

THIS DONATION AGREEMENT made as of this 10th day of July, 2025

BETWEEN:

The Corporation of the County of Grey

(hereinafter called the "County")

-And-

The Corporation of the Municipality of West Grey

(hereinafter called "West Grey")

(each being a "Party" and together being the "Parties")

WHEREAS the County is the registered owner of certain lands situated in the Municipality of West Grey (geographic Town of Durham) in the County of Grey shown as Parts 2, 3, 6, 7, 8, 10 and 11 on Plan 16R-11435 (the "**County Lands**");

AND WHEREAS the County is in the process of developing a portion of the County Lands for the redevelopment of Rockwood Terrace, a long term care home in the Town of Durham which will be operated by the County (the "**Rockwood Terrace Development**");

AND WHEREAS in support of the Rockwood Terrace Development, the Parties entered into an Infrastructure, Responsibility and Cost Sharing Agreement dated September 28, 2023 (the "**Infrastructure, Responsibility and Cost Sharing Agreement**"), wherein pursuant to section 5.5 (a) West Grey agreed to undertake an Environmental Assessment to determine if there was a preferred location within the County Lands to establish a municipal well;

AND WHEREAS the Parties entered into an Access Agreement dated October 17, 2024 (the "**Access Agreement**") to permit West Grey to carry out certain works on the County Lands and perform certain investigations to allow West Grey to determine if a portion of the County Lands is suitable for establishing a municipal well;

AND WHEREAS pursuant to section 5.5 (b) of the Infrastructure, Responsibility and Cost Sharing Agreement, the County agreed that, provided the preferred location for the municipal well did not impact the Rockwood Terrace Development, the County would bring forward a recommendation to the Council of Grey to convey a portion of land, identified by West Grey as the preferred location for the proposed municipal well, to West Grey, for the nominal consideration of two dollars, in exchange for the conveyance of the Rock Street turning bulb;

AND WHEREAS the Parties acknowledge and agree that West Grey transferred the Rock Street turning bulb to the County on July 23, 2024 by way of a transfer registered as Instrument GY260474;

AND WHEREAS West Grey has determined that the preferred location for the municipal well is shown as Part 1 on Plan 16R-12196 being more particularly described in Schedule "A" hereto (the "**Property**") and hereby requests that the County transfer the Property to West Grey in support of its use as a municipal well;

AND WHEREAS the County hereby agrees to donate the Property to West Grey subject to an easement in favour of the County in respect of the Hydro Works, Stormwater Drainage and Construction, Maintenance and Repair access required to support the Rockwood Terrace Development;

AND WHEREAS West Grey hereby offers to acquire the Property from the County on the terms and conditions hereinafter set out;

NOW THEREFORE in consideration of the mutual terms and covenants hereinafter set out and other good and valuable consideration (the receipt and sufficiency of which are acknowledged) the Parties agree as follows:

1.0 Definitions

1.1 In this agreement, the following terms and expressions have the following meanings:

- a) **"Acceptance Date"** means the date of this Agreement;
- b) **"Agreement"** means this Donation Agreement and all Schedules forming part of the Agreement;
- c) **"Business Day"** means a day on which the County's administrative office in Owen Sound is open for the conduct of administrative business;
- d) **"Closing"** or **"Closing Date"** means the date which is thirty (30) Business Days after the Acceptance Date, unless otherwise agreed to in writing between the Parties;
- e) **"Construction, Maintenance, Repair Easement"** means the easement described in Article 8;
- f) **"Hydro Easement"** means the hydro easement described in Article 8;
- g) **"Hydro Works"** means the constructed works located on, over and/or under the Property which are designed to provide electricity supply to the Rockwood Terrace Development, said works are more particularly described in Schedule "B";
- h) **"Permanent Easements"** means collectively referring to the Construction, Maintenance, Repair Easement, the Stormwater Drainage Easement and the Hydro Easement;
- i) **"Purchase Price"** means the total consideration as set out in Section 3.1 of this Agreement;
- j) **"Plan 16R-11435"** means Plan 16R-11435, attached hereto as Schedule "D";
- k) **"Plan 16R-12196"** means Plan 16R-12196, attached hereto as Schedule "E";
- l) **"Stormwater Drainage"** means the constructed works to carry subsurface and overland water flows over the Property more particularly described in Schedule "B";
"Stormwater Drainage Easement" means the easement described in Article 8;
- m) **"Temporary Access Easement Lands"** means Part 6 on Plan 16R-11435; and
- n) **"Temporary Easement"** means the easement described in Section 8.3;

1.2 The terms defined in the recitals above have the same meaning as if defined here at length.

1.3 The following documents (**"Schedules"**) are appended to this Agreement and are incorporated by reference as though contained in the body of this Agreement:

- a) Schedule "A" – The Property
- b) Schedule "B" – Retained Easement Terms
- c) Schedule "C" – Temporary Access Easement Terms
- d) Schedule "D" – Plan 16R-11435
- e) Schedule "E" – Plan 16R-12196

- 1.4 Unless expressly stated otherwise in a Schedule, wherever any term or condition, express or implied, of a Schedule conflicts or is at variance with any term or condition in the body of this agreement, such term or condition in the body of the Schedule prevails.

2.0 Purchase and Sale

- 2.1 Subject to the terms of this Agreement, the County agrees to transfer the Property to West Grey, subject to the Permanent Easements to be reserved to the County set out in Article 8 herein, and West Grey agrees to accept the same from the County on terms and conditions contained in this Agreement.

3.0 Purchase Price

- 3.1 The Purchase Price payable by West Grey to the County for the Property is Two Dollars (\$2.00) plus HST.
- 3.2 The County and West Grey agree that any and all fixtures, improvements, trees or shrubs within the Property are included in the Purchase Price. The County and West Grey agree that there are no items to be excluded from this transaction.
- 3.3 The County acknowledges receipt of the amount of One Dollar (\$1.00) as a deposit to be credited against the Purchase Price on Closing.
- 3.4 The balance of the Purchase Price shall be paid prior to 4:00 p.m. on the Closing Date, by West Grey to the County, by way of a cheque made payable to the County's solicitor or as they may direct.

4.0 Title Matters

- 4.1 West Grey acknowledges and agrees that:
- a) It has satisfied itself with respect to the applicable land use regulations and agrees to accept the Property subject to such existing zoning and other land use policies and regulations.
 - b) It shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property, except those that are in the possession or control of the County.
 - c) It shall accept the Property subject to any and all encumbrances which the Property is or may be subject to;
 - d) It shall acquire the Property in an "As Is Where Is" basis, including improvements, structures, trees and shrubs, and as further set out below.
- 4.2 In agreeing to purchase the Property in an "As Is Where Is" basis, West Grey acknowledges and agrees that:
- a) The County makes no representations to West Grey as to the zoning of the Property or any improvements or structures, whether for the intended use or otherwise.
 - b) The County shall have no responsibility whatsoever to remedy any defect, comply with any work order or complete any unfinished work.

- c) The County makes no representations or warranties whatsoever, either expressed or implied, as to the existence or non-existence of any asbestos, PCB's, radioactive substances or any other substances, liquids or materials or contaminants which may be hazardous or toxic or require removal and disposal pursuant to the provisions of any applicable legislation (all of the foregoing being hereinafter called "Environmental Matters"), and that West Grey is relying upon its own investigations, if any, in this regard.
 - d) West Grey acknowledges having inspected the Property prior to the Closing Date and is relying on its own due diligence as to the condition of the Property and improvements.
- 4.3 West Grey covenants and agrees that, effective as of the Closing Date, West Grey shall forever release the County and its successors and assigns from and against all losses, damages, claims, fines, liabilities, actions, suits, in any way arising, directly or indirectly by reason of the presence on the Property of any contaminant, pollutant, dangerous substance wastes (liquid or solid) or toxic substance or the escape thereof in the air or onto adjacent properties or property including rivers, streams, and ground waters, (collectively the "Substances"), whether produced, created or generated before or after the Closing Date and such indemnity shall include any order, decree, judgment or demand under law, regulation or order applicable thereto. West Grey, its successors and assigns, hereby agree to indemnify and hold harmless the County, its successors and assigns from any and all costs, claims demands, liabilities and damages arising out of or in any way connected with any state, quality or condition in, or of, the Property, including, but not limited to, the existence of any Substances existing as of, or prior to the Closing Date and thereafter, whether environmental or otherwise, whether imposed by law, equity or any federal, provincial or municipal law, rules or regulations or by any regulatory authority. The provisions of this section shall survive closing and any subsequent sale or transfer of West Grey's interest in the Property.

5.0 HST Registrant

- 5.1 On Closing West Grey shall assess and remit to the appropriate governmental authority all HST which is payable in connection with the transfer of the Property. West Grey confirms it is registered for the purposes of HST.

6.0 Risk

- 6.1 From and including the Closing Date, the Property shall be entirely at the risk of West Grey and West Grey shall accept and assume all responsibilities and liabilities arising out of or in any way connected with the Property whether they arose before, on or after the Closing Date and, without being limited by the foregoing, include any state, nature, quality or condition in, on under or near the Property existing on Closing, whenever and however arising, whether known or unknown environmental or otherwise, and whether such responsibilities and liabilities are imposed by law, equity or any Authority.

7.0 Representations and Warranties

- 7.1 The County hereby represents, warrants and agrees to and with West Grey subject to the limitation, if any, expressed below as follows:
- a) The County is now and at the Closing Date will be a municipal corporation existing in good standing under the laws of the Province of Ontario with full

corporate power, authority and capacity to accept this Agreement and to carry out the transaction contemplated under this Agreement.

- b) The County will at the Closing Date have full and absolute right and power to convey and transfer to West Grey or cause to be conveyed or transferred to West Grey title to the Property.

7.2 West Grey hereby represents, warrants and agrees to and with the County subject to the limitation, if any, expressed below as follows:

- a) West Grey is now and at the Closing Date will be a municipal corporation existing in good standing under the laws of the Province of Ontario with full corporate power, authority and capacity to accept this Agreement and to carry out the transaction contemplated under this Agreement.
- b) West Grey acknowledges having the opportunity to inspect the Property prior to entering into this Agreement and understands that upon approval of this Agreement by County Council, it shall be a binding agreement between the County and West Grey.
- c) West Grey acknowledges that any material removed from the Property, whether or not the same may be contaminated, shall be removed and, if necessary, treated, at its sole expense.
- d) West Grey represents and warrants to the County that, upon Closing and the transfers as set out in section 2.1, it is fully satisfied as to all matters in respect of the suitability of the Property for the development and construction of the proposed municipal well.

7.3 The County and West Grey agree that there is no condition, express or implied, representation or warranty of any kind that the future intended use of the Property by West Grey is or will be lawful.

8.0 Easements

8.1 On Closing the County shall reserve and register the Permanent Easements over and across the Property to permit the following:

- a) unimpeded overland flows from the Stormwater Drainage for such water flows, and to retain its right to continued access and use of the Property as may be necessary to complete the Rockwood Terrace Development, the particulars of which are set out in Schedule "B"; and
- b) installation of the Hydro Works, for connection to the Rockwood Terrace Development and all appurtenances or accessories as may be necessary to complete the Rockwood Terrace Development, the particulars of which are set out in Schedule "B".

8.2 West Grey acknowledges that the County may, in the future:

- a) require access to the Stormwater Drainage and may need to upgrade or implement new systems to manage stormwater;
- b) require access to the Hydro Works and may need to upgrade or implement new systems;
- c) require access to and use of the Property for the purpose of allowing its contractors sufficient working space to construct and maintain a retaining wall, west parking area and sidewalk which will be constructed on lands adjacent to the Property as part of the Rockwood Terrace Development.

The County agrees to consult West Grey prior to construction of any such improvement, and West Grey agrees to act reasonably to support such construction, and to grant to the County such further easements over the

Property as may be required for the purposes of such provided that doing so is not contrary to its best interests.

- 8.3 On Closing, the County shall grant and register the Temporary Easement over and across the Temporary Access Easement Lands for access to the Property. It is hereby acknowledged that at such time as West Grey formally assumes ownership of and declares the Temporary Access Easement Lands to be opened and dedicated as a public highway, the Temporary Easement will become null and void. The particulars of the Temporary Easement are set out in Schedule "C" hereto.

9.0 Closing

- 9.1 The transfer of the Property from the County to West Grey shall be completed by no later than the Closing Date, unless otherwise agreed to in writing between the Parties. The Closing Date may be accelerated or extended by mutual agreement between the Parties in writing.
- 9.2 On or prior to the Closing Date, the County shall deliver to West Grey and its solicitors, in trust, the following:
- a) Registrable transfer of land for the Property duly executed by the County;
 - b) A certificate of an officer of the County certifying that the County's representations and warranties contained in this Agreement remain true and accurate as of the Closing Date and that the County is not a non-resident within the meaning of the *Income Tax Act* (Canada);
 - c) Vacant possession of the Property, subject to all encumbrances as described in section 4.1;
 - d) A bill of sale with respect to chattels at the Property (if any);
 - e) Registrable easements for those Easements set out in Article 8 of this Agreement;
 - f) Such other documents as West Grey may reasonably require to complete the transaction.
- 9.3 On or prior to the Closing Date, West Grey shall deliver to the County and its solicitors, in trust, the following:
- a) The balance of the Purchase Price;
 - b) A certificate of an officer of West Grey certifying that West Grey's representations and warranties contained in this Agreement remain true and accurate as of the Closing Date;
 - c) Such other documents as the County may reasonably require to complete the transaction.
- 9.4 West Grey and the County acknowledge that the transfer of the Property and the registrations of the Permanent Easements and Temporary Easement shall be completed by electronic registration and that each of the Parties shall retain a lawyer to complete the transfers pursuant to electronic registration and that the delivery of documents and the release thereof may, at the lawyers' discretion: (a) not occur contemporaneously with the registrations of the transfers and other registrable documentation; and (b) be subject to conditions whereby the lawyer receiving documents and/or money will be required to hold them in trust and not release them except in accordance with the terms of a document registration agreement between the lawyers.

10.0 Preparation of Transfer/Deed and Easement Documents

- 10.1 The Transfer in respect of the Property and the Transfer of Easement in respect of the Permanent Easements and Temporary Easement will be prepared by the County save and except for the Affidavit of Residence and Value of the Consideration ("Land Transfer Tax Affidavit").

11.0 Financial Arrangements

- 11.1 West Grey shall be responsible for the payment of Land Transfer Tax and registration fees and any other taxes and fees payable in connection with the registration of the Transfer/Deed of the Property.
- 11.2 West Grey shall pay its own legal costs and registration costs. West Grey agrees to cover all reasonable costs and disbursements of the County's external legal counsel associated with this transfer.
- 11.3 West Grey shall be responsible for all costs associated with the preparation of a legal survey by Wilson – Ford Surveying & Engineering Ltd. which shall identify the location of the Property and the Permanent Easements.

12.0 Time

- 12.1 Time shall be in all respects of the essence hereof provided that the time for doing or completing any matter herein may be extended or abridged by an agreement in writing signed by the County and West Grey or by their respective solicitors who are hereby expressly appointed in this regard.

13.0 Covenants to Survive Closing

- 13.1 Notwithstanding any presumption to the contrary, all covenants, conditions, warranties and representations contained in this Agreement which by their nature either impliedly or expressly involve performance in any particular after the Closing Date or which cannot be ascertained to have been fully performed until after the Closing Date shall survive Closing.
- 13.2 Without limiting the generality of Section 13.1, the following provisions of this Agreement are expressly agreed to survive Closing:
- Articles 1.0, 4.0 to 8.0 inclusive, and, 11.0 to 17.0 inclusive, all in their entirety.

14.0 Notice

- 14.1 Any notice required to be given, served or delivered must be in writing and sent to the other Party at the address indicated below, or to such other address as may be designated by notice provided by either Party to the other.

For West Grey:

Jamie Eckenswiller, Clerk
402813 Grey Road 4
Durham, ON N0G 1R0
Fax Number: 519-369-5962
Email: clerk@westgrey.com

For the County:

County Clerk
County of Grey Administration Building

595 9th Avenue East
Owen Sound, ON N4K 3E3
Fax Number: 519-376-8998
E-mail: countyclerk@grey.ca

- 14.2 Any notice to be given by either Party to the other shall, in the absence of proof to the contrary, be deemed to have been received by the addressee:
- a) if delivered personally on a Business Day, then on the day of delivery;
 - b) if sent by prepaid registered post, then on the second day following the registration thereof;
 - c) if sent by ordinary mail, then on the fifth Business Day following the date on which it was mailed; or
 - d) if transmitted by facsimile or email on a Business Day, then on the day of sending, and if sent on a day other than a Business Day, then on the first Business Day following the day of sending, provided that if the sender knows or ought to have known that such transmission was not received or would not be received by its intended recipient, then it shall be deemed not to have been given.

15.0 Dispute Resolution

- 15.1 A dispute between the Parties relating to the interpretation or implementation of this Agreement will be addressed through good faith negotiation, with or without the assistance of a mediator.

16.0 Interpretation

- 16.1 Any reference in this agreement to gender includes all genders, and words importing the singular include the plural and vice versa.
- 16.2 The division of this agreement into articles and sections and the insertion of headings are for convenient reference only and are not to affect or otherwise be used in the construction or interpretation of this agreement.
- 16.3 All monetary amounts in this agreement, unless otherwise specifically indicated, are stated in Canadian currency.
- 16.4 Unless otherwise specifically indicated, any reference to a statute in this agreement refers to that statute and to the regulations made under that statute as at the date of this agreement and the closing date, as the same may, from time to time, be amended, re-enacted or replaced.

17.0 General

- 17.1 The determination by an arbitrator or court as to invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof and any such invalid or unenforceable provision shall be deemed to be severable.
- 17.2 This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the Province of Ontario and shall be treated in all respects as an Ontario contract.
- 17.3 None of the terms, conditions or provisions of this Agreement shall be held to have been changed, waived, varied, modified or altered by any act or statement of either Party, its respective agents, servants or employees unless done so in writing signed by both Parties.

- 17.4 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors, successors in title, and permitted assigns.
- 17.5 Neither Party may assign all or any part of this Agreement without the written approval of the other Party.
- 17.6 The failure or delay by a Party in enforcing, or insisting upon strict performance of, any provision of this agreement does not constitute a waiver of such provision or in any way affect the enforceability of this agreement (or any of its provisions) or deprive a Party of the right, at any time or from time to time, to enforce or insist upon strict performance of that provision or any other provision of this agreement. Any waiver by a Party of any provision of this agreement is effective only if in writing and signed by a duly authorized representative of such Party. No term, agreement, provision, obligation or condition of this Agreement shall be deemed to have been waived by any Party, unless such waiver is in writing and signed by the Parties.
- 17.7 No waiver of any provision of the Agreement shall be deemed to or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless expressly provided.
- 17.8 Each Party will, at the request of the other Party, execute and deliver such additional documents and other assurances and perform or cause to be performed such further and other acts or things as may be reasonably required to give effect to and carry out the intent of this agreement.
- 17.9 Except as otherwise expressly provided in this agreement, all costs and expenses incurred in connection with this agreement and the matters or transactions contemplated herein are to be paid by the Party incurring such costs and expenses. If this agreement is terminated, the obligation of each Party to pay its own costs and expenses will be subject to any rights of such Party arising from a breach of this agreement by the other Party or Parties.
- 17.10 When calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next Business Day.
- 17.11 This agreement constitutes the entire agreement and supersedes all prior agreements, understandings, negotiations and discussions relating to the subject matter thereof, whether oral or written save and except for the existing Infrastructure, Responsibility & Cost Sharing Agreement and the Access Agreement. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties relating to the subject matter hereof except as specifically set forth in this agreement. Neither Party has relied or is relying on any other information, discussions or understandings in entering into this agreement.
- 17.12 The Parties have participated jointly in the negotiation and drafting of this agreement. If an ambiguity or a question of intent or interpretation arises, this agreement is to be construed as if drafted jointly by the Parties. No presumption or burden of proof should arise in respect of any Party by virtue of the drafting or inclusion of any provision of this agreement.
- 17.13 This agreement may be executed in any number of counterparts, each of which is an original and all such executed counterparts taken together constitute a single document. Counterparts may be transmitted by fax or in electronically scanned form. Parties transmitting by fax or electronically will

also deliver the original counterpart to the other Party, but failure to do so does not invalidate this Agreement.

IN WITNESS WHEREOF THE PARTIES hereunto attested by the hands of the proper officers duly authorized in that behalf as of the day and year first written above.

The Corporation of the County of Grey

Andrea Matrosovs, Warden

Tara Warder, Clerk

The Corporation of the Municipality of West Grey

Kevin Eccles, Mayor

Jamie Eckenswiller, Director of Legislative Services/Clerk

SCHEDULE "A"

LEGAL DESCRIPTION OF THE PROPERTY

All those lands comprising of Part of Park Lot 9 North of South Street East Plan 500,
Municipality of West Grey being Part 1 on Plan 16R-12196, being part of the lands
presently bearing PIN 37320-0230 (LT)

SCHEDULE "B"

RETAINED EASEMENT TERMS

Dominant Lands:

Part of PIN 37320-0230 Part of Park Lot 9, 10 & 11 North of South Street East, Plan 500 Town of Durham, being Part 2 Plan 16R-11435; Municipality of West Grey, County of Grey

Servient Lands:

Part of PIN 37320-0230 Part of Lot 9 North of South Street East, Plan 500 Town of Durham, being Part 1 Plan 16R-12196; Municipality of West Grey, County of Grey

1. CONSTRUCTION, MAINTENANCE, REPAIR ETC.

Subject to a non-exclusive easement in perpetuity over, along, upon and through the Servient Lands for the purposes of completion of the construction and/or the inspection, maintenance, repair and/or replacement of any and all buildings, structures and site works on the Dominant Lands provided the use of the Servient Lands is not unreasonably and significantly impaired on account thereof. This easement does not restrict, impair or affect any right of future construction or use on or of any part of the Servient Lands which has the predominant right to occur despite the existence of this easement.

2. STORMWATER DRAINAGE

Subject to non-exclusive easements in perpetuity:

i. to lay down, construct, maintain, repair, replace, alter, enlarge, operate, use, and remove a system of above ground and below ground watercourses, sewers, drains, ditches, gabion stones and other drainage works for the passage of drainage water, together with such pipes, conduits, wires, above-ground accesses, manholes, catch basins, hydrants, service boxes and other appurtenances for every such purpose; and

ii. to allow the flow of surface and subsurface waters from any and all parts of the Dominant Lands to, upon, over, through, in, under and across any and all parts of the Servient Lands, including storm water flows to, upon, over, through, in, under and across any and all parts of the Servient Lands from any and all parts of the Dominant Lands together with an easement for ingress and egress by all means, including vehicles, in so far as a right of ingress and egress is necessary to the proper use of any other right granted herein.

3. HYDRO WORKS

i. Subject to a non-exclusive easement in perpetuity upon, over, in, under and across the Servient Lands for the purposes of constructing, installing, maintaining, inspecting, altering, repairing, replacing or reconstructing the Hydro Works, including but not limited to installation of a hydro pole, underground and/or overhead electrical lines, for connection to the Rockwood Terrace Development and all appurtenances or accessories;

ii. For every such purpose and for all purposes necessary or incidental to the exercise of the rights created by this easement, the County shall have access to the Hydro Works located on the Servient Tenement at all times by its servants, agents, contractors and subcontractors and its vehicles, supplies, machinery and equipment, subject to payment by the County of compensation for damage to the person entitled to such compensation caused by the construction, installation or maintenance of the Hydro Works;

GENERAL

In consideration of the transfer of the Servient Lands by the transferor (also known herein as the "Grantee") to the transferee (also known herein as the "Grantor"), the premises herein, and other good and valuable consideration now exchanged between the transferor and transferee, the receipt and sufficiency of which they hereby acknowledge, the transferor and transferee hereby agree as follows:

A. ENUREMENT

This agreement and the rights granted herein shall pass with and extend and be annexed to, and run with and bind the Servient Tenement, as servient tenement, and every part thereof and shall also bind the Grantor and the successors, assigns, legal representatives, lessees, sublessees and licensees of the Grantor, all successors in title to all or any portion of the Servient Tenement, and any other persons, firms, corporations or organizations having at any time any right of use, occupancy or possession of all or any portion of the Servient Tenement or of all or any portion of any existing or future building or buildings situate upon the Servient Tenement or any part thereof (all of which shall be deemed for the purposes of this Agreement to be included within the term "Grantor" as the context requires).

These presents and restrictions shall pass with, extend to, run with and benefit each and every part of the Dominant Tenement, as the dominant tenement, and shall also extend to and be enforceable by the Grantee and its successors and assigns who have acquired all or any portion of the Grantee's interest in the Dominant Tenement, so as to enure to each and every successor and assign of the Grantee deriving all or any portion of Grantee's interest in the Dominant Tenement (all of which shall be deemed for the purposes of this Agreement to be included within the term "Grantee" as the context requires).

B. GRANT NOT TO AFFECT POSSESSION

Nothing herein shall be construed as affecting the right of the Grantor to ownership in fee simple and possession of the Servient Tenement and the Grantor shall have the right to use and enjoy the Servient Tenement except to the extent that the use and enjoyment by the Grantor constitutes an unreasonable interference with the rights of the Grantee under this Agreement.

C. GRANTOR NOT TO CONSTRUCT UPON EASEMENT LANDS

The Grantor covenants and agrees not to hereafter erect or construct upon the Servient Tenement any building or structure, permanent or otherwise, nor hereafter plant or maintain or allow to be planted or maintained thereon, any trees, landscaping or other structure which would or could unreasonably prevent or hinder the rights of the Grantee under this Agreement. Nor shall the Grantor close in or alter the right of way herein granted, except for reasonable maintenance, without the prior written consent of the Grantee.

D. MISCELLANEOUS

If any provision of this agreement is determined by an arbitrator or a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be severed from this agreement and the remaining provisions will continue in full force and effect, without amendment.

The insertion of headings into this agreement are for convenience of reference only and do not form part of the agreement.

SCHEDULE "C"

Temporary Access Easement Terms

1. INGRESS AND EGRESS

Dominant Lands: Part of PIN 37320-0230 Part of Lot 9 North of South Street East, Plan 500 Town of Durham, being Part 1 Plan 16R-12196; Municipality of West Grey, County of Grey

Servient Lands: Part of PIN 37320-0230 Part of South Street East, Plan 500 Town of Durham, being Part 6 Plan 16R-11435; Municipality of West Grey, County of Grey

Subject to a non-exclusive easement in perpetuity for pedestrian and motor vehicle ingress and egress across over, along, upon and through the Servient Lands to and from the Dominant Lands including the right of ingress to and egress from the Dominant Lands by way of and through driveways, walkways and sidewalks connecting the Servient Lands to and from public roadways. The easement hereby granted shall be exercised only along areas constructed for and designated for motor vehicle laneways and pedestrian access routes as the case may be established by the owner of the Servient Lands, acting reasonably. For further clarity, any activity on the Servient Lands will be coordinated between the Grantor and Grantee to ensure that any access does not interfere with the construction projects associated the Rockwood Terrace Development.

GENERAL

ENUREMENT

The parties hereby agree that:

1. this agreement and the rights granted herein shall pass with and extend and be annexed to, and run with and bind the Servient Tenement, as servient tenement, and every part thereof and shall also bind the Grantor and the successors, assigns, legal representatives, lessees, sublessees and licensees of the Grantor, all successors in title to all or any portion of the Servient Tenement, and any other persons, firms, corporations or organizations having at any time any right of use, occupancy or possession of all or any portion of the Servient Tenement or of all or any portion of any existing or future building or buildings situate upon the Servient Tenement or any part thereof (all of which shall be deemed for the purposes of this Agreement to be included within the term "Grantor" as the context requires); and
2. these presents and restrictions shall pass with, extend to, run with and benefit each and every part of the Dominant Tenement, as the dominant tenement, and shall also extend to and be enforceable by the Grantee and its successors and assigns who have acquired all or any portion of the Grantee's interest in the Dominant Tenement, so as to enure to each and every successor and assign of the Grantee deriving all or any portion of Grantee's interest in the Dominant Tenement (all of which shall be deemed for the purposes of this Agreement to be included within the term "Grantee" as the context requires).

GRANT NOT TO AFFECT POSSESSION

Nothing herein shall be construed as affecting the right of the Grantor to ownership in fee simple and possession of the Servient Tenement and the Grantor shall have the right to use and enjoy the Servient Tenement except to the extent that the use and enjoyment by the Grantor constitutes an unreasonable interference with the rights of the Grantee under this Agreement.

GRANTOR NOT TO CONSTRUCT UPON EASEMENT LANDS

The Grantor covenants and agrees not to hereafter erect or construct upon the Servient Tenement any building or structure, permanent or otherwise, nor hereafter plant or maintain or allow to be planted or maintained thereon, any trees, landscaping or other structure which would or could unreasonably prevent or hinder the rights of the Grantee under this Agreement. Nor shall the Grantor close in or alter the right of way herein granted, except for reasonable maintenance, without the prior written consent of the Grantee.

SCHEDULE "E"
PLAN 16R-12196

