

Caledonia Gateway Subdivision – Phase 2
Gateway Commercial (Caledonia) Ltd.
FILE NO. PLAG-HA-2024-126
Pre-servicing Agreement
Roll No. 2810.152.005.1010000

THIS AGREEMENT made this 25 day of July, 2024

BETWEEN:

THE CORPORATION OF HALDIMAND COUNTY

hereinafter called the "County"

- and -

GATEWAY COMMERCIAL (CALEDONIA) LTD.

hereinafter called the "Owner"

- and -

ROYAL BANK OF CANADA

hereinafter called the "Mortgagee"

WHEREAS the lands affected by this agreement are the lands set out in Schedule "A" (hereinafter called the "Lands");

AND WHEREAS the Owner has proposed to subdivide the Lands and register the proposed Plan of Subdivision for the Lands described in Schedule "A" attached hereto.

AND WHEREAS the Owner proposes to pre-service the Lands by constructing thereon a water system, a sanitary sewer system, a storm sewer system, road allowances, roadways, curbs and gutters, electrical system, street lights and attend to requisite grading;

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

1. DEFINITIONS

- (a) For purposes of this agreement, the words and phrases defined in the Draft Subdivision Agreement attached hereto and marked as Schedule "B" shall be deemed to form part of the within agreement; and
- (b) PRESERVICES shall be such of the water system, sanitary sewer system, storm sewer system, road allowances, roadways, curbs and gutters, electrical system, street lights and requisite grading, as may be determined by the Owner to be constructed pursuant to the provisions of the within agreement.
- (c) This agreement is applicable to Gateway Caledonia Phase 2. Unless otherwise noted, all requirements set out within the said agreement apply to the phase and shall be complied with by the Owner for said phase and to the satisfaction of Haldimand County.

2. THE COUNTY COVENANTS AND AGREES that an appropriate allocation for a water system and a sanitary sewer system is in place to service the Lands, which said allocation shall remain in place until the 31st day of December 2025;

3. THE OWNER COVENANTS AND AGREES;

- (a) that the sole purpose of the within agreement is to negate the effect of the Owner being required to put the performance security in place insofar as the preservices are concerned

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and specifically acknowledges and agrees that Schedule "B" hereto attached, or substantially in the form and content as set out in Schedule "B", shall be executed and all other provisions thereof complied with prior to issuance of any Building Permit relative to the lands and premises included in the within agreement;

- (b) that Schedules E and F to subdivision agreement in Schedule "B" are considered draft until the County's Public Works Department has approved the engineering cost estimates and cost actuals after preservicing has been completed. The approved cost actuals will be used for the purpose of determining the Owner's required financial securities prior to registration of the subdivision.
- (c) that the allocation for a water system and/or sanitary sewer system and/or both referenced in Clauses 1 and 2 may, at the option of the County, be revoked, if the Subdivision Agreement referenced in Clause 3(a) is not executed prior to the 31st day of December 2024;
- (d) to put in place such liability insurance as may be required by the County, which said policy is to be deposited with the County prior to execution of the within agreement by the County;
- (d) to pay to the County the sum of eight thousand nine hundred and thirty-nine dollars (\$8,939.00) prior to execution of the within agreement to cover the following:
 - (a) Preparation of pre-servicing and subdivision agreement \$9,843
 - (b) Fee for approval of engineering drawings To be determined
- (e) to indemnify the County, their successors, and assigns from all debts, liabilities, contracts, actions, proceedings, claims and demands, in the event that the preservicing contemplated by the within agreement is not commenced and/or finalized and/or the Draft Subdivision Agreement in place contemplated in Clause 1(a) is not executed and complied with.

4. THE OWNER COVENANTS AND AGREES:

ACCEPTANCE OF SERVICES

The owner shall engage the services of appropriate engineering consultants in order to provide certifications/recommendations to the municipality that:

- (a) The services have been constructed and installed in accordance with the approved plans;
- (b) Quality assurance testing has been performed on all the works in accordance with the minimum testing requirements as identified in the Design Criteria including certification of subgrade and granular material; and
- (c) The Owner's consultant recommends that the undergrounds be given preliminary acceptance and that the maintenance period commence based upon visual (video) inspection of all pipes and mandrel testing on plastic pipes. Videos are to be submitted to the County at this time.
- (d) Services of the County herein provided for shall be accepted by the County as follows:
 - (i) Upon completion of the services, the Owner shall request the County to accept the completed services and shall supply the following to the County:

(1) To the County Treasurer

a statutory declaration that all accounts for work and materials, taxes,

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levies, fees and all other costs and expenses whatsoever have been paid, except for normal guarantee holdbacks and that there are no claims for liens or otherwise in connection with such work done or materials supplied for or on behalf of the Owner in connection with the work required to be done under this agreement together with an undertaking to indemnify and save harmless the County against all actions, causes of actions, suits, claims, assessments, costs and demands whatsoever which the County may incur arising out of the installation of services constructed/installed pursuant to the provisions of the within agreement.

(2) To the County Treasurer:

a statutory declaration stating the actual costs for the installation of the services to be accepted.

(3) To the Manager, Engineering Services:

(a) three (3) sets of as-constructed prints in digital format. All drawings shall be in accordance with the requirements and specifications of Section 4 (a) of this agreement;

(b) appropriate documentation indicating successful pressure testing and bacteriological testing and chlorination of all water supply systems; and

(c) quality assurance results are to be submitted and shall indicate conformity with specifications. Frequency of testing must be in accordance with minimum testing requirements as per the Design Criteria.

(4) To the Manager, Engineering Services:

A signed statement by a Licensed Ontario Land Surveyor that he has examined the Lands after installation of said services, that he has found or replaced all iron bars as shown on the registered plan of subdivision, on easements and on rights-of-way, and that bench marks which will be geodetic datum NAD 83, have been provided on the site to control elevations and that the Owner shall submit all "as constructed" drawings at no cost to the Manager, Engineering Services electronically in a georeferenced (NAD_1983_UTM_Zone_17N) AutoCAD dwg or dxf format being compatible with County's current version of AutoCAD.

(5) To the Manager, Planning & Development

An electronic copy of the M-plan in a georeferenced (NAD_1983_UTM_Zone_17N) AutoCAD dwg format compatible with County's current version of AutoCAD. Such information shall be supplied by the Owner at no cost to the County.

(ii) County Services

(1) With regard to County services, upon being satisfied as to the proper installation of any service herein provided for, the Manager, Engineering Services or designate shall issue a memorandum to the Manager, Planning and Development setting out that the said service

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has been constructed and installed in accordance with County specifications, standards and requirements and that the said service is in a proper condition to be accepted by the County and be given Preliminary Acceptance to initialize the minimum warranty period.

- (2) The County Treasurer shall issue a memorandum to the Manager, Planning and Development setting out the status of all financial matters.
 - (3) When the Manager, Planning and Development has received the items set out in subsections (1) and (2) above, the Manager, Planning and Development shall prepare on behalf of the County, a letter to the Owner setting out that the other departments of the County have informed him that all is in order and that he declares the service to be accepted. The said letter shall be signed by the General Manager, Community and Development Services for the County or his designate.
- (e) Notwithstanding any other provision of this agreement, the County may, at its sole discretion and upon the written request of the Owner, accept any service herein provided for upon the completion of such service.

5. THE OWNER COVENANTS AND AGREES:

GUARANTEE PERIOD AND ASSUMPTION OF SERVICES

- (a) The guarantee period with respect to each service shall commence on the date of issuance of the letter referred to in clause 4(d)(ii)(3) of this agreement. The Owner hereby guarantees, for the duration of the guarantee period of each service, that such service shall be free from defects in materials and shall have been constructed and installed in a good and workmanlike manner.

The underground services will be assumed:

- at the expiration of the two-year guarantee period
or
- when 50% of the dwellings are constructed, whichever is longer
and
- the Manager, Engineering Services has determined that the said services are free from all defects, which would also require that the owner re-video all sanitary and storm sewer piping and re-mandrel test all plastic pipe.
and
- as-constructed drawings in reproducible form showing the location and elevation for all buried services.

The above ground services and entire road allowance and all infrastructure will be assumed:

- At the expiration of one year period *after* the completion of all above ground works including, top lift of asphalt, boulevard sodding and grading, sidewalks, tree plantings and other sundry construction
or
when 50% of the dwellings are constructed, whichever is longer
and
- an affidavit certifying that all accounts have been paid and a statement by a Licensed land surveyor that he has found or replaced all standard iron bars as shown on the Registered plan and has located or properly re-established all block corners, the beginning and ends of all curves other than corner roundings and all points of change

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in direction of streets.

and

- as-constructed drawings in reproducible form showing the location and elevation of all streets and providing the location measurements required by Haldimand County for all buried services.

and

- a letter from the Owner's Consulting Engineer certifying that the services included in this Agreement have been constructed and installed in accordance with the approved design drawings, specifications, standards and requirements.

The Manager, Engineering Services shall issue a memorandum to the Manager, Planning and Development and the County Treasurer when the said services have been determined to be free of all defects. The County Treasurer shall then issue a memorandum to the Manager, Planning and Development if all financial requirements under this agreement have been satisfied by the Owner. The Manager, Planning and Development shall then issue a letter to the Owner confirming the said services to be assumed.

Transfer of ownership of the said services shall be deemed to occur on the date of assumption of the service by the County as herein provided.

Formal Assumption of the subdivision shall be the date on which the Council of Haldimand County agrees by By-Law that all the conditions of the Subdivision Agreement have been fulfilled and that all maintenance requirements have been completed.

- (b) In addition to the general guarantee referred to in Clause 5(a) of this agreement, the Owner covenants and agrees to replace damaged or displaced appurtenances and to attend to the removal of foreign material from the watermain system, the sanitary sewer system and the storm sewer system until the expiration of the guarantee period for all services herein provided for.

It should be understood that assumption of undergrounds and assumption of above ground infrastructure can/will occur at different dates.

6. INSURANCE

Prior to the execution of this agreement by the County, the Owner shall supply the County with a liability insurance policy in the amount of five million (\$5,000,000) dollars and in a form satisfactory to the County Treasurer indemnifying the County from any loss arising from claims for damages, injury or otherwise in connection with the works done by or on behalf of the Owner on the Lands until the expiration of the guarantee period on all the services herein provided for. In the event any renewal premium is not paid, the County, in order to prevent the lapse of such policy, may pay the renewal premium or premiums, and the Owner agrees to pay the cost of such renewals within ten (10) days of the account therefore being rendered by the County.

7. INSTALLATION OF STREET SIGNS PRIOR TO COMMENCEMENT OF PRESERVICING

The Owner covenants and agrees to have the required temporary street signs erected prior to the commencement of pre-servicing for emergency services purposes.

8. HYDRO SERVICE PRIOR TO REGISTRATION

Prior to registration of the subdivision, permanent or temporary power can be obtained by the Owner provided that it is metered and billed to the Owner. Approval to energize electrical equipment that is to be assumed by the County or power that will be metered and billed to the County must be provided by the Manager of Engineering Services.

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9. CONFIRMATION OF COMMITMENT

That the Owner covenants and agrees to have the Confirmation of Commitment form completed by the required architect and/or professional engineer(s). Prior to the execution of the preservicing agreement, the Owner will distribute the completed Form as follows: original to the County Building Inspector, and one (1) copy to each of the County's Public Works Department, and the County's Planning and Development Division.

IN WITNESS WHEREOF the parties hereto have hereunto set their corporate seals duly attested to by their authorized signing officers in that behalf or their hands and seals duly attested to by a subscribing witness.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

Authorized by By-law No. 2301/21

Date Executed JULY 25 - 2024

(THE CORPORATION OF HALDIMAND COUNTY

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(

(GENERAL MANAGER,
(COMMUNITY & DEVELOPMENT
(SERVICES - MICHAEL EVERS

(I have the authority to bind the Corporation

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(GATEWAY COMMERCIAL (CALEDONIA) LTD.
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(Name: Daniel G. Guizzetti, President

(I have the authority to bind the Corporation

Date Executed 22/07/2024

(ROYAL BANK OF CANADA

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(By: _____
(Name: Vincent Chan, A.S.O.

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SCHEDULE "A"

PART OF LOTS 8 AND 9 RANGE 1, EAST OF PLANK ROAD, SENECA; HALDIMAND COUNTY, BEING PART OF PIN 38155-1592(LT)

PART W 1/2 LOTS 9, 10 & 11 RANGE 1, EAST OF PLANK RD, SENECA; PART OF THE TURNER BLOCK, SENECA PARTS 1-6, 18R8225; SUBJECT TO AN EASEMENT OVER PARTS 3 & 4, 18R8225 AS IN HC128571; SUBJECT TO AN EASEMENT OVER PARTS 2, 3 & 5 18R8225 AS IN S10142; SUBJECT TO AN EASEMENT OVER PART 6, 18R8225 AS IN HC128570; HALDIMAND COUNTY, BEING PART OF PIN 38155-1804(LT),

SHOWN AS LOTS 1 TO 45 AND BLOCKS 46 TO 81, PLAN 18M-_____.