

**THE CORPORATION
OF THE TOWN
OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5458-22**

419 Line 1 Road

A BY-LAW TO AUTHORIZE A SERVICING AGREEMENT
BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-
ON-THE-LAKE AND 1834489 ONTARIO INC.

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE
TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Agreement dated the 26th day of September, 2022 between The Corporation of the Town of Niagara-on-the-Lake and 1834489 Ontario Inc. be and the same is hereby approved; and,
2. THAT the Lord Mayor and Town Clerk be authorized to affix their hands and the Corporate Seal; and,
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 26th day of
September, 2022

LORD MAYOR BETTY DISERO

TOWN CLERK VICTORIA STEELE (A)

THIS INDENTURE made in triplicates this 26th day of September, 2022.

BETWEEN:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE
(Hereinafter called the 'Town')

AND:

1834489 Ontario Inc.
(The "Owner")

WHEREAS the Town of Niagara-on-the-Lake is the registered Owner of the lands described in Schedule "A" attached hereto and forming part of this Agreement (the "Lands");

AND WHEREAS the Owner has requested the Town enter into a Servicing Agreement to extend the sanitary sewer on Line 1 Road to a point approximately 165 metres west of the existing limit of the sanitary sewer located just west of 459 Line 1 Road to an existing lot at 419 Line 1 Road;

AND WHEREAS the Town, has agreed to permit the said sanitary sewer extension subject to the terms and conditions prescribed herein;

AND WHEREAS the Town, owns the municipal road municipally known as Line 1 Road in the Town of Niagara-on-the-Lake, in the Regional Municipality of Niagara.

AND WHEREAS the Council of the Town has adopted this Agreement and authorized its execution by By-Law No. 5458-22, passed by the Corporation of the Town of Niagara-on-the-Lake on the 26th day of September, 2022:

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties hereto, in consideration of the premises and the sum of One Dollar (\$1.00) of lawful money of Canada now paid by each of the said parties to the other (the receipt and sufficiency of which is hereby acknowledged), covenant and agree as follows:

1. DEFINITIONS

- 1.1 Director of Operations** means the Director of Operations of the Town or his or her designate.
- 1.2 Final Certificate of Completion of Services** means the certificate of completion of all Primary and Secondary Services when all works under the Agreement have been completed, the maintenance period has expired, and no other obligations under the Agreement remain outstanding other than as may be specified on the date of assumption.
- 1.3 Lands** means all the lands described in Schedule 'A'.
- 1.4 Letter of Credit** means a standby municipal, irrevocable letter of credit issued by a major chartered bank or credit union, posted with the Town pursuant to the terms of this Agreement.
- 1.5 Owner** means 1834489 Ontario Inc. and the registered owner or owners in fee simple of the Lands and their respective heirs, executors, administrators, successors and assigns. Wherever the singular is used herein it shall, where the context requires, include the plural.
- 1.6 Preliminary Certificate of Completion of Primary Services** means the certificate issued by the Director of Operations upon satisfactory completion of all Primary Services prior to commencement of the maintenance period.
- 1.7 Preliminary Certificate of Completion of Secondary Services** means the certificate issued by the Director of Operations upon satisfactory completion of all Secondary Services prior to commencement of the maintenance period.

- 1.8 Primary Services** means road signs, public utilities, street lighting, watermains, sewers, both sanitary and storm, any pumping station, emergency accesses, community mail box pads, catch basins or other appurtenances, the base road including base asphalt, curbs and gutters, regulatory signs, lot pre-grading including Sodded Swales and retaining walls, and fencing.
- 1.9 Public Utilities** mean telephone, hydroelectric system, natural gas systems and cable television.
- 1.10 Secondary Services** means all Works to be installed, constructed or erected which are not defined as Primary Services or Public Utilities. Included as a Secondary Service is top course asphalt, and all necessary boulevard restoration.
- 1.11 Works** shall mean and include any and all works, services, things, actions and other matters without limitation required to be completed or performed by the Owner as per the approved drawings and pursuant to this Agreement.
- 1.12 Surveyor** means an Ontario Land Surveyor (O.L.S.).
- 1.13 The Engineer** shall refer to the Owner's Consulting Engineer.
- 1.14 Town** means The Corporation of the Town of Niagara-on-the-Lake.

2. GENERAL PROVISIONS

- 2.1** The Owner covenants and agrees to commute and pay, upon execution of this Agreement, all designated charges.
- 2.2** The Owner shall prepare cost estimates for the construction of all services and estimate the number of working days associated with the construction of such services upon which the calculation for inspections, Letter of Credit and security deposits shall be based
- 2.3** As per the Town's Street Cleaning Policy, all streets used for access during the installation or construction of the Works shall, at all times, be kept by the Owner in a good, clean and usable condition and, if damaged or littered, shall be restored immediately to the Town's requirements.
- 2.4** The Owner shall ensure that all trucks making deliveries to or taking materials shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on abutting streets or properties.
- 2.5** The Owner does hereby agree to indemnify and save harmless the Town from any liability for the cost of the Works described in any of the Schedules.

3. ENGINEERING AND INSPECTION

- 3.1** The Owner shall, with the approval of the Town, retain or employ a competent and qualified Consulting Engineering Firm licensed in Ontario, to carry out any professional engineering services required herein, in accordance with the Town's Municipal Design Standards Manual, and approved by the Director of Operations. The Consulting Engineering Firm shall undertake and/or prepare and execute the following:
- 3.2**
- (a) Detailed estimates of costs;
 - (b) Plans, profiles and specifications for the Works;
 - (c) A Geodetic Bench Mark at such locations required by the Director of Operations;
 - (d) Applications for submission to the necessary authorities for approval of the

Works prior to their construction;

- (e) Call tenders for the Works, analysis of bids and recommendations to the Owner including the provision of adequate bonding or other security for the performance of all Works;
 - (f) Construction layout of the Works;
 - (g) Provide full-time competent field supervision of the construction of the Works to the satisfaction of the Director of Operations;
 - (h) Maintain all records of the installation or construction of the Works and submit a copy to the Director of Operations;
 - (i) Supply the Town with a set of the “as constructed” final drawings of all Works, in AutoCAD and PDF format, to the satisfaction of the Director of Operations at the time of the completion of the Primary Services;
- 3.3** The Owner shall be liable for any loss, costs or damages arising out of or attributable to failure by the Consulting Engineering Firm to provide or fulfil the requirements set forth in Sections 3.1 and 3.2 herein and any other requirements arising from the performance of the Consulting Engineering Firm’s obligations pursuant to or arising from this Agreement. Prior to any construction of Works, the Consulting Engineering Firm shall provide to the Town proof, satisfactory to the Town, of the Consulting Engineering Firm’s liability coverage for the minimum amount of Five Million (\$5,000,000.00) Dollars per occurrence and that it has errors and omissions insurance in the amount of Five Million (\$5,000,000.00) Dollars per occurrence.
- 3.4** The Owner shall pay the full cost of all inspections and testing, including geotechnical, and all corrective work called for herein and required by emergency conditions, whether performed by the Owner and its agents or performed by the employees or consultants of the Town. An inspector or inspectors will be assigned by the Director of Operations on such basis either full or part-time as at the Director of Operations sole discretion is deemed appropriate during installation of the Works, regardless of who designs the Works. The costs of all Works, testing and inspections done by such inspector or inspectors, shall be solely at the expense of the Owner. The Owner agrees to obey all orders and directives made by the Director of Operations.

4. TENDERS AND CONTRACTORS

- 4.1** All contractors must be approved by the Director of Operations before commencement of any Works and the Director of Operations shall provide his reasons in writing should the proposed contractor not be recommended for approval.
- 4.2** Before commencement of any Works, the Owner shall provide documentary proof to the Town that the proposed contractor has sufficient and valid insurance liability policies for the minimum amount of Five Million (\$5,000,000.00) Dollars per occurrence; a certificate from the Workers’ Compensation Board showing that the contractor is in good standing; and, satisfactory evidence that the contractor is qualified, experienced and has all necessary equipment to successfully complete the Works.
- 4.3** The Owner shall give seven (7) days’ notice to the Director of Operations prior to the commencement of construction. The Owner agrees to hold a preconstruction meeting in accordance with the Town’s Municipal Design Standards Manual, prior to commencement of any Works contemplated by this Agreement. It is the responsibility of the Owner, or his contractors, to notify adjacent and abutting property owners of the work schedule.

5. INSTALLATION OF SERVICES

5.1 General

- (a) The Owner covenants and agrees to carry out all Works in such a manner as to prevent erosion as well as earth, debris and other material from being washed or carried in any manner onto any road, road allowance or highway whether opened or unopened or onto the property of any other Person or Persons. If such earth, debris or other material is washed or carried onto such road, road allowance or highway, whether opened or unopened, or onto the property of any Person or Persons, the Town, its servants or agents, may at its sole and absolute discretion clean and remove such material, rectify any damage caused as aforesaid, and abate any nuisance created by the Owner. The cost of any such Works performed by or at the instructions of the Town shall be paid by the Owner on demand, and this cost may be paid out of any money the Owner may have deposited with or paid to the Town for any purpose whatsoever.

5.2 Roads

- (a) The Owner shall construct and/or re-instate all roads in accordance with the plans approved by the Director of Operations. The Owner agrees that no Works shall commence until such time as the designs, plans and specifications have been submitted to and approved by the Director of Operations in writing.

5.3 Public Utilities

The design and installation of all Public Utilities shall be at the sole cost of the Owner and shall be subject to the terms and conditions of the utility company or commission

5.4 Geotechnical Report and Inspections

The Owner shall prepare and submit to the Town prior to the execution of this Agreement, a report from an independent professional geotechnical soils consultant. The details to be included within the geotechnical soils report are to be reviewed and approved by the Town. The Owner agrees that the Director of Operations may increase the number and/or frequency of any inspections relating to the geotechnical report and the Owner shall pay the full cost of all such inspections.

6. LANDSCAPING AND DRAINAGE

- 6.1** The Owner shall grade and place a minimum of one-hundred millimetres (100 mm) of topsoil, together with hydro-seed or sod, on all portions of road allowances not covered by asphalt or gravel shoulder. The Owner further agrees that no sodding shall be carried out between July 1st and August 31st, unless approval is given by the Director of Operations. The Owner shall also maintain such hydro-seeded or sodded areas with appropriate watering until such time as the grass has firmly established.
- 6.2** All drainage ditches, swales or depressions shall be final graded, seeded and maintained with approved silt traps prior to the issuance of the Preliminary Certificate of Completion of Secondary Services. If the Town determines that the said surface drainage Works have not been maintained and the Owner does not repair the Works within three (3) days of written notice to the Owner, the Town may have the Works repaired and the Owner agrees to pay to the Town the cost incurred thereby.

7. COMPLETION OF SERVICES

7.1 Primary Services

- (a) The Owner shall proceed with the installation or construction of the Works required hereunder with all reasonable dispatch and shall complete all of the Services within one (1) year after the date of the registration of this Agreement the Director of Operations may extend the time for completion of the Services, as he may deem expedient upon the written application of the Owner.

- (b) Prior to the issuance by the Town of the Preliminary Certificate of Completion of Primary Services, the Owner shall:
- (i) Provide the Director of Operations with a Statutory Declaration in a form satisfactory to the Director of Operations, that all accounts for the installation, construction and maintenance of the Primary Services required to be installed or constructed hereunder have been paid and that there are no outstanding debts, claims or liens in respect of the Primary Services; and,
 - (ii) Provide the Director of Operations with a Certificate signed by the Consulting Engineering Firm certifying that the Primary Services have been fully completed, inspected, tested and maintained in accordance with the provisions of this Agreement hereof and the standards and specifications of the Town and in accordance with the approved plans and specifications as approved by the Director of Operations.
 - (iii) Supply the Director of Operations with the Town's standard service cards showing the location and depth of any new sanitary sewer lateral as part of the works.
 - (iv) Have all installed sanitary sewer systems cleaned and flushed to the satisfaction of the Director of Operations, and shall be responsible for carrying out an in-line inspection of all installed sanitary sewer systems, by television as directed by the Director of Operations, and the report and video thereof shall be provided to the Town. In the event that results are not, in the opinion of the Director of Operations, satisfactory, then the Owner shall take such remedial steps including re-televising the repairs as may, in the opinion of the Director of Operations, be required.
 - (v) Prior to the placement of the base course asphalt, the Owner shall have all sanitary sewer systems, which have been constructed using flexible piping mandrel tested to the satisfaction of the Director of Operations.
 - (vi) Prior to the placement of the base course asphalt, the Owner shall have all sanitary sewer systems tested either by infiltration or by exfiltration and the method of testing shall be in the sole direction of the Director of Operations.
- (c) Upon the completion by the Owner, to the satisfaction of the Director of Operations, of the installation or construction of all of the Primary Services and upon the satisfaction by the Owner of all other relevant requirements herein, the Director of Operations shall provide the Owner with a Preliminary Certificate of Completion of Primary Services.

7.2 Secondary Services

- (a) All Secondary Services, except sodding as noted in Section 6.1, shall be completed within eighteen (18) months after the date of the issuance of the Preliminary Certificate of Completion of Primary Services. Once started, the Owner shall proceed with construction expeditiously until the Secondary Services are completed.
- (b) Prior to the issuance by the Town of the Preliminary Certificate of Completion of Secondary Services, the Owner shall:
 - (vii) Provide the Director of Operations with a Statutory Declaration in a form satisfactory to the Director of Operations, that all accounts for the installation, construction and maintenance of the Secondary Services required to be installed or constructed hereunder have been paid and that there are no outstanding debts, claims or liens in respect of the Secondary Services; and,

- (viii) Provide the Director of Operations with a Certificate signed by the Consulting Engineering Firm certifying that the Secondary Services have been fully completed, inspected, tested and maintained in accordance with the provisions of this Agreement hereof and the standards and specifications of the Town and in accordance with the approved plans and specifications as approved by the Director of Operations.
 - (ix) Have all installed sanitary sewer systems cleaned and flushed to the satisfaction of the Director of Operations, and prior to the placement of top course asphalt, shall be responsible for carrying out an in-line inspection of all installed sanitary sewer systems, by television as directed by the Director of Operations, and the report and video thereof shall be provided to the Town. In the event that results are not, in the opinion of the Director of Operations, satisfactory, then the Owner shall take such remedial steps including re-televising the repairs as may, in the opinion of the Director of Operations, be required.
- (c) Upon the completion by the Owner, to the satisfaction of the Director of Operations, of the installation or construction of all of the Secondary Services and upon the satisfaction by the Owner of all other relevant requirements herein, the Director of Operations shall provide the Owner with a Preliminary Certificate of Completion of Secondary Services.

8. MAINTENANCE AND ACCEPTANCE OF THE WORKS

- 8.1** The Owner shall, at its own expense and to the satisfaction of the Director of Operations, repair and maintain all Works required to be installed or constructed pursuant to this Agreement for the minimum period of one (1) year from the date of completion of Secondary Services and issuance of Preliminary Certificate of Completion of Secondary Services. The maintenance period shall apply to both Primary and Secondary Services.
- 8.2** The Town shall, notwithstanding the obligations of the Owner to maintain all Works set out in this Agreement, have the right to carry out the necessary maintenance and repairs:
- (a) Without notice to the Owner where, in the sole opinion of the Director of Operations, an emergency condition exists or where the streets have not been kept free of mud, dust and building materials, as per the Town's Street Cleaning Policy; and,
 - (b) Where repairs to or maintenance of the Works have not been completed within twenty-four (24) hours after a notice requiring such repairs or maintenance has been forwarded to the Owner.
- 8.3** The cost of any repair to or maintenance of the Works undertaken by the Town pursuant to the provisions hereof shall be borne by the Owner and the amount thereof shall be paid to the Town within thirty (30) days after a statement of account has been forwarded to the Owner. If the Owner fails to pay the amount due to the Town within such thirty (30) day period, then the Town may, and is hereby expressly authorized by the Owner to, deduct the amount owing to it for such repairs or maintenance from any monies or letters of credit deposited by the Owner with the Town pursuant to the provisions hereof.
- 8.4** The Owner agrees that the decision of the Director of Operations regarding required repairs or maintenance to the Works or an emergency state requiring immediate repair or maintenance to such Works shall be final, conclusive and incontestable.
- 8.5** After expiry of the one-year maintenance period provided for in Section 8.1 herein, and provided that all Works required to be constructed, installed or done by the Owner have been completed to the satisfaction of the Town, the Town will issue a Final

Certificate of Completion of Services, upon the application of the Owner, and provided that the following items have been submitted to and approved by the Director of Operations:

- (a) A Statutory Declaration in a form satisfactory to the Director of Operations stating that all accounts for the installation, construction and maintenance of all the Works required to be installed or constructed hereunder have been paid and that there are no outstanding debts, claims or liens in respect of all the Works or any of them;
- (b) A certificate signed by the Consulting Engineering Firm certifying that all the Works have been fully completed, inspected, tested and maintained in accordance with the provisions hereof and the standards and specifications of the Town and the plans as approved by the Director of Operations;
- (c) The "as constructed" final construction drawings in AutoCAD and PDF format showing each of the Works as constructed; and,

The Town may withhold the issuance of the Final Certificate of Completion of Services if, in the sole opinion of the Director of Operations, the Owner is in default of his obligations to repair, construct or maintain any of the Works pursuant to this Agreement

- 8.6** The cash deposit or Letter of Credit deposited by the Owner pursuant to Section 10 herein shall, upon the completion of the Primary Services and upon the issuance of Preliminary Certificate of Completion of Primary Services by the Town, be reduced in accordance with Section 10.4. The Town will retain 10% of the original security for Primary Services, in addition to securities for Secondary Services and any other securities or deposits required by this Agreement. The Town will release the remaining security for Primary Services upon expiry of a one (1) year maintenance period and the issuance of the Final Certificate of Completion of Services.
- 8.7** The cash deposit or Letter of Credit deposited by the Owner pursuant to Section 10 herein shall, upon the completion of the Secondary Services and upon the issuance of the Preliminary Certificate of Completion of Secondary Services by the Town, be reduced in accordance with Section 10.4. The Town will retain 10% of the original securities for Secondary Services, in addition to any remaining securities for Primary Services in Section 8.6 above, and any other securities or deposits required by this Agreement. The Town will release the remaining securities for Secondary Services upon expiry of a one (1) year maintenance period and the issuance of the Final Certificate of Completion of Services.
- 8.8** Upon the expiry of the minimum maintenance guarantee period referred to in Section 8.1 herein, and so long as the Director of Operations is satisfied that no deficiencies exist which require rectification and the extension of the maintenance guarantee period, the Director of Operations shall issue a Final Certificate of Completion of Services.

9. INSURANCE

Before commencing the construction of any Works, the Owner shall provide to the Town with evidence of a public liability insurance policy in a form satisfactory to the Town, in an amount of no less than five million dollars (\$5,000,000.00) per occurrence, naming the Town as an insured party and indemnifying the Town and all of its employees, contractors, servants, agents, officials and Council members from any liability arising from claims for damage, injury or loss to Persons or property in connection with the work done or materials furnished by the Owner, its contractors, servants or agents under this Agreement and said policy shall not contain an exclusion for blasting. The Owner shall continue such insurance in force continuously throughout the term of this Agreement and shall submit evidence thereof satisfactory to the Town from time to time, as may be required, that all premiums on such policy

or policies have been paid and that the insurance is in full force and effect. Furthermore, the Owner shall provide an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice being given to the Town. The issuance of such a policy of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which it may be responsible to indemnify the Town pursuant to the terms of this Agreement.

10. LETTER OF CREDIT

- 10.1** Upon execution of this Agreement and before commencing any of the Works provided for in this Agreement, the Owner shall deposit with the Town cash deposits and Letters of Credit, as outlined in Schedule "B", in amounts approved by the Director of Operations which cash deposit or Letter of Credit shall be sufficient to guarantee the satisfactory completion of the Works and payments required to be made by this Agreement.
- 10.2** A Letter of Credit, drawn upon a chartered bank or credit union in favour of the Town shall be in the amount referred to in Schedule "B", shall be provided to the Town at the time of the execution of this Agreement, and shall be held by the Town as security for the obligations of the Owner pursuant to any of the provisions of this Agreement. If in the opinion of the Director of Operations, at any time and from time to time, such amounts are required to be increased, the Owner shall pay such additional sum or provide such additional security as may be required as a result of such increase. In determining the sufficiency of the amount, regard need not be had solely to the particulars outlined in Schedule "B", but to the total cost of satisfying all of the obligations of the Owner pursuant to any of the provisions of the Agreement.
- 10.3** A Letter of Credit, as referred to in Schedule "B" shall be in a form acceptable to the Treasurer and contain the following provisions:
- (a) The Letter of Credit shall be security for any obligations of the Owner pursuant to the provisions of this Agreement, without any limitations whatsoever;
 - (b) Drawings on the Letter of Credit shall be permitted upon presentation of a letter from the Town to the credit union or chartered bank claiming default by the Owner under the terms of this Agreement, and such default shall not be limited to the actions of the Owner,
 - (c) Partial drawings shall be permitted; and,
 - (d) If the Town has not determined the extent of the default or the amount required to rectify the default or compensate the Town or third parties as a result thereof, the Town may draw on the full amount of the Letter of Credit without any requirement to justify the amount of the Letter of Credit.

If the Town is not provided with a renewal of the Letter of Credit at least thirty (30) days prior to its date of expiry, the Town may forthwith draw the full amount secured and hold it upon the same terms that applied to the Letter of Credit.

- 10.4** The Director of Operations shall not consider any application for reduction of any Letter of Credit unless and until all of the Primary Services required by this Agreement have been fully completed to the satisfaction of the Director of Operations and a Preliminary Certificate of Completion of Primary Services has been issued. The amount of the cash deposit or Letter of Credit may, in the sole discretion of the Director of Operations and subject to the review and approval by the Treasurer, be reduced to an amount not less than ten percent (10%) of the original estimate plus the current cost of all uncompleted Works and any outstanding payments required by this Agreement (collectively the "Minimum Letter of Credit Amount Notwithstanding anything herein contained, the amount of the cash deposit or Letter of Credit shall at all times be sufficient to cover the balance of the cost of completion of the unfinished Works, including Works deferred for extended periods and the requirements of the *Construction Lien Act*).

- 10.5** The Owner expressly agrees that the Town shall have the right to utilize and cash any Letters of Credit for purposes of rectifying any and all defaults in any Works commenced under any provisions of, or in any payments required by this Agreement.
- 10.6** The Director of Operations may, at such yearly or other intervals as he or she deems necessary, revise the estimated costs of Primary and Secondary Services and maintenance costs so as to reflect any existing or anticipated increase in costs at the time of such revision.

11. DEFAULT

- 11.1** Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making an assignment for the benefit of creditors, the Town, at its option, may declare that the Owner is in default. Notice of such default shall be given by the Town in writing to the Owner and, if the Owner does not remedy such default within such time, as provided in the notice, the Town may declare that the Owner is in final default under this Agreement and shall then forthwith give notice thereof to the Owner. Provided that if, in his or her sole discretion, the Director of Operations deems that the failure creates an emergency situation, then the Town can effect the remedies available to it in this Section of the Agreement, without notice to the Owner and without complying with any of the provisions of this Agreement regarding notice to the Owner.

Upon notice of default having been given, the Town may require all Works by the Owner, its servants, independent contractors, and subcontractors to cease (other than any Works necessary to remedy such default) until such default has been remedied and, in the event of final default, all Works as aforesaid may be required to cease. Upon final default of the Town may, at its option, adopt or pursue any or all of, but not be bound by or limited to, the following remedies:

- (a) Have its employees, servants, agents and contractors enter upon the Lands to complete any Works, services, repairs or maintenance wholly or in part required herein to be done by the Owner, and recover the costs thereof from the Owner by action or, in the same manner and with the same priority and remedies as municipal taxes, or draw upon or cash any Letter of Credit or security available to it;
- (b) Make any payment which ought to have been made by the Owner and upon demand recover the amount thereof from the Owner by action or, in the same manner and with the same priority and remedies as municipal taxes, or draw upon or cash, any Letter of Credit or security available to it;
- (c) Retain any sum of money or cash and Letters of Credit heretofore paid or rendered by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any Works which the Town may undertake or to pay off any construction or other liens against the Lands attributable to work and materials supplied by the Town or others, or otherwise;
- (d) Assume any Works at its option, whether the same are completed or not, and thereafter the Owner shall have no claim or title thereto or remuneration thereto;
- (e) Bring action for damages or to compel specific performance of all or any part of this Agreement; and,
- (f) Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law or equity.

12. INDEMNIFICATION

The Owner hereby agrees, for itself, its successors and assigns to indemnify, save

harmless and keep indemnified the Town, its successors and assigns from and against any and all manner of actions, suits, accounts, bonds, claims and demands whatsoever for any loss, charges, damages, injuries, expense or other liability whatsoever to any Person or to any property arising, accruing or happening before the issuance of the Final Certificate of Completion of Services (or after the issuance of such Final Certificate of Completion if such loss, costs, charges, damages, injuries, expenses or other liability is directly or indirectly attributable to the error, nuisance, omission or negligence of the Owner in connection with or arising out of anything done or omitted to be done by the Owner, his contractors, servants or agents pursuant to the terms of this Agreement.

13. CONSTRUCTION STANDARDS

It is agreed that notwithstanding any other provision of this Agreement, all construction undertaken by the Owner pursuant to the terms of this Agreement shall be in accordance with Town standards as interpreted by the Director of Operations.

14. SCHEDULES

14.1 All Schedules to this Agreement and all documentation referred to in the Agreement and Schedules (whether attached to this Agreement or not) shall form an integral part of this Agreement.

15. ASSIGNMENT OF AGREEMENT

The Owner shall not assign this Agreement except with the prior written agreement of the Town

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals under the hands of their respective authorized officers in that behalf.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

**THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE**

LORD MAYOR: BETTY DISERO

CLERK: VICTORIA STEELE (A)

WITNESSED BY:

OWNER (JOSH BICE)

Signature

Name: _____(print)

Position: _____(print)

I have the authority to bind the Corporation

SCHEDULE "A"
TO A SERVICING AGREEMENT BETWEEN
1834489 ONTARIO INC.
AND
THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Line 1 Road, East of Concession 6 Road

SCHEDULE "B"
ESTIMATED COST OF WORKS
TO A SERVICING AGREEMENT BETWEEN
1834489 ONTARIO INC.
AND
THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Item	Subject	Est. Cost	L of C	Cash
Total				
Preconditions of the Construction of Services:				
1.	Primary Services – 20%	\$166,647.54	\$33,329.51	
2.	Secondary Services – 100%	\$10,237.80	\$10,237.80	
3.	Inspection Deposit*	\$9,750.00		\$9,750.00
4.	Maintenance of Public Roads during construction	\$5,000.00		\$5,000.00
Total				
			\$43,567.31	\$14,750.00

*Note: Based on a working days estimate of 15 days