

PRE-SERVICING AGREEMENT

THIS AGREEMENT is dated as of the ____ day of _____, 2024.

BETWEEN :

1960726 Ontario Inc., a corporation incorporated under
the laws of the Province of Ontario

(the “**Subdivider**”)

- and -

The Corporation of the Municipality of Strathroy-Caradoc,
a municipal corporation under the laws of the Province of
Ontario

(the “**Municipality**”)

WHEREAS:

- A. the Subdivider is the registered owner of lands described in Schedule “A” (the “**Lands**”);
- B. the Corporation of the County of Middlesex granted draft approval of Draft Plan of Subdivision 39T-SC1702 on September 11, 2018 with minor changes approved on December 16, 2020 and extensions approved on or about August 11, 2021, August 4, 2022, and March 7, 2023 (the “**Draft Approval**” and the “**Draft Plan**” respectively) appended hereto as Schedule “B”;
- C. the Subdivider desires to commence the installation, construction and provision of certain works on the Lands prior to the execution and registration of the Subdivision Agreement, such works being more particularly set out in Schedule “D” (the “**Pre-Servicing Works**”); and
- D. the Municipality is prepared to permit the Subdivider to commence installation of the Pre-Servicing Works, in accordance with the terms and conditions of this Pre-Servicing Agreement (the “**Agreement**”) being an agreement within the meaning of and authorized by Section 51 of the *Planning Act*, R.S.O. 1990, c. P.13;

IN CONSIDERATION of the Municipality granting the Subdivider permission to commence installation of the Pre-Servicing Works within the Draft Plan prior to the execution of the Subdivision Agreement and the mutual covenants in this Agreement, the parties agree and acknowledge as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms have the following meanings:

- 1.1.1 “**Agreement**” means this Pre-Servicing Agreement, including all Schedules and Exhibits, as it may be confirmed, amended, modified, supplemented or restated by written agreement between the Parties.

- 1.1.2 “**Applicable Law**” means, at any time, with respect to any person, property, transaction or event, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, by-laws, permits, authorizations, guidelines, orders and policies of any Governmental Authority having authority over that Person, property, transaction or event.
- 1.1.3 “**Approval Authority**” means the Corporation of the County of Middlesex.
- 1.1.4 “**Business Day**” means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario.
- 1.1.5 “**Communication**” means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- 1.1.6 “**Draft Plan**” means the Corporation of the County of Middlesex approved Draft Plan of Subdivision 39T-SC1702.
- 1.1.7 “**Effective Date**” means the date hereof.
- 1.1.8 “**Final Approval**” means the release by the Approval Authority of the final plan of subdivision for registration under the *Planning Act*, R.S.O. 1990, c. P.16.
- 1.1.9 “**Governmental Authority**” means:
- 1.1.9.1 any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature; and
 - 1.1.9.2 any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- 1.1.10 “**Lands**” means those lands described in Schedule “A”.
- 1.1.11 “**Municipality**” means the Corporation of the Municipality of Strathroy-Caradoc.
- 1.1.12 “**Parties**” means the Subdivider and the Municipality, collectively, and “**Party**” means any one of them.
- 1.1.13 “**Pre-Servicing Works**” means those Works authorized to be constructed pursuant to the terms of this Agreement, as specified in Schedule “D”.
- 1.1.14 “**Security**” means the Security required to be posted for the Pre-Servicing Works pursuant to the terms of this Agreement, as specified in Schedule “E”.
- 1.1.15 “**Subdivider**” means 1960726 Ontario Inc.

1.1.16 “**Subdivision Agreement**” means the subdivision agreement to be entered into between the Subdivider and the Municipality as a condition of and prior to Final Approval and to be registered on title to the Lands.

1.1.17 “**Works**” means all of the works, services, facilities, landscaping, fencing, matters and things which are required by the Municipality, the utility corporations, including the electrical utilities and all Governmental Authorities to be designed, installed and done by the Subdivider for the subdivision, development and servicing of the Lands and includes the Pre-Servicing Works.

1.2 Certain Rules of Interpretation

1.2.1 In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

1.2.2 The division of this Agreement into Articles and Sections, the insertion of headings and the inclusion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

1.3 Recitals

1.3.1 The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

ARTICLE 2 CONSTRUCTION OF THE PRE-SERVICING WORKS

2.1 Conditions Precedent in favour of Municipality

2.1.1 The permission to construct granted by the Municipality to the Subdivider under Article 2.3 of this Agreement is subject to following condition precedent, to be satisfied on or before the commencement of the Pre-Servicing Works, that:

2.1.1.1 the Subdivider shall have secured written consent of the registered owners (Chris William Soeteman and Cyril August Soeteman (“**Soeteman**”)) of those lands municipally known as 8465 Parkhouse Drive and legally described as PART LOT 16 CONCESSION 1; EXCEPT MW48050 & PART 1 PLAN 34R2130 & PART 1 PLAN 33R20223; S/T CA31972 STRAHTROY-CARADOC TOWNSHIP/CARADOC; MUNICIPALITY OF STRATHROY-CARADOC, being all of PIN 08514-0410 (the “**Soeteman Property**”) to permit the installation of a temporary outlet for the dewatering operations to the irrigation pond located upon and within the Soeteman Property, as identified on Schedule “C” to this Agreement, (the “**Soeteman Pond**”), and shall have filed a copy of such registered owners written consent with the Municipality.

2.1.2 The above condition is inserted for the sole benefit of the Municipality and may be waived in whole or in part by the Municipality by notice to the Subdivider prior to the applicable dates provided for above.

2.1.3 In the event that the condition precedent set forth in Article 2.1.1 is not satisfied or waived as therein provided on or before June 1, 2024, this Agreement shall be terminated, null and void and of no further force or effect whatsoever.

2.2 Landowner Agreement

2.2.1 The Subdivider acknowledges that, as a condition of approval of the Draft Plan, the Subdivider will be required to negotiate and enter into a landowner group agreement with Sifton Properties Limited (“**Sifton**”) to ensure the equitable distribution of the costs of designing/engineering, constructing, maintaining, and repairing community and infrastructure facilities such as enhancement and restoration of natural features, roads and road improvements, internal and external services, and stormwater management facilities associated with the Draft Plan and Sifton’s draft plan 39T-SC1901 (the “**Landowner Agreement**”). The Subdivider further acknowledges that it will be required to file a copy of the final fully executed Landowner Agreement with the Municipality prior to final approval of the Draft Plan to satisfy the foregoing condition.

2.3 Permission to Construct

2.3.1 The Municipality grants permission to the Subdivider to commence construction and installation of the Pre-Servicing Works, as specified in Schedule "D", on the Lands in advance of the execution and registration of the Subdivision Agreement.

2.3.2 The permission granted pursuant to Article 2.3.1 shall be automatically revoked upon execution of the Subdivision Agreement which, when executed, shall supersede and replace this Agreement.

2.4 Construction of the Pre-Servicing Works

2.4.1 The Subdivider covenants and agrees to:

2.4.1.1 retain a professional consulting engineer experienced in the municipal engineering field, satisfactory to the Municipality acting reasonably who will carry out all necessary engineering requirements associated with the construction and installation of the Pre-Servicing Works (the “**Subdivider’s Engineer**”);

2.4.1.2 construct and install the Pre-Servicing Works in a good and workmanlike manner to the satisfaction of the Municipality in accordance with all of the Municipality’s standards and practices along with all statutes and regulations applicable to the Pre-Servicing Works and only in accordance with the approved plans for the Pre-Servicing Works;

2.4.1.3 not undertake any construction or installation of the Pre-Servicing Works outside the hours of 7 a.m. to 7 p.m. Monday through Friday (but excluding statutory holidays in the Province of Ontario) and the hours of 7 a.m. to 12 noon on Saturdays or such other dates and times as may be established by the Municipality from time to time. No construction or installation of the Pre-Servicing Works shall occur at any time on Sundays or statutory holidays in the Province of Ontario;

- 2.4.1.4 provide full time field inspection by the Subdivider's Engineer at the site of the Pre-Servicing Works at all times when construction work is proceeding;
- 2.4.1.5 provide the Subdivider's Engineer's certification that all Pre-Servicing Works have been constructed and installed in full conformity with the Municipality approved plans and specifications;
- 2.4.1.6 The Municipality shall have the right at all times to direct an inspection of the installation of Pre-Servicing Works by the Municipality's Director of Engineering & Public Works or by a professional engineer designated by the Municipality (the "**Municipality's Engineer**"). If at any time the Municipality's Engineer is of the opinion that Pre-Servicing Works are not being carried out in accordance with approved plans and specifications or in accordance with good engineering practices, he may stop all or any part of the work until it has been rectified to the Municipality's satisfaction and in accordance with all Applicable Law. All of the testing and inspections referred to in this Agreement to be carried out by the Municipality's Engineer or the Municipality shall be carried out at the Subdivider's sole expense.

2.5 Groundwater Monitoring

- 2.5.1 The Subdivider covenants and agrees that it shall, throughout the construction of the Pre-Servicing Works and at its sole expense, provide continuous groundwater monitoring on site through the high groundwater season(s) and continuing until Block 92 is assumed by the Municipality to establish the high groundwater levels and water table fluctuations, including information on groundwater recharge, interaction with the creek/waterway and groundwater movement across the site. Such groundwater monitoring shall include a review of regional precipitation and snow-pack data for the winter and spring of the 12 months preceding the assumption of Block 92 by the Municipality and such review shall include a statement by a professional acceptable to the Municipality that in their opinion representative high-water levels for the site have been reasonably identified.
- 2.5.2 The Subdivider acknowledges and agrees that a minimum vertical separation of 1 metre between the bottom of the stormwater management facility and the high groundwater level is required in accordance with the Ministry of Environment Stormwater Management Guidelines (2003).
- 2.5.3 The Subdivider acknowledges and agrees that, prior to Final Approval, it shall design and agree to implement a program to monitor the effects of the proposed development on groundwater quality and quantity for well users in the area. The program shall also contain provisions for future mitigation should the program results demonstrate a causal relationship between the proposed development and unacceptable levels of groundwater impact as deemed by the Municipality, all to the satisfaction of the Municipality.

2.6 Dewatering

- 2.6.1 The Subdivider shall be solely responsible for any and all damage related to the Subdivider's activities associated with construction of the Pre-Servicing Works or otherwise in connection with the development of the Lands and including but not limited to the Subdivider's activities subsequent to the issuance of Dewatering Permits/Permits to Take Water, and the Subdivider shall be solely liable and shall at its sole expense, repair all such damage

including but not limited to damage to public and private infrastructures, tributaries, ponds, and domestic water sources in the areas surrounding the Lands; and such damage shall be repaired to the satisfaction of the Municipality. The Subdivider shall mitigate noise related to dewatering activities. The Subdivider shall adhere to the terms and conditions of the "Construction Dewatering & Discharge Plan", LDS Consultants Inc., dated February 15, 2022, including, but not limited to, the circulation of the "Notice of Dewatering" per Section 4.5.1 and Appendix G thereof.

2.7 Wetland Monitoring

2.7.1 The Subdivider covenants and agrees that it shall, throughout the construction of the Pre-Servicing Works and at its sole expense provide continuous monitoring of the North Woodlot and Central Woodlot ("**Wetlands**") as prescribed below and in the "Consolidated Report & Construction Monitoring Recommendations" ("**Water Balance Report**") Report by LDS Consultants Inc., dated July 10, 2023. The Subdivider agrees to the following conditions related to monitoring of the Wetlands:

- 2.7.1.1 Undertake monitoring of groundwater, surface water, water quality, flow volumes, thermal profiling of groundwater, surface water bodies, erosion and sediment control measures, water supply well, and ecological as outlined in table 10 of the Water Balance Report.
- 2.7.1.2 Provide notice within twenty four (24) hours to the Municipality and other agencies as applicable in the event that a threshold criteria is met as outlined in table 11 of the Water Balance Report. In the event that a threshold criteria is met, the Subdivider agrees to:
 - i) cease all dewatering and construction activities;
 - ii) That they shall be fully responsible and shall undertake the necessary remedial measures, at its sole expense, as recommended by a Qualified Person and approved by the Municipality;
 - iii) In the event that a threshold criteria is met or there is cause for concern with the monitoring results, further monitoring may be required as determined by the Municipality.
- 2.7.1.3 Complete continuous monitoring of the Wetlands until at least 50% of the dwellings in each phase have been granted an occupancy permit. Further monitoring beyond 50% occupancy may be required in the event a threshold criteria is met as determined by the Municipality.
- 2.7.1.4 If necessary, modify the approved plans and reports to accommodate the water balancing needs as recommended by a Qualified Person and approved by the Municipality. The Subdivider shall construct all works in accordance with the modified plans at its sole expense.
- 2.7.1.5 Undertake and provide monitoring data at the request of the Municipality.

2.8 Protection of Wetland Features

- 2.8.1 The Subdivider covenants and agrees that it shall, throughout the construction of the Pre-Servicing Works and at its sole expense, implement the recommendations contained in the Design-level Development Assessment Report (“**DDAR**”) Submission for Subdivision Agreement of the Edgewood Phase 1 Subdivision – 39T-SC1702, and without limiting the foregoing, the Subdivider shall:
- 2.8.1.1 Prepare and implement a Tree Preservation Plan for the portion(s) of Block 91 (Open Space), Block 92 (SWM) and Lots 63-64 inclusive to be removed. Replacement tree planting in Block 91 (Open Space) and Block 92 (SWM) inclusive shall use native tree species to offset the vegetation removed to relocate the municipal drain outlet;
 - 2.8.1.2 Obtain a permit from the Lower Thames Valley Conservation Authority for development proposed within the Regulation Limit (i.e. grading, vegetation removal and drain updates);
 - 2.8.1.3 Avoid vegetation clearing within the Lands during the migratory bird breeding season (May 1 to August 15) to ensure that no active nests will be removed or disturbed in accordance with the Migratory Birds Convention Act (1994) and/or Regulations under the Act. If vegetation clearing occurs in the breeding bird window, an inspection for active nests in the trees to be removed shall be completed by a qualified biologist within the 24-hour period prior to removal of the trees;
 - 2.8.1.4 Complete in-water work between July 15 and March 15 to avoid potential spring spawning. In-water work shall be isolated, and when possible in-water work shall take place when the channel is dry;
 - 2.8.1.5 Create and implement a Sediment and Erosion Control (“**SEC**”) plan to protect the small drainage tributary from sedimentation and potential encroachment from the adjacent residential development and storm water upgrades;
 - 2.8.1.6 Construct and install all SEC fencing in accordance with the Construction Drawings, LDS Consultants Inc., 2021;
 - 2.8.1.7 Cause all SEC fencing to be inspected by a qualified biologist to ensure that the fencing is properly installed, with written confirmation to be provided to the Municipality;
 - 2.8.1.8 Not remove SEC fencing until adequate re-vegetation and site stabilization has occurred to the satisfaction of the Municipality, after a minimum of one growing seasons. Additional re-vegetation planting and/or additional time for vegetation to establish shall be provided as required, to the satisfaction of the Municipality;
 - 2.8.1.9 Re-seed all disturbed areas as soon as possible to maximize erosion protection and to minimize volunteer populations of native species, all in accordance with the Construction Drawing, LDS Consultants Inc., 2021; and
 - 2.8.1.10 Prepare and implement a groundwater dewatering plan for construction. When lowering groundwater for construction, groundwater discharge shall be designed

so that flows within the drainage tributary and to the meadow marsh are maintained.

2.9 General Maintenance

- 2.9.1 The Subdivider agrees to keep the Lands free and clear of all rubbish, debris and any unusable materials. Should any such material accumulate on the Lands, the Subdivider shall have it removed within a reasonable period of time not to exceed forty-eight (48) hours of receiving notice from the Municipality that the condition exists. In the event that the Subdivider does not correct the condition within forty-eight (48) hours, the Municipality may remove the rubbish or material and any costs incurred shall be charged to the Subdivider.
- 2.9.2 The Subdivider shall carry out or cause to be carried out to the satisfaction of the Municipality all required watering, weed cutting and grass cutting on the Lands prior to, during, and after development.
- 2.9.3 The Subdivider shall keep the Lands tidy during construction so that the raising of dirt and dust is kept to a minimum and that weeds or other debris are removed from the Lands and further that all roads adjacent and in the vicinity of the development are kept clean of mud and debris, to the satisfaction of the Municipality.
- 2.9.4 The Subdivider shall ensure that there is sufficient width for emergency services to access the roads at all times. This may include implementing restriction for on street parking for workers or construction equipment. If there is insufficient parking, the Subdivider shall provide and implement a plan to address the issue.

2.10 Construction Traffic

- 2.10.1 For the purpose of minimizing or eliminating danger of damage or inconvenience, the Subdivider shall direct all construction vehicles and equipment to access the Lands via designated construction routes, including temporary construction roads to be constructed and maintained by the Subdivider, in accordance with the directions of the Municipality. Construction traffic shall not access the Lands via Rougham Road. The Subdivider shall also install such barriers and signage as may be directed by the Municipality. The quality and nature of all barriers, signage, and temporary construction roads and the location of such barriers, signage, and temporary construction roads shall be to the satisfaction of the Municipality and at the sole expense of the Subdivider. All plans for the routing of construction traffic shall be approved by the Municipality prior to the commencement of any Pre-Servicing Works.

2.11 Subdivider's Acknowledgments

- 2.11.1 The Subdivider acknowledges and agrees that:
- 2.11.1.1 it is being given permission to commence construction and installation of the Pre-Servicing Works prior to the execution of the Subdivision Agreement and that any work it undertakes in furtherance thereof will be at its sole and absolute risk;
 - 2.11.1.2 it will be bound by the terms and conditions of the Subdivision Agreement and that nothing contained in this Agreement or in the Municipality's grant of permission to proceed with the installation and construction of the Pre-Servicing

Works will restrict the Municipality from imposing any of its standard conditions and requirements pertaining to the installation of public works or from enforcing its authority to require the Subdivider to fully comply with all applicable conditions of approval of the Draft Plan;

- 2.11.1.3 it may be required, at its sole cost and expense to modify, alter, relocate and reconstruct certain of the Pre-Servicing Works based on the final drawings and plans approved by the Municipality;
- 2.11.1.4 it will comply with every direction issued or given by the Municipality during the course of pre-servicing, including but not limited to the cessation of work, the installation or carrying out of additional works, rectification of deficiencies, the phasing of Pre-Servicing Works construction and installation or any other matter the Municipality deems to be in the interest of the proper development of the Lands and surrounding areas;
- 2.11.1.5 it is not being given any permission to carry out any Works, save and except for the Pre-Servicing Works, or to enter upon any lands not owned by it, except for lands owned by the Municipality (and only where the Municipality has expressly consented to such works or entry through a written Permission to Enter), without the written consent of the owner of the applicable lands and that such consent shall be filed with the Municipality;
- 2.11.1.6 it shall not connect and shall have no right under this Agreement to connect any Pre-Servicing Works to any public services on any municipal right-of-way. No connection to public services will be permitted until after the execution and registration of the Subdivision Agreement, satisfaction of all conditions of Final Approval, and registration of the plan of subdivision. For clarity, no building permits shall be applied for or issued for any Lots or Blocks within the registered plan until after all of the foregoing requirements have been addressed to the Municipality's satisfaction;
- 2.11.1.7 the Municipality shall be under no obligation whatsoever to complete all or any portion of the Pre-Servicing Works if the Subdivider fails to complete same but, notwithstanding the foregoing, the Municipality shall, at its sole and absolute discretion, be entitled to enter onto the Lands and complete any Pre-Servicing Works or portion of the Pre-Servicing Works and to take any action it deems necessary to safeguard the health and safety of its residents all at the Subdivider's expense.

2.11.2 The Subdivider further acknowledges and agrees that:

- 2.11.2.1 Municipal services have not yet been extended along Parkhouse Drive to the Lands and will not be extended until such time as the Subdivider has entered into a Cost Sharing Agreement with the Municipality satisfactory to the Municipality, which allocates the costs of the extension of municipal services along Parkhouse Drive to the Lands (the "**Cost Sharing Agreement**");
- 2.11.2.2 The Municipality has made no representation, warranty, or other assurance as to when municipal services might be extended along Parkhouse Drive to the Lands or as to the reservation of capacity within such services when extended; and

- 2.11.2.3 The Subdivider accepts and assumes all risk of municipal services not being available to the Lands and/or of municipal service capacity (including within the Mount Brydges Wastewater Treatment Facility) not being available to the Lands.

2.12 Payment of Costs

- 2.12.1 The Subdivider agrees to pay forthwith, on demand, all Engineering, Planning and Solicitor's fees and Disbursements incurred by the Municipality, in any way arising out of the Agreement, including, but not limited to:
 - 2.12.1.1 The preparation of this Agreement and all other deeds, conveyances, agreements and the registration fees of any or all such documents;
 - 2.12.1.2 Review of plans and specifications;
 - 2.12.1.3 Surveys and a site inspection and advice and services on the correction of deficiencies;
 - 2.12.1.4 Preparation of schedules for cost-sharing and oversizing; and
 - 2.12.1.5 All other legal, planning or engineering services required by the Municipality to ensure the due performance of all works and services as provided in or contemplated by this Agreement.
- 2.12.2 The Municipality agrees to provide evidence of such costs and expenses to the Subdivider when requesting payment.

2.13 Inspection and Right of Entry

- 2.13.1 The Subdivider covenants and agrees that the Municipality and any of its employees or agents may enter onto the Lands at any time in order to make all necessary inspections and to correct any deficiencies or remedy any other defects arising from or relating to the construction and installation of the Pre-Servicing Works.

2.14 Compliance with All Laws and Regulations

- 2.14.1 The Subdivider covenants and agrees to comply with all Applicable Law in constructing, installing or otherwise providing the Pre-Servicing Works.

2.15 No Construction of Dwellings

- 2.15.1 The Subdivider covenants and agrees that construction of dwellings upon any portion of the Lands and/or the Draft Plan shall not be permitted under the terms of this Agreement and that such construction may only occur in accordance with and pursuant to the terms of the Subdivision Agreement which, upon its execution by the Parties, shall supersede and replace this Agreement.

ARTICLE 3 INSURANCE

- 3.1.1 Prior to the registration and the execution of this Agreement, the Subdivider shall purchase and maintain insurance against all damages or claims for damage with a financially sound and reputable insurance company satisfactory to the Municipality and continue to maintain such insurance until an Assumption By-law has been passed by the Municipality. The Subdivider shall provide a Certificate of Insurance to the Municipality evidencing the insurance coverage required by the Subdivider and hereafter annually on the insurance renewal date.
- 3.1.2 The issuance of such insurance policy or policies shall not be construed as relieving the Subdivider from responsibility for any other or larger claims in excess of such policy or policies, if any, for which the Subdivider may be held responsible. Such insurance policy or policies shall be in a form acceptable to the Municipality's insurer and, without limiting the generality of the foregoing, shall provide:
- 3.1.2.1 Comprehensive General Liability insurance applying to all operations of the Subdivider subject to the limits of not less than five million dollars (\$5,000,000) or any single occurrence which shall include coverage for personal injury, including death, broad form property damage, products and completed operations liability, owner's and contractors liability, blanket contractual liability, contingent employer's liability, employer's liability, non-owned automobile liability including SEF 94 & SEF 96 and shall include cross liability and severability of interest clauses and hostile fire.
- 3.1.2.2 Where the Description of the Project, Supply or Work involves the use of explosives for blasting or vibration from pile driving or caisson work; the removal or weakening of support of such property, building or land, whether such support be natural or otherwise, Explosion, Collapse or Underground (XCU) coverage's must be added by endorsement.
- The Municipality shall be added as an additional insured to the above policies.
- 3.1.2.3 Should the work involve professional design, the Subdivider shall ensure that any Professionals hired shall carry Professional Liability Insurance in the amount not less than \$5,000,000 providing coverage for acts, errors and omissions arising from their professional services performed under this Agreement. The policy SIR/deductible shall not exceed \$100,000 per claim and if the policy has an aggregate limit, the amount of the aggregate shall be double the required per claim limit. The policy shall be underwritten by an insurer licensed to conduct business in the Province of Ontario and acceptable to the Municipality. The policy shall be renewed for 3 years after contract termination. A certificate of insurance evidencing renewal is to be provided each and every year. If the policy is to be cancelled or non-renewed for any reason, 90-day notice of said cancellation or non-renewal must be provided to the Municipality. The Municipality has the right to request that an Extended Reporting Endorsement be purchased by the Professional at the Professional's sole expense.
- 3.1.2.4 The Subdivider shall purchase an Environmental Policy to cover injury to or physical damage to tangible property including loss of use of tangible property, or the prevention, control, repair, cleanup or restoration of environmental impairment

of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual release. The policy is to be renewed for 3 years after project completion and a Certificate of Insurance evidencing renewal shall be filed with the Municipality. If the policy is to be cancelled or non-renewed for any reason, 90-day notice of said cancellation or non-renewal must be provided to the Municipality. The Municipality has the right to request that an Extended Reporting Endorsement be purchased by the contractor at the contractor's sole expense.

- 3.1.3 All parties agree to immediately notify the other parties of any occurrence, incident, or event which may reasonably be expected to expose any of the parties to liability of any kind in relation to the Pre-Servicing Works carried out as part of this Pre-Servicing Agreement.

ARTICLE 4 INDEMNIFICATION & RELEASE

- 4.1.1 The Subdivider shall defend, indemnify and save harmless the Municipality its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, cause of action, losses, expenses, fines, costs (including legal costs on a full indemnity basis), interest or damage of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from or arising out of disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Subdivider, its directors, officers, employees, agents, contractors and subcontractors, or any of the them, in conjunction with or in any way related to the delivery or performance of this Agreement by the Subdivider. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Subdivider in accordance with this Agreement and shall survive this Agreement.

ARTICLE 5 SECURITY

- 5.1.1 The Subdivider agrees to deposit with the Municipality an irrevocable letter of credit in a form satisfactory to the Municipality to guarantee the performance of its obligations under this Agreement (the "**Security**"). The amount of the Security to be deposited with the Municipality is set out in Schedule "E".
- 5.1.2 The Subdivider acknowledges and agrees that should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement or to pay the cost of any matter for which the Subdivider is liable in connection with the completion of the Pre-Servicing Works or otherwise under this Agreement, whether such costs are in relation to construction or installation of any works or service or any defects or required maintenance, and the Subdivider fails to comply within Fifteen (15) days written notice with a direction to carry out such work or matter, the Municipality may draw on the Security, in whole or in part, and enter onto the Lands and complete all outstanding Pre-Servicing Works or associated matters, and pay all costs and expenses incurred thereby from the proceeds so drawn. The Subdivider acknowledges that the Municipality reserves the right to draw on the Security to complete any Pre-Servicing Works or associated matters required to be done by the Subdivider pursuant to this Agreement.

- 5.1.3 The Municipality may at the sole expense of the Subdivider, enter upon the Lands and do all such matters and things as are in default. The Municipality may authorize the use of any the Security deposited with the Municipality pursuant to this Article, to pay for the cost to the Municipality of carrying out of such matters or things. "Cost" and "expense of the Subdivider" in this Clause shall be actual cost incurred by the Municipality plus twenty-five percent (25%) of such cost as a charge for overhead. Any costs incurred by the Municipality pursuant to this clause which are in excess of the amount of the Security held by the Municipality shall be paid by the Subdivider to the Municipality within thirty (30) days of the mailing of an invoice by the Municipality addressed to the Subdivider at its last known address for such amount in excess and any costs referred to in this clause may be recovered by the Municipality in like manner as municipal taxes pursuant to the provisions of Section 446 of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended.
- 5.1.4 The Subdivider acknowledges that upon the transfer of ownership of any of the Lands, the Municipality will not return any Security required under this Agreement until the new owner(s) files substitute Security with the Municipality in form and amount acceptable to the Municipality.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of the Subdivider

The Subdivider represents and warrants in favour of the Municipality as follows:

- 6.1.1 it is a corporation duly incorporated, amalgamated or continued, and existing, under the laws of the Province of Ontario, and has all necessary corporate power and capacity to enter into and perform its obligations under this Agreement;
- 6.1.2 it has taken all necessary corporate action to authorize the execution and delivery by it of its obligations under this Agreement;
- 6.1.3 it has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws generally affecting the enforcement of creditors' rights, and to the fact that equitable remedies, such as specific performance and injunction, are discretionary remedies;
- 6.1.4 no authorization, consent, permit, exemption, approval or other action by, or filing with, or notice to, any Governmental Authority is required in connection with the execution and delivery by it of this Agreement or the performance of its obligations under this Agreement;
- 6.1.5 the execution and delivery by it of this Agreement, and the performance of its obligations under this Agreement, do not and will not breach or result in a default under:
- 6.1.5.1 any of its constating documents;
 - 6.1.5.2 any Applicable Law to which it is subject or any contract or covenant by which it is bound; and

- 6.1.5.3 there is no action, litigation or other proceeding in progress, pending or, to its knowledge, threatened against the corporation which might result in a material adverse change in its financial condition or which would materially adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 7 REVOCATION OF PERMISSION

- 7.1.1 The Subdivider acknowledges and agrees that the Municipality is and shall be entitled to withdraw its permission granted herein for the installation and construction of the Pre-Servicing Works if it is determined, in the sole and absolute discretion of the Municipality, that the Subdivider has not complied with the material terms of this Agreement. Upon notification of such withdrawal of permission, the Subdivider covenants and agrees to immediately cease any further construction, installation or other work in respect of the Pre-Servicing Works. The Subdivider acknowledges that it shall have no claim against the Municipality if it exercises its right to withdraw the permission granted under this Agreement and it specifically waives and disclaims its rights to make any claim in connection therewith.

ARTICLE 8 SUBDIVISION AGREEMENT & COST SHARING AGREEMENT

- 8.1.1 The Subdivider acknowledges and agrees that prior to Final Approval, the Subdivider shall be required to enter into the Subdivision Agreement with the Municipality, in a form satisfactory to the Municipality to satisfy all the conditions of draft approval and, without limitation, to satisfy all of the financial, legal, servicing, engineering, landscaping and other requirements of the Municipality for the subdivision, development and servicing of the Lands. The Parties agree that the Subdivision Agreement, when executed, shall supersede and replace this Agreement.
- 8.1.2 The Subdivider acknowledges and agrees that the Municipality shall make a financial contribution in the amount of Three Hundred Eighty Four Thousand Nine Hundred Twenty and Twenty Nine Cents (\$384,920.29) towards the cost of the storm water management facility to be constructed on Block 92 and related infrastructure (the **"SWM Facility"**) in consideration of the Municipality's contribution of inflows to the SWM Facility. The Municipality's financial contribution shall be paid as follows:
- 8.1.2.1 Twenty Five Percent (25%) within 30 days of delivery of Certificate of Interim Completion for Services for the SWM Facility in accordance with the Subdivision Agreement;
 - 8.1.2.2 Twenty Five Percent (25%) within 30 days of the Municipality's issuance of a Certificate of Acceptance for the SWM Facility in accordance with the Subdivision Agreement; and
 - 8.1.2.3 Fifty Percent (50%) within 30 days of the later of (i) the Municipality's passage of an assumption by-law for the SWM Facility; and (ii) the Municipality's acceptance of a transfer of Block 92 from the Subdivider.

The parties agree that this provision shall be carried forward into the Subdivision Agreement.

- 8.1.3 The Subdivider further acknowledges and agrees that municipal services will not be extended along Parkhouse Drive to the Lands until such time as the Subdivider has executed a Cost Sharing Agreement, satisfactory to the Municipality, which allocates the costs of the extension of municipal services along Parkhouse Drive to the Lands.

**ARTICLE 9
TERMINATION OF AGREEMENT**

- 9.1.1 If the Pre-Servicing Works proposed to be installed or constructed pursuant to this Agreement are not commenced or a Subdivision Agreement relating to the Lands has not been executed between the Subdivider and the Municipality within two (2) years from the date of execution of this Agreement, the Municipality may, at its option and on One Hundred and Twenty (120) days written notice to the Subdivider (which notice may be given prior to the expiry of 24 months from the date of this Agreement) in accordance with Section 11, declare this Agreement to be null and void and of no further effect.
- 9.1.2 This Agreement shall automatically lapse and be of no further effect immediately upon expiry of the Draft Approval, save that the Municipality shall be entitled to retain and draw upon the Security in accordance with Article 5 to address any pre-existing default or non-performance by the Subdivider under the terms of this Agreement and/or to remove and/or remediate any or all Pre-Servicing Works installed prior to the expiry of the Draft Approval.

**ARTICLE 10
MISCELLANEOUS**

10.1 Schedules and Exhibits

The following is a list of Schedules and Exhibits:

Schedule	Subject Matter
Schedule "A"	Lands
Schedule "B"	Draft Plan
Schedule "C"	Soeteman Pond
Schedule "D"	Pre-Servicing Works
Schedule "E"	Security for Pre-Servicing Works

10.2 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement. No Party has been induced to enter into this Agreement in reliance on, and there

will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement.

10.3 No Fettering of Discretion

Notwithstanding any other provision of this Agreement, the Subdivider expressly acknowledges and agrees that none of the provisions of this Agreement (including a provision stating the parties' intention) is intended to operate, nor shall have the effect of operating, in any way to fetter the discretion of the Municipality and its Council in the exercise of any of its discretionary power, duties or authorities, including without limitation, the authority to approve, approve with conditions or deny draft plan approval of the application for approval of a draft plan of subdivision filed by the Subdivider.

The Subdivider expressly acknowledges and agrees that it will not obtain any advantageous planning or other consideration or treatment, including approval of a draft plan of subdivision for the Lands, by virtue of it having entered into this Agreement.

10.4 Subdivider Obligations Covenants

All obligations herein contained, although not expressed to be covenants, shall be determined to be covenants of the Subdivider herein and shall be restrictive covenants running with the lands and may be registered against the Lands. The Municipality shall be entitled to enforce the provisions hereof against the Subdivider and subject to the provisions of the *Registry Act*, R.S.O.1990, c.R20 and the *Land Titles Act*, R.S.O. 1990, c.L.5., any and all subsequent owners of the Lands pursuant to Section 51 of the *Planning Act*, R.S.O. 1990. c.P.13. If at any time, and from time to time, there is more than one owner of the Lands, then at such time or times such owners shall be jointly and severally liable to the Municipality for the performance of the Subdivider's obligations under this Agreement.

10.5 Notices

Any Communication must be in writing and either:

- 10.5.1 delivered personally or by courier;
- 10.5.2 sent by prepaid registered mail; or
- 10.5.3 transmitted by e-mail.

Any Communication must be sent to the intended recipient at its address as follows:

to 1960726 Ontario Inc. at:

1701 Richmond Street
Unit 3B
London, ON N5X 3Y2

Attention: lyman Meddoui
Tel. No.: 519-850-0000
E-mail: imeddoui@westdellcorp.com

to the Corporation of the Municipality of Strathroy-Caradoc at:

52 Frank Street
Strathroy, ON N7G 2R4

Attention: Clerk
Tel. No.: 519-245-6353
E-mail: clerk@strathroy-caradoc.ca

with a copy to:

Gowling WLG (Canada) LLP
345 King Street West
Suite 600
Kitchener, ON N2G 0C5

Attention: David Sunday
Tel. No.: 519-575-7513
Facsimile No.: 519-576-6030
E-mail: david.sunday@gowlingwlg.com

or at any other address as any Party may at any time advise the other by Communication given or made in accordance with this Section 10.4. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication transmitted by e-mail will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 4:30 p.m. (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

10.6 Severability

Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect:

- 10.6.1 the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part; or
- 10.6.2 the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.

10.7 Amendment and Waiver

No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is in writing and executed by each Party. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a

waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

10.8 Remedies Cumulative

The rights, powers and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights, powers and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right, power or remedy precludes or otherwise affects the exercise of any other right, power or remedy to which that Party may be entitled.

10.9 Assignment and Enurement

Neither this Agreement nor any right or obligation under this Agreement may be assigned by the Subdivider without the prior written consent of the Municipality. This Agreement enures to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators, estate trustees, trustees, personal or legal representatives, successors and permitted assigns.

The Subdivider covenants and agrees that in the event it transfers or conveys the Lands to a third party prior to the execution of the Subdivision Agreement, that it shall, prior to completing the transfer, provide the Municipality with an executed agreement from the third party in a form satisfactory to the Municipality in its sole discretion whereby the third party agrees to complete assumption of the terms of this Agreement and to be bound by this Agreement as if it had been the original signatory.

10.10 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario.

10.11 Creation and Use of Electronic Document

This Agreement and any counterpart of it may be created, provided, received, retained and otherwise used, and will be accepted, in any digital, electronic or other intangible form.

10.12 Electronic Signatures and Delivery

This Agreement and any counterpart of it may be:

- 10.12.1 signed by manual, digital or other electronic signatures and
- 10.12.2 delivered or transmitted by any digital, electronic or other intangible means, including by e-mail;

and that execution, delivery and transmission will be valid and legally effective to create a valid and binding agreement between the Parties.

10.13 Counterparts

This Agreement may be signed and delivered by the Parties in counterparts, with the same effect as if each of the Parties had signed and delivered the same document, and that execution and delivery will be valid and legally effective.


10.14 Registration of Agreement

- 10.14.1 This Agreement, together with any schedules thereto, will be registered by the Municipality at the Subdivider's expense upon title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Subdivider shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands.
- 10.14.2 The Subdivider covenants and agrees, at its own expense, to obtain and register such postponements and other documentation from its mortgagees and/or encumbrancers as may be deemed necessary by the Municipality to postpone and subordinate their interest in the Lands to the interest of the Municipality to the extent that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving the mortgagee and/or encumbrancers their interest in the Lands.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF the Parties have executed, sealed, and delivered this Agreement, as of the Effective Date.

1960726 ONTARIO INC.

Per: 
Name: Lyman Meddoui
Title: President

I have authority to bind the corporation.

THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

Per: _____
Name: Colin Grantham
Title: Mayor

Per: _____
Name: Brianna Hammer-Keidel
Title: Clerk

We have authority to bind the Municipality.

Authorize by By-law No. ____-2024
Adopted by Council of the Corporation of
the Municipality of Strathroy-Caradoc the
____ day of _____ 2024.

SCHEDULE "A"

LANDS

PART LOT 17, CONCESSION 2 DESIGNATED AS PARTS 1, 2, 3 AND 4, PLAN 34R-2185 SAVE AND EXCEPT PLAN 33M-320 S/T CA27469 TOWNSHIP OF STRATHROY-CARADOC, being all of PIN 08514-0416

SCHEDULE "B"

DRAFT PLAN

DRAFT PLAN OF PROPOSED SUBDIVISION
 PART OF LOT 17 CONCESSION 2 MUNICIPALITY OF STRATHROY-CARADOC COUNTY OF MIDDLESEX

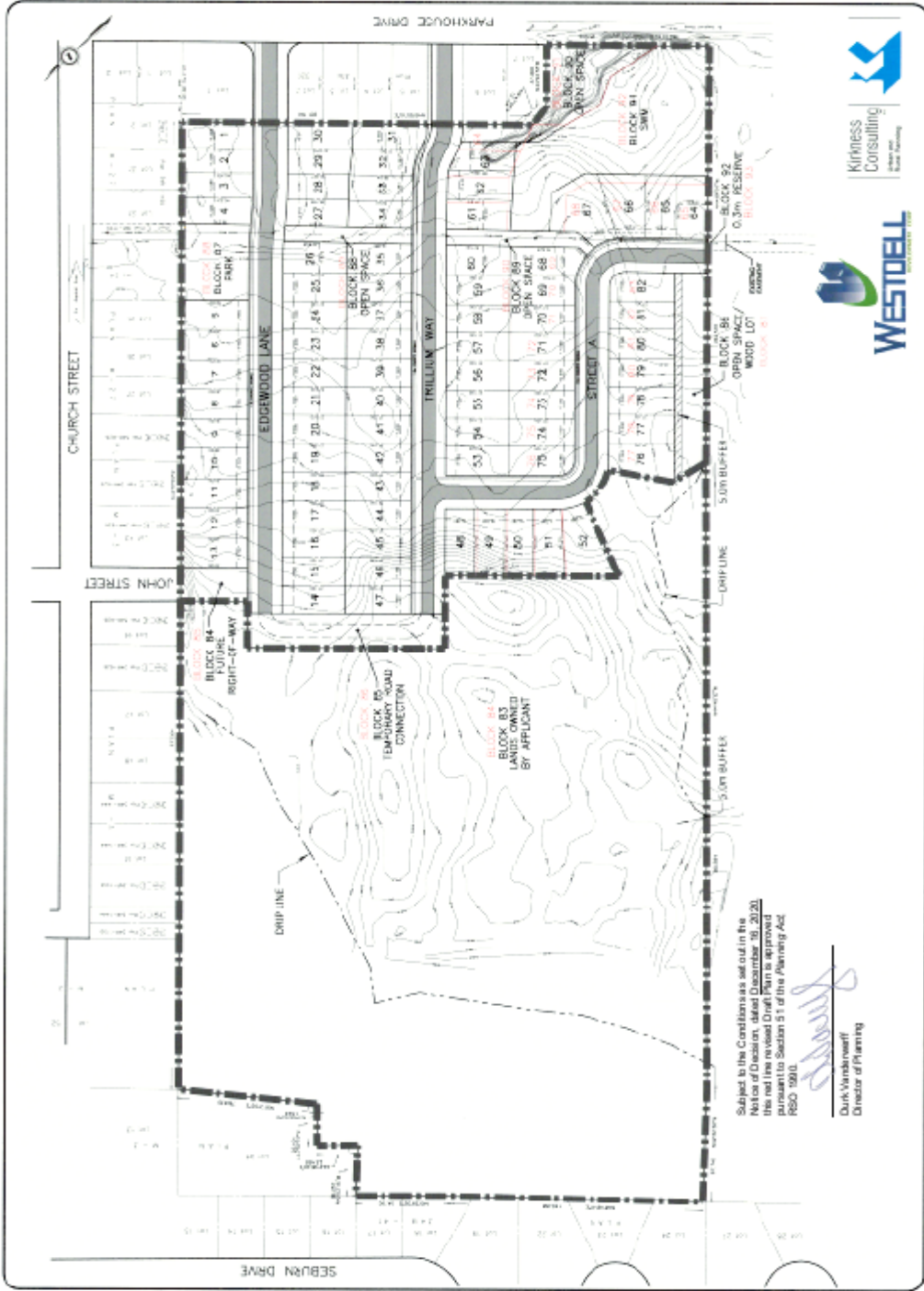
OWNER'S CERTIFICATE
 I HEREBY AFFIRMED THE CORRECTNESS OF THE INFORMATION CONTAINED HEREIN TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED HAVE BEEN ACCURATELY AND CORRECTLY SURVEYED.

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 2(1)(7) OF THE PLANNING ACT R.S.O. 1990, C.P.13

KEY PLAN

LDS



SCHEDULE "C"
SOETEMAN POND



SCHEDULE "D"

PRE-SERVICING WORKS

Construction of underground services, in accordance with the following list of Approved Plans, which underground services shall be limited to water, sanitary and storm water services (collectively the "**Pre-Servicing Works**"), which installations may include:

- private drain connections to each proposed lot;
- the storm water management facility located on Block 92 (SWM); and
- any dewatering infrastructure or works required for the installation of the underground services (but subject always to prior application for and issuance of all required municipal permits, such as a Right of Way Permit for any required use of Parkhouse Drive, and all required environmental approvals).

Pre-Servicing Works may not be connected to existing services under this Agreement.

No utilities, roads, other installations or improvements, save and except for the Pre-Servicing Works specifically identified above, are permitted to be constructed under this Agreement.

Approved Plans:

Project: Edgewood Subdivision – Phase 1
Drawing: General Servicing Plan
Sheet: 1
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Water Distribution Plan
Sheet: 2
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Sanitary Drainage Area Plan
Sheet: 3
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Storm Drainage Area Plan
Sheet: 5
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Edgewood Lane
Sheet: 8
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Edgewood Lane
Sheet: 9
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Trillium Way
Sheet: 10
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Trillium Way
Sheet: 11
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Perring Drive
Sheet: 12
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Perring Drive
Sheet: 13
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Blocks 88/89
Sheet: 14
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: CBMH1 – CBMH2 – CBMH11
Sheet: 15
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: CBMH4 – CBMH13 – Block 84
Sheet: 16
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: CBMH6 – CBMH8 – CBMH9 – CBMH10
Sheet: 17
Author: LDS Consultants Inc.

Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Stormwater Management Plan and Sections
Sheet: 20
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: Stormwater Management Pond Details
Sheet: 21
Author: LDS Consultants Inc.
Date: December 2023

Project: Edgewood Subdivision – Phase 1
Drawing: General Notes & Typical Sections
Sheet: 22
Author: LDS Consultants Inc.
Date: December 2023

Such plans are on file with the Municipality of Strathroy-Caradoc.

SCHEDULE "E"

SECURITY FOR PRE-SERVICING WORKS

Total Security: **\$6,160,138.48**

EARTHWORKS & GROUNDWATER CONTROL	\$	643,082.19
SANITARY SEWERS & APPURTENANCES	\$	671,186.63
STORM SEWERS AND APPURTENANCES	\$	1,540,057.70
WATERMAIN AND APPURTENANCES	\$	533,991.00
SWM FACILITY	\$	1,702,706.02
10% CONTINGENCY ALLOWANCE	\$	509,102.35
10% ENGINEERING ALLOWANCE	\$	560,012.59
TOTAL	\$	6,160,138.48