

**TOWNSHIP OF SOUTH FRONTENAC
BY-LAW 2022-37**

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND THE CLERK TO EXECUTE A PRE-SERVICING AGREEMENT BETWEEN THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC AND 1278804 ONTARIO INC.

WHEREAS the developer has requested to service a portion of a draft plan approved subdivision prior to final plan approval and the Township of South Frontenac deems this advisable;

AND WHEREAS the Hartington Plan of Subdivision, being the subject subdivision, was draft plan approved by the Local Planning Appeal Tribunal and the County of Frontenac, and the Planning Act, R.S.O, 1990, as amended allows a municipality to enter into agreements related to a subdivision, pursuant to Section 51(26) of the Planning Act, R.S.O. 1990, as amended;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC BY ITS COUNCIL, HEREBY ENACTS AS FOLLOWS:

1. THAT the Mayor and the Clerk are hereby authorized to execute the Pre-Servicing Agreement, between the Corporation of the Township of South Frontenac and 1278804 Ontario Inc., a copy of which is attached hereto forming part of this By-law.
2. THIS By-law shall come into force and effect in accordance with Section 41 of the Planning Act 1990, either upon the date of passage or as otherwise provided by the said Section 41.

Dated at the Township of South Frontenac this 3rd day of May, 2022.

Read a first and second time this 3rd day of May, 2022.

Read a third time and finally passed this 3rd day of May, 2022.

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH FRONTENAC**



Ron Vandewal, Mayor



Angela Maddocks, Clerk

PRE-SERVICING AGREEMENT

THIS AGREEMENT made in QUADRUPPLICATE on the 3rd day of May, 2022

BETWEEN:

THE CORPORATION OF SOUTH FRONTENAC

(the "Municipality")

OF THE FIRST PART

- and -

1278804 ONTARIO INC.

(the "Owner")

OF THE SECOND PART

WHEREAS the Owner owns certain lands within the geographic limits of the Municipality and has received approval from the Municipality for a draft plan of subdivision on the lands;

AND WHEREAS the Owner has requested permission to install certain works on that portion of the Owner's lands that lie within the draft plan of subdivision prior to final approval of the plan of subdivision and execution of a subdivision agreement;

AND WHEREAS it is intended that such works will eventually form part of the municipal services and works to be constructed by the Owner in accordance with a subdivision agreement after the final plan of subdivision is registered;

AND WHEREAS the Council of the Municipality has given its approval to the installation of such services prior to execution of a subdivision agreement and registration of the final plan of subdivision, in accordance with the terms of this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties agree with each other as follows:

TERMS DEFINED

1. In this agreement:

- (a) "Council" shall mean the elected Council of the Municipality;
- (b) "draft plan" or "draft plan of subdivision" means the draft plan of subdivision approved by the Municipality for the Lands known as Hartington Plan of Subdivision
- (c) "Lands" shall mean those lands of the Owner described in Schedule "A";
- (d) "Maintain" includes repair;
- (e) "Municipal Engineer" means the Director of Public Services of the Municipality or such other person acting in that capacity, or the consulting engineer appointed for that purpose by Council, and any authority granted to the Municipal Engineer by this agreement shall be exercised in accordance with generally accepted engineering principles and without undue delay;
- (f) "Municipal Specifications" shall mean the detailed description of construction, materials and workmanship of works to be carried out by the Owner as prescribed by the Municipality in accordance with the "Ontario Provincial Standard Specifications", "Ontario Provincial Standard Drawings" and any revisions adopted by the Council and in effect on the date of this agreement, or such other additional

- requirements which may be specified by the Municipality;
- (g) "Owner" includes an individual, a partnership, a corporation, an association, a joint venture, a co-tenant, a trustee, or any agent or contractor carrying out any works for the Owner, and all subsequent owners of all or part of the Lands, as the case may be, and wherever the singular is used it shall be construed to include the plural;
 - (h) "Proposed Road" shall mean those lands intended for future use as public roads or any part or parts thereof, any proposed day lighting triangles, temporary turning circles, and any areas of proposed road widening as shown on the Draft Plan of Subdivision;
 - (i) "Temporary Certificate of Approval of Underground Services" means the certificate to be issued by the Municipal Engineer after the Underground Services have been constructed in accordance with this agreement and have been inspected by the Municipal Engineer;
 - (j) "Temporary Certificate of Approval of the Works" means the certificate to be issued by the Municipal Engineer after all the Works have been constructed in accordance with this agreement and have been inspected by the Municipal Engineer;
 - (k) "Underground Services" means that portion of the Works consisting of the drainage and storm water management systems to be constructed by the Owner in accordance with this Agreement;
 - (l) "Warranty Period" means the period of time between the date the Temporary Certificate of Approval of the Works has been issued under this Agreement and the date a Final Certificate of Approval of the Works has been issued pursuant to a subdivision agreement between the parties for the final plan of subdivision;
 - (m) "Works" means the whole works, services, materials, matters and things to be done or supplied by the Owner in accordance with this agreement.

ORDER OF PROCEDURE

2. As a condition of this agreement and without which this agreement shall have no effect, the Owner shall:
 - (a) execute and deliver this agreement to the Municipality;
 - (b) subject to Schedule "B", deposit with the Municipality the security and proof of insurance required by this agreement.

3. Prior to starting construction of the Works in the Draft Plan, the Owner shall:
 - (a) fulfil all of the conditions required by Clause 2 above unless otherwise approved in writing by the Municipal Engineer;
 - (b) notify the Municipal Engineer in writing at least seventy-two hours (72) hours prior to the start of construction; and
 - (c) provide written confirmation to the municipality that the tree preservation plan set out in Schedule "I", if applicable, has been complied with.

ATTACHED SCHEDULES

4. The following Schedules are attached to and form part of this agreement:

Schedule "A"	-	Description of Lands
Schedule "B"	-	Description and Cost of Works to be Constructed
Schedule "C"	-	Description of Phases of Development
Schedule "D"	-	Time Schedule for Construction of Works
Schedule "E"	-	List of Approved Plans for Works to be Constructed
Schedule "F"	-	Lot Grading and Drainage Plans
Schedule "G"	-	Lands to be conveyed for Parkland or Cash in Lieu
Schedule "H"	-	Grants of Easement and Other Public Lands

- Schedule "I" - Parkland, Fencing, Landscaping and Tree Preservation Requirements
 Schedule "J" - Special Conditions

5. The Approved Plans listed in Schedule "E" are hereby incorporated by reference into this Agreement. The originals of all Approved Plans are on file in the offices of the Municipality and, in the event of any dispute, the originals shall govern.

OWNER'S ACKNOWLEDGEMENT

6. The Owner acknowledges and agrees that:
- (a) The decision to proceed with the Works in advance of final approval of the plan of subdivision and execution of a subdivision agreement by the Municipality is at the Owner's sole risk and is not based upon any representation from the Municipality as to when final approval of the plan of subdivision may be given or a subdivision agreement executed;
 - (b) By executing this agreement, the Municipality does not waive or in any way absolve the Owner of their obligations to comply fully with all of the conditions of approval of the Draft Plan of Subdivision prior to final approval being given;
 - (c) This Agreement shall remain in full force and effect until such time as all of the obligations contained in it have been fulfilled or this Agreement is incorporated into and subsumed by a subdivision agreement executed between the Owner and the Municipality in respect of the final plan of subdivision;
 - (d) This Agreement does not predetermine, prejudice or constrain the Municipality's jurisdiction with respect to the approval, rejection or imposition of conditions in relation to any approvals now or that may be in future proposed for the plan of subdivision;
 - (e) The only works to be performed pursuant to this Agreement shall be for the purpose of pre-servicing that portion of the lands lying within the limits of the draft plan of subdivision more particularly described in Schedule "C" and for no other lands within the draft plan of subdivision;
 - (f) Nothing in this Agreement, including the issuing of a Temporary Certificate of Approval of Underground Services or a Temporary Certificate of Approval of the Works shall preclude the Municipality from requiring the Owner to make further improvements or alterations to the Works or the Lands as may be required in order to fully and completely comply with such requirements as may be contained in a subdivision agreement to be entered into by the parties prior to final approval of the plan of subdivision;
 - (g) Despite anything in this Agreement to the contrary, the Municipality may withdraw its permission for installation of the Works at any time if the Municipal Engineer acting in his sole discretion deems it to be in the best interests of the Municipality;
 - (h) If the Municipality should withdraw its permission, the Owner shall forthwith stop all work with respect to the Works within the draft plan of subdivision, and the Owner shall not have any claim whatsoever against the Municipality with respect to this Agreement, the permission granted or the cost of installing any of the Works prior to the Municipality withdrawing its permission;
 - (i) The Owner shall not install any portion of the Works that are to be used for hydro-electric, cable television, telephone or natural gas until the applicable utility

company has approved the plans for those services;

- (j) The Owner shall be solely responsible for obtaining any required approval of the Works by a Director under the *Ontario Water Resources Act* and fully complying with all terms and conditions of such approval;
- (k) Until an Environmental Compliance Approval (ECA) for the Works under the *Ontario Water Resources Act* has been obtained and fully complied with, the Municipality:
 - (i) will not issue a Temporary Certificate of Approval of Underground Services or a Temporary Certificate of Approval of the Works;
 - (ii) will not execute the subdivision agreement;
 - (iii) will not give final approval of the plan;
 - (iv) will not permit any part of the Works to be connected to, to form part of or to be used in connection with the Municipality's drainage network; and the Owner;
 - (v) will not apply for any conditional building permits for construction of model homes despite the provisions of Zoning By-law 2003-75;
 - (vi) will not construct any part of the Works outside the limits of the Owner's property including, without limiting, on lands owned by the Municipality or any other public body;
 - (vii) will not connect any part of the Works to the Municipality's drainage network; and
 - (viii) will not connect any underground storm sewage pipes to the proposed storm water retention pond, or permit storm water to be discharged from the pond, or do any other thing that has the effect of changing the volume or rate of flow of storm water from the Owner's property from that which existed prior to commencement of the Works; and

CONSTRUCTION OF WORKS

Scope of Work:

7. Subject to such approval as may be granted under the *Ontario Water Resources Act* and such other permits and approvals as may be required, the Owner shall construct and maintain all of the Works described in Schedule "J" according to the plans and specifications in Schedules "E", "F" and "I" in a good and workmanlike manner to the satisfaction of the Municipal Engineer according to Municipal Specifications.
8. If, at any time during construction or maintenance of the Works, the Municipal Engineer determines that modifications to the Works are necessary to provide adequately any of the future public services that will be required for the final plan of subdivision, or to comply with such approval as may be granted under the *Ontario Water Resources Act*, the Owner shall construct such additional works to the satisfaction of the Municipal Engineer.

Proposed Roads

9. The Owner shall construct the granular base course of all proposed roads according to the plans and specifications in Schedule "E" and Municipal Specifications, and shall lay the first lift of asphalt as soon as possible in the first available paving season after the Temporary Certificate of Approval of Underground Services has been issued.
10. The Owner shall not cut any roads under the jurisdiction of the Municipality without the prior written consent of the Municipal Engineer, and all roads shall be restored to the satisfaction of the Municipal Engineer as soon as possible after completion of the work.
11. Where work is performed on existing roads outside the draft plan of subdivision, the

Owner shall reinstate them to their original condition as determined by the Municipal Engineer.

12. If, in the opinion of the Municipal Engineer, it is necessary to change the grade of existing roads adjacent to or abutting the draft plan because of the development of the draft plan, the Owner shall grade to sub-grade and reconstruct the roads in the manner and within the time stipulated by the Municipal Engineer and according to Municipal Specifications.

Storm Water Management System

13. The Owner shall construct the storm water management system to service the land in the draft plan and adjacent road allowances according to the plans and specifications set out in Schedules "E" and "F" and Municipal Specifications and such approval as may be granted under the *Ontario Water Resources Act*, and shall maintain the system until a Final Certificate of Approval of the Works has been issued under a subdivision agreement for the final plan of subdivision.

Sidewalks

14. The Owner shall construct sidewalks according to the plans and specifications set out in Schedule "E" and Municipal Specifications.

Curbs and Gutters

15. The Owner shall construct curbs according to the plans and specifications set out in Schedule "E" and Municipal Specifications.

Fences

16. The Owner shall install fences in accordance with the plans and specifications set-out in Schedule "I" and Municipal Specifications, if applicable.

Grading, Landscaping and Parkland Development

17. Upon completion of all sidewalks, curbs and roads, the Owner shall place topsoil and complete seeding in accordance with Municipal Specifications, if any, on all proposed boulevards and other untravelled parts of the proposed road as soon as possible during the first available planting season or such later date as may be authorized by the Municipal Engineer, and shall maintain the grass and restore any which does not survive until a Final Certificate of Approval of the Works has been issued under a subdivision agreement for the final plan of subdivision.
18. The Owner shall rough grade to the satisfaction of the Municipal Engineer any proposed lots or blocks on the date the Temporary Certificate of Approval of the Works is issued.
19. Any additional landscaping and parkland development shall be carried out, if applicable, in accordance with the plans and specifications set-out in Schedule "I" and Municipal Specifications.

Warning Signs

20. Prior to construction of the Works, signs satisfactory to the Municipal Engineer having dimensions of 1 metre by 0.6 metres (3 feet by 2 feet) shall be provided and erected by the Owner at each entrance to the draft plan of subdivision, which shall read as follows:

"Road Not Assumed by Municipality - Use at Your Own Risk".

or such other wording as may be approved by the Municipality.

Street Lighting

21. The Owner shall install street lighting according to the plans and specifications set out in Schedule "E", Municipal Specifications, and the requirements and standards of the authority providing electric power. The Municipality shall arrange for the local electrical distribution company to energize the system upon being notified by the Owner that the system has been installed.

Public Utilities

22. All utility lines shall be installed underground unless otherwise specified.

UTILITY APPROVALS AND COSTS

23. Prior to the start of construction, the Owner shall submit to Hydro One, Bell Canada and any other applicable utility company all plans required for their approval; shall obtain the approval of all applicable provincial and federal regulatory authorities; and shall indemnify the Municipality against all related fees and other charges.

DRILLING AND BLASTING

24. Prior to any blasting for the installation of the Works, the Owner shall notify the Municipal Engineer in writing at least twenty-four (24) hours before the start of the blasting, and shall provide a certificate of insurance with the Municipality as an additional insured and satisfactory to the Municipality for damage and liability resulting from the blasting. All blasting operations shall be conducted in accordance with OPSS 120, as amended, including but not limited to: notifications, designs, monitoring, warnings, pre-blast surveys and post-blast reporting.
25. A minimum of 15 business days prior to any blasting, the Owner shall provide written notice to all utility owners, property owners and tenants of improved property within 250 metres of the right-of-way in the vicinity of the blasting activity. The notice shall include a blasting schedule, information about the audible blast warning system and contact information for any questions about the blasting proposed. If any blasting is to be carried out within 30 metres of existing infrastructure, the Owner shall give additional written notice of the period of blasting to the owner of the infrastructure a minimum of 72 hours prior to any blasting.
26. All drilling shall be wet drilling.

ACCESS ROADS

27. The Owner shall, as and where required by the Municipal Engineer, construct and maintain access roads to the draft plan for the purpose of construction of services and buildings. The Owner shall maintain these roads to the Municipality's satisfaction, which shall include the placing of dust palliatives, the removal of mud and other materials carried out onto paved streets within and adjoining the draft plan, and the repair to the satisfaction of the Municipal Engineer of any damage caused. If roads are not maintained to the Municipality's satisfaction, the Municipality may take the necessary action to rectify the problem at the Owner's expense. The Owner shall not permit any construction vehicles to use any public streets adjacent to the draft plan if alternate routes are available.
28. The Owner shall not restrict and shall ensure that no person working within the draft plan restricts the normal flow of traffic in or outside the draft plan without the prior written consent of the Municipality.

REPAIR AND RELOCATION OF EXISTING SERVICES

29. The Owner shall repair any damage caused by the Owner, or any person working for or on behalf of it, to any existing road, structure, services or works owned or operated by the Municipality and shall pay for all costs related to the relocation of any existing utilities or services in or outside the draft plan as may be necessary to accommodate the draft plan.

DRAINAGE

30. The drainage of surface water on the proposed lots and blocks in the draft plan is the sole responsibility of the Owner and, subject to the provisions of Clause 6(j) of this Agreement, the Owner shall comply with the Lot Grading and Drainage Plans as set out in Schedule "F".
31. Subject to the provisions of Clause 6(j) of this Agreement, the Owner shall construct all Works in accordance with the Lot Grading and Drainage Plans and specifications set-out in Schedule "F", and Municipal Specifications, and the Owner shall maintain sufficient interim drainage and outlets to provide adequate drainage including the installation and removal of culverts when required by the Municipal Engineer, until a Final Certificate of Approval of the Works has been issued under a subdivision agreement for the final plan of subdivision.
32. The Owner agrees that if the drainage works result in drainage or a change of drainage through private third party lands, all work shall be carried out with the approval of and to the satisfaction of the private owners affected and the Municipal Engineer. Any easements acquired by the Owner over third party lands for that purpose shall be conveyed to the Municipality.
33. The Owner shall not interfere with any existing drain or water course except in accordance with the Lot Grading and Drainage Plans or with the prior written permission of the Municipal Engineer, but any interference shall not relieve the Owner of responsibility for any damage caused by the interference and the Owner shall indemnify the Municipality against any claims against the Municipality relating to the damage.

CONSTRUCTION REFUSE AND FILL

34. The Owner shall promptly dispose of all construction refuse and debris within the draft plan according to the waste disposal and recycling by-laws of the Municipality in effect from time to time. If refuse is not removed within forty-eight (48) hours notice from the Municipality, the Municipality may remove the refuse and debris at the expense of the Owner.
35. The Owner shall not deposit or permit to be deposited surplus fill on public lands within the draft plan. Furthermore the Owner shall not remove or permit to be removed, any fill, top soil, trees or shrubs from public lands, other than roads, without the written consent of the Municipal Engineer.

COMMENCEMENT, PROGRESS AND COMPLETION OF WORK

36. The Owner shall not start construction of the Works until the Municipal Engineer has received at least seventy-two (72) hours prior written notice of the intention to commence work, and should for any reason there be a cessation or interruption of work, the Owner shall not resume work until at least forty-eight (48) hours written notice of the intention to resume is again given to the Municipal Engineer.
37. The Owner consents to the Municipality or any person acting as their respective agent to

enter on the Lands at any time during the term of this Agreement for the purpose of exercising any authority or right of the Municipality under this Agreement, and any entry upon the Lands by the Municipality or its agents prior to registration of the plan of subdivision shall be as agent for the Owner and shall not be construed for any purpose whatsoever as an acceptance or assumption of the Works by the Municipality.

INSPECTION AND TESTING OF WORKS

38. During construction and maintenance of the Works, the Municipal Engineer may inspect the work in hand at such times and with such duration and frequency as the nature of the construction and maintenance may dictate, and may order such tests of the Works as the Municipal Engineer considers advisable to ensure that the Works are being constructed and maintained in accordance with this agreement. If during inspections or testing the Municipal Engineer perceives that construction or maintenance, whether by method or otherwise, is not progressing in a reasonable and diligent manner, or that the Owner have abandoned the Works, or that the condition of the Lands constitutes a potential danger to life or property, or that the construction or maintenance does not conform to acceptable practice in order to meet Municipal Specifications, or that any part of the Works has been connected to the Municipality's drainage works prior to an approval being granted under the *Ontario Water Resources Act*, the Municipal Engineer shall have the authority to order stop work by verbal notice to the contractor and/or the Owner's consulting engineer, such notice to be confirmed in writing as soon as possible thereafter, to order such remedial action as the Municipal Engineer considers advisable or, if such remedial action is not undertaken in a timely and diligent manner, to enter onto the Lands for the purpose of causing the remedial work to be done. Neither the Municipality nor the Municipal Engineer shall be liable for any damages resulting from a stop work order or taking any remedial action on the Lands in accordance with the provisions of this Agreement. The Owner shall deliver a copy of this clause to each and every contractor engaged in construction of the Works.
39. Any work not examined to the satisfaction of the Municipal Engineer prior to backfilling shall be excavated at the Owner's cost.

EMERGENCY REPAIRS

40. Employees or agents of the Municipality may enter onto the Lands at any time or from time to time prior to registration of the plan of subdivision for the purpose of making emergency repairs to any of the Works or taking such remedial action as the Municipal Engineer deems advisable for the purpose of protecting against a hazardous or unsightly condition, or disconnecting any part of the Works that has been connected to the Municipality's drainageh works prior to an approval being granted under the *Ontario Water Resources Act*, and such entry and repair shall not be deemed an acceptance of the Works by the Municipality or an assumption by the Municipality of any liability in connection therewith or a release of the Owner from any obligations under this agreement. The Owner shall pay all costs for such emergency repairs or remedial work and the Municipality may apply any security held by it on account of such costs.

USE OF WORKS BY MUNICIPALITY

41. Upon approval being granted under the *Ontario Water Resources Act*, the Works may be used by the Municipality or any other authorized persons prior to registration of the plan of subdivision for the purposes for which the Works were designed. Such use shall not be deemed an acceptance of the Works by the Municipality and shall not in any way relieve the Owner of its obligations with respect to the construction and maintenance of the Works, but the Owner shall not be liable for any negligent conduct of the Municipality, its

servants, agents or employees.

42. The Owner further acknowledges that the Municipality may inadvertently damage or interfere with the Works in the course of using them, and the Owner hereby waives all claims against the Municipality that it may have arising from normal and reasonable use, interference or damage.

WINTER ROAD MAINTENANCE

43. The Owner shall be responsible for all winter road maintenance within the draft plan.

WARRANTY OF WORKS

44. The Owner shall maintain the Works in the draft plan other than hydro, telephone and other utility company facilities until a Final Certificate of Approval of the Works has been issued under a subdivision agreement for the final plan of subdivision.

ENGINEERING SERVICES

45. The Owner shall employ an engineer licensed and in good standing with the Ontario Society of Professional Engineers to supervise all engineering functions including but not limited to:
- (a) the preparation of calculations, contours, designs, plans and specifications;
 - (b) the preparation and furnishing of all required drawings;
 - (c) the preparation of the necessary contracts;
 - (d) the obtaining of all required federal, provincial and municipal approvals;
 - (e) the provision of the field layout, contract administration and construction supervision;
 - (f) the maintenance of all records of construction and upon completion to advise the Municipal Engineer of all construction changes and to prepare all final and "as constructed" plans and drawings as may be required by the Municipal Engineer;
 - (g) acting as the Owner's representative in all matters pertaining to the construction; and
 - (h) the co-ordinating and scheduling to comply with the timing provisions of this agreement and the requirements of the Municipal Engineer for the Works.
46. The Owner shall furnish all plans, specifications, designs, calculations, contours, or other information pertaining to the Works as the Municipal Engineer may require. No contract shall be awarded and no work shall commence or be continued without the prior written approval of the design and supervision of the work by the Municipal Engineer.
47. All inspections of the Works shall be performed by the Municipal Engineer whose determination of whether the Works have been constructed according to Municipal Specifications shall be final.

MATERIALS TESTING

48. The Municipal Engineer may require any qualitative or quantitative tests of any materials which have been or are proposed to be used in the construction of the Works, or may require soil tests to be carried out at the Owner's expense but this shall not relieve the Owner of its responsibility to carry out any tests required by good engineering practice.

ZONING AND BUILDING RESTRICTIONS

49. Nothing in this agreement shall relieve the Owner of any obligation to comply with all applicable zoning and building by-laws in effect from time to time.
50. All construction within the draft plan shall be carried out in accordance with any noise by-law of the Municipality which may be in effect from time to time.

SPECIAL CONDITIONS

51. In addition to all other provisions of this agreement, the Owner shall be bound by those special conditions set out in Schedule "J" attached hereto.

GRANTS OF EASEMENT AND OTHER PUBLIC LANDS

52. The Owner shall obtain and grant to the Municipality and any other required public authority or utility company, those lands and easements described in Schedule "H". The executed deeds for the lands and grants of easement, together with any reference plans of survey necessary to describe them with the registered number of the plans left blank for later completion, shall be delivered to and approved by the Municipality before the Owner requests final approval of the plan of subdivision.

OWNERS' LIABILITIES AND INDEMNITY

53. The Owner shall indemnify the Municipality against any and all actions, causes of action, suits, claims, demands, costs and expenses (including damages, fines and legal costs on a full recovery basis) which may arise directly or indirectly by reason of or which may in any way be attributable to the Owner's decision to install the Works prior to an approval being granted under the *Ontario Water Resources Act* and prior to final approval of the Plan of Subdivision, or the Municipality's decision to grant permission to do so under this Agreement.

OWNER'S EXPENSE

54. It is the intent of this Agreement that the Municipality shall not incur any expense for the development of the draft plan and every obligation of the Owner under this agreement shall be deemed to include the words "at the expense of the Owner", unless specifically stated otherwise.

MUNICIPALITY'S LEGAL, PLANNING,
ENGINEERING AND ADMINISTRATIVE COSTS

55. The Owner agrees to pay the reasonable legal, engineering, landscape architectural, planning and administrative costs incurred by the Municipality to process the draft plan including but not limited to the preparation of this agreement and all plans and specifications, and the supervision and inspection of the Works and the Municipality shall provide copies of any invoices for such costs.

PAYMENT OF ACCOUNTS

56. All invoices, costs and expenses received or incurred by the Municipality and payable by the Owner shall be paid within thirty (30) days of the Municipality's invoice or demand for payment to the Owner, failing which the Owner shall be in default under this agreement and shall continue in default until payment plus all accrued interest is made in full.

57. Interest shall be paid by the Owner on all overdue amounts at the same rate per annum and calculated in the same manner as the Municipality charges on overdue municipal taxes and any payments received shall be applied first on account of accumulated interest and then on the outstanding amount.

FINANCIAL REQUIREMENTS

58. As a condition of this agreement and without which this agreement shall have no effect, the Owner shall deposit with the Treasurer of the Municipality as security for the performance of the Owner's obligations under this agreement, an irrevocable and automatically renewable security issued by a Canadian chartered bank or any other similar form of security issued by a financial institution acceptable to the Municipality in a form approved by the Municipality and in an amount equal to one hundred percent (100%) of the estimated cost of the Works as set out in Schedule "B".
59. The Owner shall not be entitled to the release of its security until the final plan of subdivision has been registered and thereafter any application for release shall be processed in accordance with the subdivision agreement for the final plan of subdivision.

INSURANCE

60. As a condition of this agreement, the Owner shall keep in force until a Final Certificate of Approval of the Works has been issued under a subdivision agreement for the final plan of subdivision, a comprehensive policy of public liability and property damage insurance acceptable to the Municipality, that provides insurance coverage in respect of any one occurrence to the limit of at least five million dollars (\$5,000,000.00) exclusive of interest and costs, against loss or damage resulting from bodily injury to, or death of one or more persons and loss of or damage to property. The policy shall name the Municipality as an additional insured.
61. The policy shall provide coverage against all claims for all damage or injury including death to any person or persons or damage to any property of the Municipality or any other public or private property resulting from or arising out of any act or omission on the part of the Owner, or its servants or agents during the construction or maintenance of the Works. The policy shall include completed operations coverage liability, blanket written contractual liability with respect to non-owned licensed vehicles and shall have no exclusion pertaining to shoring, blasting (unless a separate certificate of insurance for blasting is provided prior to the start of blasting), excavating, underpinning, demolition, pile driving, caisson work and work below ground surface including tunnelling and grading. The issuance of a policy of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which the Municipality may be held responsible.
62. The Owner shall provide the Municipality with a Certificate of Insurance in a form satisfactory to the Municipality together with such proof as the Municipality may require that all premiums on the policies of insurance have been paid and that they are in full force and effect. If the Owner fails to pay premiums or otherwise keep the policies in force, the Municipality may pay premiums or take out additional policies as it considers necessary and the Owner shall pay all costs incurred by the Municipality.

CONSTRUCTION LIENS

63. The Owner shall hold back from its payment to any persons who may supply services or materials in connection with the construction or maintenance of the Works, all amounts required by the *Construction Lien Act*, and shall indemnify the Municipality against any claims, actions or demands in connection with the Works and all costs reasonably incurred by the Municipality as a result thereof.

64. If any lien is claimed pursuant to the *Construction Lien Act* for the supply of services or material in connection with the construction or maintenance of any portion of the Works located on a public street or highway or any lands owned by the Municipality or any other public authority, the Owner shall be considered in default under this agreement and shall continue to be in default until all liens are discharged, and the Municipality may, in its absolute discretion, use the security deposited by the Owner to pay into court any amounts required to discharge all liens plus costs.
65. The Owner shall have the certificate or declaration of its engineer that construction of the Works has been substantially performed published in a construction trade newspaper in accordance with the *Construction Lien Act* and shall provide the Municipality with proof of publication, but neither the issue or publication of such certificate or declaration shall impose any obligation on either the Municipality or the Municipal Engineer to issue either a Temporary Certificate of Approval of Underground Services or a Temporary Certificate of Approval of the Works.

DEFAULT PROVISIONS

66. Whenever the Owner is deemed by the terms of this agreement to be in default, the Municipality will make best efforts, unless prevented by urgent circumstances, to give the Owner notice of the default including a brief description of the remedial action required and the date by which such remedial action shall be completed.
67. If the Owner fails or refuses to remedy the default within the time prescribed in the notice, the Municipality shall have the right in addition to any other remedies available to it and without further notice to the Owner to enter onto the lands for the purpose of remedying the default and to use any security held by on account of the cost of remedying the default, and to recover all costs and damages incurred by and all amounts owing to the Municipality.

ARBITRATION

68. Any dispute between the parties with respect to this agreement shall, at the request of a party, be submitted to arbitration pursuant to the Arbitrations Act and the decision of the arbitrator or, if more than one, the decision of a majority shall be final and binding on the parties.
69. Each party shall pay its own costs of the arbitration and shall share equally the costs of the arbitrator(s).

TIME OF THE ESSENCE

70. Time shall be of the essence of this agreement.

LEGAL NOTICE TO OWNER

71. Any notice required to be given by the parties to this agreement shall be given by registered mail at the address for service of the parties on the title page of this agreement, or at such other addresses as the parties may specify from time to time, (provided that in the event of a postal disruption, notice shall only be given by hand) and shall be deemed to have been delivered on the third day after the date of deposit in the post office.

FURTHER ASSURANCES

72. The parties shall, upon reasonable request of the other, execute any further documents as may be required for the more perfect and absolute performance of the terms and conditions of this agreement.

SUCCESSORS AND ASSIGNS

73. The Owner shall not assign this Agreement without the prior written consent of the Municipality.
74. This agreement shall be binding upon and enure to the benefit of the parties hereto and its heirs, executors, administrators, successors and assigns.
75. This Agreement may be signed in counterpart by the parties.

IN WITNESS WHEREOF the parties hereto have executed this agreement as at the date first set out above.

SIGNED, SEALED AND DELIVERED

**THE CORPORATION OF THE TOWNSHIP OF
SOUTH FRONTENAC**

Per:



Ron Vandewal, Mayor



Angela Maddocks, Clerk

We have the authority to bind the corporation

1278804 Ontario Inc.

Per:



Terry Grant

I have authority to bind the corporation

SCHEDULE "A" OF PRE-SERVICING AGREEMENT

DESCRIPTION OF LANDS

PART OF LOT 7, CONCESSION 7, PORTLAND, PART 1 PLAN 13R22185
TOWNSHIP OF SOUTH FRONTENAC

SCHEDULE "B" OF PRE-SERVICING AGREEMENT**COST OF WORKS**

The parties agree that the estimated total cost of the Works \$95,991.23, for which security in this amount shall be deposited with the Municipality.

Pre-servicing Base Amount	\$75,000.00
Off-site Costs	\$17,260.00
Contingencies (5% of Off-site Construction Cost)	\$ 863.00
Engineering/Inspections/Testing (7% of Off-site Construction Cost)	\$ 1,208.00
Subtotal	\$94,331.00
Non-Recoverable HTS (1.76%)	\$ 1,660.23
Total Pre-Servicing Agreement Securities	\$95,991.23

SCHEDULE "C" OF PRE-SERVICING AGREEMENT

DESCRIPTION OF PHASES OF DEVELOPMENT

The development is to proceed in one phase.

SCHEDULE "D" OF PRE-SERVICING AGREEMENT

TIME SCHEDULE FOR CONSTRUCTION OF WORKS

The development of the Works is to proceed in one phase

SCHEDULE "F" OF PRE-SERVICING AGREEMENT

LOT GRADING AND DRAINAGE PLANS

See Plans in Schedule "E"

SCHEDULE "E" OF PRE-SERVICING AGREEMENT

List of Drawings

Hartington Subdivision

THE ORIGINAL PLANS LISTED IN THIS SCHEDULE AND INCORPORATED BY REFERENCE INTO THIS AGREEMENT ARE NOW ON FILE IN THE MUNICIPAL OFFICES AND SHALL GOVERN IN THE EVENT OF ANY DISPUTE.

Dwg. Cover Sheet	Cover Sheet
Dwg. No. GEN	General Plan -Scale 1:1250 – Dated July 2020 -Revision – Dated, Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. G1	Grading Plan North -Scale 1:750 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. G2	Grading Plan South -Scale 1:750 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. PP01	Grant Drive Plan and Profile 0+000.00 to 0+650.00 -Scale H1:1000, V1:100 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. SWM	Stormwater Management Plan and Profile -Scale H1:300, V1:25 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. STM	Post-Development Catchment Areas -Scale 1:2500 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. ER	Erosion and Sediment Control Plan -Scale 1:1000 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. U	Utility Plan -Scale 1:1000 – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.
Dwg. No. D1	Details 1 -Scale NTS – Dated July 2020 -Revision – Dated Aug. 30, 2021 -Prepared by Forefront Engineering Inc.

- Dwg. No. D2** **Drainage Channel Improvements**
-Scale 1:750 – Dated July 2020
-Revision – Dated Aug. 30, 2021
-Prepared by Forefront Engineering Inc.
- Dwg. No. L1** **Tree Preservation Plan**
-Scale 1:1000 – Dated July 2020
-Revision – Dated Aug. 30, 2021
-Prepared by Forefront Engineering Inc.
- Dwg. No. L2** **Boulevard Tree Planting Plan**
-Scale 1:1000 – Dated July 2020
-Revision – Dated Aug. 30, 2021
-Prepared by Forefront Engineering Inc.
- Dwg. No. L3** **Stormwater Management Facility
Landscaping Plan**
-Scale 1:250 – Dated July 2020
-Revision – Dated Aug. 30, 2021
-Prepared by Forefront Engineering Inc.

SCHEDULE "G" OF PRE-SERVICING AGREEMENT

LANDS TO BE CONVEYED FOR PARKLAND OR CASH IN LIEU

Cash-in-lieu of Parkland:

5% of the appraised value (\$440,000) = \$22,000

SCHEDULE "H" OF PRE-SERVICING AGREEMENT

GRANTS OF EASEMENT AND OTHER PUBLIC LANDS

None required.

SCHEDULE "I" OF PRE-SERVICING AGREEMENT

**LANDSCAPING
AND TREE PRESERVATION REQUIREMENTS**

Landscaping and Tree Preservation:

See Plans in Schedule "E"

SCHEDULE "J" OF PRE-SERVICING AGREEMENT**SPECIAL CONDITIONS****STAGED CONSTRUCTION**

1. Despite anything in this agreement to the contrary, the Owner shall not construct any portion of the Works until the Municipal Engineer has given written approval for the construction of the Works, which approval may be limited to some or all of the remainder of the Works and on such terms and conditions as the Municipal Engineer deems advisable.

CESSATION OF WORK

2. If the final plan of subdivision has not been registered within one year of the date of this Agreement, the Municipality shall have the right to order the Owner to cease construction of all or part of the Works on such conditions as the Municipal Engineer deems advisable until the final plan of subdivision has been registered.

REPLACEMENT OF AGREEMENT BY SUBDIVISION AGREEMENT

3. Upon registration of the final plan of subdivision and a Subdivision Agreement between the parties in respect of the Lands, this Agreement shall no longer be of any force or effect and all of its terms and conditions shall be subsumed into the Subdivision Agreement and the provisions of the Subdivision Agreement shall prevail. For greater certainty, any financial security or certificate of insurance delivered by the Owner to the Municipality on account of the Owner's obligations under this Agreement shall continue to be held by the Municipality on account of the Owner's obligations to provide financial security and proof of insurance under the Subdivision Agreement.

GENERAL:

4. The Owner shall, prior to servicing, provide a vibration report prepared by a qualified Professional Engineer dealing with construction related activities and blasting, to the satisfaction of the Municipality.

ENVIRONMENTAL:

5. Any ground water artesian conditions encountered are to be immediately reported to the Township of South Frontenac and a work plan and recommendations be provided by a qualified individual. Prior to resuming work, the Municipality must approve the recommendations for any alterations to any approved drawings.

6. The Owner is responsible for obtaining any other required permits or approvals from outside agencies prior to commencing work.

7. Time is of the essence for all asphalt reinstatements. The Owner is responsible for maintaining all road cuts in accordance with Minimum Maintenance Standards for Municipal Highways (O.Reg.239/02) and as per Township requirements.

8. Test certificates for any and all engineered granular produced on site are to be provided to the Municipality for review prior to use of any of said material.

9. The Owner shall restore the boulevards and Township property to pre-construction condition or better immediately following construction or, if weather is a factor, in the first available season after completion of construction.