

By-law Number 25-27

The Corporation of the Township of Clearview

Being a By-law to enter into an Amending Agreement #1 to the Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement with the Estates of Clearview Nottawasaga Station Phase 2 for the inclusion of the Lamont Creek realignment works

(Amending Agreement #1 – The Estates of Clearview
Nottawasaga Station Phase 2)

Whereas the Corporation of the Township of Clearview provided approval for a draft plan of subdivision known as The Estates of Clearview, File No. 2004-011-SD, for the subdivision development and servicing of the Lands in accordance with the Draft Plan Approval Conditions;

And Whereas The Estates of Clearview proceeded with development of Phase 2 of subdivision, with the Council of the Corporation of the Township of Clearview providing approval of a Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement under By-law 21-123, in accordance with Section 51(26) of the Planning Act R.S.O., 1990, c.P.13, as amended;

And Whereas the Council of the Corporation of the Township of Clearview was presented a report at its April 14, 2025, meeting, advising that The Estates of Clearview and MacPherson Builders has proceeded with improvements to Mowat Street involving the realignment of Lamont Creek where it approaches, and extends beyond Mowat Street as required by the Conditions and prior to proceeding with the reconstruction of Mowat Street and future subdivision phases related to development of the Lands;

And Whereas the Council of the Corporation of the Township of Clearview deems it desirable and necessary to enter into an Amending Agreement #1 to include specific reference to the plans accepted by the Municipality for completion of the realignment of Lamont Creek;

Now Therefore Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. That Schedule "A" – Amending Agreement #1 to the Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement with The Estates of Clearview Inc., MacPherson Builders (Stayner) Limited and the Corporation of the Township of Clearview attached hereto, forms part of this by-law.
2. That the Mayor and Clerk are hereby authorized to sign the Amending Agreement #1 on behalf of the Corporation.
3. That this by-law shall take force and effect upon the passage hereof.

By-law Number 25-27 read a first, second and third time and finally passed this 14th day of April, 2025.

Douglas Measures, Mayor

Sasha Helmkey, Director of Legislative Services/Clerk

**SUBDIVISION PRE-SERVICING & MOWAT STREET ROAD IMPROVEMENT
WORKS AGREEMENT
AMENDING AGREEMENT #1
LAMONT CREEK REALIGNMENT WORKS**

**The Estates of Clearview Inc., MacPherson Builders (Stayner) Limited and The
Corporation of the Township of Clearview**

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**SUBDIVISION PRE-SERVICING & MOWAT STREET ROAD IMPROVEMENT WORKS
AGREEMENT
AMENDING AGREEMENT #1
LAMONT CREEK REALIGNMENT WORKS**

THIS AGREEMENT made as of this _____ day of February, 2025.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW
(hereinafter referred to as the "Municipality")

- And -

THE ESTATES OF CLEARVIEW INC.
(hereafter "the Owner")

- And -

MACPHERSON BUILDERS (STAYNER) LIMITED
(hereafter "the Builder")

WHEREAS the Owner warrants that it is the registered owner of Lands owned by the Municipality as set out in Schedule "A" description of the Lands;

AND WHEREAS the Municipality has given approval to a draft plan of subdivision known as The Estates of Clearview, File No. 2004-011-SD (the "Draft Plan") for the subdivision, development and servicing of the Lands to be developed in phases in accordance with the Conditions;

AND WHEREAS the Owner and the Builder (collectively hereinafter referred to as the "Owner") entered into an agreement identified as a Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement made as of the 17th day of December, 2021 notice of which was registered on title to the Lands on November 18, 2022 as Instrument No. SC1946163 and included pre-servicing requirements for the Phase 2 subdivision now registered as Plan 51M-1250 as well as requirements to secure completion of improvements to be made to Mowat Street, including the realignment of Lamont Creek;

AND WHEREAS the Owner now wishes to proceed with the improvements to be made to Mowat Street involving the realignment of Lamont Creek where it approaches, and extends beyond Mowat Street as required by the Conditions and prior to proceeding with future subdivision phases related to development of the Lands;

AND WHEREAS the purpose of this Agreement is to update and amend the Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement to include specific reference to the plans accepted by the Municipality (the "Accepted Plans") for completion of the realignment of Lamont Creek (the "Works");

AND WHEREAS subsection 51(26) of the Planning Act permits the registration of this Agreement against the Lands to which it applies and provides that the Municipality may enforce the terms and conditions of this Agreement against the Owner and any subsequent owners of the Lands;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration covenants hereinafter expressed and other good and valuable consideration, the Parties hereto covenant and agree one with the other as follows:

PART I

DEFINITIONS AND BASIS OF AGREEMENT

1.1 Definitions

In this Agreement, including the recitals, the terms used shall have the meanings as provided in the Definitions set out in the Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed.

All other capitalized terms shall have the meanings ascribed to them in this Agreement.

1.2 Interpretation of Agreement

- (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (b) Unless the context otherwise requires, in this Agreement words importing the singular include the plural and vice versa and words importing a gender include all genders.
- (c) Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words "at the expense of the Owner" unless the context otherwise requires.
- (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (e) All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
- (f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
- (g) The Parties agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
- (h) All references to parts, sections, clauses, paragraphs and schedules unless otherwise specified are references to parts, sections, clauses, paragraphs and schedules of this Agreement.

- (i) The Conditions, the Municipality Standards and the Accepted Plans are incorporated into and form part this Agreement and shall have the same force and effect as if the information shown on them were contained in the body of this Agreement.

1.3 Administration of Agreement

This Agreement shall be administered on behalf of the Municipality by the Director of Public Works, unless another official of the Municipality is specifically referred to in this Agreement. Where under the terms of this Agreement, decisions, approvals, Notices and certificates are to be made, given or issued by the Municipality, such decisions, approvals, Notices and certificates shall be made, given or issued by the Director of Public Works or other official of the Municipality, in their sole and absolute discretion, acting reasonably.

1.4 Lands Affected

This Agreement applies to Lands and to the Works shown and described in the Accepted Plans which Works are being carried out on by the Owner on land owned by Municipality.

1.5 Joint Authors

Each Party acknowledges and agrees that it has participated in the drafting of this Agreement and that no portion of this Agreement shall be interpreted less favorably to either Party because that Party or its legal counsel was primarily responsible for the drafting of that portion.

1.6 Recitals

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

1.7 Scope of Agreement

This Agreement is an agreement within the meaning of and authorized by section 51(26) of the Planning Act. This Agreement shall define the obligations and duties of the Owner with respect to the subdivision, development and servicing of the Lands and, without limiting the generality of the foregoing, shall include the design, installation, repair and maintenance of the Works to be provided and payments required to be made to the Municipality and such other matters as may be more specifically set out herein.

PART II

GENERAL REQUIREMENTS

2.1 Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement - Amending Agreement #1 Lamont Creek Realignment Works

The Owner agrees that the terms of the Original Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement will continue to be binding upon the Parties to that agreement except to the extent as specifically amended and updated pursuant to the terms of this Agreement.

2.2 Engineers

Wherever, under the terms of this Agreement and the Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement, the Owner is required to design and install any

Works, the Owner shall retain competent engineers registered with the Professional Engineers of Ontario (the Engineer(s)) to carry out all the necessary engineering requirements for the subdivision, development and servicing of the Lands in accordance with this Agreement and the Subdivision Agreement.

The Engineers shall be retained at all times until all of the requirements of this Agreement and the Subdivision Agreement have been complied with to the satisfaction of the Municipality. In the event, for whatever reason, an Engineer ceases to provide the consulting services required by this Agreement to the Owner, the Owner shall immediately cease all operations which that Engineer was responsible for until the Owner retains a replacement Engineer approved by the Municipality, which approval shall not be unreasonably withheld.

The Owner shall provide an executed copy of this Agreement and a copy of the Municipality Standards to each of the Engineers and obtain and provide to the Municipality a written acknowledgement from each of the Engineers that they have received copies of these documents.

The Owner's agreements or contracts with the Engineers shall require the Engineers to provide the following consulting services to the satisfaction of the Municipality:

- (a) act as the Owner's technical representative in all matters pertaining to the design, installation and maintenance of the Works;
- (b) prepare all studies and reports required by the Municipality for the Works, design the Works in strict conformity to the Municipality Standards, and prepare, sign, and seal all required plans, drawings and specifications for the Works which shall include certificates from the Engineer to the effect that all required plans, drawings and specifications are in conformity to the Overall Grading Plan;
- (c) when applicable, prepare all necessary tender documents and contracts for the installation of the Works;
- (d) obtain, in conjunction with the Municipality or its agents, the necessary approvals for the installation of the Works from any required Government Authority;
- (e) provide, to the satisfaction of the Municipality, full time resident field inspection at the site by an engineer or other qualified person, contract administration and certification of installation of the Works to the satisfaction of the Municipality. The Municipality may, where reasonably necessary, require, the Owner to provide an additional full time resident engineer or other qualified person at the site in furtherance of the Owner's obligation aforesaid;
- (f) obtain all records of construction of the Works, deposit with the Municipality signed and sealed "As Recorded" plans of all the Works, and an electronic version of these same "As Recorded" plans all in accordance with the Municipality Standards, for the review and approval of the Municipality;
- (g) maintain on site an up-to-date red-lined "As Recorded" drawing set available for inspection and review by the Municipality during normal business hours or while the Contractor is on site;
- (h) provide to the Municipality, as and when required, executed copies of any or all contracts or subcontracts or both entered into by or on behalf of the Owner for the construction of any or all of the Works, together with any or all of the following contract documentation:

- (i) certificates of the substantial performance given pursuant to the provisions of the Construction Act;
 - (ii) particulars of publication of the certificate of the substantial performance; and
 - (iii) copies of final payment certificates or equivalent documentation of actual incurred costs.
- (i) certify to the Municipality that there are no lien claims relating to any of the completed Works as and when the Owner requests the Municipality to reduce the Security or accept or assume the Works; and
 - (j) provide to the Municipality all of the other certificates required to be provided by this Agreement.

The Owner shall, within twenty (20) Business Days of receipt by the Owner of a Notice from the Municipality requiring it to do so, replace any Engineer with a replacement Engineer if the Municipality, in its sole and absolute discretion and acting reasonably, determines that the Engineer to be replaced is not providing the foregoing consulting services required by this section to the satisfaction of the Municipality.

2.3 Municipal Standards

All Works required to be designed, installed, provided and maintained pursuant to this Agreement and the Subdivision Agreement shall be designed, installed, provided and maintained in strict accordance with the Municipal Standards. By the execution of this Agreement the Owner acknowledges having received a copy of the Municipal Standards. All submissions to the Municipality shall be made in accordance with the Municipal Standards.

2.4 Changes to the Municipal Standards

Despite anything contained in this Agreement, including the acceptance of the Accepted Plans, if the Municipality or any Government Authority changes or causes changes to any of the Municipal Standards for any of the Works which the Owner is required to install before the particular Works are installed the Owner shall, at its own expense, if required by Notice given by the Municipality redesign and install the particular Works referred to in the Notice in accordance with the new Municipal Standards.

2.5 Accepted Plans

The "Acceptance for Construction" of the Accepted Plans shall not absolve the Owner and the Engineers of the responsibility for errors in and or omissions from the Accepted Plans.

2.6 Lamont Creek Realignment Works

The Owner shall proceed to complete the Works in accordance with the Accepted Plans set out in Schedule "B" to this Agreement.

PART III

CONSTRUCTION REQUIREMENTS

3.1 Construction of the Works

- (a) The Owner shall commence the construction of the Works shown on the Accepted Plans immediately following execution and registration of this Agreement on title to the Lands.
- (b) The Owner shall proceed to complete the Works in a timely manner in accordance with the timelines agreed to with the Municipality acting reasonably.

3.2 Amendments to the Accepted Plans

All the Works shall be installed and maintained in accordance with the Accepted Plans, except where the Municipality consents in writing to an amendment to the Accepted Plans.

In the event any Accepted Plan is subsequently amended, such plan or plans, when signed and stamped "Accepted for Construction" by the Municipality, shall be deemed to be Accepted Plans within the meaning of this Agreement and all the provisions of this Agreement shall apply to them.

3.3 Existing Services

The Owner shall repair any damage to any existing Municipality, County or provincial services, works or facilities, whether assumed by the Municipality or otherwise, caused by the installation of the Works. Without limiting the generality of the foregoing or limiting the liability of the Owner, should there be a breach of this provision; the Owner shall repair the existing municipal, County or provincial services upon being given Notice by the Municipality to do so. A failure by the Owner to repair or rectify such damage to existing municipal services constitutes a Default.

3.4 Inspection by Municipality

- (a) The Municipality may inspect the installation of the Works and shall have the power to stop any work in the event that in its opinion the work is not being performed in accordance with the requirements of this Agreement or being performed a manner that may result in a completed installation or construction that would not be satisfactory to the Municipality.
- (b) The Owner agrees that the Municipality, its employees, agents and contractors or any other authorized persons may enter upon the Lands and inspect the construction under any contract, but such inspection shall in no way relieve the Owner from its responsibility to inspect the said construction itself. If the installation of the Works is not, in the opinion of the Municipality being carried out in accordance with the provisions of this Agreement or in accordance with accepted engineering or landscaping practices, the Municipality may issue instructions to the Owner and/or to the Engineers to take such steps as may be deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be given by Notice or may be verbal, in which case the Municipality shall confirm them by Notice within forty-eight (48) hours. In the event that neither the Owner nor the Engineer is present at the site of the Works to receive such verbal instructions, the Municipality may instruct the contractor(s) to cease work forthwith.

3.6 Additional Tests

The Owner acknowledges and agrees that the Municipality may conduct or require the Owner to conduct, at the expense of the Owner, any tests that the Municipality considers necessary to satisfy itself as to the proper installation of the Works.

3.7 Municipality May Repair Works

In the event that the Owner fails to keep any of the Works in a proper state of repair as required by this Agreement, the Municipality may upon five (5) Business Days' Notice, enter upon the Lands and make such repairs as are necessary at the Owner's expense. The Owner shall pay to the Municipality, within twenty (20) Business Days of receipt by the Owner of a Notice demanding payment, all costs of the work incurred in making the said repairs as determined by the Municipality.

3.8 Applicable Laws

- (a) In installing and maintaining the Works, the Owner shall comply with all statutes, laws, by-laws, regulations, ordinances, orders and requirements of all Government Authorities having jurisdiction at any time or from time to time in force. Without limiting the foregoing, the Owner agrees to comply with, and cause to be complied with, the provisions of the Occupational Health and Safety Act, the Environmental Protection Act and the Ontario Water Resources Act and any regulations, policies and guidelines relating thereto, including all obligations of the constructor and employer under the Occupational Health and Safety Act and regulations as applicable, and any obligation to obtain any approval or permit required under the Environmental Protection Act or the Ontario Water Resources Act or any regulations, policies and guidelines relating thereto. The Owner further agrees to handle and dispose of all materials in accordance with the foregoing legislation.
- (b) The Owner shall do, cause to be done or refrain from doing any act or thing as directed by the Municipality if at any time the Municipality considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of any applicable laws above. If the Owner fails to comply with such direction, the Municipality may take action to rectify the situation at the expense of the Owner and in this regard the Municipality also shall be entitled to draw upon the Security.
- (c) Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any Government Authority.

3.9 Damage and Debris

The Owner covenants and agrees:

- (a) that all Municipal Lands that may be used by the Owner or parties employed by the Owner or others during the installation and maintenance of the Works, as well as all buildings and structures on the Lands, shall be kept in a good and usable repair and condition and if, in the sole opinion of the Municipality, such Municipal Lands and buildings and structures are damaged in any way by the Owner or parties employed by the Owner, such Municipal Lands and buildings and structures, will be repaired or restored immediately to the satisfaction of the Municipality.

- (b) not to foul any public highways outside the limits of the area required from completion of the Works as shown in the Accepted Plans, including tracking of mud or other materials thereon and further agrees to provide the necessary persons and equipment to be available on reasonable notice at all times to keep such highways clean and that all trucks making deliveries to or taking materials from the Lands shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish, or debris on the abutting highways and streets;
- (c) not to allow and to restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on the Municipal Lands and private land.
- (d) to clear construction related debris and garbage from the Municipal Lands and any private land if so requested by Notice given by the Municipality and that the Municipality shall have the authority to remove such debris and garbage at the cost of the Owner if the Owner fails to do so within forty-eight (48) hours of being advised to do so;
- (e) that, if in the opinion of the Municipality, the requirements of this Section 3.9 are not complied with, the Municipality will do the work as required by the Municipality at the Owner's expense. The Owner shall pay to the Municipality, within twenty (20) Business Days of receipt by the Owner of a Notice demanding payment, all costs of the work incurred by the Municipality as determined by the Municipality.

PART VI

FINANCIAL ARRANGEMENTS AND INSURANCE

4.1 Fees and Deposits

The Owner shall pay to the Municipality, upon execution of this Agreement, the payments, fees, charges and deposits as set out in Schedule "C".

4.2 Disbursement and Expenses

In addition to the fees referred to in Section 4.1, the Owner shall pay to the Municipality, within twenty (20) Business Days of receipt of a Notice demanding payment, the full amount of any additional costs, expenses and disbursements as may be or are incurred by the Municipality in connection with the preparation, administration and enforcement of this Agreement, including, without limiting the generality of the foregoing, the Municipality's legal costs and the costs of engineers or other consultants retained by the Municipality in connection with this Agreement (the "Agreement Costs"). Failure to pay such Agreement Costs shall constitute a Default and the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify the Default.

4.3 Security

- (a) The Parties agree and acknowledge that securities for the Works have been previously secured under the original Subdivision Pre-Servicing & Mowat Street Road Improvement Works Agreement.
- (b) The Owner acknowledges that upon the transfer of ownership of any of the Lands, the Municipality will not return any letter of credit or cash deposit required under this

Agreement until the new Owner files a substitute letter of credit or deposits cash or a certified cheque to be cashed in the required amounts with the Municipality.

4.4 Owner in Default

- (a) The Owner agrees that the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify any Default.
- (b) If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment, such failure constitutes a Default and the Treasurer shall be entitled to draw upon and use all or a part the Security to rectify the Default and make the payment, together with the interest thereon, to the Municipality.
- (c) If, in the sole and absolute opinion of the Municipality, the Owner is in Default, other than a Default referred to in Subsection 4.4(b), the Municipality, except in cases of emergencies, shall give Notice to the Owner of the Default and require the Owner to rectify the Default. If the Default is not rectified within Twenty (20) Business Days after receipt by the Owner of such Notice or within such time period as may be designated in the Notice by the Municipality, then
 - (i) the Municipality shall have full authority and power immediately to purchase such materials, tools and machinery and to employ such contractors or workmen as in the opinion of the Municipality are required for the proper rectification of the Default, to enter upon the Lands and to do all such work and things, including the installation of Works, as are necessary to rectify the Default to the satisfaction of the Municipality, at the cost and expense of the Owner. In cases of emergencies, such work may be done without prior Notice but the Owner shall be notified forthwith. The cost of such work will be calculated by the Municipality, whose decision shall be final. It is understood and agreed that such costs shall include a management fee of fifteen per cent (15%) of the cost of the labour, materials, tools, machinery, and applicable taxes; and
 - (ii) the Treasurer may, at any time draw on and use all or part of the Security to pay the cost, as calculated by the Municipality, of any works or things, including the installation of Works, done by the Municipality pursuant to the provisions of this section to rectify the Default.
- (d) The Owner agrees that any entry on the Lands and any work done by the Municipality pursuant to the provisions of this section shall not be a Preliminary Acceptance and/or Final Acceptance of the Works in accordance with the Subdivision Agreement by the Municipality and the acceptance of any liability in connection therewith nor a release of the Owner from any of its obligations under this Agreement.

4.5 Default of Payment

If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment and no Security is available or the Security is insufficient to make the payment, the Owner agrees that such payment, together with interest thereon, shall be added to the tax rolls for the Lands and collected in like manner as taxes in accordance with Section 446 of the Municipal Act, 2001.

4.6 Interest on Payment Demands

If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment such failure constitutes a Default and such payment shall then bear interest from the date of the Default at the same interest rate as the Municipality charges on tax arrears.

4.7 General Liability Insurance Policy

(a) Prior to the execution of this Agreement and commencing any work on the Lands, the Owner shall take out and keep in full force and effect until Final Acceptance of all of the Works, at its sole cost and expense, the following minimum insurance:

- (i) Commercial General Liability insurance applying to all operations of the Owner which shall include coverage for bodily injury liability, property damage liability, products and completed operations liability, contractor's protective liability, contractual liability, and non-owned automobile liability, contingent employers liability and employees as additionally insured.

This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and underpinning or from any other activity or work that may be done in connection with the development of the Plan.

This policy shall be written with limits of not less than FIVE MILLION DOLLARS (\$5,000,000) exclusive of interest or costs, per occurrence and shall include the Municipality and R.J. Burnside, as the Municipality's Engineer, as an additional insured;

This policy shall provide primary insurance coverage and not excess to any other insurance available to the Municipality; and

- (iii) Automobile Liability (Owned and/or Leased Vehicles) insurance with an inclusive limit of liability of not less than TWO MILLION DOLLARS (\$2,000,000) exclusive of interest or costs, per occurrence for loss or damage resulting from bodily injury to or death of one or more persons and for loss or damage to property. This policy must cover all vehicles owned, leased or operated by or on behalf of the insured; and
 - (iv) Adequate liability insurance coverage for all Works located on Municipally Owned Lands to the satisfaction of the Municipality. A copy of a Certificate of Insurance from the Owner's insurer satisfactory to the Municipality shall be provided to the Municipality prior to commencement of any Works.
- (b) These policies shall not be terminated, cancelled, or materially altered unless written notice, by registered mail, of such termination, cancellation, or material alteration is given by the insurers to the Municipality at least sixty (60) days before the effective date thereof.
- (c) The premiums on these policies must be paid initially for a period of one year and the policies shall be renewed for further one-year periods until all the Works required under this Agreement are installed and assumed by the Municipality. If required by the Municipality, the Owner shall prove to the satisfaction of the Municipality that all

premiums on these policies have been paid and that all insurance is in full force and effect.

- (d) The Owner shall deliver with this Agreement (if not previously delivered) certified copies of these policies of insurance or a certificate of insurance setting out the essential terms and conditions of insurance, the form and content of which shall be satisfactory to the Municipality.
- (e) The Owner shall file a renewal certificate with the Municipality not later than one (1) month before the expiry date of any policy provided pursuant to this Agreement, until the Municipality has indicated in writing that the policy need not continue in force any longer. In the event that such renewal certificate is not received, the Municipality shall be entitled to either renew the policy at the expense of the Owner or to order that all work on the Lands cease until the policy is renewed.
- (f) These policies shall provide for cross-liability and severability of interest protecting the Municipality against claims by the Owner as it were separately insured and providing that the Municipality shall be insured notwithstanding any breach of any condition in the policy by any other insured.
- (g) In Sections 4.7, 4.8 and 4.9, the term policy or policies includes a policy or policies of insurance provided by the Owner's contractors.

4.8 No Relief

The issuance of such policies of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which the Owner is or may be liable under this Agreement or at law.

4.9 Notice of Cancellation

If the Municipality receives notice from the insurer that it has cancelled or refused to renew the insurance, or that it intends to do so, or if the Municipality otherwise determines that the insurance has lapsed or is about to lapse without renewal or replacement, the Municipality may, on Notice to the Owner and at the sole cost and expense of the Owner, obtain insurance in accordance with this section. In such circumstances, the Municipality shall be entitled to obtain new insurance or add the necessary insurance coverage to the Municipality's blanket insurance. The Owner shall forthwith, upon receipt of Notice thereof from the Municipality, reimburse the Municipality for the cost of such insurance payable as noted above. In addition, the Municipality shall, at its sole discretion and option, be entitled to draw upon any Security posted under this Agreement to cover the costs of the insurance.

PART V

ADMINISTRATION

5.1 Indemnity and Release

The Owner shall indemnify and save completely harmless the Municipality and its elected officials, officers, agents, contractors and employees from and against all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with a Default, the design, installation or operation of any of the Works required under this Agreement, the maintenance and repair or lack of maintenance and repair of such Works by the Owner pursuant to the terms of this Agreement or any defect in workmanship or material until Final Approval.

The Owner hereby releases the Municipality and its elected officials, officers, agents, contractors and employees from all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with the installation of the Works.

5.2 Notices

- (a) Any notice to be given by the Municipality to the Owner/the Builder with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered, emailed, or sent by facsimile transmission to or delivered to:

To the Owner:

**The Estates of Clearview Inc.
16 Melanie Drive, Suite 101
Brampton ON L6T 4K9
Attention: Sean Ford
Email: SFord@dancor.ca
Fax: 905-790-2292**

To the Builder:

**MacPherson Builders (Stayner) Limited
5525 Eglinton Avenue West, Suite 128
Etobicoke ON M9C 5K5
Attention: Joseph Mirabella
Email: joseph@macphersonbuilders.com
Fax: 905-882-8001**

- (b) Any notice to be given by the Owner to the Municipality with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered, emailed, or sent by facsimile transmission to or delivered to:

**The Corporation of the Township of Clearview
217 Gideon Street
Stayner, Ontario
L0M 1S0
Attn: Clerk
Email: shelmkay@clearview.ca
Fax: 705-428-0288**

or such other address of which the Municipality has by Notice given the Owner and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.

- (c) Any Notice shall be deemed to have been given to and received by the party to which it is addressed;
- (i) if delivered, on the date of delivery;
- (ii) if mailed or emailed, on the fifth day after mailing thereof; or

- (iii) if faxed, on the date of faxing, as confirmed

5.3 Waiver

The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights at law to enforce this Agreement.

5.4 Extension of Time

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Municipality, 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 of this Agreement notwithstanding any extension of any time limit.

5.5 Enforcement

The Owner acknowledges that the Municipality, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement and recover any amounts or costs owing to it in accordance with Section 442 of the Municipal Act as amended from time to time or any successor thereto.

5.6 Governing Law

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

5.7 Registration of Agreement

The Owner agrees that this Agreement may be registered upon the title to the Lands at the Owner's expense and the Owner agrees, at its own expense to obtain and register such documentation from its mortgagees or encumbrances as may be deemed necessary by the Municipality to postpone and subordinate their interests in the Lands to the Municipality to the extent of this Agreement.

5.8 Successors & Assigns

It is hereby agreed by and between the Parties hereto that this Agreement shall be enforceable by and against the Parties hereto, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Owner herein contained shall run with the Lands.

5.9 No Fettering of Discretion

Despite any other provisions of this Agreement, the Parties hereto agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the Municipal Council which authorized the execution of this Agreement or any of its successor councils in the exercise of any of Council's discretionary powers, duties or authorities. The Owner hereby acknowledges that it will not obtain any advantageous planning or other

consideration or treatment by virtue of it having entered into this Agreement or by virtue of the existence of this Agreement.

LIST OF SCHEDULES

The following schedules are attached hereto and form part of this Agreement:

SCHEDULE "A" being a description of the Lands;

SCHEDULE "B" being a description of the Accepted Plans for the Works

SCHEDULE "C" being a list of Fees and Securities

IN WITNESS WHEREOF the parties hereto have executed this Agreement having affixed their respective seals under the hands of their proper officers duly authorized in that behalf as of the date above first written.

SIGNED, SEALED AND DELIVERED

Dated as of the date above first-written.

THE ESTATES OF CLEARVIEW INC.

Danny Sanita, President
I/We have authority to bind the Corporation

MACPHERSON BUILDERS (STAYNER) LIMITED

Russell Higgins, Authorized Signing Officer
I/We have authority to bind the Corporation

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

Doug Measures, Mayor

Sasha Helmkey, Clerk
We have authority to bind the Corporation

SCHEDULE "A"

This Schedule forms part of Amending Agreement #1 Lamont Creek Realignment Works between

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

- And -

THE ESTATES OF CLEARVIEW INC.

- And -

MACPHERSON BUILDERS (STAYNER) LIMITED

DESCRIPTION OF THE LANDS PRESENTLY OWNED BY THE ESTATES OF CLEARVIEW INC.:

FIRSTLY:

PIN 58238-0194 LT

PART SECOND RANGE PLAN 197 NOTTAWASAGA; CLOSED BY BYLAW 19-78 AS IN SC1618855; SUBJECT TO AN EASEMENT IN GROSS OVER PART 7 51R44070 AS IN SC1988254; TOWNSHIP OF CLEARVIEW

SECONDLY:

PIN 58238-0196 LT

PART LT 25 CONCESSION 1 NOTTAWASAGA PT 1 51R41137, SAVE AND EXCEPT PLAN 51M1250; SUBJECT TO AN EASEMENT IN GROSS OVER PART 9 51R44070 AS IN SC1988254; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, 51R44374 AS IN SC2035003; TOWNSHIP OF CLEARVIEW

THIRDLY:

PIN 58238-0198 LT

PART UNNAMED ROAD PLAN 197 NOTTAWASAGA BETWEEN LOTS 3 & 4 N/S FIRST RANGE PART 5 51R41138, SAVE AND EXCEPT PLAN 51M1250; CLOSED BY BYLAW 19-78 AS IN SC1618855; TOWNSHIP OF CLEARVIEW

FOURTHLY:

PIN 58238-0200 LT

PARKLOT 4 N/S FIRST RANGE PLAN 197 NOTTAWASAGA PT 3 51R41137, SAVE AND EXCEPT PLAN 51M1250; SUBJECT TO AN EASEMENT IN GROSS OVER PART 8 51R44070 AS IN SC1988254; TOWNSHIP OF CLEARVIEW

FIFTHLY:

PIN 58238-0202 LT

PART PARKLOT 2, PARKLOTS 3 & 4 N/S OF FIRST RANGE PLAN 197 NOTTAWASAGA;
TOWNSHIP OF CLEARVIEW

SIXTHLY:

PIN 58238-0204 LT

PART PARKLOT 1, PARKLOTS 2 & 3 N/S SECOND RANGE PLAN 197 NOTTAWASAGA;
SUBJECT TO AN EASEMENT IN GROSS OVER PART 3 51R44070 AS IN SC1988251;
SUBJECT TO AN EASEMENT IN GROSS OVER PART 2 51R44070 AS IN SC1988252;
SUBJECT TO AN EASEMENT IN GROSS OVER PART 6 51R44070 AS IN SC1988253;
TOWNSHIP OF CLEARVIEW

SCHEDULE “B”

This Schedule forms part of Amending Agreement #1 Lamont Creek Realignment Works between

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

- And -

THE ESTATES OF CLEARVIEW INC.

- And -

MACPHERSON BUILDERS (STAYNER) LIMITED

ACCEPTED PLANS FOR THE LAMONT CREEK REALIGNMENT WORKS

Plan Name	Designer	DWG. No.	Date/ Rev.
Cover Page	Geomorphix	Cover	2025-02-10
Plan and Profile	Geomorphix	GEO-1	2025-02-10
Cross Sections	Geomorphix	XS-1	2025-02-10
Channel Details	Geomorphix	DET-1	2025-02-10
Phasing - Erosion and Sediment Control	Geomorphix	PESC-1	2025-02-10
Site Restoration	Geomorphix	RES-1	2025-02-10
Habitat Offsetting Plan	Geomorphix	GEO-2	2025-02-10
Habitat Offsetting Details	Geomorphix	DET-2	2025-02-10

SCHEDULE "C"

**This Schedule forms part of the Lamont Creek Realignment Works Agreement
between**

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

- And -

THE ESTATES OF CLEARVIEW INC.

- And -

MACPHERSON BUILDERS (STAYNER) LIMITED

FEES AND SECURITIES

Fees

- | | |
|--|-------------|
| 1. Agreement Preparation Fee (Section 4.1) | \$ 2,000.00 |
|--|-------------|

Securities & Deposits

Estimated Cost for Works

- | | |
|--|---------------------------------------|
| 1. Agreement Deposit (Section 4.1) | \$ 1,000.00 |
| 2. Lamont Creek Realignment Works (Section 2.11)
secured) | \$ 280,000.00 (previously
secured) |