

SITE PLAN AGREEMENT

DATED:

BETWEEN:

OWNER(S) OF LANDS

- AND -

**THE CORPORATION OF THE CITY OF
CAMBRIDGE**

CITY OF CAMBRIDGE SITE PLAN AGREEMENT

TABLE OF CONTENTS

CITY OF CAMBRIDGE	1
PART 1: DEFINITIONS	4
1.01 Definitions.....	4
PART 2: ADMINISTRATION	6
2.01 Interpretation	6
2.02 Subject Lands.....	6
2.03 Transfers to City	6
2.04 Parkland	6
2.05 Occupancy	6
2.06 Notice to Owner.....	7
2.07 Warning Clauses	7
2.08 Sales Trailer/Office	7
2.09 Snow Storage and Removal.....	8
PART 3: SITE DEVELOPMENT	9
3.01 Approval of Plans	9
3.02 Minor Adjustments to the Agreements and Plans.....	9
3.03 Required Approvals	9
3.04 Signage	9
3.05 Works to be Constructed by the Owner.....	9
3.06 Timing and Phasing for Construction of Works	10
3.07 Utilities.....	10
3.08 Canada Post.....	10
3.09 Indemnification	10
3.10 Insurance.....	11
3.11 Construction Requirements	11
3.12 Building Construction.....	13
3.13 Entry and Inspection by City	13
3.14 Environmental Condition	13
3.15 Completion of Site Works	13
3.16 Maintenance of Works.....	14
PART 4: FINANCIAL REQUIREMENTS	15
4.01 Taxes & Local Improvement Charges, Etc.	15
4.02 Development Charges.....	15
4.03 Fees Payable to City	15
4.04 Financial Security	15
PART 5: EXECUTION OF AGREEMENT	18
5.01 Waiver	18
5.02 Enter Agreement	18
5.03 Voluntary Agreement.....	18
5.04 Extension of Time.....	18

5.05	Registration of Agreement.....	18
5.06	No Challenge to Agreement	18
5.07	Declaration & Execution of Agreement.....	19
SCHEDULE "A"	Legal Description of the Lands	20
SCHEDULE "B"	Transfers	21
SCHEDULE "C"	List of Approved Drawings and Reports	22
SCHEDULE "D"	Estimated Construction Cost of Works	23
SCHEDULE "E"	Financial Requirements	24
SCHEDULE "F"	Form of Letter of Credit.....	25
SCHEDULE "G"	Site Specific Conditions	28
SCHEDULE "H"	Warning Clauses	28

THIS SITE PLAN AGREEMENT made this ___ day of _____, 20__.

BETWEEN:

THE CORPORATION OF THE CITY OF CAMBRIDGE (the “City”)

-and-

XX (the “Owner”)

WHEREAS the Owner is the registered owner of the land described in Schedule “A” (the “Lands”) and attached;

AND WHEREAS the City has by By-law No. 20-060 designated all lands within the boundaries of the City as areas of site plan control, pursuant to the provisions of Section 41 of the *Planning Act*, R.S.O., 1990, c.P.13, as amended, and the Lands are within such boundaries;

AND WHEREAS the Owner has submitted to the City, plans and drawings of a proposed development on the Lands;

AND WHEREAS the City has now approved the plans and drawings submitted with the Owner’s application, subject to certain conditions;

AND WHEREAS pursuant to the provisions of Section 41, the Owner has been required to enter into this agreement;

AND WHEREAS subsection 41(10) of the *Planning Act* permits the registration of the Agreement against the lands to which it applies in order to secure the provisions of works, facilities or matters referred to in subsection 41(7) of the *Planning Act* and the construction of the development in accordance with the approved plans and drawings;

NOW THEREFORE IN CONSIDERATION OF the mutual covenants herein contained, the consent by the City to the Owner’s plan pursuant to the Planning Act, and the provision of other good and valuable consideration (the receipt and adequacy of which is acknowledged) the Parties herein covenant and agree as follows:

PART 1: DEFINITIONS

1.01 Definitions

This section sets out definitions to be applied to the following terms used in this Agreement:

- a) **“Act”** means the *Planning Act, R.S.O. 1990, C.P.13*.
- b) **“Agreement”** means this Agreement and the expressions “herein”, “hereof”, and “hereunder”, have a corresponding meaning of “in the Agreement”, “of this Agreement”, and “under this Agreement”, respectively.
- c) **“Assumption”** means the assumption of any City Works, Regional Works or Utility Works by the relevant Government Authority, including the City.
- d) **“Base Park”** means the design and construction of parkland on a suitable location and land by the Owner including the proper grading, drainage, site servicing, fencing, quality soil, tree plantings, turf coverage, signage, trails, pedestrian connections and all related appurtenances
- e) **“Building Division”** means the division or department within the City responsible for the issuance of building permits.
- f) **“Certificate of Compliance”** means a certificate, signed and stamped by a Professional Engineer or Landscape Architect, confirming all works have been constructed in conformance with the approved plans and in accordance with current applicable industry standards.
- g) **“City”** means The Corporation of the City of Cambridge and applicable authorized representative(s).
- h) **“City Works”** means works to be constructed by the Owner within a City right-of-way or other land to be conveyed to the City through this Agreement, as identified within the approved drawings and reports referenced in Schedule “C” of this Agreement.
- i) **“Composite Utility Plan”** means a plan which identifies hydroelectric, telephone, high speed broadband fibre and other telecommunication services, natural gas, television cable services, landscaping and underground facilities.
- j) **“Energy Company”** means GrandBridge Energy Inc., or any other producer or distributor of energy;
- k) **“Engineer”** means a Professional Engineer engaged by the Owner for the purpose of carrying out the terms of this Agreement.
- l) **“Engineering Division”** means the division or department within the City responsible for development engineering.
- m) **“Final Approval”** means a notice of final approval issued by the City following execution and registration of this Agreement.
- n) **“Fire Department”** means the fire department for the City.
- o) **“Forestry Division”** means the division of department within the City responsible for forestry and tree management.
- p) **“General Contractor”** means the general contractor hired by the Owner to construct the Pre-Servicing Works and/or to oversee construction of the Pre-Servicing Works by other sub-contractors.
- q) **“Lands”** means the lands legally described in Schedule “A” of this Agreement, which are subject to this Agreement.

- r) **“Maintenance Period”** means the minimum period of time over which the Owner shall be required to maintain any Works, as outlined in sub-section 3.25 of this Agreement.
- s) **“Ministry”** means the Ministry of the Environment, Conservation and Parks, of the Government of Ontario.
- t) **“Owner”** in addition to its accepted meaning, shall mean and include an individual, an association, a partnership, or an incorporated company.
- u) **“Parkland”** means land to be conveyed to the City by the Owner for park purposes, in accordance with Subsection 2.04 of this Agreement.
- v) **“Parties”** means the Owner and the City, and **“Party”** means either one of the two Parties.
- w) **“Planning Division”** means the division or department within the City responsible for development planning.
- x) **“Regional Works”** means works constructed within a Regional right-of-way or other land to be conveyed to the Region through this Agreement, as identified within the approved drawings and reports referenced in Schedule “C” of this Agreement.
- y) **“Site Works”** means works to be constructed by the Owner other than the City Works, Regional Works or Utility Works, as identified within the approved drawings and reports referenced in Schedule “C” of this Agreement.
- z) **“Utility Works”** means works identified within the Composite Utility Plan to be constructed by the Owner.
- aa) **“Works”** means the City Works, Regional Works, Site Works and Utility Works.

PART 2: ADMINISTRATION

2.01 Interpretation

- a) If any section or provision of this Agreement is found by a court or other tribunal of competent jurisdiction to be ultra vires, such section or provision shall be severed from this Agreement and the remaining portion of the Agreement shall continue to be valid and binding on the parties hereto.

2.02 Subject Lands

- a) The Lands affected by this Agreement are more particularly described in Schedule "A" attached hereto.
- b) The Lands are known municipally as XX.
- c) The proposed development on the Lands is described as XX.

2.03 Transfers to City

- a) Prior to Final Approval, the Owner shall convey the lands described in Schedule "B" of this Agreement to the City in fee simple free from all encumbrances.
- b) Prior to Final Approval, the Owner shall convey the easements described in Schedule "B" of this Agreement to the City and/or an Energy Company.
- c) The Owner shall remove all stones, stumps, fallen trees and debris from land conveyed to the City and lands subject to easements conveyed to the City.

2.04 Parkland

- a) The Owner shall convey the lands described in Schedule "B" of this Agreement to the City in fee simple, free from all encumbrances, for park purposes or pay to the City the sum of money set out in Schedule "E" of this Agreement in lieu of the conveyance of lands for park purposes or such other public purposes.
- b) Where lands are conveyed to the City for park purposes, such lands shall be improved to a Base Park condition, to the satisfaction of the City.

2.05 Occupancy

- a) The Owner covenants and agrees not to occupy or allow occupancy of any building or structure or part thereof until the following requirements are addressed:
- i. All Works have been completed in accordance with the requirement of the Ontario Building Code, the applicable Zoning By-law and any other municipal By-laws and specifications, to be determined at the sole discretion of the City;
 - ii. The internal water distribution and sanitary sewer collection systems have been tested and approved and are operating in accordance with conditions and requirements established by the City.
 - iii. Signs identifying the number of units and buildings, in accordance with the City's Sign By-law, have been installed for the applicable buildings, to the satisfaction of the Planning Division; and,
 - iv. All fire hydrants have been flow tested and the results submitted to the City for approval.
- b) The City may draw upon any financial security the Owner has provided to the City under this Agreement, to reimburse the City for costs incurred if, in the opinion of the City, a building or structure or part thereof is occupied contrary to Clause 2.05.a.

- c) In the event that a building or structure or part thereof is occupied contrary to Clause 2.05.a, the City is entitled to obtain an order from a court of competent jurisdiction prohibiting the occupancy of any building or unit until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the City and shall be responsible to reimburse the City's costs in relation to obtaining the court order.

2.06 Notice to Owner

- a) If any notice is required to be given to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

Name

Street

City, Province

Postal Code

- b) If any notice is required to be given to the City with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

City Clerk,
The Corporation of the City of Cambridge
50 Dickson Street
P.O. Box 669
Cambridge, ON N1R 5W8
Tel: (519) 623-1340
Email: clerks@cambridge.ca

Chief Planner, Community Development Department
The Corporation of the City of Cambridge
50 Dickson Street
P.O. Box 669
Cambridge, ON N1R 5W8
Tel: (519) 623-1340
Email: planning@cambridge.ca

And to:

City Solicitor
The Corporation of the City of Cambridge
50 Dickson Street
P.O. Box 669
Cambridge, ON N1R 5W8
Tel: (519) 740-4683
Email: legalservices@cambridge.ca

2.07 Site Specific Conditions

- a) The Owner agrees to complete, satisfy and/or uphold the site specific conditions in Schedule "G" of this Agreement.

2.08 Warning Clauses

- a) The Owner agrees to insert the warning clauses identified in Schedule "H" of this Agreement into all Agreements of Purchase and Sale.

2.09 Sales Trailer/Office

- a) Subject to the provisions of the City's Zoning By-law, a temporary sales trailer or sales office may be provided on the Lands for the period during which the construction of any buildings is taking place, subject to approval by the City of site and landscaping plans for the sales trailer or sales office.
- b) The City may, at its sole discretion, require the removal or relocation of any temporary sales trailer or sales office if the City has deemed that building or structure as no longer necessary or appropriate for the development of the Lands.

2.10 Snow Storage and Removal

- a) All owners, tenants and future purchasers shall maintain all access to ramps and driveways, parking and loading areas, sidewalks, curb ramps and crosswalks and remove obstructions to ensure safe and accessible operations on the Lands in accordance with City of Cambridge Removal of Snow and Ice By-law and this Agreement. In no circumstance shall snow cleared from the Lands be placed or performed in a manner that might damage private or public landscaping, trees and other plant materials, fences, or impinge on adjacent properties or open space. The contracting for private snow clearance/removal from the Lands shall remain the sole responsibility of the owners, tenants and future purchasers.

PART 3: SITE DEVELOPMENT

3.01 Approval of Plans

- a) The Owner covenants and agrees:
- i. That the City has approved the site plan, landscaping and other drawings and reports which are described in Schedule “C” of this Agreement, and that original copies have been filed with the City.
 - ii. To construct and locate all buildings, structures, Works and facilities required under this Agreement in accordance with the approved plans, drawings and reports described in Schedule “C” and the site specific conditions listed in Schedule “G”.

3.02 Minor Adjustments to the Agreements and Plans

- a) Minor adjustments and variances to the provisions of this Agreement or to the approved plans, drawings and reports described in Schedule “C”, may only be granted upon written application by the Owner and agreed to in writing by the Planning Division through its Site Plan Review Committee or members thereof, or other approval body as designated by the City from time to time.

3.03 Required Approvals

- a) The Owner shall not commence construction of any part of the Works or any building or structure until it has provided the Planning Division with written clearances with respect to the proposed construction from such legislative, quasi-legislative or regulatory bodies and authorities as are, in the sole and unfettered opinion of the City, required or desirable in connection with the construction including, but not restricted to, and without limiting the generality of the foregoing, the following:
- i. the City;
 - ii. the Region of Waterloo;
 - iii. Grand River Conservation Authority;
 - iv. an Energy Company;
 - v. Province of Ontario Ministry of the Environment, Conservation and Parks;
 - vi. Province of Ontario Ministry of Natural Resources;
 - vii. Province of Ontario Ministry of Transportation;
 - viii. Applicable public utilities corporations or commissions; and,
 - ix. Generally, such other legislative, quasi-legislative, regulatory or judicial authorities having jurisdiction.

3.04 Signage

- a) The Owner covenants and agrees to obtain permits as required prior to the erection of any new signs, in compliance with applicable by-laws of the City.
- b) The Owner covenants and agrees to remove any existing signs which do not comply with any existing sign by-law standards prior to any construction.

3.05 Works to be Constructed by the Owner

- a) The Owner covenants and agrees to construct to the satisfaction of the City and at no expense to the City, the Works identified in the approved drawings and reports referenced in Schedule “C” of this Agreement, which will be completed on the Lands and/or on lands to be conveyed to the City.

3.06 Timing and Phasing for Construction of Works

- a) The Owner shall secure building permits required for each phase of development on the lands within eighteen (18) months of execution of this Agreement and shall, in the unfettered opinion of the City acting reasonably, have substantially commenced construction of the Works and City Works within twenty four (24) months of such execution, failing which, at the sole and unfettered option of the City, all approvals theretofore given by the City with respect to the Development shall lapse and be of no further force or effect and the Owner shall forthwith restore the Land, as nearly as possible, to its original condition to the satisfaction of the City;
- b) In the event that the Owner fails to complete, repair or maintain the Works to the satisfaction of the City, or fails to do any other act, matter or thing required to be done, under the provisions of this Agreement to the satisfaction of the City, the City may, at its sole discretion, cause a notice in writing to be served on the Owner specifying such default and requiring that same be remedied forthwith and if no action satisfactory to the City to remedy such default is taken by the Owner within seven (7) days after the service of such notice, the City has and is hereby given right to do and perform any and all matters and things that may be in default as stated in the notice at the expense of the Owner and for such purposes, if necessary, to purchase such materials and to purchase or hire such tools or machinery and to employ such contractors or work persons as the City considers necessary to remedy the default.

3.07 Utilities

- a) The Owner covenants and agrees to contact the appropriate entities regarding public utility requirements for the Lands, including but not limited to electricity, telephone, telecommunications, cable television and gas to ensure they have been satisfactorily arranged, that servicing for the same will be provided underground without any expense, cost or obligation on the part of the City and that all requisite easements have been or will be provided to such entities.

3.08 Canada Post

- a) The Owner covenants and agrees to consult with Canada Post, if required, for the placement and installation of Community Mail Boxes within the Lands.

3.09 Indemnification

- a) The Owner acknowledges and agrees that the development of the Lands and the completion of the Works is entirely and solely at their own risk and without liability or responsibility of the City.
- b) Without limiting the foregoing, the Owner specifically agrees to release, indemnify, defend and completely save harmless the City, its Councillors, officers, employees, legal counsel, agents and contractors from and against any and all suits, judgments, claims, demands, expenses, actions or other proceedings of any kind (including, but not limited to proceedings of a criminal, administrative or quasi criminal nature), causes of action, duties, assessments, fees, penalties, liabilities, losses and costs (including, but not limited to, legal fees on a substantial indemnity basis) and any claim for lien made pursuant to the *Construction Act* (Ontario) and for any and all liability for:
- i. damages to any property, including property other than the Lands;
 - ii. any direct, indirect, special or consequential damages; and
 - iii. any injury to any person (including death), however caused;

which in any manner arise out of or are in any manner related to this Agreement, the development of the Lands and/or completion of the Works.

3.10 Insurance

- a) The Owner covenants and agrees that it is responsible to determine with its Insurance Broker if the coverage and limits noted below are sufficient to address all insurance related exposures presented by the Works and Facilities. The Owner shall insure the Works under the following coverage so as to protect and indemnify and save harmless the City.
- b) The Owner shall provide to the City, on or prior to the execution of this Agreement, a Certificate of Insurance evidencing a general liability insurance policy, with all applicable coverage extensions and endorsements, in the amount of \$5,000,000.00, per occurrence, in a form satisfactory to the City, indemnifying the City from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Owner. The policy shall contain a cross-liability clause, with a severability of interests provision, naming the Corporation of the City of Cambridge as an additional insured. This Certificate shall state that coverage will not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail to the City. This policy shall be maintained in full force and effect until the date that all Works have been completed.
- c) It is also understood and agreed that in the event of a claim any deductible or self-insured retention (SIR) under this policy of insurance shall be the sole responsibility of the Owner and that this coverage shall preclude subrogation claims against the City and be primary insurance in response to claims. 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 occurrence limit. A combination of primary coverage plus umbrella or excess liability insurance may be used. Any insurance or self-insurance maintained by the City shall be considered excess of the Owner's insurance and shall not contribute with it. The minimum amount of insurance required herein shall not modify, waive or otherwise alter the Owner's obligation to fully indemnify the City under this Agreement. The City reserves the right to modify the insurance requirements as deemed suitable.

3.11 Construction Requirements

- a) The Owner covenants and agrees not to undertake any site alteration or construction activities unless in accordance with the following requirements, to the satisfaction of the City:
 - i. Final Approval has been issued by the City, or the Owner has entered into a separate Agreement with the City related to specific construction or site alteration activities;
 - ii. A Tree Management Plan has been submitted to and approved by the Forestry Division;
 - iii. All tree protection measures required by the Tree Management Plan have been installed and inspected by the Forestry Division;
 - iv. Any required sediment and erosion control features, as identified in the approved plans and drawings, have been installed;
 - v. The Owner shall obtain an Access Permit from the City, or proof of Regional approval if the access is from a Regional Road;

- vi. The Owner shall erect a 1.8 metre high security fence/construction hoarding around all construction areas and all construction storage and staging areas and upon completion of construction, shall remove the fence/construction hoarding, make good and rehabilitate the Lands to a standard of landscaping compatible with the remainder of the Lands. The security fence/construction hoarding shall comply with the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1 and associated Regulations for construction projects;
 - vii. Written authorization is issued by the Planning Division; and,
 - viii. All other requirements of the City's Engineering Standards and Development Manual have been addressed to the City's satisfaction.
- b) The Owner covenants and agrees to adhere to the following requirements during all site alteration and construction activities:
- i. The Owner shall not use any City lands for material storage or construction purposes;
 - ii. To eliminate dust, the Owner is required, to apply dust suppressants, cover stock piles of top soil with tarps or to apply ground cover to the areas that have been stripped and left undeveloped;
 - iii. To inspect, maintain and replace as required, all tree protection and sediment and erosion control measures through the duration of construction;
 - iv. The Owner shall be responsible, at the end of every working day, to clean all mud and debris that is tracked onto the City or Region road allowance from vehicles and/or construction equipment entering or leaving the construction site and dust generated during construction. The Owner shall, upon verbal and/or written request by the City, immediately proceed with clean-up operations at their expense. Should the Owner fail to clean-up within twenty four hours as directed, the City may have the cleaning completed at the Owner's sole expense;
 - v. All construction operations shall be in accordance with the City's Noise By-law and the City's Engineering Design Standards and Development Manual;
 - vi. All trucks and heavy equipment must comply with all regulations of the *Highway Traffic Act* in respect of the covering and securing of lands;
 - vii. Throughout the duration of construction, the Lands shall be maintained in a safe and orderly condition and construction debris shall be removed on a regular basis; and,
 - viii. The functioning of the surrounding area, including pedestrian and vehicular movement, shall be maintained during construction.

3.12 Building Construction

- a) The Owner shall pay all applicable development charges prior to the issuance of any building permits.
- b) The Owner shall pay cash-in-lieu of parkland, if applicable, prior to the issuance of any building permits.
- c) The Owner covenants and agrees not to commence construction of any building, structure or part thereof until the following requirements are addressed to the satisfaction of the City:
 - i. The requirements of Section 3.11 of this Agreement have been addressed;
 - ii. Final Approval has been issued by the City, or the Owner has entered into a separate Conditional Permit Agreement with the City.
- d) In the event that the Owner commences construction of a building, structure or part thereof, in contravention of the requirements outlined in Section 3.12 of this Agreement, the City is entitled to obtain an order from a court of competent jurisdiction requiring the seizing of construction until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the City and shall be responsible to reimburse the City's costs in relation to obtaining the court order.

3.13 Entry and Inspection by City

- a) The Owner agrees that the City may, by its officers, employees or agents, enter on the Lands or any parts thereof as well as any building(s) erected thereon to ensure that the Works required to be provided, constructed or installed by the Owner comply with this Agreement and all applicable requirements of the City.

3.14 Environmental Condition

- a) The Owner covenants and agrees to assume full responsibility for the environmental condition of the Lands and any required remediation, and to indemnify and save harmless the City, Mayor, Councillors, City Officials, employees and agents from any and all actions, causes of action, suite, claims, demands, losses, expenses and damages whatsoever that may arise either directly or indirectly from the approval, the construction and use of the works or anything done or neglected to be done in connection with the use or any environmental condition on or under the Lands, including any work undertaken by or on behalf of the City in respect of the Lands, and the execution of this Agreement.

3.15 Completion of Site Works

- a) Following construction completion of the Site Works, the Owner shall submit a Certificate of Completion from a qualified professional for all landscape, lighting, stormwater management and grading works, following which the Owner may request City staff undertake a site inspection. Site inspections are subject to weather and seasonal considerations and inspections during winter conditions (December 1st to March 31st) shall be at the sole discretion of the City. Inspections of landscape works are to be completed within the growing season (June 1st to September 30th).
- b) Where it is determined by City staff after conducting a site inspection that the conditions of the site are not consistent with approved plans, the City will advise that further site works or remediation measures may be required, along with additional Certificates of Completion.

3.16 Maintenance of Works

- a) Upon the substantial completion of any City Works and submission of a Certificate of Completion from a Professional Engineer and completion of an inspection by City staff, a one (1) year maintenance period for the City Works will be initiated.
- b) Upon the substantial completion of the landscape works and submission of a Certificate of Completion from a Professional Landscape Architect and completion of an inspection by City staff, a one (1) year maintenance period for the landscape works will be initiated.
- c) Upon completion of the maintenance period, an additional Certificate of Completion from a Professional Landscape Architect is to be submitted confirming all plant material is in a vigorous, healthy growing condition.
- d) The City reserves the right to extend the maintenance period should major repairs be required during the maintenance period to address deficiencies.
- e) The Owner shall be responsible for the operation and maintenance of all Site Works, including but not limited to landscaping, lighting, grading, underground services and stormwater management facilities, in perpetuity following construction of the works.

PART 4: FINANCIAL REQUIREMENTS

4.01 Taxes & Local Improvement Charges, Etc.

- a) Nothing herein contained shall in any way limit or prevent assessment of the Lands for local improvements subsequently undertaken and assessed upon the Lands abutting on the works in accordance with the Local Improvement Act and shall be paid by the Owner from time to time in the manner provided.
- b) Prior to execution of this Agreement, the Owner covenants and agrees to:
 - i. Commute and pay all charges with respect to existing local improvements assessed or completed, but not yet assessed against any part of the Lands; and,
 - ii. Commute and pay all realty taxes on the Lands.

4.02 Development Charges

- a) The Owner shall pay all applicable development charges prior to the issuance of any building permits, including any development charges payable to the Region or any School Board.
- b) This requirement may be waived or adjusted at the sole discretion of the City, if the Owner has entered into an Agreement with the City under the Development Charges By-law, which defers the timing to pay the applicable development charges.

4.03 Fees Payable to City

- a) The Owner covenants and agrees to pay to the City the fees described in Schedule "E" of this Agreement, prior to execution of this Agreement.

4.04 Financial Security

- a) The Owner covenants and agrees:
 - i. To provide to the Planning Division, prior to execution of this Agreement, an irrevocable and unconditional letter(s) of credit, from a financial institution acceptable to the City Treasurer or other security deemed satisfactory at the sole discretion of the City Treasurer in the amount set out in Schedule "E" of this Agreement for each of the City Works and Site Works;
 - ii. To file the letter(s) of credit in the form set out in Schedule "F" of this Agreement, and to keep said letter(s) of credit in full force and effect and pay all premiums as the said letter(s) of credit become due or until such time as the Planning Division reduces or returns the letter(s) of credit in accordance with the terms of this Agreement;

- iii. That pursuant to the *Municipal Act, 2001*, in the event the Owner fails to perform the Works required to be performed under this Agreement, such Works may be performed and/or completed by the City at the Owner's expense. Upon failure of the Owner to complete the Works, or to undertake any other obligation of the Owner under this Agreement, the City may provide 30 days written notice to require remedy. If the deficiency or obligation is not performed within the notice period, the City and/or its authorized agents may enter in and upon the Lands without providing notice and perform and/or complete the Works at the Owner's expense. In the event that the City and/or its authorized agents perform or complete any or all of the Works, the City may draw on the aforementioned letter of credit or other satisfactory security in such amount(s) as may be require to pay for the cost incurred by the City and/or its authorized agents to perform and/or complete the Works. In addition or in the alternative, the City may add the full cost or any part of the cost incurred by the City or its authorized agents to perform or complete the Works to the tax roll of the Lands and collect the expense in like manner as municipal taxes;
- iv. That upon the transfer of ownership of the Lands, the City will not return any letter of credit or other satisfactory security required under this Agreement until the new owner files with the City a substitute letter of credit or other satisfactory security in the required amounts;
- v. That the Owner may submit a request to the Engineering Division for a reduction to the value of the letter(s) of credit or other financial security for City Works, once the Certificate of Completion for the City Works has been received and the City has completed an inspection and all deficiencies have been addressed to the City's satisfaction. The letter(s) of credit or other security may be reduced to a minimum value equivalent to ten per cent (10%) of the City Works for which the Certificate of Completion has been issued. The remaining 10% value shall remain in place until the letter(s) of credit or other security are released by the City;
- vi. That the Owner may submit a request to the Engineering Division to release the letter(s) of credit or other financial security for City Works, once the corresponding maintenance period has been complete.;
- vii. That the Owner may request a reduction to the value of or to release the letter(s) of credit or other financial security for Site Works, once the Site Works have been substantially completed and the following have been submitted or undertaken to the satisfaction of the Planning Division:
 - i. Site Plan Inspection Request Form;
 - ii. Mandatory Onsite Inspection has been held and all identified deficiencies have been rectified;
 - iii. Certificate of Completion for Grading and Drainage;
 - iv. Certificate of Completion for Stormwater Management and site servicing works;
 - v. Certificate of Completion for Landscaping;
 - vi. Certificate of Completion for Lighting Works;
 - vii. Letter of Compliance from any other professional accreditation as required by the City;
 - viii. As Recorded Drawings of the completed Works in PDF form, if applicable;

The letter(s) of credit or other security may be reduced to a minimum value equivalent to ten per cent (10%) of the Site Works until all Site Works have been completed to the satisfaction of the Planning Division. For the landscaping component of the Site Works, the letter(s) of credit or other security shall not be released until the one (1) year Maintenance Period has been completed and all identified deficiencies have been rectified to the City's satisfaction.

- viii. At its sole discretion, the Planning Division may consider requests for partial reductions of the letter(s) of credit or other security for the Site Works.

PART 5: EXECUTION OF AGREEMENT

5.01 Waiver

- a) 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 the Parties to be bound. 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.

5.02 Enter Agreement

- a) The Parties acknowledge that this Agreement constitutes the entire agreement between the Parties pertaining to Site Plan Approval and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties with regard to Site Plan Approval 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.

5.03 Voluntary Agreement

- a) The Parties agree and acknowledge that 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.

5.04 Extension of Time

- a) Time shall always be of the essence in this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the City, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence in this Agreement notwithstanding any extension of any time limit.

5.05 Registration of Agreement

- a) The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon the title of the Lands by the City. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner 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 City and its lands and highways appurtenant and adjacent to the Lands.

5.06 No Challenge to Agreement

- a) The Parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before an administrative tribunal, the party's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the Parties are entitled to all remedies arising from it, notwithstanding any provision in Section 41 of the *Planning Act* interpreted to the contrary. The Parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in an action or proceeding as an estoppel of any denial or such right.

5.07 Declaration & Execution of Agreement

The Parties agree this Agreement may be executed in any number of counterparts and delivered by electronic transmission and such execution and delivery shall constitute and be deemed to be one original.

The parties consent and agree to the use of electronic signatures pursuant to the Electronic Commerce Act, 2000 as amended from time to time with respect to this Agreement and any other documents respecting this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement by virtue of affixing the signatures of their respective proper officers and agents duly authorized in that behalf.

Owner: XXXX

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation

Address for Service: _____

THE CORPORATION OF THE CITY OF CAMBRIDGE

Per: _____
Chief Planner
Community Development Department
I have authority to bind the Corporation

Address for Service: _____

SCHEDULE "A" Legal Description of the Lands

<Inserted by Legal Services>

SCHEDULE “B” Transfers

1. For all property Interests to be conveyed to the City or the Region, the Owner acknowledges and agrees that the survey, reference plan, transfer fee and all costs associated with registration, including legal fees incurred by the municipality, are to be paid by the Owner.
2. The Owner shall convey the following land to the City for public purposes in accordance with Clause 2.03 of this Agreement:

<u>Purpose</u>	<u>Description</u>
(a)	<p>Road Widening</p> <p>The Owner shall convey a road widening to the City, to the satisfaction of the City, measured as # metres from the centre line of the original road allowance <INSERT STREET NAME>, the approximate widening being # metres.</p> <p>Or,</p> <p>None</p>
(b)	<p>Intersection Improvements</p> <p>The Owner shall convey a # metre daylight triangle to the City at the intersection of <INSERT STREET NAME> and <INSERT STREET NAME>, to the satisfaction of the City.</p> <p>Or,</p> <p>None</p>
(c)	<p>Easements</p> <p>The Owner shall convey an easement to the City, to the satisfaction of the City, measured as # metres from the centre line of <INSERT NAME>.</p> <p>Or,</p> <p>None</p>

SCHEDULE "C" List of Approved Drawings and Reports

Drawing Name	Prepared by	Date and Revision Number

SCHEDULE “D” Estimated Construction Cost of Works

<Copy from the Excel Document and Paste as an Image>

SCHEDULE “E” Financial Requirements

<Copy from the Excel Document and Paste as an Image>

SCHEDULE “F” Form of Letter of Credit

NAME OF BANK:

ADDRESS OF BANK:

IRREVOCABLE STANDBY LETTER OF CREDIT NO.:

ISSUE DATE:

AMOUNT: CAD\$

NAME OF APPLICANT:

ADDRESS OF APPLICANT:

NAME OF BENEFICIARY: The Corporation of the City of Cambridge,
hereinafter referenced as the City of Cambridge or the
City

ADDRESS OF BENEFICIARY: Finance Department
50 Dickson Street
Cambridge, ON N1R 5W8

We, the **[Insert Bank name and branch]** (either “We” or the “Bank”) hereby issue to the City of Cambridge our Irrevocable Standby Letter of Credit in the City’s favour for the account of the above-named Applicant for an amount not to exceed **[Insert dollars in text]** (\$ **[Insert dollars in figures]**) in lawful money of Canada.

The City of Cambridge is authorized, subject only to the terms of this Letter of Credit, to draw on the Bank from time to time and at any time, upon written demand by the City of Cambridge. We shall issue payment without enquiring whether the City of Cambridge has a right as between the City and the Applicant to make such draw, and without recognizing any claims of the Applicant.

Partial drawings are permitted under this Letter of Credit up to the full amount of this Letter of Credit.

This Letter of Credit is given for the obligations of the Applicant to the City of Cambridge incurred or to be incurred by reference to **[insert details of the agreement between the City of Cambridge and the Applicant or details of the purpose of the security including the mandatory SD# or SP#]**. All drawing requests under this Letter of Credit shall be made by a written demand by the City of Cambridge for payment, stating the Irrevocable Standby Letter of Credit No. and Issue Date and stating that the amount drawn is in connection with the aforementioned obligations of the Applicant incurred or to be incurred.

We shall honour the City of Cambridge’s demand for payment at sight upon receipt of the written demand for payment, provided the drawing request is presented at the address of the Bank stated above before 5:00 p.m. on or before the date this Letter of Credit expires.

The amount of credit from time to time available by this Letter of Credit may be reduced by such amount as shall be specified in writing by direction given to the Bank by the City of Cambridge.

This standby Letter of Credit will expire on **[Insert expiry date]**, but shall be deemed to be automatically extended, without any formal amendment or notice to that effect, from

year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than sixty (60) days prior to the present or any future expiration we shall notify the City of Cambridge in writing, delivered by courier or by prepaid registered mail, that the Bank elects not to renew this Letter of Credit beyond its current expiry. Upon receipt by the City of Cambridge of such notice, the City of Cambridge may draw before 5:00 p.m. on or before the current expiry date the full amount hereunder by the written demand for payment.

This Letter of Credit may be cancelled prior to the expiry date by returning the original Letter of Credit to the Bank at the address stated above together with the City's signed request for cancellation.

Except as otherwise expressly stated, this Letter of Credit is subject to the International Standby Practices (ISP98). This Letter of Credit shall also be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada except to the extent that such laws are inconsistent with the International Standby Practices (ISP98).

Authorized Signature

Authorized Signature

LETTER OF CREDIT CRITERIA

1. The Corporation of The City of Cambridge must be listed as Beneficiary.
2. The Corporation of The City of Cambridge must be able to draw on the Letter of Credit.
3. Letter of Credit must be irrevocable.
4. Letter of Credit must reference the Site Plan number and address.
5. Letter of Credit must have an automatic extension clause.
6. Letter of Credit must be approved by the City before the execution of the Site Plan Control Agreement.
7. Letter of Credit must be issued by a bank acceptable to the City.

ACCEPTABLE BANK CRITERIA FOR LETTERS OF CREDIT

The said Bank must be a Schedule I Bank that has a long-term obligation rating of AA or better and a commercial paper and short-term debt rating of R-1 Middle or better as rated by the Dominion Bond Rating Service.

SCHEDULE "G" Site Specific Conditions

<None

Or

1. Insert Site Specific Conditions – refer to the separate list>

SCHEDULE “H” Warning Clauses**<None****Or**

1. **Insert Warning Clauses – refer to the separate list>**