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Appendix "A": Dingman Creek B4 Landowners Agreement

THIS AGREEMENT made in triplicate this th day of August, 2014

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON

hereinafter called "the City"

- and -

2219008 ONTARIO LIMITED

hereinafter called "the Owner"

WHEREAS:

1. The Owner is undertaking the development of lands at 3493 Colonel Talbot Road (the Owner's Lands") which will require the design and construction of storm drainage and stormwater management works to service the subject lands;
2. The Owner's Lands will outlet to a tributary of the Dingman Creek via the proposed Dingman Creek No. B-4 SWM Facility (the "SWM Works") that will service these lands and will be designed and constructed by the City;
3. All costs associated with the design and construction of the SWM Works, including the Municipal Class Environmental Assessment (EA) study for the Dingman Creek No. B-4 SWM Facility, are conditional upon municipal council approval of the City's 2014 Development Charges By-Law; the 2014 Development Charges Background Study; the 2015 Growth Management Implementation Strategy (GMIS); and an Environmental and Engineering Services SWM Unit Capital Budget which includes these SWM Works;
4. The Municipal Class Environmental Assessment (EA) study for the Dingman Creek No. B-4 SWM Facility ("the Assessment"), must be completed before the SWM Works can be constructed;
5. The Owner has agreed to pay the City the total estimated cost of the Assessment and to be reimbursed for these costs only upon municipal council approval of all of above-noted contingent approvals;

NOW THEREFORE THIS AGREEMENT WITNESSETH that consideration of the matters referred to and the sum of TWO DOLLARS (\$2.00), the receipt of which is acknowledged, the City and the Owners hereby agree as follows:

1. The Owner agrees to pay the total cost of the Assessment for the SWM Works. The total amount of the Assessment is estimated at \$215,415.00, which is based on consulting fee cost of \$195,832.00 plus the City's contingency of \$19,583.00, excluding HST.
2. The Owner agrees to pay to the City, on the execution of this Agreement, the sum of \$215,415.00, (the "Security Amount"), in cash or by certified cheque.
3. The Security Amount shall be used by the City to pay the costs of the Assessment. The City is hereby authorized to make any payments required for the completion of the Assessment, including any progress payments to any consultants, contractors or agents retained by the City to complete the Assessment.
4. Upon completion of the Assessment, the balance, if any, of the Security Amount, shall be returned to the Owner.
5. The Owner agrees that in the case of a bump up, Part II Order under the Environmental Assessment Act and Municipal Class Environmental Assessment process, or any other additional work related to the Assessment is required, the Owner shall be obligated to cover all costs associated with the additional requirements. Any additional amounts paid by the Owner to satisfy the requirements of the Section shall be deemed to form part of the Security Amount.
6. The Owner agrees that if the requirements for public consultation and/or public meetings exceed the minimum number of meetings identified and/or additional information related to the Assessment is required, the Owner shall be obligated to cover all costs associated with the additional requirements. Any additional amounts paid by the Owner to satisfy the requirements of the Section shall be deemed to form part of the Security Amount.

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7. The City shall repay the Security Amount, or such portion thereof that was spent to pay for the Assessment, to the Owner, only if all of the following conditions are satisfied:
 - a) municipal council of the City enacts a new Development Charges By-law in 2014, including a Development Charges Background Study which includes these SWM Works;
 - b) municipal council of the City adopts the 2015 GMIS which includes these SWM Works; and
 - c) municipal council of the City adopts an Environmental and Engineering Services SWM Unit Capital Budget which includes these SWM Works.
8. Repayment of the Security Amount shall be made to the Owner without interest or reimbursement for any other financial expenses incurred by the Owner.
9. This Agreement shall not be assigned by the Owner without the prior written consent of the City. The grant or refusal of such consent shall be at the sole discretion of the City. Any attempt to assign any of the rights, duties or obligations of this Agreement without such written consent is void.
10. This Agreement is for the benefit of and shall be binding upon the parties and their successors and authorized assigns.

IN WITNESS WHEREOF the City and the Owner have hereunto affixed their corporate seals attested to by the hands of their proper officers in that behalf duly authorized.


SIGNED, SEALED AND DELIVERED

THE CORPORATION OF THE CITY OF LONDON

Mayor

City Clerk

2219008 ONTARIO LIMITED



I Have the Authority to Bind the Corporation