender agrees to pay the cost of such renewal or renewals within 10 Business Days of the account therefor being rendered by the Town.
- U. Immediately prior to acceptance for maintenance by the Town of the Front Ended Services, the Front Ender(s) agree as follows:
- I. to flush all sewers and manholes free of road materials, building debris, and other foreign matter; to clean such materials from the system; to provide video inspection as required under clause 5.J.; and to rectify any deficiencies the video inspection may reveal;
 - II. to sweep abutting roadway pavement, including sidewalks, clear of building debris and earth deposits, and to clean and remove all such material;
 - III. to rectify and repair all damages to adjacent public services;
 - IV. to rectify and repair all settlements, depressions or other defects on roadways, until assumption of the Front Ended Services, and
 - V. to furnish the Director with:
 - i. a statutory declaration from the Front Ender(s) that all contractors and subcontractors associated with the construction of public works have been paid;
 - ii. a certificate from the Engineer indicating the final construction costs for the public works based on the actual construction contract, and
 - iii. payment of additional engineering fees, if required by the Director, based on the final construction costs of the public works certified by the Engineer.
- V. The Town agrees that the acceptance for maintenance of the Front Ended Services shall take place upon fulfilment of the following conditions:
- I. all sewers and manholes are clean and free of road materials, building debris and any other foreign matter;
 - II. all roadway pavements and sidewalks are clean and free of building debris and earth deposits;
 - III. all damage to adjacent services has been repaired or rectified to the satisfaction of the Director;
 - IV. all settlements, depressions or any other defects on roadways have been repaired to the satisfaction of the Director;
 - V. the Director has received:



- i. a statutory declaration from the Front Ender(s) that all contractors and subcontractors associated with the construction of the Front Ended Services have been paid;
- ii. a satisfactory set of "as constructed digital files and drawings" of all works required to be done by this Agreement in a form that meet Town specifications;
- iii. a certificate from the Engineer indicating the final construction costs for Front Ended Services based on the actual construction contract; and,
- iv. payment of additional engineering fees, if required by the Director, based on the final construction costs of the Front Ended Services certified by the Engineer;
- v. the Front Enders(s) are not in Default of any terms or conditions of this Agreement.

6 – Election for Town to Construct Services

- A. If the Participating Owner does not elect to construct the Front Ended Services themselves pursuant to clause 5, or if the Town does not consent to the same pursuant to clause 5, the Town may construct and install the whole or part of the Front Ended Services in accordance with the requirements of clause 6.B.
- B. If the Town commences installation and construction of all or any portion of the Front Ended Services as described in Schedule "B", the Participating Owner shall provide to the Director any additional requirements of the Director not provided for in this Agreement. The Town agrees to call tenders and commence construction and installation of a portion or the whole of the Front Ended Services within a reasonable time after providing the Participating Owner with Notice of the following:
 - I. a description of the portion of the Front Ended Services to be constructed which must be one of the portions referred to in Schedule "B"; and
 - II. confirmation that Security from a Canadian chartered bank in a form satisfactory to the Town solicitor in the form set out in Schedule "D" to this Agreement was posted by the Participating Owner at the time that this Agreement was executed.
- C. Notwithstanding anything else contained in this Agreement, the Security required pursuant to clause 6.B. shall be in the amounts set out in Schedule "C" and in the form set out in Schedule "D" to this Agreement and shall be posted immediately upon the execution of this Agreement and may be utilized by the Town, in its discretion for the construction and installation of the Front Ended Services at any time.
- D. In the event that the Participating Owner fails to provide any of the matters set out in clause 6.B., the Town shall be permitted to provide same itself and utilize the Security to pay for same. The Town may also draw upon the Security in its discretion to pay the Front Ended Service costs. If the amount of the Security is insufficient to pay for the total cost of the works, the Participating Owner who delivered the Notice of election, agrees to immediately pay to the Town such deficiency or to deliver additional Security upon demand therefor and the Town may cease construction of, or prevent connection to the Front Ended Services, until such deficiency is paid. The Town shall return any unused Security in excess of the amount required to complete the Front Ended Services and to maintain the Front Ended Services for a minimum period of 5 years, in the discretion of the Director. The Security shall be issued by a Schedule "4" Canadian chartered bank.
- E. Whenever and to the extent that the Town shall be unable to fulfil, or shall be delayed or restricted in fulfilling its obligation to construct the Front Ended Services, for any cause beyond its control, the Town shall be relieved from its obligation during the period during which it is unable to fulfil or is delayed or restricted in fulfilling its obligations.
- F. Notwithstanding anything else to the contrary herein, the Town shall use reasonable efforts to ensure that the design, tender and construction of the Wastewater Treatment

Plant and Linear Segments 1, 2, 3, and 4 progresses in an active, continuous and diligent manner following the date of this Agreement.

7 – Rights of Way

- A. All Front Ended Services installed and constructed under this Agreement shall be located in road allowances or easements approved by the Director and granted to the Town, free and clear of all encumbrances.
- B. In the event a Notice of election is delivered according to clause 5 or clause 6 of this Agreement, no installation and construction shall commence until the Town Solicitor is satisfied that all rights in land required by the Director have been conveyed to the Town or agreements to convey have been executed.
- C. Upon request from a Participating Owner who desires to construct services through lands approved by the Director, but owned by others, the Town shall assist, at the cost of such Participating Owner, in obtaining rights to construct and maintain services on such lands. For greater certainty, the Town is not obligated to commence expropriation proceedings to assist a Participating Owner in this clause.

8 – Front Ended Payments

- A. While this Agreement remains in force, the Town agrees to use its best efforts to impose the requirement of a Front Ended Payment by all owners of land in the Benefitting Area to be connected to the Front Ended Services (except for the Participating Owner who shall pay the cost of the Front Ended Services upon execution of this Agreement) in the amount calculated according to clauses 8.E. and 8.F of this Agreement, and as a condition to any development approval referred to in s. 2(2) of the DCA.
- B. The Town agrees to place money received as Front Ended Payments in a special reserve account and, provided that a notice of election has been given and clause 5.B. has been complied with, the Town shall immediately, upon receipt of the money, by registered mail:
 - I. notify the appropriate Participating Owners who have paid the cost of the Front Ended Services that the money is available to be paid out, and,
 - II. advise the appropriate Participating Owners to whom the Town proposes to pay the delivery of the said money.

Upon the delivery of said Notice from all the Participating Owners who have paid the cost of the Front Ended Services, the Town shall pay to the person or persons named in the Notice without interest, the proportion of the money received by the Town to which the party is entitled as set out in the Notice.

- C. The Parties confirm that the reasonable cost to the Town in processing the collection of front end payments while this Agreement remains in force is 3% of all such payments. Accordingly, there shall be deducted from all such payments paid into the special reserve account, an amount equal to 2% to cover the legal and administrative costs of the Town.
- D. The Town may, at any time prior to the giving of a Notice for any part or the whole of the Front Ended Services in accordance with clause 5 or clause 6 of this Agreement, approve limited development in any part of the Benefitting Lands not serviced by the Front Ended Services, which development will ultimately be required to connect to the Front Ended Services but which, in the opinion of the Director, may proceed on an interim basis with alternate sewerage and water facilities. In such event, the Town shall charge such development a front end payment calculated in accordance with clause 8.E. and such payment or payments shall be placed in a special reserve account and be applied to reduce the cost of front ending by the Parties.

- E. The Front Ended Payment to be charged against all development in the Benefitting Area to fund the Front Ended Services shall be calculated as set out in Schedule "C". The Participating Owner shall fund only the linear segment shown next to the Participating Owner's name on Schedule "C".
- F. The Town, in its sole and absolute discretion, may adjust the front ended payment in clause 8.E. in the event that:
 - I. there is a Cost Change between the commencement of this Agreement and the conclusion of the Adjustment Period; or
 - II. one or more Front Ended Services are deferred, waived, cancelled, or removed pursuant to clauses 4.B or 4.G.
- G. The Town and the Participating Owner agree and acknowledge that the total amount of Front Ended payments with respect to each Participating Owner included therein are correctly described in Schedule "C" of this Agreement, subject to any adjustments under clause 8.F.
- H. Every payment made by a Participating Owner for the cost of the Front Ended Services shall entitle such Participating Owner to a reservation of available capacity, in the amount set out in the Allocation Agreements (expressed as SDEs).
- I. The total Front Ended Payments may be increased due to any Cost Changes and the Town shall give each Participating Owner Notice of its Relative Share of the increase. A Participating Owner shall have fifteen Business Days from the giving of the Notice to provide an increase to its Security under this Agreement for the amount set out in the Notice. If the payment is not received, the Town may defer, waive, cancel, or remove all or part of the Front End Services pursuant to clauses 4.B or 4.G. until the matter is remedied.
- J. Following any Cost Change, the Town shall provide a revised Schedule "C" as adjusted under clause 8.F to the Participating Owners. If any revisions are made hereunder, this Agreement shall be conclusively deemed to be amended by replacing Schedule "C" with the revised Schedule "C".
- K. If the Town determines that it does not require any of the Security it holds for the Front Ended Services, it shall release any excess Security it then holds.

9 – Benefitting Owner Payments

- A. From and after March 16, 2021, every Benefitting Owner shall pay, by certified cheque or bank draft, to the Town upon the earlier of such Owner entering into a Subdivision Agreement, a Consent Agreement or a Site Plan Agreement or receives a Notice in writing from the Town indicating that all requirements under the Planning Act have been met, or obtaining a building permit for the development of the Benefitting Owner's land:
 - I. for the Recoverable Amount per SDE in the Subdivision Agreement, Consent Agreement, Site Plan Agreement or receives a Notice in writing from the Town indicating that all requirements under the PA have been met, or permitted by the building permit plus interest in accordance with the *Development Charges Act, 1997*; and,
 - II. all development charges payable under the DCB, as may be amended from time to time and any successor development charge by-laws.

10 – Participating Owner Recoveries

- A. Each Participating Owner shall recover its Front Ended Payments as described in Schedule "B" of this Agreement by receiving its Proportionate Share of Recoverable Amount.

- B. A projection of the time frame for recovery by the Participating Owners of the Front Ended Services is set out in Schedule "E". The Participating Owners acknowledge and agree:
- I. Schedule "E" is for illustration purposes only;
 - II. the Town makes no representations or warranties of any kind whatsoever that the Participating Owners shall experience recoveries in the amounts and at the times shown on Schedules "E" and "G"; and,
 - III. their actual recoveries shall be dependent on the pace of residential development throughout the Town after March 16, 2021.
- C. The Participating Owners acknowledge and agree:
- I. that the Town's DCB and payments thereunder, and as such by-law may be amended from time to time and any successor development charge by-laws, is fair and reasonable, provided nothing herein shall preclude the Participating Owner from appealing any amending or successor development charge by-law enacted after the commencement of this Agreement; and,
 - II. to pay or cause to be paid all of the development charges of the Town in respect of the Front Ended Services, in the amounts specified in the Allocation Agreement and this Agreement.
- D. All credits under this Agreement with respect to the Front Ended Services shall be granted and administered solely in accordance with each Participating Owner's Allocation Agreement.
- E. If and when the Town receives payments for the amounts described in clause 10.A., it shall refund semi-annually commencing upon the review by the Town Council of the Development Charges Reserve Statement to each Participating Owner, that Participating Owners "Refunded Share" (as defined below) of the amounts received by the Town, provided that Town has received from each such Participating Owner a Satisfaction Piece and Full and Final Mutual Release in the Form attached hereto as Schedule "F".
- F. The amount to be refunded to each Participating Owner pursuant to clause 10.E. above shall be calculated as follows:
- I. the total amount of Front Ended Payment made by the Participating Purchaser or Participating Owner;
 - less
 - II. the total amount of DC Credit available to the Participating Purchaser or Participating Owners for the Front Ended Services; divided by
 - III. the total amount of the Front Ended Payment.
- ("Refunded Share")

11 – Land Dedications

- A. The Town's Director, equivalent or delegate may, from time to time and at any time, give the Notice described in this clause. No later than 30 Business Days after written Notice is given under this clause to the Participating Owner by the Town's Director, successor, equivalent or delegate, the Participating Owner shall convey from the Participating Owner's Lands in fee simple to the Town, for nominal consideration and free and clear of all encumbrances and restrictions, all

necessary lands, easements, other interests in land, approvals, rights, interests, licences and any other agreements of every kind whatsoever which are or may be required by the Town in order to give the Town, its employees, officers, sub-contractors, servants and agents the full right, power and authority to construct, install, operate (including permitting connections thereto), inspect, repair and replace the Front Ended Services and all related works and services.

- B. If the Participating Owner fails to convey the lands, easement other interests in land, approvals, rights, interests, licenses and any other agreements as identified by the Town's Director, his successor, equivalent or delegate as required by the Town, such failure shall be considered an event of Default to which clause 15 of this Agreement apply.

12 – Transfer of SDE Capacity

- A. The transfer of Capacity expressed in SDE shall be governed by the Allocation Agreement.
- B. The Participating Owner and their respective heirs, administrators, successors and permitted assigns shall not transfer title to all or any part of the Participating Owner's Lands unless the transferee(s) of such lands agrees in writing to unconditionally assume the rights and obligations of the Participating Owner pursuant to this Agreement and such agreement is delivered to the Town, whereupon the transferring Participating Owner shall be automatically released and relieved from any further obligation under this Agreement. The rights and obligations of the Participating Owner shall not be assigned by the Participating Owner to a successor in title to all or a portion of the Front-ending Owner's Lands until such heirs, administrators, successors and permitted assigns have entered into an agreement with the Town agreeing to be bound by the provisions of this Agreement. Assignment shall only be permitted with the written approval of the Town, which approval may be arbitrarily withheld. The transfer of capacity granted within Erin Village may only be transferred to the lands within Erin Village and capacity granted within Hillsburgh may only be transferred to lands within Hillsburgh.

13 – Limitations and Conditions

- A. Despite anything in this Agreement to the contrary, the Town's obligations in respect of installation, construction, and operation of a Front Ended Services are subject to the Town obtaining all Government Approvals for such Front Ended Services and such approvals remaining in full force and effect, provided that the Town shall use reasonable efforts to obtain such approvals and have such approvals remain in full force and effect. If any Government Approval for the Front Ended Services is subject to a condition that the Town, acting reasonably, is unable or unwilling to satisfy, the Town shall not be obliged to continue with such Front Ended Service, in which event the Town shall notify the Participating Owner(s) in writing that the Town has elected not to proceed with the Front Ended Services. Upon the giving of such Notice, the provisions of clauses 4.B to 4.E. shall apply with all necessary modifications.
- B. The Participating Owner acknowledges and agrees that this Agreement and the Allocation Agreement are in addition to any other agreement that it may be required to enter into by the Town, provided that there shall be no further requirements (financial or otherwise) related to the Front Ended Services other than required by this Agreement and the Allocation Agreement.

14 – Representations and Warranties

- A. The Participating Owner represents and warrants as of the date above first written as follows and acknowledges that the Town is relying on such representations and warranties in connection with this Agreement that:
 - I. the Participating Owner is a corporation duly incorporated and organized under the laws of a province of Canada or the laws of Canada;
 - II. the Participating Owner has all necessary capacity, power and authority to enter into and to carry out the provisions of this Agreement and all other documents which may be necessary to give effect to this Agreement;

- III. this Agreement has been duly authorized by the Participating Owner and constitutes a valid and binding obligation of the Participating Owner, enforceable against the Participating Owner in accordance with its terms;
 - IV. neither the execution and delivery of this Agreement nor the fulfilment of or compliance with the terms and conditions hereof conflicts with or will conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a Default under the constating documentation of the Participating Owner; and,
 - V. the Participating Owner is the registered owner of the Participating Owner's Lands in fee simple.
- B. The Town represents and warrants as of the date above first written as follows and acknowledges that the Participating Owner is relying on such representations and warranties in connection with this Agreement that:
- I. the Town is a municipal corporation duly established, organized and continued under the laws of the Province of Ontario;
 - II. the Town has all necessary capacity, power and authority to enter into and to carry out the provisions of this Agreement and all other documents which may be necessary to give effect to this Agreement;
 - III. execution of this Agreement has been duly authorized by a by-law duly enacted by Town Council;
 - IV. neither the execution and delivery of this Agreement nor the fulfilment of or compliance with the terms and conditions hereof:
 - i. conflicts with or will conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a Default under the constating documentation of the Town; or
 - ii. conflicts in any material respect with or will conflict in any material respect with or result in a material breach of any of the terms, conditions or provisions of or constitute material Default under any material agreement, licence or other instrument to which the Town is a party or by which it is bound.
- C. The Participating Owner acknowledges that it has read, understood and obtained independent legal advice respecting Part III of the DCA, other applicable provisions of the DCA and the provisions of this Agreement, and that the Participating Owner understands that this Agreement is intended to be an agreement referred to in and permitted under Part III of the DCA.

15 – Term, Termination, and Default

- A. This Agreement shall commence on the date the Town executes this Agreement and shall terminate upon completion of the final reconciliation under clause 18.
- B. The Participating Owner and the Town agree that this Agreement shall be of no force and effect until the following conditions are satisfied:
 - I. The Participating Owner shall first execute this Agreement;
 - II. The Participating Owner shall in accordance with Fee By-law No. 19-60 reimburse the Town for the administrative, legal, and consultant costs it incurred in connection with this Agreement and any amendments thereto;

- III. If there are no Judicial or Administrative Proceedings as of the date upon which the Participating Owner execute the Agreement, the Town shall execute this Agreement within 5 Business Days of the Participating Owner's execution of the Agreement; and,
 - IV. there is enough take up by the owners in Hillsburgh to build either a full 75% of the Wastewater Treatment Plant, or a full 100% of the plant, but nothing in between.
- C. If the Participating Owner is a Defaulting Owner, the Town shall give to such owner a written Notice specifying the nature of the Default, the actions required to cure the Default and the time for curing the Default provided the time for curing the Default shall not be less than 20 Business Days after the date of the giving of Notice hereunder. If the default is a failure to pay or contribute an amount hereunder and the Defaulting Owner cures the Default within the time provided for in the Notice hereunder, the Town shall not charge interest to the Participating Owner. The Town in its sole and absolute discretion may extend at any time and from time to time the time for curing the Default.
- D. If the Defaulting Owner does not cure the Default in the manner and within the time specified in the Notice given under clause 15.C. or any extension thereof, then:
- I. the Town shall give Notice in writing to the Defaulting Owner that the Participating Owner is a Defaulting Owner; and,
 - II. the Participating Owner shall be deemed conclusively to be in Default of the Allocation Agreement and the Town shall have available to it all remedies available pursuant to the Allocation Agreement in order to remedy a Default under this Agreement.
- E. Notwithstanding anything else to the contrary in this Agreement with the exception of Clause 16.F, the Participating Owner may terminate this Agreement and the Town shall return all unused securities to the Participating Owner in full within 30 days of the said termination with no further recourse or claim against the Participating Owner if at the time that the Town issues a tender for the construction of the first phase (i.e. 50%) of the Waste Water Treatment Plant and for the construction of Linear Segment #1 and Linear Segment #2:
- I. the said tender does not also include the tender for the construction of Linear Segment #3 and Linear Segment #4 under the same tender timeframe; or,
 - II. if the Participating Owner determines that the tender price for Linear Segment #3 and/or Linear Segment #4 is too high to proceed once tenders are received.
- The right to terminate under this clause may only be exercised up to three (3) days following the opening of tenders by the Town and delivery of notice of the results of such tenders by the Town to the Participating Owner. The right to terminate must be exercised by the Participating Owner by providing written notice to the Town in accordance with clause 21.
- F. Notwithstanding anything else to the contrary in this Agreement, in the event that, for any reason, other than the default of the Participating Owner or reasons out of the control of the Town, construction of Linear Segment #3 and Linear Segment #4 is not awarded and a contract is not signed therefor, by December 31, 2022:
- I. The Participating Owner shall have the right to elect to front end the cost of constructing such Segments on behalf of the Town in accordance with clause 5 and can make use of the unused posted Financing Security held by the Town (from the Participating Owner and others) to undertake such front ended construction by a firm approved by the Town and to the Town's design and construction standards and to the Town's direction and satisfaction (which includes approval of the form of construction contract, the location of the works, the approval of the design and the construction techniques to be utilized therefor);



or,

- II. The Participating Owner may terminate this agreement with written notice to the Town in accordance with clause 21 and the Town shall, subject to clause 16.F, return all unused Financing Security and front ended costs to the Participating Owner, in full, within 30 days of the said termination with no further recourse or claim against the Participating Owner.

For clarity, in the event that the Participating Owner elects to terminate this Agreement pursuant to clause 15.F.II above, the Participating Owner shall not be entitled to any return of any securities posted for the construction of the Wastewater Treatment Plant, but only to a return of residual unused securities for the construction of Segments #3 and #4 of the Wastewater Collection System.

16 – Enurement, Registration, and Release

- A. The Parties agree that this Agreement shall be enforceable by and against the Parties and their heirs, administrators, successors and permitted assigns.
- B. Pursuant to section 56 of the DCA, the Town may register notice of this Agreement on the title to any of the Participating Owner Lands with the intention that the provisions of this Agreement shall bind and run with title to the Participating Owner Lands. The Participating Owner consents to such registration and agrees that such registration shall be at its sole cost and expense.
- C. The Owner shall be entitled to have this Agreement released from title to:
 - I. all or such part of the Participating Owner Lands where the Participating Owner is not a Defaulting Owner or, if the Front-ending Owner is a Defaulting Owner, the Owner has complied with the Notice given under clause 15.C.; or
 - II. **all of the Participating Owner Lands following the final reconciliation and adjustments under the Allocation Agreement between the Participating Owner and the Town provided the Participating Owner is not a Defaulting Owner or, if the Participating Owner is a Defaulting Owner, the Participating Owner has cured the Default**, provided the Participating Owner and the Town deliver to each other a satisfaction piece and full and final release of the Town's obligations under this Agreement in respect of the lands to be released except for the Town's obligation under clause 10.D. in the form and having the substance of the satisfaction piece and full and final release described in Schedule "F" hereto. Any such release from title shall be at the Participating Owner's sole cost and expense as the case may be.
- D. In addition to the foregoing, the Owner shall be entitled to have this Agreement released from title to any part of such Participating Owner Lands which are to be transferred to the Town, a school board, utility, or any other applicable public authority. Any such release from title shall be at the Participating Owner's sole cost and expense.
- E. Where the Participating Owner is entitled to a release of this Agreement from title under clause 16.D., the Town shall deliver to the Participating Owner, within 20 Business Days of a written request from the Owner, an executed release in registrable form discharging the Participating Owner from its obligations under this Agreement.

17 – Release, Indemnity, Estoppel, Costs and Unjust Enrichment

- A. The Participating Owner hereby releases and forever discharges the Town and its employees, elected officials, officers, contractors, sub-contractors, servants and agents from and against all costs, actions, suits and liabilities whatsoever the Participating Owner has had, has or may in

future have directly or indirectly arising from or in any way connected with:

- I. a delay, deferral or cancellation of the Front Ended Services under the provisions of this Agreement; and/or
 - II. the failure to make a full repayment.
- B. If the Town, by virtue of having entered into this Agreement or of carrying out any of the Front Ended Services or actions contemplated hereunder, is made a party to any Administrative or Judicial Proceedings commenced by or against the Participating Owner, the Participating Owner shall protect, indemnify and hold the Town completely harmless in connection with such litigation.
- C. If this Agreement or any provision of this Agreement or waiver under it is not enforceable for any reason whatsoever against the Town, the Participating Owner, Benefiting Owner(s) and/or any other person(s), the Participating Owner acknowledges and agrees that the Town shall have no liability directly or indirectly arising from or in any way connected with such unenforceability and hereby releases and forever discharges the Town from any such liability.
- D. If a court of competent jurisdiction or an administrative tribunal determines that all or part of this Agreement is illegal or beyond the authority of the Town, the Participating Owner acknowledges and agrees that:
- I. the Participating Owner voluntarily entered into this Agreement;
 - II. on the basis of this Agreement and the terms and conditions herein, the Town entered into contracts for the construction of the Front Ended Services and incurred debt to fund part of the cost of the Front Ended Services;
 - III. the Participating Owner's Lands benefited from the Front Ended Services; and
 - IV. it would be unjust and inequitable for any Participating Owner to demand or receive repayment of any monies paid or contributed under this Agreement.
- E. The Parties agree that they shall not question capacity of any Party to enter into this Agreement or question the legality of any provision of this Agreement, nor question the legality of any obligation created hereunder and the Parties, their heirs, successors and permitted assigns are and shall be estopped from contending otherwise in any proceeding before a court of competent jurisdiction or any administrative tribunal.
- F. Any Party may plead and rely upon this Agreement in any Judicial or Administrative applications, actions, proceedings, appeals or reviews of any kind whatsoever, including without limiting the generality of the foregoing, an appeal to the Ontario Land Tribunal, or its successor.
- G. The Participating Owner shall reimburse the Town for all of its legal and consulting costs incurred, either directly or indirectly, for the negotiation, drafting, registration and administration of the Agreement.

18 – Final Reconciliation of the Recoverable Amount

- A. For each Participating Owner, 6 months after the final remittance under clause 10, the Town shall prepare and send to the such Participating Owner a final reconciliation setting out the amount:
- I. drawn from and remaining of the Security;
 - II. collected from Benefiting Owners; and,

III. remitted under clause 10.D. of this Agreement.

19 – General

- A. The Parties agree that the recitals herein are true and accurate and form part of this Agreement.
- B. The Participating Owner agrees that the whole of this Agreement is within the class of agreement contemplated by clause 1.4.1.3(1)(b)(ii) of O. Reg. 332/12, as amended.
- C. Words importing the singular include the plural and vice versa. Words importing gender include all genders.
- D. The headings contained herein are for reference only and in no way affect this Agreement or its interpretation.
- E. Each agreement and obligation of each party in this Agreement, even though not expressed as a covenant, shall be considered for all purposes to be a covenant.
- F. This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.
- G. All references to currency in this Agreement shall be deemed conclusively to be references to Canadian dollars.
- H. Where:
 - I. there is reference in this Agreement to a number of days between two events, the days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if the words “at least” are used; and
 - II. the date or time for doing an act or giving a Notice under this Agreement expires on a Holiday, the act may be done or the Notice given on the next day that is not a Holiday.
- I. This Agreement, including the Schedules hereto, constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersede all prior agreements, representations, recommendations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter of this Agreement. None of the Parties shall be bound or charged with any oral or written agreements, representations, recommendations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Agreement, including the Schedules, documents and instruments to be delivered on or before the execution of this Agreement. The Parties hereto further acknowledge and agree that, in entering into this Agreement and any documents or agreements contemplated by it and in delivering documents and instruments to be delivered on or before the execution of this Agreement, they have not in any way relied, and shall not in any way rely, on any oral or written agreements, representation, recommendations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this Agreement, including the Schedules, documents or instruments.
- J. No modifications or amendments to this Agreement may be made unless agreed to by the Parties hereto in writing, except as deemed hereunder.
- K. The Parties covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts, deeds, assurances and things as may be reasonably required to implement and carry out the true intent and meaning of this

Agreement.

- L. Time shall be of the essence in this Agreement.

20 – List of Schedules

The following schedules are attached and form part of this Agreement:

- A. Schedule "A" being a description of the Participating Owner Lands and the Benefitting Lands;
- B. Schedule "B" being a description of the Front Ended Services;
- C. Schedule "C" being an estimate of the costs of various portions of the Front Ended Services required to service the Front-ending Owners;
- D. Schedule "D" being the form of the Letter of Credit;
- E. Schedule "E" being a Projection of the Timeframe for Recovery by the Participating Owner; and,
- F. Schedule "F" being a Satisfaction Piece and Full and Final Release.

21 – Notice

- A. Any Notice shall be given in writing and shall be given by personal delivery, regular mail, courier or telecopier transmittal and addressed:

- I. to the Participating Owner as follows:

HILLSBURGH HEIGHTS INC.
636 Edward Avenue, Suite 14
Richmond Hill, Ontario
L4C 0B4

Attention: Enzo Di Giovanni (enzo@briarwoodhomes.ca)

with copies to:

A. Conte Professional Corporation
12-242 Applewood Ave 2nd Flr
Concord, Ontario
L4K 4E5

Attention: Antonio Conte (a.conte@contelaw.ca)

or such change of address and other particulars as the Participating Owner has by Notice given to the Town;

- II. and to the Town as follows:

Town of Erin

5684 Trafalgar Road
Hillsburgh, Ontario
N0B 1Z0

Attention: Nathan Hyde, CAO (Nathan.Hyde@erin.ca)

with copies to:

Loopstra Nixon LLP
135 Queens Plate Drive
Suite 600
Toronto, Ontario
M9W 6V7

Attention: Quinto M. Annibale (qannibale@loonix.com)

or such change of address and other particulars as the Town has by Notice given to the Participating Owner

- B.** Any Notice shall be conclusively deemed to have been given to and received by the Party to which it is addressed:
- I. if personally delivered, on the date of delivery;
 - II. if by regular mail, on a date that is five (5) Business Days following the date of mailing;
 - III. if by courier, on the date shown for delivery on the courier's delivery slip or other record;
or
 - IV. if by telecopier transmittal, on the date of transmission delivery.

provided that if delivery occurs after 5:00 p.m., Erin time, on a Business Day or any day which is not a Business Day, delivery shall be deemed conclusively to have been given on the next Business Day.

- C.** The Participating Owners and the Town shall promptly give Notice as hereinbefore provided of any change in name, address or other particulars.

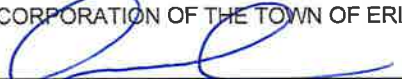
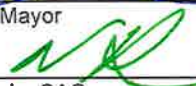

22 – Counterparts

- A.** This Agreement may be executed in counterparts with the same effect as if the Parties had signed the same document. All counterparts shall be construed together and shall constitute one and the same Agreement. Counterparts may be executed either in original, faxed or electronic form and the Parties shall adopt any signatures received by a receiving fax machine or electronically as original signatures of the Parties.

~ SIGNATURE PAGE FOLLOWS - REMAINDER OF PAGE LEFT INTENTINOALLY BLANK ~

IN WITNESS WHEREOF, the parties hereunto have affixed their Corporate Seals as attested by the signatures of their duly appointed signing officers.

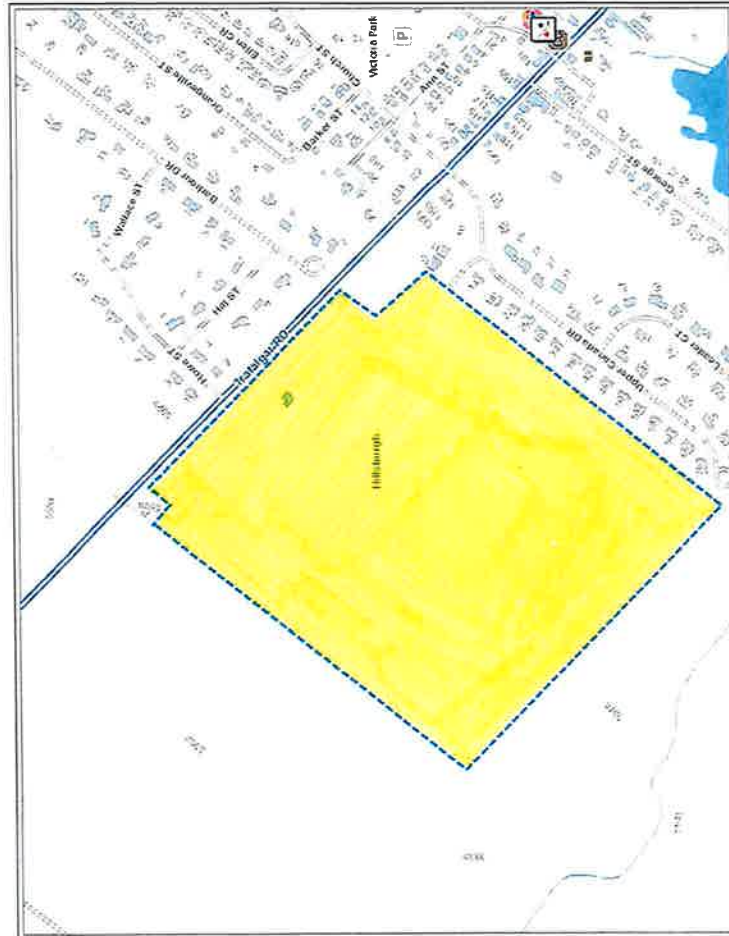
SIGNED, SEALED AND DELIVERED
In the presence of

) THE CORPORATION OF THE TOWN OF ERIN
)
) Per: 
) Allan Ails, Mayor
)
) Per: 
) Nathan Hyde, CAO
)
)
) HILLSBURGH HEIGHTS INC.
)
) Per: 
) Name: Enzo Di Giovanni
) Title: President
)
)
) Per: _____
) Name: _____
) Title: _____
)
) I/We have authority to bind the corporation.
)

Schedule "A"

The Participating Owner Lands

PT LT 26 CON 7 ERIN AS IN RO760763; ERIN S/T EASEMENT IN FAVOUR OF THE CORPORATION OF THE TOWN OF ERIN OVER PART 1, 61R8627 AS IN LT66248 (PIN: 71139-0239 (LT)).



The Benefitting Lands

The Benefitting Lands are all lands located within the Town of Erin.



Schedule "B"

Description of Front Ended Services

1.	Linear Segment #1 (Shown in Schedule "B1")	-	\$5,190.00 per SDE
2.	Linear Segment #2 (Shown in Schedule "B2")	-	\$4,963.00 per SDE
3.	Linear Segment #3 (Shown in Schedule "B3")	-	\$4,709.00 per SDE
4.	Linear Segment #4 (Shown in Schedule "B4")	-	\$4,709.00 per SDE



Schedule "B1"

Description of Linear Segment #1

- Erin Sewage Pumping Station 1 (E-SPS 1) with a pumping capacity of 228 L/s located in the existing park at the intersection of Hillview Avenue and Lions Park Avenue.
- 1,950m of twin 300mm diameter forcemains from E-SPS 1, south along Main Street and east along Wellington Road 52 to the Wastewater Treatment Plant.



Schedule "B2"

Description of Linear Segment #2

- 1,260m of 600mm diameter Sanitary Sewer from E-SPS 1 to the intersection of Main Street & Dundas Street, under the West Credit River and along Daniel Street, Spring Street and Main Street.
- Service Connections to existing properties along the route of the trunk sanitary sewer.



Schedule "B3"

Description of Linear Segment #3

- Hillsburgh Sewage Pumping Station 1 (H-SPS 1) with a pumping capacity of 90 L/s, located on the east side of Trafalgar Road, at the junction of the Elora-Cataract Trail and Trafalgar Road.
- 5,250m of twin 200mm diameter forcemains from H-SPS 1 along the Elora-Cataract Trail to Main Street in Erin and south on Main Street to Dundas Street.



Schedule "B4"

Description of Linear Segment #4

- 900 m of 450mm diameter Sanitary Sewer from H-SPS 1 north along Trafalgar Road North to the intersection with Mill Street.
- 400 m of 250mm diameter Sanitary Sewer on Trafalgar Road North from Mill Street to the intersection with Queen Street.
- Service Connections to existing properties along the route of the trunk sanitary sewer.



Schedule "C"

Estimate of the Individual and Total Costs of the Fronted Ended Services

Schedule Date: February 25, 2021

Growth-Related Recovery of Linear Segments										
Linear Segment	Development to Cost Share Segment	Number of Single Detached Equivalents (SDEs)	Linear Segment Project Costs (2021\$)	Landowner's Percentage of Linear Segment Allocation*	Landowner's Share of the Linear Segment Costs (2021\$)	D.C. Eligible Costs (75%)	Wastewater Collection D.C. Payable (2021\$) ^A	Total Wastewater Collection D.C. Payable (2021\$)	Total Front-Ended Wastewater Collection D.C. To Be Recovered from Other Development (2021\$) ^B	Total Growth-Related Payable (2021\$) ^B (K) = The greater amount between (G) and (I)
(A)	(B)	(C)	(D)	(E)	(F) = (D) x (E)	(G) = (F) x (75%)	(H)	(I) = (C) x (H)	(J) = (G) - (I)	(K)
1	Equity Venture Group Corp. / National Properties Inc. (Solmar) - Residential	1,338	\$ 8,275,842	82.6%	\$ 6,839,454	\$ 5,129,591	\$ 3,607	\$ 4,826,166	\$ 303,425	\$ 5,129,591
	Equity Venture Group Corp. / National Properties Inc. (Solmar) - Non-Residential	281		17.4%	\$ 1,436,388	\$ 1,077,291	\$ 3,607	\$ 1,013,567	\$ 63,724	\$ 1,077,291
2	2779181 Ontario Ltd.	365	\$ 3,019,894	41.7%	\$ 1,258,289	\$ 943,217	\$ 3,607	\$ 1,316,555	\$ (372,838)	\$ 1,316,555
	2779176 Ontario Ltd.	210		24.0%	\$ 723,947	\$ 542,960	\$ 3,607	\$ 757,470	\$ (214,510)	\$ 757,470
	Derrydale Golf (Erin Heights Golf Course)	250		28.5%	\$ 861,842	\$ 646,381	\$ 3,607	\$ 901,750	\$ (255,369)	\$ 901,750
	2584343 Ontario Inc. (Kensington Square)	51		5.8%	\$ 175,816	\$ 131,862	\$ 3,607	\$ 183,957	\$ (52,095)	\$ 183,957
	Dominion Packers & Realties (Ballantry)	700		43.1%	\$ 4,395,511	\$ 3,296,633	\$ 3,607	\$ 2,524,900	\$ 771,733	\$ 3,296,633
3 + 4	Chantler - Residential	148	\$ 10,203,865	9.1%	\$ 929,337	\$ 697,002	\$ 3,607	\$ 533,836	\$ 163,166	\$ 697,002
	Chantler - Non-Residential	65		4.0%	\$ 408,155	\$ 306,116	\$ 3,607	\$ 234,455	\$ 71,661	\$ 306,116
	Thomasfield Homes Ltd.	210		12.9%	\$ 1,318,653	\$ 988,990	\$ 3,607	\$ 757,470	\$ 231,520	\$ 988,990
	Carson Reid Homes Ltd.	182		11.7%	\$ 1,142,833	\$ 857,125	\$ 3,607	\$ 656,474	\$ 200,651	\$ 857,125
	D'Angelo	320		19.7%	\$ 2,009,376	\$ 1,507,032	\$ 3,607	\$ 1,154,240	\$ 352,792	\$ 1,507,032
	Total			4,120	\$ 21,499,601		\$ 21,499,601	\$ 16,124,701	\$ 14,860,840	\$ 1,263,861

*Note 1: The Linear Segment Costs have been allocated to each landowner in this agreement based on the proportionate number of SDEs for each landowner

^ANote 2: The Wastewater Collection D.C. of \$3,413 have been indexed from 2019 to 2021 at 5.67%

^BNote 3: The Total Payable is the greater amount between the D.C. Eligible Costs of the Linear Segment (G) and the D.C. Payable (I)

Schedule Date: February 25, 2021

Non-Growth Related Recovery of Linear Segments										
Linear Segment	Development to Cost Share Segment	Number of Single Detached Equivalents (SDEs)	Linear Segment Project Costs (2021\$)	Landowner's Percentage of Linear Segment Allocation*	Landowner's Share of the Linear Segment Costs (2021\$)	Non-Growth Costs (25%)	Wastewater Collection Overcontributions Per SDE (2021\$)^1	Total Wastewater Collection Overcontributions (2021\$)	Total Non-Growth Shortfall to be Recovered (2021\$)	Total Non-Growth-related Payable (2021\$)^2/ (K) = The greater amount between (G) and (I)
(A)	(B)	(C)	(D)	(E)	(F) = (D) x (E)	(G) = (F) x (25%)	(H)	(I) = (C) x (H)	(J) = (G) - (I)	(K)
1	Equity Venture Group Corp. / National Properties Inc. (Solmar) - Residential	1,338	\$ 8,275,842	82.6%	\$ 6,839,454	\$ 1,709,864	\$ 1,356	\$ 1,814,328	\$ (104,464)	\$ 1,814,328
	Equity Venture Group Corp. / National Properties Inc. (Solmar) - Non-Residential	281		17.4%	\$ 1,436,388	\$ 359,097	\$ 1,356	\$ 381,036	\$ (21,939)	\$ 381,036
2	2779181 Ontario Ltd.	365	\$ 3,019,894	41.7%	\$ 1,258,289	\$ 314,572	\$ 1,356	\$ 494,940	\$ (180,368)	\$ 494,940
	2779176 Ontario Ltd.	210		24.0%	\$ 723,947	\$ 180,987	\$ 1,356	\$ 284,760	\$ (103,773)	\$ 284,760
	Derrydale Golf (Erlin Heights Golf Course)	250		28.5%	\$ 861,842	\$ 215,460	\$ 1,356	\$ 339,000	\$ (123,540)	\$ 339,000
	2584343 Ontario Inc. (Kensington Square)	51		5.8%	\$ 175,816	\$ 43,954	\$ 1,356	\$ 69,156	\$ (25,202)	\$ 69,156
3 + 4	Dominion Packers & Realties (Ballantry)	700	\$ 10,203,865	43.1%	\$ 4,395,511	\$ 1,098,878	\$ 1,356	\$ 949,200	\$ 149,678	\$ 1,098,878
	Chantler - Residential	148		9.1%	\$ 929,337	\$ 232,334	\$ 1,356	\$ 200,688	\$ 31,646	\$ 232,334
	Chantler - Non-Residential	65		4.0%	\$ 408,155	\$ 102,039	\$ 1,356	\$ 88,140	\$ 13,899	\$ 102,039
	Thomasfield Homes Ltd.	210		12.9%	\$ 1,318,653	\$ 329,663	\$ 1,356	\$ 284,760	\$ 44,903	\$ 329,663
	Carson Reid Homes Ltd.	182		11.2%	\$ 1,142,833	\$ 285,708	\$ 1,356	\$ 246,792	\$ 38,916	\$ 285,708
	D'Angelo	320		19.7%	\$ 2,009,376	\$ 502,344	\$ 1,356	\$ 433,920	\$ 68,424	\$ 502,344
	Total			4,120	\$ 21,499,601		\$ 21,499,601	\$ 5,374,900	\$ 5,586,720	\$ (211,820)

*Note 1: The Linear Segment Costs have been allocated to each landowner in this agreement based on the proportionate number of SDEs for each landowner

^Note 2: The Overcontribution amounts of \$7,000 have been indexed from 2019 to 2021 at 5.67%

*Note 3: The Overcontribution amounts for the Wastewater Collection represents 18% of the total overcontributions per SDE

*Note 4: The Total Payable is the greater amount between the Non-Growth Costs of the Linear Segment (G) and the Overcontributions Payable (I)

Schedule "D"

Form of Letter of Credit

BANK NAME
BANK ADDRESS
DATE OF ISSUE:
DATE OF EXPIRY:
LETTER OF CREDIT #:
AMOUNT: \$

CUSTOMER NAME:
CUSTOMER ADDRESS:
BENEFICIARY: MUNICIPALITY
MUNICIPAL ADDRESS
UNCONDITIONAL IRREVOCABLE STANDBY LETTER OF CREDIT

We hereby authorize The Corporation of the Town of Erin to draw on BANK NAME, for the account of our customer, CUSTOMER NAME, up to an aggregate amount of _____ Canadian dollars (\$_____) available on written demand as follows:

Pursuant to the request of our customer, the said CUSTOMER NAME, we, the BANK NAME, hereby establish and give to you an unconditional, irrevocable standby letter of credit in your favour in the total amount of \$ _____, which may be drawn on by you at any time and from time to time upon written demand for payment made upon BANK NAME, LOCATION OF BRANCH 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, or objection by it to payment by us.

Provided, however, that you are to deliver to the BANK NAME, LOCATION OF BRANCH at such time as a written demand for payment is made upon us, a certificate signed by the Town's Chief Administrative Officer agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be used to perform any outstanding obligations of our said customer to you as set out in the Town Allocation Agreement dated the _____ day of _____, 2____ (Legal file no. _____).

It is understood and agreed that the obligation of the undersigned under this Letter of Credit is an obligation to pay money only and that in no circumstances shall the undersigned be obliged to perform or cause to perform any of our customer's actual obligations to you.

The amount of this Letter of Credit shall be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will continue up to DATE OF EXPIRY and will expire at the close of business on that date and you may call for payment of the full amount outstanding under this Letter of Credit at any time prior to the close of business on that date should this Letter of Credit not be renewed.

This Letter of Credit shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless 30 days prior to any such date we shall notify you in writing by registered mail or courier that we elect not to consider this Letter of Credit renewed for any such additional period. Upon receipt by you of such notice, you may draw hereunder by means of your demand accompanied by your written certification that the amounts drawn will be retained and used by you to meet obligations incurred or to be incurred in connection with the above identified matter; further, that you will release any amount(s) not required by you to our customer.

Partial drawings are permitted.

We hereby agree that drawings under this Letter of Credit will be duly honoured upon presentation, and shall state that they are drawn under BANK NAME, Letter of Credit # _____ dated _____.

Schedule "E"

Projection of the Timeframe for Recovery

The Wastewater Collection system will be constructed in phases. The timing of each phase will depend on the completion of the previous phase. The order of construction will be as follows:

1. Linear Segment #1 as described in Schedule "B1" to the Agreement;
2. Linear Segment #2 as described in Schedule "B2" to the Agreement;
3. Linear Segment #3 as described in Schedule "B3" to the Agreement;
4. Linear Segment #4 as described in Schedule "B4" to the Agreement.

Schedule "F"

Satisfaction Piece and Release

FULL AND FINAL MUTUAL RELEASE

IN CONSIDERATION of the payment by the [x] and the Corporation of the Town of Erin each to the other of the sum of ten (\$10.00) (CAD), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

[x], for itself, its partners, affiliates, associated and related corporations, associated and related partnerships and their successors, and assigns (collectively, the "Owner"),

and

THE CORPORATION OF THE TOWN OF ERIN, for itself, its successors, and assigns (collectively, the "Town")

(the Owner and the Town are, collectively, the "Parties")

do hereby mutually release and forever discharge each other from any and all actions, causes of action, applications, debts, dues, accounts, bonds, covenants, contracts, complaints, obligations, duties, breaches of contract, breaches of duty or any relationship, acts, omissions, compensations, promises, damages, costs, losses, expenses, claims for interest or disbursements, remedies for losses, choses in action, entitlements, liabilities, demands, rights of indemnity and all other claims and rights including any claim for costs, interest or disbursements (the "Claims"), whether or not known or anticipated, which the Parties ever had, now have or may in the future have against each other arising in respect of any fact, matter or circumstance existing on or before the date of this Release in connection with, arising out of or related to an agreement made [x], 2020 between the Owner and the Town.

THE PARTIES agree to bear their own costs incurred in relation to any of the matters to which this release applies or in relation to any of the matters with respect to which the Parties agree herein not to make any claim or take any proceedings.

IT IS UNDERSTOOD AND AGREED that for the aforesaid consideration, each Party undertakes and agrees not to make any claim or take any proceedings against any person, partnership, corporation, or other such entity which might be entitled to claim contribution, indemnity, or other relief over against any other Party under the provisions of any statute or otherwise with respect to any of the matters to which this release applies.

AND IT IS UNDERSTOOD AND AGREED that in the event that any Party should hereafter commence any proceedings involving any Claims relating to the matters dealt with in this release against any other Party, this document may be raised as an estoppel to any such Claims in the proceedings. In the event that a Party commences any such proceedings, the Party commencing the proceedings undertakes and agrees to indemnify the Party against whom the proceedings are commenced, on a solicitor and client basis, in respect of any legal fees incurred in relation to any such Claims.

AND IT IS UNDERSTOOD AND AGREED that for the aforesaid consideration, the Parties represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person, partnership, corporation, or other such entity any of the Claims released above, nor any of the matters about which they agree herein not to make any claim or take any proceedings.

AND IT IS UNDERSTOOD AND AGREED that for the aforesaid consideration, the Parties represent and warrant that no consent, approval, waiver or other intervention or involvement of any kind by any other party is required for the effective release of the Claims or the effective execution of this release.

AND IT IS UNDERSTOOD AND AGREED that the aforesaid consideration is deemed to be no admission whatsoever of liability on the part of the Parties and that such liability is denied.

AND FOR THE AFORESAID CONSIDERATION the Parties acknowledge, declare and agree that they have had sufficient time and opportunity to seek independent legal and other professional advice with respect to the terms of this settlement and this release, that they understand the terms of this release and voluntarily accept the consideration referred to above for the purpose of making full and final compromise, adjustment and settlement of all Claims as aforesaid, and represent and warrant that they have not been induced to enter into this release by reason of any representation or warranty of any kind whatsoever and that there is no condition, express or implied, or collateral agreement affecting the said settlement.

THIS RELEASE SHALL BE BINDING upon and shall enure to the benefit of the respective successors and assigns of the Parties.

THIS RELEASE is to be governed by and interpreted in accordance with the laws of Ontario and the Parties submit to the exclusive jurisdiction of the courts of Ontario in connection with any dispute or interpretation regarding this release.

THIS RELEASE may be executed by the Parties in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

THIS RELEASE may be signed in whole or in part by way of facsimile transmission and the Parties agree to accept and rely upon such facsimile as if it contained original signatures and such facsimile .