



November 11, 2024

**First Report to Court of  
KSV Restructuring Inc.  
as Receiver and Manager of certain  
real property, assets and undertakings of  
759 Winston Churchill GP Inc.,  
759 Winston Churchill L.P.,  
688 Southdown GP Inc.,  
688 Southdown LP,  
2226 Royal Windsor GP Inc. and  
2226 Royal Windsor LP**

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**COURT FILE NUMBER:  
CV-24-00714543-00CL**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**B E T W E E N:**

**KINGSETT MORTGAGE CORPORATION**

**APPLICANT**

**- AND -**

**759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688 SOUTHDOWN  
GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. AND 2226 ROYAL  
WINDSOR LP**

**RESPONDENTS**

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**FIRST REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER AND MANAGER**

**NOVEMBER 11, 2024**

## **1.0 Introduction**

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on May 30, 2024, (the "Receivership Order"), KSV Restructuring Inc. ("KSV") was appointed as receiver and manager (in such capacity, the "Receiver") of the real property described on Schedule "A" to the Receivership Order (the "Real Property") and all present and future assets, undertakings and personal property of 759 Winston Churchill GP Inc. ("Churchill GP"), 759 Winston Churchill L.P. ("Churchill LP" and, together with Churchill GP, "Churchill"), 688 Southdown GP Inc. ("Southdown GP"), 688 Southdown LP ("Southdown LP" and, together with Southdown GP, "Southdown"), 2226 Royal Windsor GP Inc. ("Royal Windsor GP") and 2226 Royal Windsor LP ("Royal Windsor LP" and, together with Royal Windsor

GP, “Royal Windsor”) (collectively, the “Debtors”), including all permits and deposits paid and obtained on behalf of a Debtor, located at, related to, used in connection with or arising from or out of the Real Property or which is necessary to the use and operation of the Real Property, including all proceeds therefrom, excluding all security granted by Churchill GP to The Toronto-Dominion Bank in connection with certain letters of credit (collectively with the Real Property, the “Property”). A copy of the Receivership Order is attached as Appendix “A”.

2. This report (the “Report”) is filed by KSV in its capacity as Receiver and addresses the Receiver’s recommendations with respect to the Churchill Project (as defined below).

## 1.1 Purposes of this Report

1. The purposes of this Report are to, among other things:
  - a) provide the rationale for recommending that this Court issue the proposed amended and restated Receivership Order (the “A&R Receivership Order”):
    - approving a CCDC 5A Construction Management Contract – for Services (2010) contract (the “Churchill CM Contract”) dated November 11, 2024, with Leeswood Design Build (Alberta) Ltd. (“Leeswood”), pursuant to which Leeswood would act as construction manager for certain construction on Churchill’s Property, and granting certain related relief; and
    - increasing the Borrowing Limit (as defined below) from \$1,000,000 to \$2,000,000; and
  - b) provide an update on the Debtors and the Property, including anticipated next steps in these receivership proceedings.

## 1.2 Currency

1. Unless otherwise noted, all currency references in this Report are to Canadian dollars.

## 1.3 Restrictions

1. In preparing this Report, the Receiver has relied upon: (i) the books and records of the Debtors; (ii) discussions with various suppliers, tradespeople and consultants to the Debtors; (iii) discussions with the management of the South Shore Group; and (iv) the receivership application materials (collectively, the “Information”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.

3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver are provided in the application materials of KingSett Mortgage Corporation (“KingSett”). Copies of the Court materials filed to-date in these proceedings are available on the Receiver’s case website: <https://www.ksvadvisory.com/experience/case/winston-churchill>.

## 2.0 Background and Update

### 2.1 The Debtors

1. The Debtors are privately held real estate development entities and are each part of the larger South Shore Group of companies.
2. Churchill GP, Southdown GP and Royal Windsor GP are the registered owners of the Real Property, and they hold the Real Property for the benefit of Churchill LP, Southdown LP and Royal Windsor LP, respectively.
3. The Debtors intended to develop three real-estate development projects on their respective Real Property (collectively, the “Projects” and each a “Project”), which are all located in Mississauga, Ontario.
4. The Receiver understands that the Debtors do not have employees.

### 2.2 The Projects

1. The Real Property and the related Projects are comprised of the following:
  - a) a property located at 759 Winston Churchill Boulevard, Mississauga, Ontario (the “Churchill Lands”). The Churchill Lands are 47.15 acres and are owned by Churchill. The Churchill Lands were intended to be developed into 750,354 square feet of industrial facilities, comprised of three industrial buildings. Currently, one of buildings is complete and fully leased (the “WC Building”), one is partially constructed and one has yet to have construction commence;
  - b) a property located at 688 Southdown Road, Mississauga, Ontario (the “Southdown Lands”). The Southdown Lands are approximately 91 acres, of which 80 acres are developable and are currently zoned for industrial use. There is currently no active construction on the Southdown Lands; and
  - c) a property located at 2226 Royal Windsor Drive, Mississauga, Ontario (the “Royal Windsor Lands”). The Royal Windsor Lands are comprised of approximately 74.5 acres of industrial zoned land. The Royal Windsor Lands were to be re-zoned for residential use, however, such re-zoning efforts have not yet commenced or have not materially advanced. There is currently no active construction on the Royal Windsor Lands.

## 2.3 Secured Creditors

1. KingSett is the principal secured creditor of the Debtors, in respect of certain loan facilities extended to the Debtors. As at the date of the Receivership Order, KingSett was owed approximately: (i) \$328.3 million in aggregate by Churchill and Southdown; and (ii) \$35.3 million by Royal Windsor.
2. The Affidavit of Daniel Pollack sworn February 12, 2024, in support of the receivership application contains additional detailed information regarding secured amounts owing to KingSett from the Debtors and, accordingly, that detailed information is not repeated herein. A copy of Mr. Pollack's Affidavit is available on the Receiver's website at the following link: [Affidavit of Daniel Pollack](#).
3. Additional information regarding the Debtors' other creditors is provided below:

### **Churchill**

- a) Nine construction liens are currently registered against some or all of the Churchill Lands, which are as follows:

<b>Secured Creditor</b>	<b>Amount Owing</b>
Kenaidan Contracting Ltd.	\$30,076,837
Superior Sprinkler Co. Ltd.	\$550,503
JC Infrastructure Ltd.	\$2,015,660
Noram Glass Corporation	\$117,695
Black & McDonald Limited	\$289,607
Nucor Steel ULC	\$145,240
Montana Electrical Contractors Ltd.	\$637,007
Noram Glass Corporation	\$389,924
Kenaidan Contracting Ltd.	\$1,884,704
<b>Total</b>	<b>\$36,107,177</b>

- b) The Toronto Dominion Bank holds a registration under the Ontario *Personal Property Security Act* (the "PPSA") against accounts of Churchill GP, which the Receiver understands is in connection with certain cash collateral provided with respect to various letters of credit issued by the Toronto Dominion Bank to the City of Mississauga on behalf of Churchill GP, pursuant to various municipal permits and approvals.

### **Southdown**

- c) Two construction liens are currently registered against some or all of the Southdown Lands, which are as follows:

<b>Secured Creditor</b>	<b>Amount Owing</b>
Kenaidan Contracting Ltd.	\$9,572,190
Soilcan Inc.	3,950,495
<b>Total</b>	<b>\$13,522,685</b>

- d) A second mortgage/charge (the “Subordinate Security”) is registered against the Southdown Lands in favour of 7037619 Canada Inc. (the “Subordinate Lender”) in the amount of \$20,000,000, which the Receiver understands the Subordinate Lender has postponed and subordinated the Subordinate Security in favour of KingSett.

### ***Royal Windsor***

- e) The Receiver is not aware of any secured creditors of Royal Windsor GP or Royal Windsor LP, apart from KingSett.

## **2.4 Unsecured Creditors**

1. Based on the Debtors’ books and records, as at the date of the Receivership Order, unsecured obligations totalled approximately \$4.8 million, which is primarily owing to municipalities, consultants, and professionals.

## **3.0 Receiver’s Activities**

1. Since the issuance of the Receivership Order, in addition to the activities described in this Report, the Receiver’s activities have included, among other things:
  - a) maintaining site security and general upkeep of the Real Property;
  - b) responding to various stakeholder inquiries;
  - c) engaging with various tradespeople and suppliers with respect to, among other things, their claims, inquiries regarding Project status and related matters and other information requests;
  - d) engaging with the City of Mississauga with respect to applicable regulatory and municipal requirements regarding the Projects;
  - e) attending to various requests of the tenant of the WC Building (the “WC Tenant”) with respect to the landlord’s obligations under the lease;
  - f) corresponding with CBRE Limited, the property manager of the WC Building, regarding various matters concerning the maintenance and upkeep of the WC Building;
  - g) corresponding with the Debtors’ insurance brokers, including to maintain and extend insurance coverage on the Real Property;
  - h) assessing the completion of the Extension (as defined below) and, in connection therewith, negotiating the Churchill CM Contract;
  - i) assessing potential paths forward to maximize recovery for creditors of the Debtors and, in connection therewith, negotiating potential stalking horse transactions, as described further below; and
  - j) preparing this Report.

## 4.0 Churchill Lands

### 4.1 WC Building

1. The WC Building is a complete, fully-leased industrial building. The Receiver has been addressing various concerns and issues with respect to this building that have been raised by the WC Tenant.
2. The Receiver understands that, prior to the commencement of these receivership proceedings, vehicular and pedestrian access to the WC Building was intended to be provided by way of an extension of Hazelhurst Road to Winston Churchill Blvd. (the "Extension"). While certain steps have been taken towards the completion of the Extension, it remains unfinished.
3. The WC Tenant has raised concerns that, without the Extension, the current alternative access to the WC Building from Hazelhurst Road (rather than from Winston Churchill Blvd.) is resulting in significant delays, additional costs and staffing issues.
4. The Receiver, in consultation with KingSett, has assessed the benefits and costs associated with completing the Extension and has determined that its completion will materially increase the value of the Churchill Project. Improved access to the WC Building via the Extension is expected to benefit both the WC Tenant and any future tenant, thereby enhancing the property's marketability.
5. As set out in greater detail below, the Receiver anticipates that it will be seeking Court approval for a sale process in the near term. The Receiver, in consultation with Leeswood and KingSett, understands that the Extension cannot be completed during the winter due to: (i) the difficulties that would arise from the cold temperature and anticipated snow falls; and (ii) the annual shut down of asphalt plants in early winter, which would restrict the ability to procure key inputs required for completing the Extension. To ensure that the Extension can be completed before such conditions arise, with a view to having same completed prior to the conclusion of a sale process and ultimately increasing anticipated recoveries, while addressing the WC Tenant's ongoing access concerns, the Receiver is seeking approval of the Churchill CM Contract and related relief.

## 5.0 Churchill CM Contract

### 5.1 Background

1. The Receiver executed the Churchill CM Contract for the limited purpose of the completion of the Extension. Based on its extensive real estate experience, the Receiver considers the contract's terms, including fees and timelines, to be both favorable and reasonable.



2. Prior to executing the Churchill CM Contract, the Receiver terminated Churchill GP's CCDC5B contract with Kenaidan Contracting Limited ("Kenaidan"), pursuant to which Kenaidan was serving as construction manager for the Churchill Project (the "Kenaidan Agreement"). Given that Kenaidan holds insurance for the Churchill Project, the Receiver determined that the Kenaidan Agreement should only be terminated after new insurance was in place. As Project insurance was to be obtained by Leeswood, the Receiver terminated the Kenaidan Agreement immediately prior to execution of the Churchill CM Contract to ensure continuous coverage. Due to the Projects' status and lack of available financing, the Receiver determined that completing the Projects within these receivership proceedings was not feasible and that a sale process would be required, rendering the Kenaidan Agreement unnecessary.
3. The Receiver concluded that it was preferable to have the limited Extension services provided by a third party that did not have historical involvement with, and sizeable registered lien claims against, Churchill. The Kenaidan Agreement was terminated in consultation with, and the support of, KingSett.

## 5.2 Summary of Key Terms

1. The Churchill CM Contract is in the form of the CCDC-5A (Construction Management Contract – for Services), which is a widely accepted form of contract in the Canadian construction industry, along with customary supplementary conditions. The Churchill CM Contract is attached as Appendix "B". A summary of the key terms of the Churchill CM Contract is as follows:
  - a) **Construction Manager:** Leeswood
  - b) **Services:** the services to be provided in respect of the Churchill Project (the "Services") include preliminary testing and inspections to verify existing conditions, topographical survey, engagement of consultants including a civil engineer and environmental engineer, road occupancy permits, testing and inspections, project insurance and all hard costs associated with the intersection upgrade work, the road extension, related landscape and electrical works.
  - c) **Construction Manager's fee:** the Churchill CM Contract provides that Leeswood shall be paid a fixed construction management fee of \$132,000 plus three percent (3.0%) of the actual cost of all elements of the project. In addition, Leeswood is entitled to reimbursement for the actual expenses that it incurs performing the Services, without mark-up.
  - d) **Schedule:** the schedule assumes that the construction will commence promptly following Court-approval.
  - e) **Project Budget:** estimated to be \$2,732,000.
  - f) **Payments to Trade Contractors:** contractors will be paid directly by Churchill LP (rather than by Leeswood).

- g) **Receiver's Right to Termination:** the Receiver may terminate the Churchill CM Contract in accordance with the standard terms and conditions set out in the Churchill CM Contract subject to certain amendments as set out in the supplement. Upon such termination, Leeswood will be entitled to: (i) payment for its Services performed up to the date of termination, including reimbursable expenses; and (ii) certain costs and associated fees up to the date of termination, but not for anticipated loss of profit. The Receiver may also terminate the Churchill CM Contract if Leeswood is in default (e.g. Leeswood fails to comply with the requirements of the Churchill CM Contract to a substantial degree) or becomes insolvent. Upon such termination, Leeswood will only be entitled to payment for its Services performed up to the date of termination, including reimbursable expenses.
- h) **Leeswood's Right to Terminate:** Leeswood may terminate the Churchill CM Contract if the Receiver substantially violates the terms under the Churchill CM Contract, including but not limited to, non-payment of compensation for the Services to Leeswood. Upon termination, Leeswood shall be entitled to be paid for all work performed to the date of termination. Leeswood shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, losses sustained on Products (as defined in the Churchill CM Contract) and construction machinery equipment.
- i) **Occupational Health & Safety:** Leeswood is responsible for all site safety and fulfills the role of "constructor" and "employer" under the *Occupational Health and Safety Act* (Ontario) and its regulations.
- j) **Limit of Liability:** Leeswood's liability for losses for which insurance is to be provided is limited to the insurance limit for the loss. Leeswood's liability for losses which insurance is not required to be provided is limited to Leeswood's compensation.

### 5.3 Recommendation re: Retention of Leeswood and Approval of the Churchill CM Contract

1. For the following reasons, the Receiver recommends that the Court issue the A&R Receivership Order, among other things, approving the Churchill CM Contract, directing the Receiver and Leeswood to comply with the terms of the Churchill CM Contract, and authorizing the Receiver to take such steps and execute and deliver such additional documentation as may be necessary or desirable to give effect to the Churchill CM Contract:
  - a) Leeswood is an experienced and reputable construction manager;
  - b) based on its extensive real estate experience, the Receiver views the terms of the Churchill CM Contract to be favourable and reasonable. Given the Project's limited scope, a request for proposals was deemed unnecessary.
  - c) completing the Extension is intended to enhance value for the Debtors' stakeholders, and engagement of a construction manager will be required for same;

- d) if the Churchill CM Contract is not approved, the Receiver would be required to negotiate a new construction management contract with another party, which the Receiver anticipates would be on less favourable terms and cause further delay, with such result being particularly problematic given the upcoming winter season and anticipated sale process;
- e) KingSett, the primary economic stakeholder in these proceedings and the party providing funding in these receivership proceedings, supports the retention of Leeswood and the terms of the Churchill CM Contract.

## 6.0 Borrowing Limit and Leeswood Budget

1. Pursuant to the Receivership Order, the Receiver is empowered to borrow from KingSett such monies from time to time as it may consider necessary or desirable, provided that the outstanding amount does not exceed \$1,000,000 (the "Borrowing Limit"), for the purpose of funding the exercise of its powers and duties. The Receivership Order provides that the Property shall be charged by way of a fixed and specific charge as security for the payment of such borrowed monies, together with interest and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any person but subordinate in priority to the Receiver's Charge (as such term is defined in the Receivership Order) and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*.
2. To date, the Receiver has not drawn on this facility, utilizing instead the rent proceeds from the WC Building. Attached as Appendix "C" is the Receiver's interim statement of receipts and disbursement (the "Interim R&D"), for Winston Churchill from the date of the commencement of these proceedings to November 11, 2024. The Interim R&D reflects that the Receiver currently holds \$836,478 in its account.
3. Leeswood has provided a budget of \$2,732,000 to complete the Extension (the "Leeswood Budget"). Accordingly, the aggregate of the funds in the Receiver's estate account and the amounts available under the Borrowing Limit amounts (approximately \$1.836 million) are not sufficient to complete the Extension.
4. Accordingly, the Receiver is seeking an additional \$1,000,000 of availability beyond the Borrowing Limit to ensure the completion of the Extension (based on the Leeswood Budget and with a reserve for unforeseen costs and other case expenses). The exact cost of the Extension cannot be definitely ascertained prior to completion of the project given that they are variable in nature (for example, hourly labour charges). The Receiver understands that KingSett has consented to the increase in the Borrowing Limited and has agreed to make these funds available to the Receiver pursuant to the proposed A&R Receivership Order.

## 7.0 Next Steps

### 7.1 Potential Stalking Horse Bids and Commencement of SISP

1. Since the commencement of the receivership proceedings, the Receiver has been assessing options for maximizing realizations from the Property.
2. Given the status of the Projects and the lack of available financing, the Receiver does not view completion of the Projects within the receivership proceedings as a possibility. Accordingly, the Receiver's efforts have been focused on the pursuit of a sale transaction.
3. The Receiver has executed confidential, non-binding letters of intent for the acquisition of each of the Projects (the "Transactions"). Negotiations with respect to the Transactions, including with respect to Transaction structures, are ongoing. The Transactions are anticipated to take the form of stalking horse bids, which would set the terms for a Court-approved sale and investment solicitation process. Given the size and complexity of the Projects, which limits the pool of potential acquirors, the Receiver believes that it will be important to launch a sale process with the certainty of a "floor" transaction.
4. The Receiver intends to return to this Court promptly after executing definitive documents for the Transactions to seek approval of a sale process for the Projects.

## 8.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court makes the orders granting the relief detailed in Section 1.1(1)(a) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF  
CERTAIN REAL PROPERTY, ASSETS AND UNDERTAKINGS  
OF 759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL LP INC.,  
688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP,  
2226 ROYAL WINDSOR GP INC. AND 2226 ROYAL WINDSOR LP  
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

## Appendix “A”



Court File No.: CV-24-00714543-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE

)

THURSDAY, THE 30<sup>th</sup>

JUSTICE CAVANAGH

)

DAY OF MAY, 2024

)

BETWEEN:

**KINGSETT MORTGAGE CORPORATION**

Applicant

- and -

**759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688  
SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and  
2226 ROYAL WINDSOR LP**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND  
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by KingSett Mortgage Corporation (the “**Applicant**”) for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing KSV Restructuring Inc. (“**KSV**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of the real property legally described in Schedule “A” to this Order (the “**Real Property**”) and all present and future assets, undertakings and personal property of 759 Winston Churchill GP Inc. (“**Churchill GP**”), 759 Winston Churchill L.P. (“**Churchill LP**”), 688 Southdown GP Inc. (“**Southdown GP**”), 688 Southdown LP (“**Southdown LP**”), 2226 Royal Windsor GP Inc. (“**Royal Windsor GP**”) and 2226 Royal Windsor LP (“**Royal Windsor LP**”) and together with Churchill GP, Churchill LP, Southdown

GP, Southdown LP and Royal Windsor GP, the “**Debtors**” and each a “**Debtor**”), including all permits and deposits paid or obtained on behalf of a Debtor, located at, related to, used in connection with or arising from or out of the Real Property or which is necessary to the use and operation of the Real Property, including all proceeds therefrom, and excluding all security granted by Churchill GP to The Toronto-Dominion Bank in connection with the four (4) letters of credit issued by The Toronto-Dominion Bank with Churchill GP as Applicant (collectively with the Real Property, the “**Property**”) was heard this day via Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Daniel Pollack sworn February 12, 2024 and the Exhibits thereto (the “**First Pollack Affidavit**”), the affidavit of Daniel Pollack sworn April 23, 2024 and the Exhibits thereto, the Responding Affidavit of Michael Moldenhauer sworn February 15, 2024 and the Exhibits thereto and the Affidavit of Kathryn Furfaro sworn February 26, 2024 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, the Debtors, the proposed Receiver and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavit of service sworn and filed, and on reading the consent of KSV to act as the Receiver, and on being advised that the Debtors consent to this Order on terms agreed with the Applicant,

### **SERVICE AND DEFINITIONS**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that all terms not otherwise defined herein shall have the meaning ascribed to them in the First Pollack Affidavit.

### **APPOINTMENT**

3. THIS COURT ORDERS that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Property.

## RECEIVER'S POWERS

4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of the Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, or any of them, in connection with the Property, including the powers to enter into any agreements or incur any obligations in the ordinary course of business in connection with the Property, cease to carry on all or any part of the business of the Debtors in connection with the Property, or any of them, or cease to perform or disclaim (unless such contract is a lease of real property or of an immovable if a Debtor is the lessor) any contracts of any of the Debtors in respect of the Property;
- (d) to engage construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other Persons (as defined below) from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;



- (e) to undertake any construction or other work at the Property necessary to bring the Property into compliance with applicable laws and building codes;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors, or any of them, in connection with the Property or any part or parts thereof;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to any of the Debtors in connection with the Property (including, without limitation, any rent payments in respect of the Real Property) and to exercise all remedies of any of the Debtors in collecting such monies and accounts, including, without limitation, to enforce any security held by any of the Debtors;
- (h) to settle, extend or compromise any indebtedness owing to any of the Debtors in connection with the Property;
- (i) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property, including any part or parts thereof, and, with approval of this Court on notice to the Debtors, to make any required distribution(s) to any contractor or subcontractor of the Debtors or to or on behalf of any beneficiaries of such trust funds pursuant to section 85 of the *Construction Act*, R.S.O. 1990, c. C.30;
- (j) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of any of the Debtors, for any purpose pursuant to this Order;
- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to any of the Debtors (as such proceedings relate to the Property or any portion thereof), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (l) to undertake environmental or worker's health and safety assessments of the Property and the operations of the Debtors thereon;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion, and with the Applicant's consent, may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act* as the case may be, shall not be required;

- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (p) to report to, meet with and discuss with such affected Persons as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any of the Debtors and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Debtors;
- (t) to exercise any shareholder, partnership, joint venture or other rights which any of the Debtors may have; and
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including each of the Debtors, and without interference from any other Person.

## **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. THIS COURT ORDERS that (i) each of the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) all construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants and service providers, and all other persons acting on their instructions or behalf, and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, information and cloud-based data of any kind related to the business or affairs of any of the Debtors or the Property, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer, in a cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the

information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph 7, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers and account creating credentials that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of any of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph 10 shall: (i) empower the Receiver or any of the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or any of the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with any of the Debtors or contractual, statutory or regulatory mandates for the supply of goods and/or services to the Debtors or in respect of the Debtors' Property, construction and development projects, including without limitation, all computer software, communication and other data services, sub-contracts, trade suppliers, accounting services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Debtors, or in respect of the Debtors' Property, construction and development projects, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of any of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of each of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

13. THIS COURT ORDERS that in the event that an account for the supply of goods and/or services is transferred from any of the Debtors to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

### **RECEIVER TO HOLD FUNDS**

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any

source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

15. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the applicable Debtor until such time as the Receiver, on the applicable Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

16. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by each of the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

17. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act, 1999*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act* or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

## LIMITATION ON THE RECEIVER'S LIABILITY

18. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

19. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver's Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in



priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from KingSett Mortgage Corporation by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount that is acceptable to the Applicant and as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subordinate in priority to the Receiver's Charge and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Receiver's Certificates**”) for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### **SERVICE AND NOTICE**

26. THIS COURT ORDERS that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <https://ksvadvisory.com/experience/case/winston-churchill>.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to any of the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

28. THIS COURT ORDERS that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably

required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

### **CRITICAL PAYMENTS**

29. THIS COURT ORDERS that the Receiver may, with the written consent of the Applicant, make payments owing by any of the Debtors to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order that are reasonably required for the preservation of the Property.

### **GENERAL**

30. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

31. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Debtors.

32. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

33. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

34. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the net realizations from the Property with such priority and at such time as this Court may determine.

35. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

36. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order, and are enforceable without the need for entry and filing.



Mr. Justice  
Cavanagh

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**Schedule "A"**

**REAL PROPERTY**

**Churchill**

**PIN: 13493-0213(LT)**

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 2 & 3 PLAN 43R39986; CITY OF MISSISSAUGA

**PIN: 13493-0226(LT)**

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 5 & 6 PLAN 43R39986; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

**PIN: 13493-0225(LT)**

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PART 1 PLAN 43R39884; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

**Southdown**

**PIN: 13493-0044(LT)**

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8, 43R13084;  
S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085, VS58563  
MISSISSAUGA

**Royal Windsor**

**PIN: 13493-0190 (LT)**

PT LT 31, 32 CON 3 SDS DES PTS 1, 2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL  
43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL  
43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF  
INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL  
43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER  
PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") without security, of the real property legally described in Schedule "A" (the "**Real Property**") to the Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated May 30, 2024 (the "**Order**") and all present and future assets, undertakings and personal property of 759 Winston Churchill GP Inc., 759 Winston Churchill L.P., 688 Southdown GP Inc., 688 Southdown LP, 2226 Royal Windsor GP Inc. and 2226 Royal Windsor LP (collectively, the "**Debtors**"), located at, related to, used in connection with or arising from or out the Real Property or which is necessary to the use and operation of the Real Property, including all proceeds therefrom (collectively with the Real Property, the "**Property**"), appointed by the Order made in an application having Court File Number CV-24-00714543-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2024.

KSV Restructuring Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:



**KINGSETT MORTGAGE CORPORATION** and

**759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688  
SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP  
INC. and 2226 ROYAL WINDSOR LP**

Applicant

Respondents

Court File No.: CV-24-00714543-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

**ORDER  
(Appointing Receiver)**

**BENNETT JONES LLP**

One First Canadian Place, Suite 3400  
P.O. Box 130  
Toronto, ON M5X 1A4

**Sean Zweig** (LSO# 57307I)

Tel: (416) 777-6254

Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

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**Milan Singh-Cheema** (LSO# 88258Q)

Tel: (416) 777-5527

Email: [singhcheemam@bennettjones.com](mailto:singhcheemam@bennettjones.com)

Lawyers for the Applicant

## **Appendix “B”**

# Construction Management Contract — for Services CCDC 5A — 2010

Name of the Work

759 Winston Churchill - Selected Works - Road and Intersection

Apply a CCDC 5A copyright seal here.

The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of CCDC 5A — 2010 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

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Owner
Payment Certifier
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Supplier
Temporary Work
Trade Contractor
Value Added Taxes
Work
Working Day

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CCDC 5A is the product of a consensus-building process aimed at balancing the interests of all parties on the construction project. It reflects recommended industry practices. CCDC 5A can have important consequences. The CCDC and its constituent member organizations do not accept any responsibility or liability for loss or damage which may be suffered as a result of the use or interpretation of CCDC 5A.

**AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER – FOR SERVICES**

This agreement made on the 11 day of November in the year 2024  
by and between

759 Winston Churchill L.P., by KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager, of certain assets, property and undertakings of 759 Winston Churchill GP Inc. and 759 Winston Churchill L.P., and not in its personal, corporate or any other capacity

hereinafter called the *Owner*  
and

Leeswood Design Build (Alberta) Ltd

hereinafter called the *Construction Manager*

The *Owner* and *Construction Manager* agree as follows:

**ARTICLE A-1 THE SERVICES**

The *Construction Manager* shall

- 1.1 perform the *Services* for  
759 Winston Churchill - Selected Works - Road and Intersection

*insert above the title of the Project*

located at  
795, 745, and 705 Hazelhurst Rd., Mississauga ON

*insert above the Place of the Project*

and as further described in Article A-3 – DESCRIPTION OF THE PROJECT, for which the Agreement has been signed  
by the parties, and for which  
Ware Malcomb Architecture ULC

*insert above the name of the Consultant*

is acting as and is hereinafter called the “*Consultant*”, and

- 1.2 do and fulfill everything indicated by the *Contract Documents*, and
- 1.3 commence the *Services* by the 15 day of November in the year 2024 and continue in accordance with any schedule provided in Article A-3 – DESCRIPTION OF THE PROJECT. The *Construction Manager’s* obligation to provide *Services* shall end no later than one year after the *Project In-Use Date*.

**ARTICLE A-2 AGREEMENTS AND AMENDMENTS**

- 2.1 This *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the *Services*.
- 2.2 This *Contract* may be amended as provided in the *Contract Documents*.

### ARTICLE A-3 DESCRIPTION OF THE PROJECT

3.1 The following is a description of the *Project* including intended use, scope, budget, schedule, phases if applicable, the anticipated *Project In-Use Date*, and any other information which further generally describes the nature of the *Project*:

- Winston Churchill intersection works and Hazelhurst road extension, including the removal of the existing traffic bulb on Hazelhurst
- The scope of work includes preliminary testing and inspections to verify existing conditions, topographical survey, consultants including Civil Engineer (EMC), Environmental Engineer (Azumith), road occupancy permits, testing and inspections, project insurance, and all hard costs associated with the intersection upgrade work, the road extension, related landscape and electrical works.

Refer to the attached documents:

Supplementary Conditions dated November 11, 2024

Hazelhurst Extension\_Scope of Work

Intersection\_Scope of Work

Winston Churchill Roadworks Preliminary Schedule REV1

Winston Churchill Roadworks Cost Breakdown Rev5

Winston Churchill General Conditions Rev1

Leeswood Construction Drawing List Dated November 11, 2024

**ARTICLE A-4 CONTRACT DOCUMENTS**

4.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement – THE SERVICES:

- the Agreement Between *Owner* and *Construction Manager* (including the Schedules to the Agreement)
- the Definitions
- the General Conditions

\*

Referenced Drawing Sets:

Hazelhurst Road Revision 6 Final Submission - Civil - dated 2022-11-07  
 221145 Issued for CVC Permit - Civil - dated 2024-11-04

It is understood that the contract documents referenced reflect additional scope of work that does not form a part of this contract. This contract is limited to those items reflected in the contract documents that are a direct part of the road extension, road widening, and intersection package or otherwise described in Article A-3.

The Scope of Work Sketch is provided to clarify the general location of work contained within this contract.

\* (Insert here, attaching additional pages if required, a list identifying all other Contract Documents)

## ARTICLE A-5 COMPENSATION FOR SERVICES

- 5.1 The *Construction Manager's* compensation shall be equal to the sum of the *Construction Manager's* fee as specified in paragraph 5.2 and the reimbursable expenses as described in paragraph 5.3.
- 5.2 The *Construction Manager's* fee is comprised of one or more of the following:
- .1<sup>\*</sup> A fixed amount of 132000; and
  - .2<sup>\*</sup> A percentage amount of three percent (3.0 %) of the *Construction Cost*. In the event that the *Owner* furnishes labour or material below market cost or materials are re-used beyond that anticipated in the original scope of the *Project*, the *Construction Cost* for purposes of establishing the *Construction Manager's* fee is the cost of all materials and labour necessary to complete the *Project* as if all materials had been new and as if all labour had been paid for at market prices at the time of construction or, in the event that the construction does not proceed, at existing market prices at the anticipated time of construction. Where the actual cost has not been determined for all or part of the *Project*, the *Construction Cost* shall be the *Construction Cost Estimate*, as agreed by the *Owner* and the *Construction Manager*, at market rates at the anticipated time of construction; and
  - .3<sup>\*</sup> An amount based on the time-based rates for personnel employed by the *Construction Manager* as described in Schedule C to the Agreement and engaged in performing the *Services* to the level of effort agreed prior to the commencement of the *Services*.
- \* *Strike out inapplicable paragraph(s).*
- 5.3 The reimbursable expenses are the actual expenses, supported by receipts or invoices, that the *Construction Manager* incurred in performing the *Services*, and as identified in Schedules A2 and B2 to the Agreement plus the administrative charge of nil percent (0 %). If there are no receipts or invoices, the expenses shall be at rates prevailing in the area of the *Place of the Project* and supported with suitable documentation.
- 5.4 The *Owner* may by written request require the *Construction Manager* to:
- .1 provide prior to commencement of the *Services* an estimate of the total amount of the *Construction Manager's* fee for the *Services* as described in paragraph 5.2.3;
  - .2 provide prior to commencement of the *Services* an estimate of the total amount of the reimbursable expenses as described in paragraph 5.3 for evaluation and verification purposes; and
  - .3 inform the *Owner* in writing prior to incurring reimbursable expenses as described in paragraph 5.3.
- 5.5 All amounts are in Canadian funds.

## ARTICLE A-6 PAYMENT

- 6.1 Where required by provincial or territorial legislation, payments shall be subject to the lien legislation applicable to the *Place of the Project*. The *Owner* shall pay the *Construction Manager*:
- .1 payments on account of the compensation described in Article A-5 of the Agreement – COMPENSATION FOR SERVICES together with such *Value Added Taxes* as may be applicable to such payments, and
  - .2 upon completion of the *Services*, the unpaid balance of the compensation together with such *Value Added Taxes* as may be applicable to such payments.
- 6.2 Should the *Owner* fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:
- .1 2% per annum above the prime rate for the first 60 days.
  - .2 4% per annum above the prime rate after the first 60 days.
- Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by  
TD Canada Trust

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*(Insert name of chartered lending institution whose prime rate is to be used)*

for prime business loans as it may change from time to time.



**ARTICLE A-7 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING**

- 7.1 *Notices in Writing* will be addressed to the recipient at the address set out below.
- 7.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.
- 7.3 A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day.
- 7.4 A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof.
- 7.5 An address for a party may be changed by *Notice in Writing* setting out the new address delivered to the other party in accordance with this Article.

**Owner**

759 Winston Churchill L.P., by KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager, of certain assets, property and undertakings of 759 Winston Churchill GP Inc. and 759 Winston Churchill L.P., and not in its personal, corporate or any other capacity

\_\_\_\_\_  
name of Owner\*

220 Bay Street, 13th Floor, PO Box 20, Toronto ON M5J 2W4

\_\_\_\_\_  
address

\_\_\_\_\_  
facsimile number

ngoldstein@ksvadvisory.com  
email address

**Construction Manager**

Leeswood Design Build (Alberta) Ltd

\_\_\_\_\_  
name of Construction Manager\*

10 Stonehill Place NE, Calgary, AB T3N 1T7

\_\_\_\_\_  
address

\_\_\_\_\_  
facsimile number

rmulvale@leeswood.ca  
email address

\* If it is intended that the notice must be received by a specific individual, that individual's name shall be indicated.

**ARTICLE A-8 LANGUAGE OF THE CONTRACT**

- 8.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English/~~French~~# language shall prevail.
- 8.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.
- # Complete this statement by striking out inapplicable term.

**ARTICLE A-9 SUCCESSION**

9.1 This *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors and assigns.

In witness whereof the parties hereto have executed this Agreement by their respective hands or by the hands of their duly authorized representatives.

SIGNED AND DELIVERED  
in the presence of:

**WITNESS**

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

**WITNESS**

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

**OWNER**

**759 Winston Churchill L.P., by KSV RESTRUCTURING INC., solely in its capacity as court-appointed receiver and manager, of certain assets, property and undertakings of 759 Winston Churchill GP Inc. and 759 Winston Churchill L.P., and not in its personal, corporate or any other capacity**

\_\_\_\_\_  
*name of Owner*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
Noah Goldstein, Managing Director

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

**CONSTRUCTION MANAGER**

**Leeswood Design Build (Alberta) Ltd**

\_\_\_\_\_  
*name of Construction Manager*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
Richard Mulvale, EVP/Partner

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

- N.B. Where legal jurisdiction, local practice, or Owner or Construction Manager requirement calls for:
- (a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
  - (b) the affixing of a corporate seal, this Agreement should be properly sealed.

**SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION**

<b>1. PRECONSTRUCTION</b>  (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – COMPENSATION FOR SERVICES. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – COMPENSATION FOR SERVICES. F3 Fee to the <i>Construction Manager</i> based on time-based rates as described in paragraph 5.2.3 of Article A-5 – COMPENSATION FOR SERVICES.)	Performed by the Owner or Someone Other Than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)	Not Applicable
<b>1.1 General Services</b> <b>.1</b> Attend regular <i>Project</i> meetings with the <i>Owner</i> and the <i>Consultant</i> . <b>.2</b> Provide advice to the <i>Owner</i> and the <i>Consultant</i> with respect to construction and market conditions.	<input type="radio"/> <input type="radio"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>1.2 Predesign</b> <b>.1 Estimating:</b> (1) Confirm or prepare a <i>Class D Construction Cost Estimate</i> . (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendation for corrective action. <b>.2 Scheduling:</b> Prepare a preliminary overall <i>Project</i> schedule.	<input type="radio"/> <input type="radio"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>1.3 Schematic Design Phase</b> <b>.1 Constructability:</b> Provide advice on site use and possible improvements, selection of materials, assembly systems, and, equipment and provide recommendations on construction feasibility, availability of materials and labour, time requirements for installation and construction, and factors related to alternative designs and possible economies. <b>.2 Estimating:</b> (1) Prepare a <i>Class C Construction Cost Estimate</i> at the end of the Schematic Design Phase. (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendation for corrective action. <b>.3 Scheduling:</b> Prepare in consultation with the <i>Consultant</i> and the <i>Owner</i> a preliminary <i>Project</i> schedule for the <i>Owner's</i> review; such <i>Project</i> schedule shall take into consideration the sequence and timing of the required basic program decisions, including anticipated design time, approval period, preparation of documentation, bid calls and subsequent evaluations, trade contract awards, on-site construction activities, and the <i>Project-In-Use Date</i> . <b>.4 Other Services:</b> Assist in providing liaison and coordination among government authorities, utility companies, and other authorities having jurisdiction over the <i>Place of the Project</i> .	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>1.4 Design Development Phase</b> <b>.1 Constructability:</b> (1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies. (2) Make recommendations to the <i>Owner</i> and the <i>Consultant</i> regarding the scope of <i>Work</i> packages, to help facilitate the subsequent bidding and awarding of trade and supply contracts. (3) Review the specifications and drawings and at the end of the Design Development Phase, make recommendations to the <i>Owner</i> and the <i>Consultant</i> as to constructability and coordination among the <i>Trade Contractors</i> . (4) Prepare general functional layout of construction site access and organization and <i>Temporary Work</i> . <b>.2 Estimating and Cost Control:</b> (1) Prepare a <i>Class B Construction Cost Estimate</i> at the end of the Design Development Phase. (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendations for corrective action. (3) Establish a cost control program, and prepare a cash flow forecast for the <i>Project</i> . <b>.3 Scheduling:</b> (1) Review and update the <i>Project</i> schedule with appropriate details. (2) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> , update the <i>Project</i> schedule, and make recommendations for corrective action. (3) Make recommendations to the <i>Owner</i> regarding any equipment or materials, which should be pre-ordered to meet the <i>Project</i> schedule.	<input type="radio"/> <input type="radio"/> <input type="radio"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>



**SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION**

<p><b>2. CONSTRUCTION</b></p> <p>(*Note:            F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – COMPENSATION FOR SERVICES.            F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – COMPENSATION FOR SERVICES.            F3 Fee to the <i>Construction Manager</i> based on time-based rates as described in paragraph 5.2.3 of Article A-5 – COMPENSATION FOR SERVICES.)</p>	<p>Performed by the Owner or Someone Other Than the Construction Manager</p>	<p>Performed by the Construction Manager (*F1/F2/F3)</p>
<p><b>2.1 General Services</b></p> <p><b>.1</b> Chair and minute regular <i>Project</i> meetings with the <i>Owner</i>, the <i>Consultant</i> and <i>Trade Contractors</i>.</p> <p><b>.2</b> Organize and distribute all documents related to the performance of the contract and execution of the <i>Work</i> of each <i>Trade Contractor</i>.</p> <p><b>.3</b> Provide administration as described in the trade contract documents including.</p> <p>(1) Facilitate all communications among the <i>Owner</i>, the <i>Consultant</i>, the <i>Payment Certifier</i>, and <i>Trade Contractors</i> that relate to the <i>Project</i>.</p> <p>(2) In the first instance, receive all questions in writing by the <i>Owner</i> or <i>Trade Contractors</i> for interpretations and findings relating to the performance of the <i>Work</i> or the interpretation of the trade contract documents except with respect to financing information required of the <i>Owner</i>.</p> <p>(3) In the first instance, give interpretations and make findings on matters in question relating to the performance of any <i>Work</i> or the requirements of the trade contract documents, except with respect to any and all architectural and engineering aspects of the <i>Project</i> or financing information required of the <i>Owner</i>.</p> <p>(4) During the progress of the <i>Work</i>, issue supplemental instructions to <i>Trade Contractors</i> with reasonable promptness or in accordance with a schedule for such instructions agreed to by the <i>Construction Manager</i> and <i>Trade Contractors</i>.</p> <p>(5) Promptly investigate, make findings and inform the <i>Owner</i>, <i>Trade Contractors</i> and the <i>Consultant</i> concerning all concealed or unknown conditions which are discovered by the <i>Construction Manager</i> or of which <i>Notice in Writing</i> is given to the <i>Construction Manager</i>.</p> <p>(6) Make findings upon all claims for a change in any trade contract price, and provide <i>Notice in Writing</i> of such findings to all parties within 30 <i>Working Days</i> after receipt of such claim or within such other time period as may be agreed by the parties.</p> <p>(7) Give instructions necessary for the proper performance of <i>Work</i> of each <i>Trade Contractor</i> during any dispute so as to prevent delays pending settlement of such dispute.</p> <p>(8) Investigate the impact on <i>Work of each Trade Contractor</i> of the discovery of any fossils, coins, articles of value or antiquity, structures and other remains or things of scientific or historic interest discovered at the <i>Place of the Project</i>, and advise the <i>Owner</i> concerning the issuance of appropriate instructions for any change in <i>Work</i> as a result of such discovery.</p> <p>(9) Act on behalf of the <i>Owner</i>, <i>Trade Contractors</i> and the <i>Consultant</i> for the purpose of adjusting the amount of any loss or damage payment with insurers under property or boiler and machinery policies affecting any <i>Work</i>.</p>		<p>F1</p> <p>F1</p> <p>F1</p>
<p><b>2.2 Project Control and Scheduling</b></p> <p><b>.1</b> (1) Establish and implement organization and procedures with respect to all aspects of the <i>Project</i>.</p> <p>(2) Provide to <i>Trade Contractors</i> the <i>Project</i> schedule that indicates the timing of major activities of the <i>Project</i> in sufficient detail for <i>Trade Contractors</i> to schedule their <i>Work</i>.</p> <p>(3) Provide coordination and general direction for the progress of the <i>Project</i>.</p> <p>(4) Monitor the <i>Work</i> of each <i>Trade Contractor</i>.</p> <p>(5) Coordinate all <i>Trade Contractors</i> in the performance of their respective <i>Work</i>, with one another and with the activities and responsibilities of the <i>Owner</i> and the <i>Consultant</i>.</p> <p>(6) Review the performance of <i>Trade Contractors</i>' personnel and equipment and the availability of materials and supplies to meet the <i>Project</i> schedule and recommend courses of action to the <i>Owner</i> when requirements of a trade contract are not being met.</p> <p>(7) Provide regular monitoring of the schedule as construction progresses. Identify potential variances to planned completion dates. Review schedule for work not started or incomplete and recommend to the <i>Owner</i> and <i>Trade Contractors</i> adjustments in the schedule to achieve the <i>Project In-Use Date</i>. Provide summary reports of each monitoring and document all changes in schedule.</p>		<p>F1</p>

<b>2. CONSTRUCTION</b>  (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – COMPENSATION FOR SERVICES. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – COMPENSATION FOR SERVICES. F3 Fee to the <i>Construction Manager</i> based on time-based rates as described in paragraph 5.2.3 of Article A-5 – COMPENSATION FOR SERVICES.)	Performed by the Owner or Someone Other Than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)
<b>2.3 Common Construction Facilities and Services</b> .1 Arrange for the required <i>Temporary Work</i> .		F1
<b>2.4 Cost Control and Accounting</b> .1 (1) Prepare and update the <i>Construction Cost</i> cash flow forecasts in accordance with the <i>Project</i> budget as specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> . (2) Develop, implement and maintain a system of <i>Project</i> cost control and accounting. (3) Advise the <i>Owner</i> and the <i>Consultant</i> on the variances between actual cost and <i>Construction Cost Estimate</i> . (4) Provide reasonable assistance and information to permit recovery of all tax rebates where applicable. (5) Jointly with each <i>Trade Contractor</i> , prepare a schedule showing when items called for under cash allowances must be ordered to avoid delaying the progress of <i>Work</i> . (6) Provide recommendations to the <i>Owner</i> for necessary changes to maintain <i>Project</i> budget and <i>Project</i> schedule.		F1
<b>2.5 Changes in Work</b> .1 (1) Develop and implement a system for processing changes in any <i>Work</i> . (2) Recommend appropriate changes in any <i>Work</i> to the <i>Owner</i> and the <i>Consultant</i> . (3) Review requests for changes in any <i>Work</i> and provide recommendations to the <i>Owner</i> and the <i>Consultant</i> and, if necessary, assist in negotiation. (4) Prepare and issue to <i>Trade Contractors</i> change orders and change directives, including written descriptions of proposed changes in <i>Work</i> , all of which are to be prepared in consultation with the <i>Consultant</i> when they are related to the specifications and drawings.		F1
<b>2.6 Payments to Trade Contractors and Suppliers</b> .1 (1) Develop and implement a procedure for timely process of payments to <i>Trade Contractors</i> and <i>Suppliers</i> . (2) Promptly inform the <i>Owner</i> of the date of receipt of the <i>Trade Contractors</i> ' applications for payment. (3) Promptly forward to the <i>Payment Certifier</i> the applications for payment received from the <i>Trade Contractors</i> . .2 (1) Determine the amounts owing to <i>Trade Contractors</i> and issue certificates for payment based on the <i>Construction Manager</i> 's observations and evaluation of <i>Trade Contractors</i> ' applications for payment.		F1     F1
<b>2.7 Field Review</b> .1 (1) Develop, implement and maintain a system for quality assurance and quality control. (2) Reject work that in the opinion of the <i>Construction Manager</i> or the <i>Consultant</i> does not conform to the requirements of the trade contract documents and whenever it is considered necessary or advisable, require inspection or testing of work.		F1
<b>2.8 Health and Construction Safety</b> .1 (1) Subject to paragraph 3.1.2 of GC 3.1 – PROVISION OF INFORMATION AND OBLIGATIONS, be responsible for establishing, initiating, maintaining, and overseeing the health and safety precautions and programs required to be put in place at the <i>Place of the Project</i> and review with the <i>Owner</i> all safety programs for adequacy. (2) Review with the <i>Owner</i> the <i>Trade Contractors</i> ' safety programs for compliance.		F1

**SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION**

<p><b>2. CONSTRUCTION</b></p> <p>(*Note:            F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – COMPENSATION FOR SERVICES.            F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – COMPENSATION FOR SERVICES.            F3 Fee to the <i>Construction Manager</i> based on time-based rates as described in paragraph 5.2.3 of Article A-5 – COMPENSATION FOR SERVICES.)</p>	<p>Performed by the Owner or Someone Other Than the Construction Manager</p>	<p>Performed by the Construction Manager (*F1/F2/F3)</p>
<p><b>2.9 Submittals</b></p> <p>.1 (1) Establish procedures for processing submittals.            (2) Coordinate all relevant information required to perform any <i>Work</i>.            (3) Upon request by any <i>Trade Contractor</i> or the <i>Consultant</i>, jointly prepare a schedule of the dates for provision, review and return of shop drawings.            (4) Forward to the <i>Consultant</i> for review all shop drawings that are considered to be complete.            (5) Indicate in writing the <i>Consultant's</i> acceptance or rejection of all deviations in the shop drawings from the requirements of the trade contract documents.            (6) Return all shop drawings in accordance with the agreed schedule, or in the absence of such agreed schedule, with reasonable promptness so as to cause no delay in the performance of any <i>Work</i>.</p>		F1
<p><b>2.10 Reports and Project Site Documents</b></p> <p>.1 (1) Keep a daily log available to the <i>Owner</i> and the <i>Consultant</i>.            (2) Maintain copies of all necessary documents at the <i>Place of the Project</i>.            (3) Collate and compile record documents and operating and maintenance manuals in accordance with the <i>Owner's</i> requirements.</p>		F1
<p><b>2.11 Start-up</b></p> <p>.1 (1) Assist the <i>Owner</i> in coordinating and monitoring initial start-up and testing conducted by <i>Trade Contractors</i>.            (2) Coordinate the commissioning of utilities, systems and equipment.</p>		F1
<p><b>2.12 Substantial Performance of the Work</b></p> <p>.1 (1) Subject to applicable legislation, arrange for the issuance of the necessary certificates respecting <i>Substantial Performance of the Work</i> of each <i>Trade Contractor</i> or designated portions thereof, lists of incomplete or unsatisfactory items, and schedules for their completion.            (2) Distribute certificates of <i>Substantial Performance of the Work</i> and final certificates for payment of <i>Work</i> of each <i>Trade Contractor</i>.            (3) Arrange with <i>Trade Contractors</i> to finish <i>Work</i> to be completed or corrected.</p>		F1
<p><b>2.13 Project In-Use Date</b></p> <p>.1 (1) Determine, in consultation with the <i>Owner</i> and the <i>Consultant</i>, and advise <i>Trade Contractors</i> in writing of, the <i>Project In-Use Date</i>.</p>		F1
<p><b>2.14 Handover</b></p> <p>.1 (1) Inform the <i>Owner</i> and the <i>Consultant</i> in writing when <i>Work</i> of each <i>Trade Contractor</i> is ready for final review prior to issuance of final certificate for payment.            (2) Seek, obtain and transmit to the <i>Owner</i> warranties (in consultation with the <i>Consultant</i>, if applicable), affidavits, releases, bonds, insurances, and waivers received from <i>Trade Contractors</i>.            (3) Turn over to the <i>Owner</i> all keys and maintenance stocks.            (4) Arrange for the issuance of the final certificate for payment for each <i>Trade Contractor</i>.            (5) Assist the <i>Owner's</i> operating staff to facilitate a smooth and proper takeover of <i>Work</i> of each <i>Trade Contractor</i> and the <i>Project</i>, including all necessary training and instruction of the <i>Owner's</i> operating staff.</p>		F1

<b>3. POST-CONSTRUCTION</b>  (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – COMPENSATION FOR SERVICES. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – COMPENSATION FOR SERVICES. F3 Fee to the <i>Construction Manager</i> based on time-based rates as described in paragraph 5.2.3 of Article A-5 – COMPENSATION FOR SERVICES.)	Performed by the Owner or Someone Other Than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)
<b>3.1 General Services</b> <b>.1</b> (1) Chair and minute <i>Project</i> meetings with the <i>Owner</i> , the <i>Consultant</i> , and <i>Trade Contractors</i> . (2) Prepare final <i>Construction Cost</i> report.		F1
<b>3.2 Occupancy Review</b> <b>.1</b> Assist the <i>Owner</i> in conducting post-construction occupancy review.		F1
<b>3.3 Warranties</b> <b>.1</b> Assist the <i>Owner</i> in administering warranties.		F1



**SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1**

Unless otherwise agreed to by the parties or as indicated in the following table, all expense items relating to *Services* are included in the *Construction Manager's* fee as described in paragraph 5.2 of Article of the Agreement A-5 – COMPENSATION FOR SERVICES.

	Costs Included in the Construction Manager's Fee (A5.2)	Reimbursable Expenses (A5.3)
1. Travel and subsistence expenses of the <i>Construction Manager's</i> personnel outside a radius of 50km from the <i>Place of the Project</i> .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Charges for long distance telephone and facsimile communications, courier services, and reproduction of trade contract documents incurred in relation to the performance of this <i>Contract</i> .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The cost of <i>Project</i> specific information technology support in accordance with the method determined by the parties.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Deposits lost, provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		<input checked="" type="checkbox"/>
5. The costs to the <i>Construction Manager</i> that result from any <i>Trade Contractor's</i> insolvency or failure to perform.		<input checked="" type="checkbox"/>
6. Charges levied by authorities having jurisdiction at the <i>Place of the Project</i> .		<input checked="" type="checkbox"/>
7. Royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefore.		<input checked="" type="checkbox"/>
8. Any adjustment in taxes and duties directly related to the <i>Project</i> for which the <i>Construction Manager</i> is liable.		<input checked="" type="checkbox"/>
9. Losses and expenses sustained by the <i>Construction Manager</i> for matters which are the subject of the insurance coverages obtained pursuant to GC 8.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts, within the deductible amounts or are not insurable.		<input checked="" type="checkbox"/>
10. The costs incurred due to emergencies affecting the safety of persons or property.		<input checked="" type="checkbox"/>
11. Legal costs incurred by the <i>Construction Manager</i> in relation to the performance of the <i>Services</i> provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		<input checked="" type="checkbox"/>
12. Such other costs directly incurred by the <i>Construction Manager</i> in the performance of this <i>Contract</i> as follows:		<input checked="" type="checkbox"/>

**SCHEDULE B1 – ADDITIONAL SERVICES AND COMPENSATION**

The *Construction Manager* will provide the following additional services and *Temporary Work* that are within the scope of the *Services*:

	Method of Compensation (*F1/F2/F3)

## SCHEDULE B2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE B1

Unless otherwise agreed to by the parties or as indicated in the following table, all expense items relating to additional services are included in the *Construction Manager's* fee as described in paragraph 5.2 of Article of the Agreement A-5 – COMPENSATION FOR SERVICES.

	Costs Included in the Construction Manager's Fee (A5.2)	Reimbursable Expenses (A5.3)
1. Travel and subsistence expenses of the <i>Construction Manager's</i> personnel outside a radius of 50km from the <i>Place of the Project</i> .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Charges for long distance telephone and facsimile communications, courier services, reproduction of trade contract documents incurred in relation to the performance of this <i>Contract</i> .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Deposits lost provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The costs to the <i>Construction Manager</i> that result from any <i>Trade Contractor's</i> insolvency or failure to perform.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. The cost of all products purchased by the <i>Construction Manager</i> for the <i>Project</i> , including cost of transportation thereof.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. The cost of all equipment and services required for the <i>Construction Manager's</i> field office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. The amounts of all contracts between the <i>Construction Manager</i> and subcontractors and suppliers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. The cost of quality assurance such as independent inspection and testing services.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Any adjustment in premiums for insurance which the <i>Construction Manager</i> is required, by this <i>Contract</i> , to purchase and maintain.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. If applicable, the cost of time-based rate for labour in the direct employ of the <i>Construction Manager</i> in performing the additional services described in Schedule B1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Charges levied by authorities having jurisdiction at the <i>Place of the Project</i> .		<input checked="" type="checkbox"/>
12. Royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefore.		<input checked="" type="checkbox"/>
13. Any adjustment in taxes and duties directly related to the <i>Project</i> for which the <i>Construction Manager</i> is liable.		<input checked="" type="checkbox"/>
14. Losses and expenses sustained by the <i>Construction Manager</i> for matters which are the subject of the insurance coverages obtained pursuant to GC 8.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts, are within the deductible amounts or are not insurable.		<input checked="" type="checkbox"/>
15. The costs incurred due to emergencies affecting the safety of persons or property.		<input checked="" type="checkbox"/>
16. Legal costs, incurred by the <i>Construction Manager</i> in relation to the performance of the <i>Project</i> provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		<input checked="" type="checkbox"/>
17. Such other costs directly incurred by the <i>Construction Manager</i> in performing the additional services as follows:  <div style="border: 1px solid black; height: 100px; width: 100%;"></div>		<input checked="" type="checkbox"/>



## DEFINITIONS

The following Definitions apply to the *Contract Documents*. References in the definition to the singular shall be considered to include the plural as the context requires.

### **Class A Construction Cost Estimate**

The *Class A Construction Cost Estimate* is an estimate of the *Construction Cost* based on the completed *Construction Documents*. *Class A Construction Cost Estimate* is the final estimate before the bid or proposal call. *Class A Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

### **Class B Construction Cost Estimate**

The *Class B Construction Cost Estimate* is an estimate of the *Construction Cost* with a level of precision that is based on the degree of completion of the *Construction Documents* at the time of preparation of the estimate. The *Class B Construction Cost Estimate* is typically prepared when all site or installation investigations are completed and the design of the major systems and sub-systems of the *Project* (including outline specifications and preliminary drawings and models) are well underway. *Class B Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

### **Class C Construction Cost Estimate**

The *Class C Construction Cost Estimate* is an estimate of the *Construction Cost* based on updated *Owner* requirements, general description of the *Project*, preliminary site information and existing conditions, and takes into consideration market conditions as well as basic implementation logistics. *Class C Construction Cost Estimate* shall include labour and material costs and the *Owner's* construction contingencies and allowances.

### **Class D Construction Cost Estimate**

The *Class D Construction Cost Estimate* is an estimate of the *Construction Cost* based on the *Owner's* functional requirements to the degree known at the time. The *Class D Construction Cost Estimate* shall as a minimum be based on historical cost data for similar projects, suitably adjusted for such factors as inflation, location, risk, quality, size, and time. All related factors affecting cost are considered to the extent possible. The *Class D Construction Cost Estimate* provides the *Owner* an indication of the order of magnitude of the *Construction Cost* for a project completed within the estimated completion date, and shall include labour and material costs and the *Owner's* construction contingencies and allowances.

### **Construction Cost**

*Construction Cost* means the actual cost of all elements of the *Project* including all applicable taxes but excluding the applicable value added taxes, whether recoverable or not. *Construction Cost* does not include the compensation of the *Construction Manager* and the *Consultant*.

### **Construction Cost Estimate**

*Construction Cost Estimate* is either a *Class A Construction Cost Estimate*, a *Class B Construction Cost Estimate*, a *Class C Construction Cost Estimate*, or a *Class D Construction Cost Estimate*, as the context shall require and is prepared with a level of precision commensurate with the level of detail of information available at the time.

### **Construction Documents**

The *Construction Documents* consist of the specifications and drawings that are consistent with the *Contract Documents* and are prepared by the *Consultant* and accepted by the *Owner* after execution of the Agreement for the performance of the *Project*.

### **Construction Manager**

The *Construction Manager* is the person or entity identified as such in the Agreement.

### **Consultant**

The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Project*.

### **Contract**

The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.

### **Contract Documents**

The *Contract Documents* consist of those documents listed in Article A-4 of the Agreement – CONTRACT DOCUMENTS and amendments agreed upon between the parties.

**Contract Time**

The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE SERVICES.

**Notice in Writing**

A *Notice in Writing*, where identified in this *Contract*, is a written communication between the parties that is transmitted in accordance with the provisions of Article A-7 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

**Owner**

The *Owner* is the person or entity identified as such in the Agreement.

**Payment Certifier**

The *Payment Certifier* is either the *Construction Manager* or the *Consultant* identified as such in a trade contract.

**Place of the Project**

The *Place of the Project* is the designated site or location of the *Project* identified in this Agreement.

**Project**

The *Project* means the total construction as described in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT contemplated by the *Owner*.

**Project In-Use Date**

*Project In-Use Date* shall have been reached when the *Project* is ready for use or is being used for the purpose intended and is so confirmed in writing by the *Construction Manager* in consultation with the *Consultant* and the *Owner*.

**Services**

The *Services* means all services described in Schedule A1 to the Agreement – SERVICES AND COMPENSATION and Schedule B1 to the Agreement – ADDITIONAL SERVICES AND COMPENSATION to be performed by the *Construction Manager* under this *Contract*.

**Substantial Performance of the Work**

*Substantial Performance of the Work* is defined in the lien legislation applicable to the *Place of the Project* with respect to each *Trade Contractor*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* of each *Trade Contractor* is ready for use or is being used for the purpose intended and is so certified by the *Payment Certifier*.

**Supplier**

A *Supplier* is a person or entity having a direct contract with the *Owner* to supply products.

**Temporary Work**

*Temporary Work* means temporary supports, structures, facilities, services, and other temporary items required for the execution of *Work* but not incorporated into *Work*.

**Trade Contractor**

*Trade Contractor* is the person or entity identified as such in a trade contract between the *Owner* and the *Trade Contractor* to perform *Work*.

**Value Added Taxes**

*Value Added Taxes* means such sums as shall be levied upon the *Owner's* payment to the *Construction Manager* by the Federal or any Provincial or Territorial government and is computed as a percentage of such payment and includes the Goods and Services Tax, the Quebec Sales Tax, The Harmonized Sales Tax, and any other similar tax, the collection and payment of which have been imposed on the *Construction Manager* by tax legislation.

**Work**

*Work* means the construction and related services required to be performed by a *Trade Contractor*.

**Working Day**

*Working Day* means a day other than a Saturday, Sunday, statutory holiday, or statutory vacation day that is observed by the construction industry in the area of the *Place of the Project*.

## GENERAL CONDITIONS

### PART 1 GENERAL PROVISIONS

#### GC 1.1 CONTRACT DOCUMENTS

1.1.1 If there is a conflict within the *Contract Documents*:

- .1 the order of priority of documents, from highest to lowest, shall be
  - the Agreement between the *Owner* and the *Construction Manager* (including the Schedules to the Agreement),
  - the Definitions,
  - Supplementary Conditions, if any
  - the General Conditions.
- .2 later dated documents shall govern over earlier documents of the same type.
- .3 amendments to documents shall govern over documents so amended.

#### GC 1.2 LAW OF THE CONTRACT

1.2.1 The law of the *Place of the Project* shall govern the interpretation of this *Contract*.

#### GC 1.3 RIGHTS AND REMEDIES

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
- 1.3.2 No action or failure to act by the *Owner* or the *Construction Manager* shall constitute a waiver of any right or duty afforded either of them under this *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### GC 1.4 ASSIGNMENT

1.4.1 Neither party to this *Contract* shall assign this *Contract* or a portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

#### GC 1.5 PROJECT REPRESENTATIVES

1.5.1 The *Owner*, *Construction Manager* and *Consultant* may appoint one or more project representatives to assist in carrying out their responsibilities under this *Contract*. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing.

## PART 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

### GC 2.1 SERVICES

- 2.1.1 The *Construction Manager* shall provide the basic services identified in Schedule A1 to the Agreement and additional services identified in Schedule B1 to the Agreement.
- 2.1.2 The *Construction Manager* shall retain the personnel named in the Agreement in their designated roles for the duration of the assignment and promptly inform and obtain approval by the *Owner* of any change.
- 2.1.3 In providing the *Services*, the *Construction Manager* assumes no responsibility for, nor offers any professional advice with respect to, any and all architectural or engineering aspects of the *Project* or the *Consultant's* services.
- 2.1.4 The authority of the *Construction Manager* as agent of the *Owner* is expressly limited to the provision of the *Services* more particularly described in Schedules A1 and B1 to the Agreement.
- 2.1.5 Interpretations and findings of the *Construction Manager* shall be consistent with the intent of the *Contract Documents* as they relate to the *Work*. In making such interpretations and findings the *Construction Manager* will not show partiality to either the *Owner* or *Trade Contractors*.

## PART 3 OWNER'S RESPONSIBILITIES

### GC 3.1 PROVISION OF INFORMATION AND OBLIGATIONS

3.1.1 The *Owner* shall:

- .1 retain the *Consultant* who shall be responsible for the design and design-related services required for the *Project*;
- .2 inform the *Construction Manager* of the scope and terms of the *Consultant's* services;

- .3 inform the *Consultant* of the scope and terms of the *Services*;
  - .4 coordinate and facilitate the services of the *Construction Manager* and the *Consultant*;
  - .5 enter into contracts or written agreements with *Trade Contractors* to perform the *Work*. Such agreements shall be consistent with the requirements of CCDC 17 – STIPULATED PRICE CONTRACT BETWEEN OWNER AND TRADE CONTRACTOR FOR CONSTRUCTION MANAGEMENT PROJECTS;
  - .6 inform the *Construction Manager* of the scope and terms of each trade contract;
  - .7 upon request by the *Construction Manager*, furnish to the *Construction Manager* reasonable evidence that financial arrangements have been made and that adequate financing is available in order to ensure the completion of the *Project*;
  - .8 communicate with *Trade Contractors* through the *Construction Manager* except:
    - (1) for direct communications with the *Payment Certifier*,
    - (2) with respect to formal notices in writing, or
    - (3) when expressly specified in a trade contract.
  - .9 pay *Trade Contractors* in accordance with the terms and conditions of each trade contract;
  - .10 furnish promptly to the *Construction Manager* all information that is required for the *Project* regarding the *Place of the Project* including surveys as to the physical characteristics of the site, soils reports, subsurface investigations, legal limitations, utility locations, and legal description. The *Construction Manager* shall be entitled to rely on such information;
  - .11 provide full and timely information and approvals regarding the requirements of the *Project* for the orderly progress of the *Services*;
  - .12 review documents submitted by the *Construction Manager* and give the *Construction Manager* timely decisions for the orderly progress of the *Services*;
  - .13 obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits;
  - .14 provide, maintain and pay for the insurance coverages required for the *Project* in accordance with Part 8 of the General Conditions – INSURANCE;
  - .15 immediately notify the *Construction Manager* if the *Owner* observes or otherwise becomes aware of any fault or defect in the *Work*, the *Project* or any non-conformity with the requirements of the *Contract*;
  - .16 designate in writing a representative who shall be fully acquainted with the *Project* and shall have the authority to act on the *Owner*'s behalf in relation to all duties and responsibilities of the *Owner* under this *Contract*; and
  - .17 designate in writing a *Payment Certifier* and advise the *Construction Manager* and the *Consultant*.
- 3.1.2 The *Owner* shall be responsible for construction health and safety at the *Place of the Project* in compliance with the rules, regulations and practices required by the applicable health and construction safety legislation.

## **PART 4 PAYMENT**

### **GC 4.1 APPLICATIONS FOR PAYMENT**

- 4.1.1 The *Construction Manager*'s applications for payment shall be made monthly as the *Services* progress or in accordance with such other period agreed to by the *Owner* and the *Construction Manager*.
- 4.1.2 The amount claimed shall be in accordance with a schedule agreed to by the *Owner* and the *Construction Manager*, or in the absence of such a schedule, equal to the value of the *Services* provided as of the last day of the payment period.

### **GC 4.2 PAYMENT**

- 4.2.1 The *Owner* shall make payment to the *Construction Manager* on account in accordance with the provisions of Article A-6 of the Agreement – PAYMENT no later than 20 calendar days following the date of receipt of an application for payment.
- 4.2.2 No deductions shall be made by the *Owner* from amounts payable to the *Construction Manager* other than those for which the *Construction Manager* is proven to be responsible as in accordance with Part 7 – DISPUTE RESOLUTION or has agreed to pay.
- 4.2.3 Variance from the *Construction Cost Estimate* established under this *Contract* shall not constitute grounds for the *Owner* to withhold fees due to the *Construction Manager*.
- 4.2.4 Where required by provincial or territorial legislation, payments shall be subject to the lien legislation applicable to the *Place of the Project*.



## PART 5 CHANGES

### GC 5.1 CHANGES TO THE PROJECT

- 5.1.1 The *Owner*, without invalidating this *Contract*, may make changes in the *Project* provided they are within the general scope of the *Project* and of the *Services*.
- 5.1.2 The *Construction Manager* shall promptly advise the *Owner* if a change contemplated by the *Owner* under paragraph 5.1.1 will change the *Construction Manager's* compensation or the *Project In-Use Date*.
- 5.1.3 If the *Owner* and the *Construction Manager* agree on an adjustment to the *Construction Manager's* compensation or *Contract Time*, such agreement shall be recorded in writing.
- 5.1.4 If the *Owner* and *Construction Manager* cannot agree on the change in *Construction Manager's* compensation, the matter shall be determined in accordance with the provisions of Part 7 of the General Conditions – DISPUTE RESOLUTION.
- 5.1.5 If the *Contract Time* is exceeded or extended through no fault of the *Construction Manager*, the *Construction Manager's* compensation shall be adjusted accordingly to cover the *Construction Manager's* additional costs.

### GC 5.2 CHANGES IN SERVICES

- 5.2.1 Any agreement between the *Owner* and the *Construction Manager* on a change to the *Services* shall be recorded in writing.

## PART 6 DEFAULT NOTICE

### GC 6.1 OWNERS' RIGHT TO TERMINATE THE CONTRACT

- 6.1.1 If a party is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of its insolvency, or a receiver is appointed because of its insolvency, the other party may, without prejudice to any other right or remedy it may have, terminate this *Contract* by giving the party or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 6.1.2 If the *Construction Manager* neglects to properly perform the *Service* or otherwise fails to comply with the requirements of this *Contract* to a substantial degree, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Construction Manager Notice in Writing* that the *Construction Manager* is in default of the *Construction Manager's* contractual obligations and instruct the *Construction Manager* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 6.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Construction Manager* shall be in compliance with the *Owner's* instructions if the *Construction Manager*:
- .1 commences the correction of the default within the specified time, and
  - .2 provides an acceptable schedule to the *Owner* for such correction, and
  - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 6.1.4 If the *Construction Manager* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due to the *Construction Manager*, or
  - .2 terminate the *Construction Manager's* right to continue with the *Services* in whole or in part or terminate this *Contract*.
- 6.1.5 If the *Owner* terminates this *Contract* as provided in paragraphs 6.1.1 and 6.1.4, the *Owner* shall pay the *Construction Manager* within 30 calendar days of the date that an invoice is submitted for all *Services* properly performed to the effective termination date, including reimbursable expenses and applicable taxes then due.
- 6.1.6 The *Owner* may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 6.1.1 and 6.1.4, terminate this *Contract* by giving *Notice in Writing* to that effect to the *Construction Manager*.
- 6.1.7 Suspension of the *Project* shall be deemed to have occurred if:
- .1 the *Project* has been stopped at the *Owner's* request or due to no fault of the *Construction Manager*, and
  - .2 such stoppage or stoppages have continued individually for a period of 30 calendar days or collectively for a period of 60 calendar days.

- 6.1.8 If the *Owner* terminates this *Contract* as provided in paragraph 6.1.6 or suspends the *Project* as described in paragraph 6.1.7:
1. the *Owner* shall pay the *Construction Manager* within 30 calendar days of the date that an invoice is submitted for all *Services* performed to the effective termination date, including reimbursable expenses and applicable taxes then due; and
  2. the *Construction Manager* shall be entitled to reasonable termination costs and an amount for anticipated loss of profit.

## **GC 6.2 CONSTRUCTION MANAGER'S RIGHT TO TERMINATE THE CONTRACT**

- 6.2.1 If the *Owner* fails to comply with the requirements of this *Contract* to a substantial degree, including but not limited to the non-payment of compensation for *Services* described in Article A-5 – COMPENSATION FOR SERVICES, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, give the *Owner Notice in Writing* that the *Owner* is in default of the *Owner's* contractual obligations and notify the *Owner* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 6.2.2 If the *Owner* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Construction Manager* may have, the *Construction Manager* may terminate this *Contract*.
- 6.2.3 If the *Construction Manager* terminates this *Contract* as described in paragraph 6.2.2:
1. the *Owner* shall pay the *Construction Manager* within 30 calendar days of the date that an invoice is submitted for all *Services* performed to the effective termination date, including reimbursable expenses and applicable taxes then due; and
  2. the *Construction Manager* shall be entitled to reasonable termination costs and an amount for anticipated loss of profit.

## **PART 7 DISPUTE RESOLUTION**

### **GC 7.1 NEGOTIATION, MEDIATION AND ARBITRATION**

- 7.1.1 Differences between the parties to this *Contract* as to the interpretation, application or administration of this *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, shall be settled in accordance with the requirements of this General Condition.
- 7.1.2 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 7.1.3 If the parties so agree the dispute shall be submitted to mediation or arbitration in accordance with the provisions of the Rules for Mediation and Arbitration of Construction Disputes as provided in CCDC 40 in effect as at the date of this *Contract*.
- 7.1.4 If no agreement is made for mediation or arbitration as described in paragraph 7.1.3, the parties may refer the unresolved dispute to the courts or to any other agreed form of dispute resolution.

## **PART 8 INSURANCE**

### **GC 8.1 INSURANCE**

- 8.1.1 The *Owner* shall obtain, maintain and pay for 'wrap-up' general liability insurance in the joint names of the *Owner*, the *Construction Manager*, the *Consultant*, all *Trade Contractors*, all subconsultants, and all trade subcontractors with limits of not less than \$10,000,000 per occurrence and a deductible not more than \$10,000. The insurance coverage shall be primary to all other insurance policies and shall not be substantially less than the insurance provided by IBC Form 2100 (including an extension for a standard provincial and territorial form of non-owned automobile liability policy) and IBC Form 2320, except for liability arising from damage to the *Project* during construction, which shall be limited to the completed operations period. The insurance shall be maintained from the date of commencement of the *Project* until 90 calendar days after the *Project In-Use Date*. The *Owner* is responsible to provide coverage for completed operations hazards from the *Project In-Use Date* for a period of 2 years.

- 8.1.2 The *Owner* shall obtain, maintain and pay for ‘broad form’ property insurance in the joint names of the *Owner*, the *Construction Manager*, the *Consultant*, and all *Trade Contractors*. The policy shall have limits of not less than the sum of 1.1 times the *Construction Cost Estimate* with a deductible not more than \$10,000. The “Broad Form” property insurance shall be provided from the date of commencement of the *Project* until the earliest of:
- .1 10 calendar days after the *Project In-Use Date*;
  - .2 on the commencement of use or occupancy of any part or section of the *Work* of any *Trade Contractors* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Project*;
  - .3 when the *Place of the Project* is left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
- 8.1.3 The *Owner* shall or cause to obtain, maintain and pay for an Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Project*. The policy shall have limits of not less than \$10,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof and limits of not less than \$5,000,000 for aircraft passenger hazard.
- 8.1.4 The *Construction Manager* shall provide, maintain and pay for general liability insurance that has limits of not less than \$5,000,000 per occurrence and a deductible not more than \$5,000. The policy shall be maintained from the date of commencement of the *Project* until the *Construction Manager* completes the *Services*. Liability coverage shall be provided for completed operations hazards on an ongoing basis for a period of 6 years following the *Project In-Use Date*.
- 8.1.5 The *Construction Manager* shall provide, maintain and pay for Automobile Liability Insurance in respect of vehicles that are required by law to be insured under a contract by a Motor Vehicle Liability Policy. The policy shall have limits not less than \$5,000,000 inclusive per occurrence for bodily injury, death, and damage to property, covering all vehicles owned or leased by the *Construction Manager*. Where the policy has been issued pursuant to a government-operated automobile insurance system, the *Construction Manager* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Construction Manager*.
- 8.1.6 Prior to commencement of the *Project* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the parties shall promptly provide each other with confirmation of coverage that they are responsible for and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Project*.
- 8.1.7 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of this *Contract*.
- 8.1.8 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Project*.

## **PART 9 INDEMNIFICATION AND WAIVER OF CLAIMS**

### **GC 9.1 INDEMNIFICATION**

- 9.1.1 The *Owner* and the *Construction Manager* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to, their involvement as parties to this *Contract*, provided such claims are:
- .1 caused by:
    - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
    - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
  - .2 made by *Notice in Writing* within a period of 6 years from the date of *Project In-Use Date* or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Project*.
- The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 9.1.2 The obligation of either party to indemnify as set forth in paragraph 9.1.1 shall be limited as follows:
- .1 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is to be provided by either party pursuant to GC 8.1 – INSURANCE, the insurance limit for the loss so covered as prescribed in GC 8.1 – INSURANCE.

- 2 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is not required to be provided by either party in accordance with GC 8.1 – INSURANCE, the *Construction Manager*'s compensation as recorded in Article A-5 of the Agreement – COMPENSATION FOR SERVICES.
- 3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 9.1.2.1 and 9.1.2.2 shall apply.

9.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 9.1.1 and 9.1.2 shall be inclusive of interest and all legal costs.

9.1.4 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Construction Manager*:

- 1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known to the party required to give such *Notice in Writing*;
- 2 should either party be required as a result of its obligation to indemnify the other pay or satisfy a final order, judgment or award made against the party entitled by this *Contract* to be indemnified, then the indemnifying party, upon assuming all liability for any costs that might result, shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

## GC 9.2 WAIVER OF CLAIMS

9.2.1 As of the date of one year from the *Project In-Use Date*, the *Construction Manager* waives and releases the *Owner* from all claims which the *Construction Manager* has or reasonably ought to have knowledge of that could be advanced by the *Construction Manager* against the *Owner* arising from the *Construction Manager*'s involvement in the *Project*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the *Project In-Use Date*, except as follows:

- 1 claims arising prior to or on the *Project In-Use Date* for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* no later than 20 days after the *Project In-Use Date*;
- 2 indemnification for claims advanced against the *Construction Manager* by third parties for which a right of indemnification may be asserted by the *Construction Manager* against the *Owner* pursuant to the provisions of this *Contract*;
- 3 claims resulting from acts or omissions which occur after the *Project In-Use Date*.

9.2.2 The *Construction Manager* waives and releases the *Owner* from all claims referenced in paragraph 9.2.1.3 except for those referred in paragraph 9.2.1.2 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* within 395 calendar days following the *Project In-Use Date*.

9.2.3 As of the date of one year from the *Project In-Use Date*, the *Owner* waives and releases the *Construction Manager* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Construction Manager* arising from the *Owner*'s involvement in the *Project*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the *Project In-Use Date*, except as follows:

- 1 claims arising prior to or on the *Project In-Use Date* for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* no later than 20 days from the *Project In-Use Date*;
- 2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Construction Manager* pursuant to the provisions of this *Contract*;
- 3 damages arising from the *Construction Manager*'s actions which result in substantial defects or deficiencies in the *Project*. "Substantial defects or deficiencies" mean those defects or deficiencies in the *Project* which affect the *Project* to such an extent or in such a manner that a significant part or the whole of the *Project* is unfit for the purpose intended by this *Contract*;
- 4 claims arising from acts or omissions which occur after the *Project In-Use Date*.

9.2.4 The *Owner* waives and releases the *Construction Manager* from all claims referred to in paragraph 9.2.3.3 except for those referred in paragraph 9.2.3.2 and claims for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* within a period of six years from *Project In-Use Date* should any limitation statute of the Province or Territory of the *Place of the Project* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:

- 1 any limitation statute of the Province or Territory of the *Place of the Project*; or
- 2 the Civil Code of Quebec if the *Place of the Project* is the Province of Quebec.

- 9.2.5 The *Owner* waives and releases the *Construction Manager* from all claims referenced in paragraph 9.2.3.4 except for those arising from claims for which *Notice in Writing* has been received by the *Construction Manager* from the *Owner* within 395 calendar days following the *Project In-Use Date*.
- 9.2.6 *Notice in Writing* of claim as provided for in GC 9.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 9.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following:
- .1 a clear and unequivocal statement of the intention to claim;
  - .2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
  - .3 a statement of the estimated quantum of the claim.
- 9.2.7 The party giving *Notice in Writing* of claim as provided for in GC 9.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 9.2.8 Where the event or series of events giving rise to a claim made under paragraphs 9.2.1 or 9.2.3 has a continuing effect, the detailed account submitted under paragraph 9.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events that gave rise to the claim.
- 9.2.9 If a *Notice in Writing* of claim pursuant to paragraph 9.2.1.1 is received on the 18th or 19th calendar day after the *Project In-Use Date*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 9.2.3.1 shall be extended to 24 calendar days after the *Project In-Use Date*.
- 9.2.10 If a *Notice in Writing* of claim pursuant to paragraph 9.2.3.1 is received on the 18th or 19th calendar day after the *Project In-Use Date*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 9.2.1.1 shall be extended to 24 calendar days after the *Project In-Use Date*.

**SUPPLEMENTARY ARTICLES, AMENDED SCHEDULES, DEFINITIONS  
AND SUPPLEMENTARY GENERAL CONDITIONS**

**A. STANDARD FORM OF CONTRACT**

The *Canadian Standard Construction Document, CCDC5A-2010, Construction Management Contract for Services*, consisting of the Agreement between Owner and Construction Manager, Definitions, General Conditions, the Appendix and these Supplementary Conditions, are part of the Contract Documents. Section and paragraph references below are to the corresponding sections and Paragraphs of the Agreement between Owner and Construction Manager, Definitions and General Conditions of the *Canadian Standard Construction Documents, CCDC5A-2010, Construction Management Contract for services*.

**B. ARTICLES OF AGREEMENT**

1. ARTICLE A-1 THE SERVICES

Add the following at the end of Article 1.2 before “, and”:

“using the degree of care, skill and diligence ordinarily exercised by skilled, knowledgeable and experienced construction managers performing work of the nature contemplated herein on a project of the nature and magnitude of the Project”

Add as a new Article 1.4 the following:

“1.4 The Construction Manager represents that it is knowledgeable and experienced in the management of the type of construction required for the Project. The Construction Manager acknowledges that it is being retained by the Owner because of its knowledge and expertise in that regard.”

ADD as a new Article 1.5 the following:

“1.5 The Construction Manager shall perform the Services in a timely manner and in accordance with the Project schedule and shall make commercially reasonable efforts to ensure the Work is performed by Trade Contractors in a timely manner and in accordance with the Project schedule.”

2. ARTICLE A-4 – CONTRACT DOCUMENTS

Supplement the list of *Contract Documents* in Article 4.1:

“ - Supplementary Conditions of this Contract”

3. ARTICLE A-9 SUCCESSION

ADD as a new Article 1.9 the following:

“9.2 KSV Restructuring Inc. is executing this Agreement on behalf of 759 Winston Churchill LP solely in its capacity as Court-appointed receiver and manager of certain assets, property and undertakings of 759 Winston Churchill LP and not in personal, corporate or any other capacity and none of KSV Restructuring Inc. (in its capacity as court-appointed receiver and manager of certain assets, property and undertakings of 759 Winston Churchill LP), KSV Restructuring Inc. (in its own right) or any of their respective directors, officers, agents, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof. Any claims of

Construction Manager shall be limited to and only enforceable against the property of 759 Winston Churchill LP.”

**C. SCHEDULE A1 – SERVICES AND COMPENSATION**

4. Delete paragraph 1.6.1 in its entirety and replace it with the following:
5. Add a new paragraph 1.6.6, 1.6.7 and 1.6.8 as follows:
  - “.6 Update the *Project Budget* to incorporate the prices of all trade contracts awarded.
  - .7 Assemble the trade contract documents for each successful Trade Contractor and check, where required, that all bonds, insurance policies and workers’ compensation certificates are provided.
  - .8 Temporary Work:
    - (1) Plan and arrange for required Temporary Work.”
6. Under the heading 1. PRECONSTRUCTION add new paragraphs 1.7 and 1.8 as follows:
  - “1.7 Health and Safety:
    - (1) The Construction Manager shall present to the Owner, for the information of the Owner, its plan for monitoring and safeguarding the health and safety of all parties involved on the Project, including the discharge of the Construction Manager’s obligations as “constructor” under OHSA. The plan submitted by the Construction Manager shall include an outline of how the Construction Manager intends to review the safety programs of each of the Trade Contractors and Suppliers, their sub-subcontractors and suppliers, Owner Work and the activities of the Construction Manager’s own forces while they are performing Work or supplying materials or Products to the Project. The Construction Manager shall file a Notice of Project with the Ministry of Labour establishing its designation as “constructor”.
  - 1.8 Mobilization Planning:
    - (1) The Construction Manager shall determine the logistics and requirements for the set up of the site during construction and shall work with the Owner and the Consultant to develop measures to optimize construction efficiency, and minimize and mitigate the impact of the construction on adjacent occupied or public use areas. This requirement includes the Construction Manager’s compliance with all applicable health and safety laws and regulations, including OHSA, as well as any supplementary requirements of the Owner.”
7. Add new paragraph 2.1.4 as follows:
  - “.4 Maintain the job-site as required to ensure the health and safety of workers, staff and visitors and meet the obligations of “constructor” under OHSA.”
8. Add the following at the end of paragraph 2.2.1:
  - “(8) Provide advice and assistance on labour problems in order to minimize work stoppages and in the settlement of jurisdictional or other labour disputes.”

9. Delete the words “*Construction Cost Estimate*” in paragraph 2.4.1(3) and substitute the words *Project Budget*. Add the following second sentence to paragraph 2.4.1(3):

“Update the *Project Budget* when necessary to incorporate any material changes to the estimated *Construction Cost*.”

10. Add new paragraphs 2.4.1(7) and 2.4.1(8) as follows:

“(7) If any claim for lien of a Trade Contractor is registered against title to the Project, the Construction Manager will co-operate promptly and fully with the Owner to provide the Owner such information and documentation as the Owner reasonably requires to take the steps necessary to have the claim for lien removed from the Owner’s title forthwith.

(8) Advise the Owner on the maintenance and administration of the basic holdback and finishing holdback required by any lien legislation applicable to the Place of the Project in respect of the Work of Trade Contractors.”

11. Add the following to the end of 2.6.2(1): “in accordance with the timelines set out in the Construction Act”.

12. Add the following to the end of 2.6.1(2): “and of the relevant timelines for payment and issuance a notice of dispute in accordance with the Construction Act”.

13. Add at the end of paragraph 2.8.1(2) after “compliance” the words:

“With the rules, regulations and practices required by the applicable health and construction safety legislation, take all reasonable steps to require each of those Trade Contractors to carry out their obligations under such applicable health and construction safety legislation while they are performing the Work at the Place of the Project and make appropriate recommendations to the Owner”.

14. Add at the end of paragraph 2.10.1(2): “in an organized and orderly system so that they are readily accessible to support any adjudication under the Construction Act.”

15. Add the following to paragraph 2.10.1 as follows:

“(4) Permit the Owner access to the materials maintained pursuant to paragraphs 2.10.1(1), (2) and (3) during normal business hours.”

16. Add at the beginning of paragraph 3.3.1 before “assist” the following:

“Obtain and deliver to the Owner, in an organized and collated fashion, those warranties and guarantees to which the Owner is entitled in respect of the Project which are separate from and do not form part of a contract with a Trade Contractor, and”.

17. Add new paragraph 3.4 as follows:

“3.4 Construction Liens/Other Post-Construction Work

.1 If any claim for lien of a Trade Contractor is registered against title to the Project, the Construction Manager will co-operate promptly and fully with the Owner to provide the Owner such information and documentation as the Owner reasonably requires to take the steps necessary to have the claim for lien removed from the Owner’s title.

.2 Not Used;



.3 Manage all post-construction audit deficiency repairs.”

**D. SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1**

18. Add the following at the end of paragraph 5:

“, except if such Trade Contractor is related to the Construction Manager”.

19. Add the following at the end of paragraph 11:

“For greater clarity, in the event of a dispute between the Owner and the Construction Manager, each of them shall be responsible for their own legal costs unless otherwise ordered by a court or in a decision of an arbitrator.”

20. In paragraph 12.1, add the following after the word “Construction Manager”:

“in accordance with the approved Project Budget”

**E. SCHEDULE B1 – ADDITIONAL SERVICES AND COMPENSATION AND SCHEDULE B2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE B1**

21. Delete Schedules B1 and B2 in their entirety and replace them with “Intentionally left blank.”

**F. SCHEDULE C – TIME-BASED RATES FOR PERSONNEL EMPLOYED BY THE CONSTRUCTION MANAGER**

22. Add the following at the end of Schedule C:

“The above indicated Time-Based Rates shall include costs associated with the employment of these personnel, including, but not limited to, the following: salaries, wages, wireless mobile expenses, bonuses, contributions, assessments or taxes incurred during the performance of the Contract for such items as unemployment insurance, workers’ compensation, Canada Pension Plan and benefits paid or incurred by the Construction Manager for its personnel, for that portion of their time spent on the Project.”

**G. DEFINITIONS**

23. In the definition of Construction Cost Estimate delete the words “is either a *Class A Construction Cost Estimate*, a *Class B Construction Cost Estimate*, a *Class C Construction Cost Estimate*, or a *Class D Construction Cost Estimate*, as the context shall require” and insert the words: “is the *Project Budget*”.

24. Amend the Definition “Contract Documents” by adding after the words “agreed upon by the parties” the words “in writing”.

25. Add the following new definitions:

**“Approval**

“Approval” or “Approved” means the prior written approval of the Owner or the Consultant, as the case may be. Where Approval is required, such “Approval” will be granted or withheld by the relevant party acting reasonably and in a timely manner unless the Contract provides otherwise. Where the words “approved” and “approval” appear in the Contract, they shall be deemed to read “Approved” and “Approval”, as the case may be.

**OHSA**

OHSA means the *Occupational Health and Safety Act* (Ontario) as amended, and all regulations passed under it.

**Price of the Services**

The Price of the Services, which excludes Value Added Taxes, is the sum of the Construction Manager's Fee for the Services as stipulated in ARTICLE A-5 COMPENSATION FOR SERVICES and the reimbursable expenses for the services as stipulated in paragraph SCHEDULE A2-REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1 and SCHEDULE B2-REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE B1.

**Price of the Work**

The Price of the Work, which excludes Value Added Taxes, is the sum of the Construction Manager's Fee for the Work as stipulated in ARTICLE A-5 COMPENSATION FOR SERVICES and the Construction Cost.

**Indemnitees**

Indemnitees means Owner, KSV Restructuring Inc. and their respective agents, representatives, directors, officers, employees and successors and assigns.

**Related Transaction**

Related Transaction is a transaction in which the Trade Contractor providing or intending to provide Work is under the control of or affiliated with the Construction Manager. For the purpose of the foregoing, "affiliated with the Construction Manager" means any entity has 10% or more ownership interests in common with the Construction Manager, directly or indirectly.

**Project Budget**

The *Project Budget* shall be prepared by the *Construction Manager* when it commences to provide *Services* pursuant to Article 1.3 of the Contract and shall be updated as new information becomes available. The *Project Budget* will provide an estimate of the *Construction Cost*.

**Proper Invoice**

Proper Invoice has the meaning prescribed by Section 6.1 of the *Construction Act*. Even where not expressly changed, all references to "application for payment" throughout this Contract shall be read as references to "Proper Invoice". In addition, all Proper Invoices provided under this Contract shall include, with the exception of the first Proper Invoice, a statutory declaration, in the CCDC 9A – 2001 form, up to the date of the Proper Invoice."

**H. SUPPLEMENTARY GENERAL CONDITIONS****GC 1.1 CONTRACT DOCUMENTS**

26. Where a General Condition or paragraph of the General Conditions of the Contract is deleted by these supplementary conditions, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, unless stated otherwise herein, and the numbering of the deleted item will be retained, unused.

27. Delete paragraph 1.1.1.1 in its entirety and replace it with the following:

- “1.1 the order of priority of documents, from highest to lowest, shall be
- Supplementary Conditions,
  - the Agreement between the Owner and the Construction Manager (including the Schedules to the Agreement),
  - the Definitions,
  - the General Conditions,
  - the Drawings, and
  - the remainder of the Contract Documents listed in Article A-4 CONTRACT DOCUMENTS in the order in which they appear.”

28. Add new paragraph 1.1.2 as follows:

- “1.1.2 The Construction Manager shall notify the Consultant in writing of omissions or discrepancies in the Contract Documents requesting clarification prior to proceeding with affected Work. If Work is required in a manner which, in the Construction Manager's opinion, makes it impossible to produce satisfactory work, the Construction Manager shall request clarification or direction from the Consultant before proceeding with the Work. Failure to make such a request cannot thereafter be relied on by the Construction Manager for failing to carry out the Work in a satisfactory manner.”

#### **GC 1.4 ASSIGNMENT**

29. Delete paragraph 1.4.1 in its entirety and replace it with the following:

- “1.4.1 The Construction Manager shall not assign this Contract or a portion thereof without the written consent of the Owner, which consent may be withheld in its sole discretion.
- 1.4.2 The Owner shall have the right, with the written consent of, and on written notice to the Construction Manager, which consent shall not be unreasonably withheld or delayed, to assign this Contract or a portion thereof to a purchaser of all or a corresponding portion of the Project or the Place of the Project, provided that the purchaser has executed an agreement in favour of the Construction Manager agreeing to assume, perform and be bound by all or a corresponding portion of the obligations and covenants to be performed by the Owner under the Contract, the Owner shall thereupon be released of any obligations or a corresponding portion thereof arising under the Contract from and after the date of such assignment to the extent of the interest so assigned by the Owner.”

#### **GC 2.1 SERVICES**

30. Add after paragraph 2.1.1 the following:

- “2.1.1.1 The Construction Manager shall be responsible for co-ordinating with and ensuring that the Trade Contractors complete any deficient work including but not limited to the deficiencies identified in the inspection forms and any subsequent claims for deficiencies in the Project. This shall be in effect for a period of 2 years after substantial performance.
- 2.1.1.2 The Construction Manager acknowledges and confirms that notwithstanding the findings of the Construction Manager the final determination of any addition to a contract shall be made by the Owner and any Change Order must be approved in writing by the Owner.
- 2.1.1.3 The Construction Manager shall be responsible for approving all invoices to ensure that same comply with the terms and provisions of any contract and reflect the value of the work

and/or improvements completed to date by any Trade Contractor, and after such written approval, shall present same to the Owner for payment.”

31. Add the following new paragraphs:

“2.1.6 The Construction Manager shall not undertake or recommend any Related Transaction on this Project unless it first obtains the written consent of the Owner, such consent may be unreasonably withheld or delayed, and the Construction Manager, at or before the time that tender documents for Trade Contractors are prepared, shall provide to the Owner a written list of Trade Contractors under the control of or affiliated with the Construction Manager in any Related Transaction which the Construction Manager may undertake or recommend to the Owner.

2.1.7 Should the Construction Manager become aware that the information provided by the Owner pursuant to paragraph 3.1.1.10 of GC 3.1 PROVISION OF INFORMATION AND OBLIGATIONS is incomplete or inaccurate, the Construction Manager shall notify the Owner in writing the particulars of the error, provided that nothing herein or the said paragraph shall obligate the Construction Manager to undertake any independent investigations to verify the completeness or accuracy of such information.

### **GC 3.1 PROVISION OF INFORMATION AND OBLIGATIONS**

32. Delete paragraph 3.1.1.7 in its entirety.

33. Add at the end of paragraph 3.1.1.10 after the word “information” the following:

“unless the Construction Manager, acting reasonably, becomes aware that the information is in some way incomplete or inaccurate”.

34. Add at the end of paragraph 3.1.1.11 after the word “Services” the following:

“, provided that at all times the onus shall be on the Construction Manager, acting reasonably, to seek from the Owner such information and approvals as will enable the Construction Manager to be provided with “full and timely information and approvals” for the purpose of the orderly progress of the Services”.

35. Add at the end of paragraph 3.1.1.16 before “; and” the following:

“, provided that the Owner shall be entitled to designate more than one representative and shall be entitled, on twenty-four (24) hours’ notice, to replace a representative”.

36. Delete paragraph 3.1.2 in its entirety and replace with the following:

“3.1.2 The Construction Manager shall be responsible for construction safety at the Place of the Project and for compliance with all rules, regulations, and practices required by OSHA and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the work for the Project, provided that the Construction Manager shall be entitled to engage the professional services of a safety consultant at the expense of the Owner and to rely on the advice of such safety consultant in all matters related to the construction health and safety. The Construction Manager shall register as a constructor and file a Notice of Project under the Act. The Construction Manager shall control and supervise all construction work and the Consultant and all suppliers, Trade Contractors and trade subcontractors involved in the Project. The Construction Manager hereby expressly assumes the obligations of a constructor under OSHA. The Owner has the authority to stop the progress of the Work whenever, in the

reasonable opinion of the Owner, such stoppage is necessary to ensure the safety of life, or of the Work or of neighbouring property.”

37. ADD new paragraph 3.1.3 as follows:

“3.1.3 The Construction Manager will indemnify and save the Indemnitees completely harmless from any action, cause of action, suit, debt, cost, expense, claim, damage, liability or demand whatsoever, at law or in equity (including, without limitation, legal costs and disbursements on a substantial indemnity basis and the costs of enforcing this indemnity) (“**Claims**”) that may be made against or incurred by the Owner to the extent that such Claims result from a breach by the Construction Manager of its obligations under this Contract, the negligence, willful misconduct or default of the Construction Manager or any action taken by the Construction Manager outside the scope of its authority as set forth in this Contract, or if the Construction Manager is not acting in good faith and in the best interests of the Owner.”

#### **GC 4.1 APPLICATIONS FOR PAYMENT**

38. Delete paragraph 4.1.1 in its entirety and replace with:

39. Proper Invoices on account, as provided in Article A-6 of the Agreement -- PAYMENT may be submitted monthly and shall be paid by the 28th calendar day after being given, in accordance with the Construction Act, other than in circumstances where the Owner disputes any Proper Invoice or portion thereof only to the extent permitted by this Contract and the Construction Act, provided that the Owner delivers a notice of non-payment within the 14 day time period prescribed by the Construction Act.

40. Add new paragraph 4.1.3 as follows:

“4.1.3 Should the Construction Manager’s compensation be based in whole or in part on time-based rates for personnel employed by the Construction Manager, the application for payment shall include an itemized list of costs in respect of Services rendered, and shall also contain an itemized list of any compensation claimed for expenses included in SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1.”

#### **GC 4.2 PAYMENT**

41. Amend paragraph 4.2.1 by deleting “20 calendar days following the date of receipt of an application for payment” in the 2nd line and replacing with “no later than 28 days after receiving the “Proper Invoice” (as such term is defined in the Construction Act) from the Construction Manager”.

42. Add new paragraphs 4.2.5, 4.2.6 and 4.2.7 as follows:

“4.2.5 If the Construction Manager has engaged in subcontractors in the performance of the Services, the Construction Manager must provide with each application after the first, a statutory declaration on a form provided by the Owner certifying that all accounts for Service and other indebtedness which may have been incurred by the Construction Manager in connection with the Project and for which the Construction Manager has received payment from the Owner, has been paid in full.

4.2.6 The Construction Manager shall cooperate fully with the Owner, Cost Consultant and Payment Certifier for the duration of the Project.

4.2.7 Unless the *Owner* has published a notice of non-payment holdback in accordance with Section 27.1 of the *Construction Act*, then the *Owner* shall release the holdback amount

required by the *Construction Act* to the *Construction Manager* within the time prescribed by the *Construction Act*.”

#### **GC 4.3 ACCOUNTING AND AUDIT**

43. Add new GC 4.3 as follows:

“4.3.1 The Construction Manager shall keep full and detailed accounts and records necessary to document the cost of the Services as outlined in Article A-5 COMPENSATION FOR SERVICES.

4.3.2 The Owner shall be afforded reasonable access to all the Construction Manager’s books, records, correspondence, instructions, drawings, receipt vouchers, invoices and memoranda relating to the cost of the Services as outlined in Article A-5 COMPENSATION FOR SERVICES, and for this purpose the Construction Manager shall preserve all such records for a period of two (2) years from the date of the final certificate of payment.”

#### **GC 4.4 SUBSTANTIAL PERFORMANCE OF THE WORK**

44. Add new GC 4.4 as follows:

“4.4.1 The Construction Manager shall submit to the Consultant, and the Owner within thirty (30) calendar days of the issuance of the certificate of Substantial Performance of the Work, all:

- .1 guarantees;
- .2 warranties;
- .3 certificates;
- .4 final testing and balancing reports;
- .5 distribution system diagrams;
- .6 spare parts and/ or attic stock materials;
- .7 a complete manual for the operation and recommended maintenance of all systems, equipment, materials and finishes, etc., for use by the Owner;
- .8 samples;
- .9 reports and correspondence from authorities having jurisdiction in the Place of the Work;
- .10 Shop Drawings;
- .11 inspection certificates;
- .12 a complete set of drawings describing the as-built condition of all aspects of the Work;
- .13 any other materials or documentation required to be submitted under the Contract; and
- .14 as built drawings in such forms acceptable to the Owner,

together with written proof acceptable to the Owner and the Consultant that the Work has been substantially performed in conformance with the requirements of municipal, governmental, and utility authorities having jurisdiction in the Place of the Work.

The Owner may withhold, from amounts otherwise payable to the Construction Manager, the amount identified by the Consultant in the Schedule of Values for the obligation of the Construction Manager to deliver such turnover documents.”

#### **GC 4.5 FINAL PAYMENT FOR THE WORK**

45. Add New GC 4.5 Final Payment for the Work
- 4.5.1 When the Construction Manager considers that the Work is completed, the Construction Manager shall submit a Proper Invoice for final payment.
  - 4.5.2 The Consultant will, no later than 7 calendar days after the receipt of a Proper Invoice for final payment from the Construction Manager, review the Work to verify the validity of the application and advise the Construction Manager in writing that the application is valid or give reasons why it is not valid.
  - 4.5.3 When the Consultant finds the Construction Manager’s Proper Invoice for final payment valid, the Consultant will promptly issue a Certificate for Payment.
  - 4.5.4 In the event that the Consultant does not issue a final certificate for payment within 10 days of the Construction Manager’s Proper Invoice for final payment, then the Owner shall nonetheless comply with its payment obligations under Part I.1 of the Construction Act by either making payment for the Proper Invoice for final payment within the prescribed 28 calendar day time period or, only to the extent it is entitled to withhold payment under this Contract, a notice of payment within the prescribed time period.”

#### **GC 5.1 CHANGES TO THE PROJECT**

46. Delete paragraph 5.1.2 in its entirety and replace it with the following:
- “5.1.2 The Construction Manager shall provide the Owner with Notice in writing within 10 Working Days if a change contemplated by the Owner, including a change under paragraph 5.1.1, may change the Construction Manager’s compensation or the Project In-Use Date. If the Construction Manager fails to provide Notice in Writing within 10 Working Days, the Construction Manager shall not be entitled to any additional compensation.”
47. Add new paragraph 5.1.6 as follows:
- “5.1.6 The Construction Manager shall be responsible for approving all invoices, to ensure that same comply with the terms and provisions of any trade contract and reflect the value of the work and/or improvements provided by any trade contractor, and after such written approval, shall present same to the Owner for payment, all in accordance with the monthly invoice processing timeline determined by the Owner.”

#### **GC 6.1 OWNERS’ RIGHT TO TERMINATE THE CONTRACT**

48. Delete paragraph 6.1.3.1 in its entirety and replace it with the following:
- “commences and is diligently proceeding with the correction of the default within the specified time, and”
49. Delete paragraph 6.1.3.2 in its entirety and replace it with the following:
- “.2 provides a schedule that is acceptable to the Owner, acting reasonably, for such correction, and”

50. In paragraph 6.1.7.2, delete “30” and add “90”, delete “60” and add “120”.
51. Delete paragraph 6.1.8.2 in its entirety.

#### **GC 6.2 CONSTRUCTION MANAGER’S RIGHT TO TERMINATE THE CONTRACT**

52. Delete paragraph 6.2.3.2 in its entirety and replace with the following:

“If the Construction Manager terminates the Contract under the conditions described in GC 6.2, the Construction Manager shall be entitled to be paid for all work performed to the date of termination. The Construction Manager shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, losses sustained on Products and construction machinery and equipment.”

#### **GC 7.1 NEGOTIATION, MEDIATION AND ARBITRATION**

53. In paragraph 7.1.4, delete the words “the parties” and replace them with the words “either party”.

#### **GC 9.1 INDEMNIFICATION**

54. Add a new paragraph 9.1.4.3 as follows:

“9.1.4.3 Nothing in this GC 9.1 shall deprive the Owner or the Consultant of any other action, right or remedy otherwise available to them, or either of them, under applicable law.”

#### **GC 10.1 TOXIC AND HAZARDOUS SUBSTANCES**

55. Add new GC 10.1 as follows:

“10.1.1 If the Construction Manager becomes aware of toxic or hazardous substances or materials at or on the Project, the Construction Manager shall, at the expense of the Owner, take all reasonable steps, including stopping work on the Project, to ensure that no person suffers injury, sickness or death and that no property is injured or destroyed as a result of exposure to or the presence of the substances or materials. Upon such discovery the Construction Manager shall immediately report the circumstances to the Consultant and the Owner in writing. If the presence of such substances or materials is the result of the acts of the Construction Manager, the Construction Manager shall reimburse the Owner for the cost and expense of the work stoppage.”

#### **GC 11.1 OSHA**

56. Add new GC 11.1 as follows:

“11.1.1 The Construction Manager shall assume overall responsibility for, and shall be solely responsible for, construction health and safety at the Project and the Place of the Work (including for the Work and any other Work or other activities conducted or performed at the Project or Place of the Work by any person whatsoever including the Construction Manager, Trade Contractors, Suppliers, subcontractors, Owner’s own forces, other contractors, or any other person employed by any of them, and each of their respective employees, directors, officers, agents, and invitees, and whether or not any contractual relationship exists between the Construction Manager and such person (collectively the “Project Work”)) and for compliance with the rules, regulations, and practices required by, and other requirements of, the OSHA. Without limiting the generality of the foregoing:



- .1 the Construction Manager acknowledges and agrees that the Construction Manager is the Constructor in respect of the Project, the Project Work, and the Place of the Work and shall carry out and fulfill the duties and responsibilities of the Constructor and “Employer” (within the meaning of OHSA) and those set out in paragraph 11.1.1 from the date of commencement of the Work until the date of Total Performance of the Work; and
  - .2 the Construction Manager’s duties, obligations, and responsibilities shall also include carrying out and fulfilling the Owner’s duties and responsibilities as an Employer in relation to Workplace safety in respect of the Project, the Project Work, and the Place of the Work.
- 11.1.2 The Owner and the Construction Manager acknowledge and agree that the Construction Manager was selected by the Owner based on a number of key factors including: (i) the Construction Manager’s skill, knowledge, experience (including health and safety policies, WSIB and safety records), health and safety policies, and expertise relating to Workplace safety; and (ii) Construction Manager’s record of convictions, and violations issued by the Ontario Ministry of Labour, Immigration, Training and Skills Development. The Construction Manager shall exercise reasonable diligence in accordance with the standard of care set out in Article A-1.2 in the pre-selection process with respect to any Trade Contractors.
- 11.1.3 The Construction Manager represents and warrants that the Construction Manager and any Trade Contractors have not received any charges or violations issued by the Ontario Ministry of Labour, Immigration, Training and Skills Development and have not been convicted of any such charges or violations, in the current year and in the prior 5 years.
- 11.1.4 Without limiting the generality of paragraph 11.1.1:
- .1 the Construction Manager acknowledges and agrees that the Construction Manager has provided and will continue to provide the appropriate health and construction safety instruction and training to the Construction Manager’s employees, Trade Contractors and Suppliers attending at the Place of the Work;
  - .2 the Construction Manager shall be responsible for establishing, initiating, maintaining, and supervising all safety precautions and programs with respect to the Project, the Project Work, and the Place of the Work and for compliance with such precautions and programs (including by the Trade Contractors, Suppliers and subcontractors); and
  - .3 the Construction Manager shall incorporate into all safety precautions and programs any reasonable comments of the Owner’s insurance company providing insurance for the Project. Such review and comments shall not limit or reduce any of the Construction Manager’s obligations or responsibilities as Constructor.
- 11.1.5 The Construction Manager represents and warrants and shall provide evidence to the Owner upon request that the Construction Manager and its Trade Contractors and Suppliers have in place safety programs, and that all employees of the Construction Manager, its Suppliers and its Trade Contractors have received training in occupational safety, all in compliance with the requirements of the OHSA, and are effectively enforcing the applicable safety programs.
- 11.1.6 Construction Manager shall promptly report to the Owner any accident or emergency that relates to the Work. The Construction Manager shall cooperate fully with the Owner with respect to dealing with any claim resulting from an accident or emergency. In the event of

an accident or emergency threatening health, life or property, the Construction Manager, without instruction or authorization from the Consultant or Owner, shall take such action as may be necessary to save lives and protect persons from injury, and, this being done, to protect and preserve property.

- 11.1.7 Without limiting the generality of any other provision in the Contract, the Construction Manager shall indemnify, defend and hold harmless the Indemnitees from and against all actual, threatened or potential claims, demands, proceedings, complaints, grievances, actions, adjudications, litigation, applications, suits, causes of action, orders, charges, arbitrations or other similar process, of whatsoever kind or nature (whether civil, administrative, regulatory, arbitral or otherwise), or losses, debts, expenses, liabilities, damages, obligations, payments, fines and costs suffered, sustained, or incurred by the Indemnitees which may be directly or indirectly attributable to, or arising or alleged to arise out of any failure or alleged failure by the Construction Manager, or others for whom the Construction Manager is responsible, to comply with the health and safety requirements at the Project, for the Project Work, and at the Place of the Work.”

#### **ADD NEW GC 12.1 OTHER INTERPRETATION AND GENERAL TERMS**

“10.1.1 The parties agree as follows:

- .1 no rule of law will apply that would construe this Contract or any part of it against the party who (or whose counsel) drafted, prepared or put forward this Contract or any part of this Contract;
- .2 words or abbreviations which have well-known technical or trade meanings are used in accordance with those meanings;
- .3 words importing persons or parties are to be broadly interpreted and include an individual, corporation, firm, partnership, limited partnership, joint venture, trust, unincorporated organization, governmental authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity;
- .4 each provision of this Contract will be valid and enforceable to the fullest extent permitted by law. If any provision of this Contract is held to be invalid, unenforceable or illegal to any extent, such provision may be severed and such invalidity, unenforceability or illegality will not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Contract. If any such provision of this Contract is held to be invalid, unenforceable or illegal, the parties will promptly endeavour in good faith to negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Contract as nearly as possible to its original intent and effect;
- .5 the terms "will" and "shall" are used interchangeably and, unless the context otherwise requires, shall be construed as mandatory;
- .6 the Contract may be terminated only as set out in the Contract; and
- .7 the Contract may be executed in any number of counterparts, each of which will be deemed to be an original, and this has the same effect as if the signatures on the counterparts were on a single copy of the Contract, and a party may deliver an executed copy of the Contract by facsimile or other electronic means (including email) but that party will promptly thereafter deliver to the other party, upon such other party's request, an originally executed copy of the Contract.”



**Project Name:** Hazelhurst Road Extension  
**Project Address:** Hazelhurst Rd and Winston Churchill, Mississauga, Ontario  
**Date:** November 7, 2024

### ROAD WORKS

### SCOPE OF WORK

#### 1.0 INCLUDED WORK

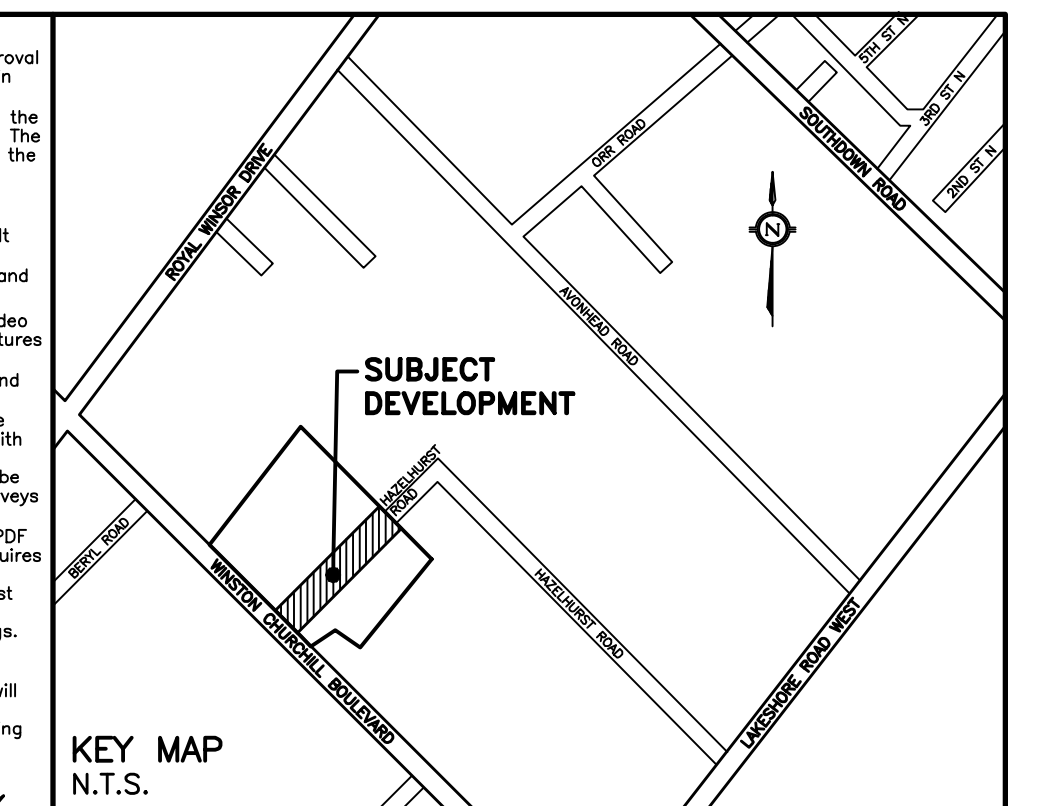
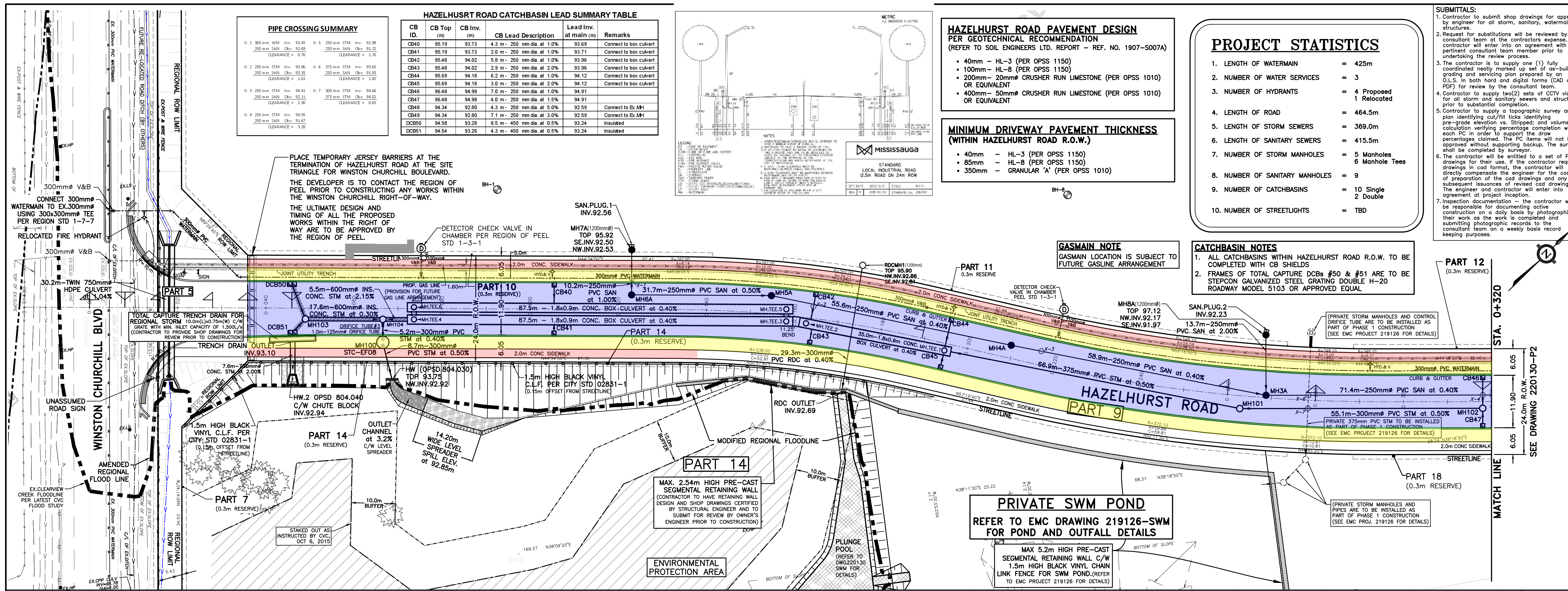
The work includes but is not necessarily limited to the following:

- 1.01 Rework of existing cul-de-sac, including existing asphalt, curbs, gutters and dead end signs to be removed to suit proposed Hazelhurst road extension. Approximate extents highlighted on the attached drawing in teal.
- 1.02 Fine grading of Hazelhurst road extension, extents shown in blue on the attached plan.
- 1.02 Supply and install 5313 square meters of base asphalt (HL-8 - 100mm thick, OPSS 1150) and top asphalt (HL3 - 40mm thick, OPSS 1150), approximate extents shown on attached drawing in blue with sweep and tack between lifts. All required lap joints included.
- 1.03 Supply and install 72 square meter asphalt driveway with 350mm of granular A (OPSS 1010), base asphalt (HL8 – 85mm thick, OPSS 1150) and top asphalt (HL3 – 40mm thick, OPS 1150), approximate extents shown on the attached drawing in orange.
- 1.04 Supply and install 1626 square meters of unreinforced concrete sidewalk (150mm thick) complete with 150mm thick granular base. Approximate extents shown on the attached drawings in red.
- 1.05 Supply and install 894 linear meters of barrier curb, top stage only, including cleaning of existing base curb and replacement of damaged stirups. Approximate extents shown on the attached drawing in green.
- 1.06 Supply and install 19 linear meters of barrier curb at the new asphalt driveway in accordance with OPSD 600.110. Approximate extents shown on the attached drawing in purple.
- 1.07 Supply and install 4058 square meters of sod, approximate extents shown on the attached drawings in yellow.
- 1.08 All line painting required for the road extension.
- 1.09 Adjustment to catch basins as required, approximately 14 locations.
- 1.10 All layouts required to complete the above outlined scope.

## **2.0 REFERENCED DRAWINGS**

### **2.1 Civil Drawings**

Consultant: EMC Group Limited  
Date: December 6<sup>th</sup>, 2022  
Drawing: 220130-P1, 220130-P2



**HAZELHURST ROAD PAVEMENT DESIGN**  
PER GEOTECHNICAL RECOMMENDATION  
(REFER TO SOIL ENGINEERS LTD. REPORT - REF. NO. 1907-5007A)

- 40mm - HL-3 (PER OPSS 1150)
- 100mm - HL-8 (PER OPSS 1150)
- 200mm - 20mm CRUSHER RUN LIMESTONE (PER OPSS 1010) OR EQUIVALENT
- 400mm - 50mm CRUSHER RUN LIMESTONE (PER OPSS 1010) OR EQUIVALENT

**MINIMUM DRIVEWAY PAVEMENT THICKNESS (WITHIN HAZELHURST ROAD R.O.W.)**

- 40mm - HL-3 (PER OPSS 1150)
- 85mm - HL-8 (PER OPSS 1150)
- 350mm - GRANULAR 'A' (PER OPSS 1010)

**PROJECT STATISTICS**

1. LENGTH OF WATERMAIN	= 425m
2. NUMBER OF WATER SERVICES	= 3
3. NUMBER OF HYDRANTS	= 4 Proposed 1 Relocated
4. LENGTH OF ROAD	= 464.5m
5. LENGTH OF STORM SEWERS	= 369.0m
6. LENGTH OF SANITARY SEWERS	= 415.5m
7. NUMBER OF STORM MANHOLES	= 5 Manholes 6 Manhole Tees
8. NUMBER OF SANITARY MANHOLES	= 9
9. NUMBER OF CATCHBASINS	= 10 Single 2 Double
10. NUMBER OF STREETLIGHTS	= TBD

**SUBMITTALS:**

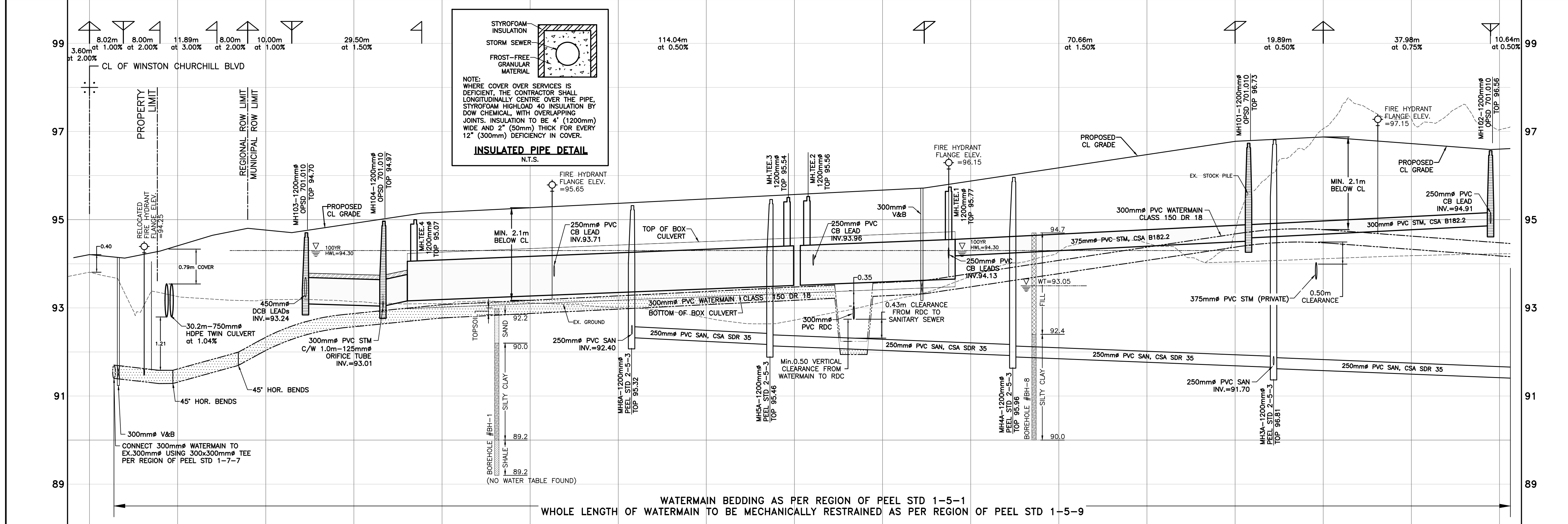
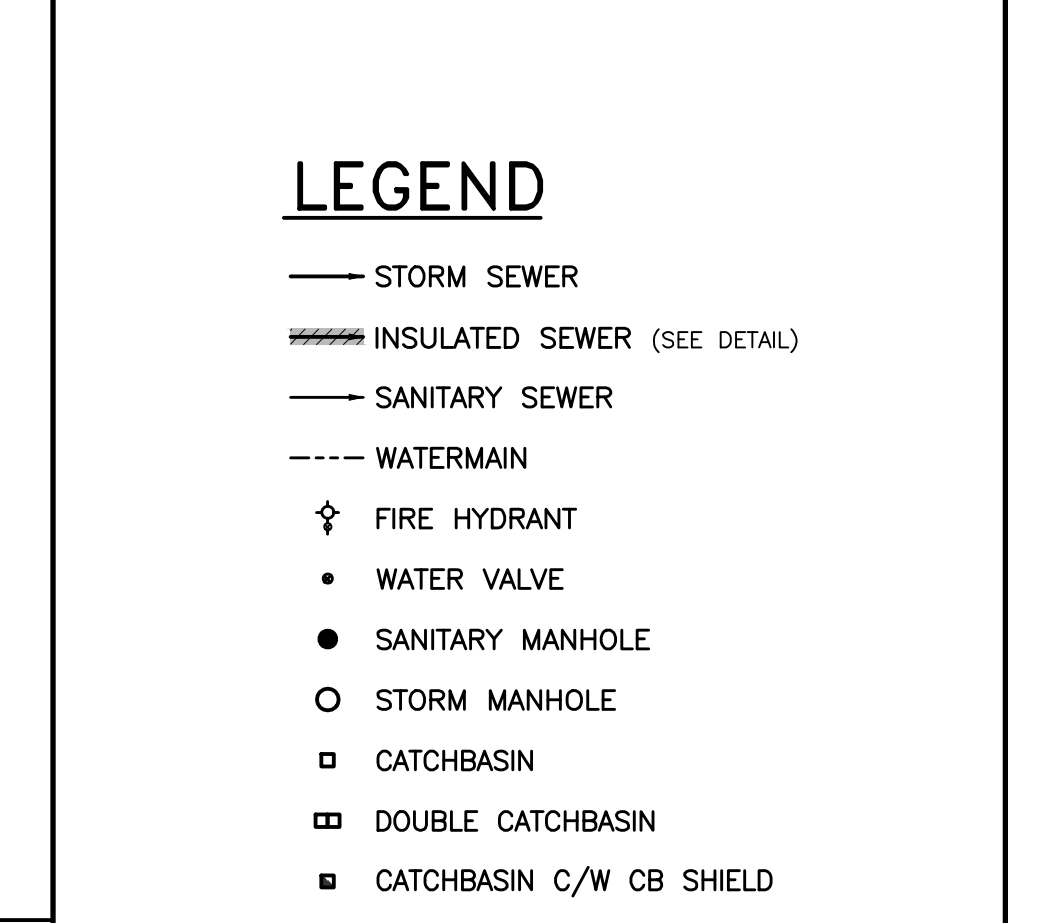
- Contractor to submit shop drawings for approval by engineer for all storm, sanitary, watermain structures.
- Request for substitutions will be reviewed by the consultant team at the contractor's expense. The contractor will enter into an agreement with the consultant team member prior to undertaking the review process.
- The contractor is to supply one (1) fully coordinated neatly marked up set of as-built grading and servicing plan prepared by an O.L.S. in both hard and digital forms (CAD and PDF) for review by the consultant team.
- Contractor to supply the(3) sets of CCTV video for all storm and sanitary sewers and structures prior to substantial completion.
- Contractor to supply a topographic survey and plan identifying cut/fill ticks identifying pre-grade elevations vs. proposed grade and volume calculation verifying percentage completion with each PC in order to support the contractor's proposed percentages claimed. The PC items will not be approved without supporting backup. The surveys shall be completed by a surveyor.
- The contractor will be entitled to a set of P&I drawings for their use. If the contractor requires drawings in CAD format, the contractor will directly compensate the engineer for the cost of preparation of the CAD drawings and any subsequent issuance of revised CAD drawings. The engineer and contractor will enter into an agreement at project inception.
- Inspection documentation - the contractor will be responsible for documenting active construction on a daily basis by photographing their work as the work is completed and submitting photographic records to the consultant team on a weekly basis record keeping purposes.

**KEY MAP**  
N.T.S.

THE LOCATION OF ALL UNDERGROUND AND ABOVEGROUND UTILITIES AND STRUCTURES IS NOT NECESSARILY SHOWN ON THE CONTRACT DRAWINGS, AND WHERE SHOWN, THE ACCURACY OF THE LOCATION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED. BEFORE STARTING WORK THE CONTRACTOR SHALL INFORM HIMSELF OF THE EXACT LOCATION OF ALL SUCH UTILITIES AND STRUCTURES AND SHALL ASSUME ALL LIABILITY FOR DAMAGE TO THEM.

THIS DRAWING INDICATES SITE SERVING AND GRADING INFORMATION ONLY. FOR BUILDING AND SITE LAYOUT DETAILS REFER TO ARCHITECTURAL DRAWINGS.

**NOT APPROVED FOR CONSTRUCTION**



**BENCHMARK NOTE**  
ELEVATIONS SHOWN ON THIS PLAN ARE RELATED TO GEODETIC DATUM AND ARE DERIVED FROM THE CITY OF MISSISSAUGA BENCHMARK No.774 HAVING A PUBLISHED ELEVATION OF 101.356 METRES.

THE TOPOGRAPHICAL DETAILS WAS ORIGINALLY SURVEYED ON JUNE 24, 2014 AND HAS BEEN UPDATED ON OCTOBER 15, 2014, MARCH 22, 2016 AND JUNE 21, 2019 BY J.D. BARNES LIMITED, J.D. BARNES LIMITED INCREASED ALL ELEVATIONS BY 0.14 ON JUNE 10, 2021 TO MATCH MISSISSAUGA DATUM.

**REVISIONS**

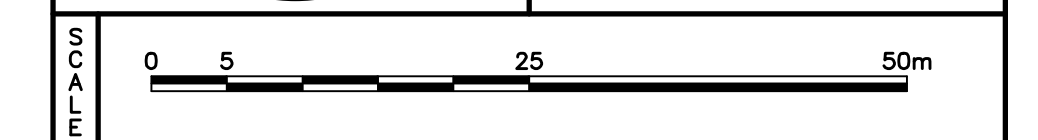
No.	DESCRIPTION	BY	DATE
7	REVISION PER THE CITY COMMENTS (INFRASTRUCTURE PLANNING)	MAZ	DEC.6/22
6	FINAL SUBMISSION	MAZ	NOV.7/22
5	3RD SUBMISSION TO THE CITY/4TH SUBMISSION TO THE REGION	MAZ	MAR.26/22
4	REVISIONS PER THE REGION OF PEEL RE: LETTER OF UNDERTAKING	MAZ	JAN.7/22
3	2ND SUBMISSION TO THE CITY/3RD SUBMISSION TO THE REGION	MAZ	SEPT.9/21
2	1ST SUBMISSION TO THE CITY/2ND SUBMISSION TO THE REGION	MAZ	APR.23/21
1	1ST SUBMISSION TO REGION OF PEEL	MAZ	DEC.23/20

**759 WINSTON CHURCHILL GP INC.**  
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7080 Derrycrest Drive, Mississauga, Ontario, L5W 0G5, Canada  
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**EMC GROUP LIMITED**  
Engineers Planners Project Managers  
Vaughan Ontario (905) 738-3939

**W. M. ZUCCARO**  
LICENSED PROFESSIONAL ENGINEER  
100083723  
DEC-6-2022  
PROVINCE OF ONTARIO

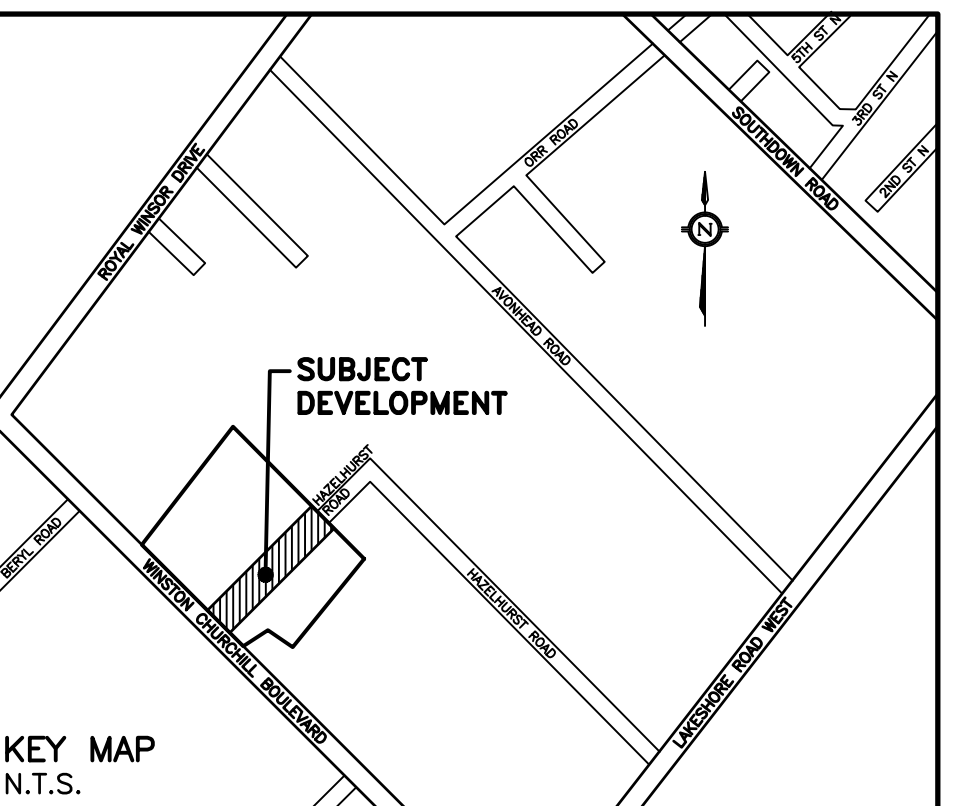
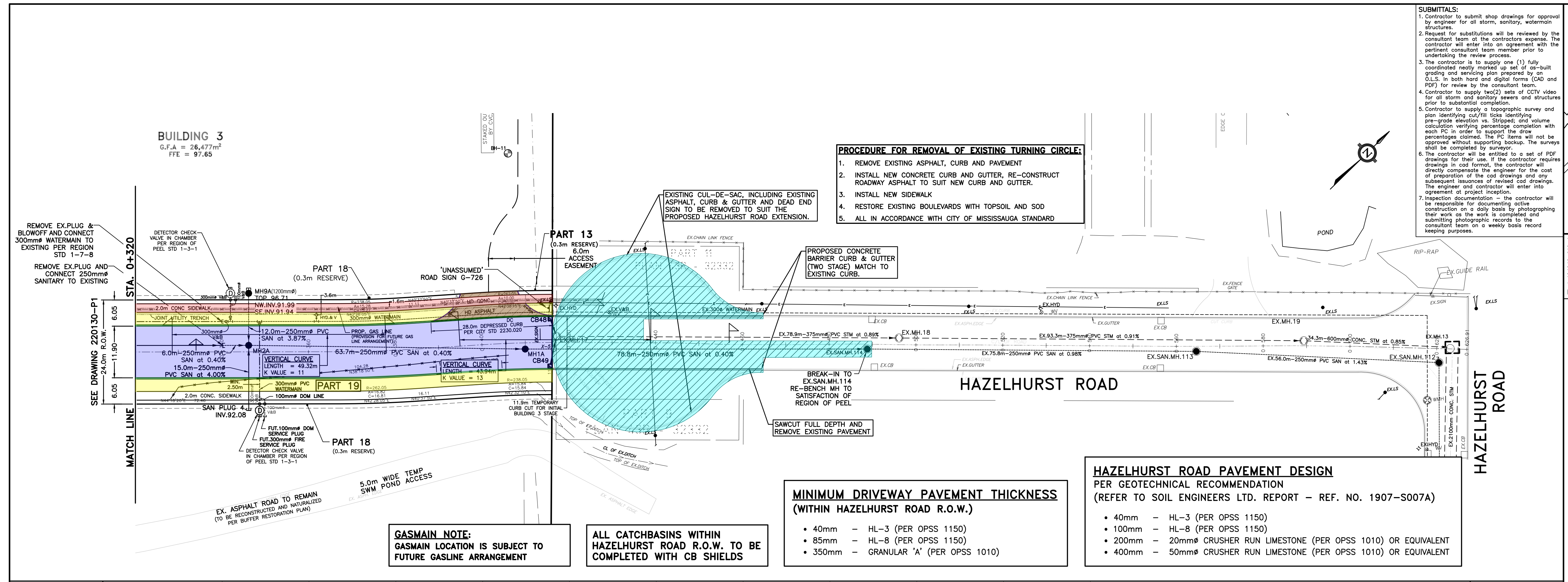
DIRECTOR OF ENGINEERING AND PUBLIC WORKS



**MISSISSAUGA**  
**Region of Peel**  
Working for you

**PLAN & PROFILE**  
**HAZELHURST ROAD**  
STA. 0+000 TO STA. 0+320

DESIGNED BY: J.C. DATE: NOVEMBER 03, 2020 CHECKED BY: .  
DRAWN BY: J.C. DRAWING NO.: APPROVED BY: M.A.Z.  
SCALE: HOR: 1:500 VER: 1:50 CITY FILE: SP 20-105W2

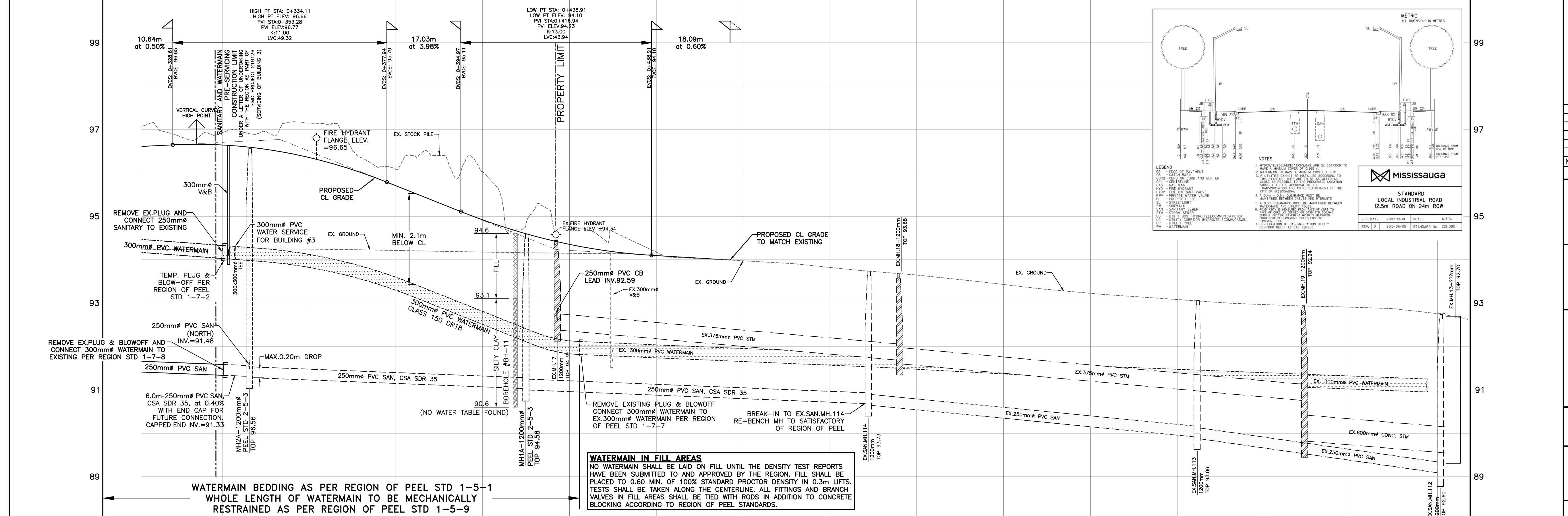


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**NOT APPROVED FOR CONSTRUCTION**

**LEGEND**

- STORM SEWER
- INSULATED SEWER (SEE DETAIL)
- SANITARY SEWER
- WATERMAIN
- ⊕ FIRE HYDRANT
- WATER VALVE
- SANITARY MANHOLE
- STORM MANHOLE
- CATCHBASIN
- ▣ DOUBLE CATCHBASIN
- ▢ CATCHBASIN C/W CB SHIELD



**BENCHMARK NOTE**  
ELEVATIONS SHOWN ON THIS PLAN ARE RELATED TO GEODETIC DATUM AND ARE DERIVED FROM THE CITY OF MISSISSAUGA BENCHMARK NO. 774 HAVING A PUBLISHED ELEVATION OF 101.358 METRES. THE TOPOGRAPHICAL DETAILS WAS ORIGINALLY SURVEYED ON JUNE 24, 2014 AND HAS BEEN UPDATED ON OCTOBER 15, 2014, MARCH 22, 2016 AND JUNE 21, 2019 BY J.D. BARNES LIMITED. J.D. BARNES LIMITED INCREASED ALL ELEVATIONS BY 0.14 ON JUNE 10, 2021 TO MATCH MISSISSAUGA DATUM.

**REVISIONS**

No.	DESCRIPTION	BY	DATE
6	FINAL SUBMISSION	MAZ	NOV.7/22
5	3RD SUBMISSION TO THE CITY/4TH SUBMISSION TO THE REGION	MAZ	MAR.28/22
4	REVISIONS PER THE REGION OF PEEL RE: LETTER OF UNDERTAKING	MAZ	JAN.7/22
3	2ND SUBMISSION TO THE CITY/3RD SUBMISSION TO THE REGION	MAZ	SEPT.9/21
2	1ST SUBMISSION TO THE CITY/2ND SUBMISSION TO THE REGION	MAZ	APR.23/21
1	1ST SUBMISSION TO REGION OF PEEL	MAZ	DEC.23/20

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**PLAN & PROFILE**  
**HAZELHURST ROAD**  
STA. 0+320 TO STA. 0+626.82

STORM	SANITARY	CENTERLINE ELEVATION	CENTERLINE CHAINAGE	STORM	SANITARY	CENTERLINE ELEVATION	CENTERLINE CHAINAGE						
6.0m-250mm# PVC SAN at 0.40%, CSA SDR-35, BEDDING AS PER REGION OF PEEL STD 2-3-1 C/W END CAP FOR FUTURE CONNECTION	71.4m-250mm# PVC SAN at 0.40%, CSA SDR-35, BEDDING AS PER REGION OF PEEL STD 2-3-1	96.59 97.04 96.60 96.65 96.66 96.62 96.64	0+317.98 0+320 0+326.61 0+334.11 0+340	EX.78.9m-375mm# PVC STM at 0.89%	EX.75.8m-250mm# PVC SAN at 0.98%	92.75 92.76 92.77 92.78 92.79 92.80 92.81 92.82 92.83 92.84 92.85 92.86 92.87 92.88 92.89 92.90 92.91 92.92 92.93 92.94 92.95 92.96 92.97 92.98 92.99 93.00 93.01 93.02 93.03 93.04 93.05 93.06 93.07 93.08 93.09 93.10 93.11 93.12 93.13 93.14 93.15 93.16 93.17 93.18 93.19 93.20 93.21 93.22 93.23 93.24 93.25 93.26 93.27 93.28 93.29 93.30 93.31 93.32 93.33 93.34 93.35 93.36 93.37 93.38 93.39 93.40 93.41 93.42 93.43 93.44 93.45 93.46 93.47 93.48 93.49 93.50 93.51 93.52 93.53 93.54 93.55 93.56 93.57 93.58 93.59 93.60 93.61 93.62 93.63 93.64 93.65 93.66 93.67 93.68 93.69 93.70 93.71 93.72 93.73 93.74 93.75 93.76 93.77 93.78 93.79 93.80 93.81 93.82 93.83 93.84 93.85 93.86 93.87 93.88 93.89 93.90 93.91 93.92 93.93 93.94 93.95 93.96 93.97 93.98 93.99 94.00 94.01 94.02 94.03 94.04 94.05 94.06 94.07 94.08 94.09 94.10 94.11 94.12 94.13 94.14 94.15 94.16 94.17 94.18 94.19 94.20 94.21 94.22 94.23 94.24 94.25 94.26 94.27 94.28 94.29 94.30 94.31 94.32 94.33 94.34 94.35 94.36 94.37 94.38 94.39 94.40 94.41 94.42 94.43 94.44 94.45 94.46 94.47 94.48 94.49 94.50 94.51 94.52 94.53 94.54 94.55 94.56 94.57 94.58 94.59 94.60 94.61 94.62 94.63 94.64 94.65 94.66 94.67 94.68 94.69 94.70 94.71 94.72 94.73 94.74 94.75 94.76 94.77 94.78 94.79 94.80 94.81 94.82 94.83 94.84 94.85 94.86 94.87 94.88 94.89 94.90 94.91 94.92 94.93 94.94 94.95 94.96 94.97 94.98 94.99 95.00 95.01 95.02 95.03 95.04 95.05 95.06 95.07 95.08 95.09 95.10 95.11 95.12 95.13 95.14 95.15 95.16 95.17 95.18 95.19 95.20 95.21 95.22 95.23 95.24 95.25 95.26 95.27 95.28 95.29 95.30 95.31 95.32 95.33 95.34 95.35 95.36 95.37 95.38 95.39 95.40 95.41 95.42 95.43 95.44 95.45 95.46 95.47 95.48 95.49 95.50 95.51 95.52 95.53 95.54 95.55 95.56 95.57 95.58 95.59 95.60 95.61 95.62 95.63 95.64 95.65 95.66 95.67 95.68 95.69 95.70 95.71 95.72 95.73 95.74 95.75 95.76 95.77 95.78 95.79 95.80 95.81 95.82 95.83 95.84 95.85 95.86 95.87 95.88 95.89 95.90 95.91 95.92 95.93 95.94 95.95 95.96 95.97 95.98 95.99 96.00 96.01 96.02 96.03 96.04 96.05 96.06 96.07 96.08 96.09 96.10 96.11 96.12 96.13 96.14 96.15 96.16 96.17 96.18 96.19 96.20 96.21 96.22 96.23 96.24 96.25 96.26 96.27 96.28 96.29 96.30 96.31 96.32 96.33 96.34 96.35 96.36 96.37 96.38 96.39 96.40 96.41 96.42 96.43 96.44 96.45 96.46 96.47 96.48 96.49 96.50 96.51 96.52 96.53 96.54 96.55 96.56 96.57 96.58 96.59 96.60 96.61 96.62 96.63 96.64 96.65 96.66 96.67 96.68 96.69 96.70 96.71 96.72 96.73 96.74 96.75 96.76 96.77 96.78 96.79 96.80 96.81 96.82 96.83 96.84 96.85 96.86 96.87 96.88 96.89 96.90 96.91 96.92 96.93 96.94 96.95 96.96 96.97 96.98 96.99 97.00 97.01 97.02 97.03 97.04 97.05 97.06 97.07 97.08 97.09 97.10 97.11 97.12 97.13 97.14 97.15 97.16 97.17 97.18 97.19 97.20 97.21 97.22 97.23 97.24 97.25 97.26 97.27 97.28 97.29 97.30 97.31 97.32 97.33 97.34 97.35 97.36 97.37 97.38 97.39 97.40 97.41 97.42 97.43 97.44 97.45 97.46 97.47 97.48 97.49 97.50 97.51 97.52 97.53 97.54 97.55 97.56 97.57 97.58 97.59 97.60 97.61 97.62 97.63 97.64 97.65 97.66 97.67 97.68 97.69 97.70 97.71 97.72 97.73 97.74 97.75 97.76 97.77 97.78 97.79 97.80 97.81 97.82 97.83 97.84 97.85 97.86 97.87 97.88 97.89 97.90 97.91 97.92 97.93 97.94 97.95 97.96 97.97 97.98 97.99 98.00 98.01 98.02 98.03 98.04 98.05 98.06 98.07 98.08 98.09 98.10 98.11 98.12 98.13 98.14 98.15 98.16 98.17 98.18 98.19 98.20 98.21 98.22 98.23 98.24 98.25 98.26 98.27 98.28 98.29 98.30 98.31 98.32 98.33 98.34 98.35 98.36 98.37 98.38 98.39 98.40 98.41 98.42 98.43 98.44 98.45 98.46 98.47 98.48 98.49 98.50 98.51 98.52 98.53 98.54 98.55 98.56 98.57 98.58 98.59 98.60 98.61 98.62 98.63 98.64 98.65 98.66 98.67 98.68 98.69 98.70 98.71 98.72 98.73 98.74 98.75 98.76 98.77 98.78 98.79 98.80 98.81 98.82 98.83 98.84 98.85 98.86 98.87 98.88 98.89 98.90 98.91 98.92 98.93 98.94 98.95 98.96 98.97 98.98 98.99 99.00 99.01 99.02 99.03 99.04 99.05 99.06 99.07 99.08 99.09 99.10 99.11 99.12 99.13 99.14 99.15 99.16 99.17 99.18 99.19 99.20 99.21 99.22 99.23 99.24 99.25 99.26 99.27 99.28 99.29 99.30 99.31 99.32 99.33 99.34 99.35 99.36 99.37 99.38 99.39 99.40 99.41 99.42 99.43 99.44 99.45 99.46 99.47 99.48 99.49 99.50 99.51 99.52 99.53 99.54 99.55 99.56 99.57 99.58 99.59 99.60 99.61 99.62 99.63 99.64 99.65 99.66 99.67 99.68 99.69 99.70 99.71 99.72 99.73 99.74 99.75 99.76 99.77 99.78 99.79 99.80 99.81 99.82 99.83 99.84 99.85 99.86 99.87 99.88 99.89 99.90 99.91 99.92 99.93 99.94 99.95 99.96 99.97 99.98 99.99 100.00	DESIGNED BY: J.C.	DATE: NOVEMBER 03, 2020	CHECKED BY: .	DRAWN BY: J.C.	DRAWING NO.: 220130-P2	CITY FILE: SP 20-105W2	APPROVED BY: M.A.Z.



**Project Name:** Winston Churchill Intersection and Road Widening  
**Project Address:** Hazelhurst Rd and Winston Churchill, Mississauga, Ontario  
**Date:** November 7, 2024

### ROAD WORKS

#### SCOPE OF WORK

##### 1.0 INCLUDED WORK

The work includes but is not necessarily limited to the following:

- 1.01 Removal of asphalt to approximate extents shown in red on drawing 221145-RP attached.
- 1.02 Removal of gravel to approximate extents shown in blue on drawing 221145-RP attached.
- 1.03 Removal of existing post and wire fence to approximate extents shown in yellow on drawing 221145-RP attached.
- 1.05 Relocation of existing ditch to approximate extents shown in green. Drawing 221145-RP shows existing ditch, drawing 221145-P1 and 221145-P2 show the new ditch location.
- 1.07 Supply and install of all sediment control, including but not limited to silt fence and silt filter socks as required by the attached drawings.
- 1.08 Supply and install of asphalt pavement as per note #2 to approximate extents shown on drawing 221145-P1 and 221145-P2 in red. This includes all required asphalt lap joints.
- 1.09 Supply and install of asphalt pavement as per note #3 to approximate extents shown on drawing 221145-P1 and 221145-P2 in blue. This includes all required asphalt lap joints.
- 1.10 Supply and install of asphalt pavement as per note #1 to approximate extents shown on drawing 221145-P1 and 221145-P2 in yellow.
- 1.11 Supply and install of asphalt pavement as per note #4 to approximate extents shown on drawing 221145-P1 and 221145-P2 in purple.
- 1.12 Supply and install of culvert at Hazelhurst Road including 45.1m of 750mm twim HDPE culvert at 0.8% and two concrete headwalls complete with pedestrian barricades as highlighted on drawing 221145-P2 in orange.
- 1.13 Supply and install of unreinforced concrete sidewalk (150mm thick) on a 150mm thick granular base complete with embedded tactile warning indicators as per the Region of Peel standards. Approximate extents shown on drawing 221145-P2 in pink.
- 1.14 Supply and install of asphalt splash pad as per the Region of Peel standards to the approximate extents shown on drawing 221145-P2 in teal.

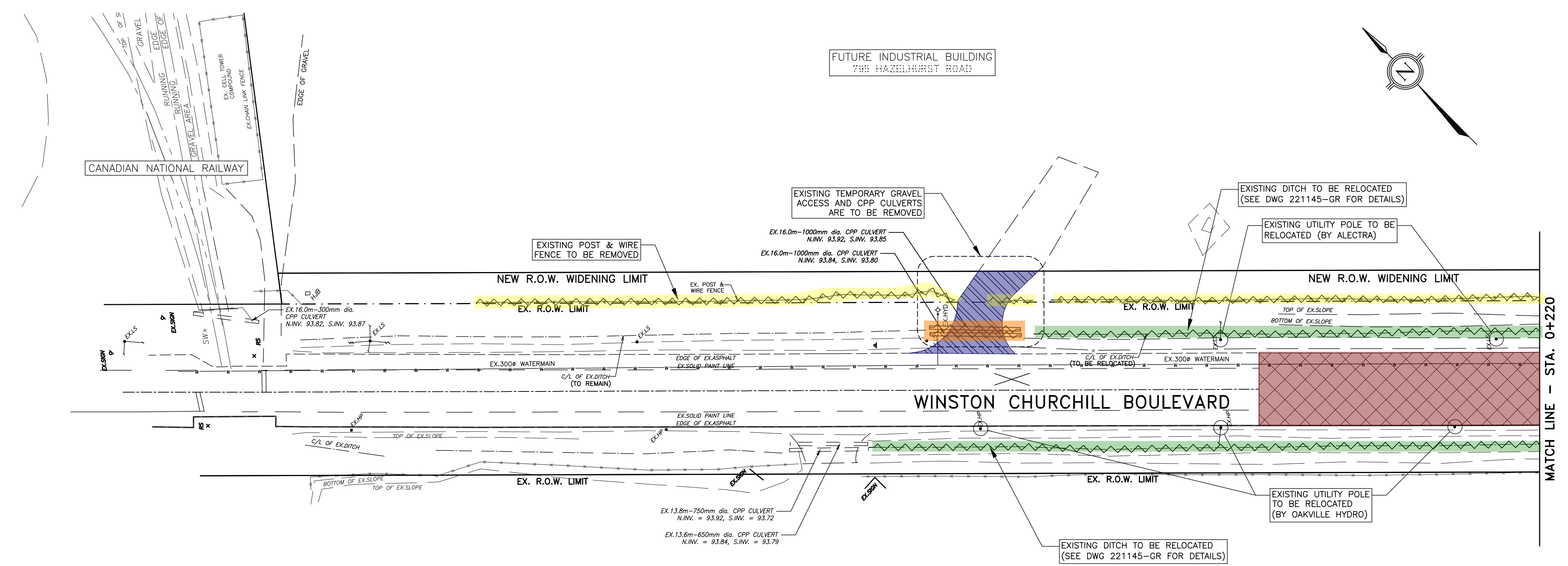
- 1.15 Supply and install of curb and gutter at the new asphalt intersection, including 2 - 45 degree concrete outlet curb terminations in accordance with OPSD 605.030 to the approximate extents shown on the attached drawing in black.
- 1.16 All line painting required for the intersection.
- 1.17 All signage as outlined in drawing 221145-PMSP.
- 1.18 All layouts required to complete the above outlined scope.
- 1.19 1 street sweep included.

## **2.0 REFERENCED DRAWINGS**

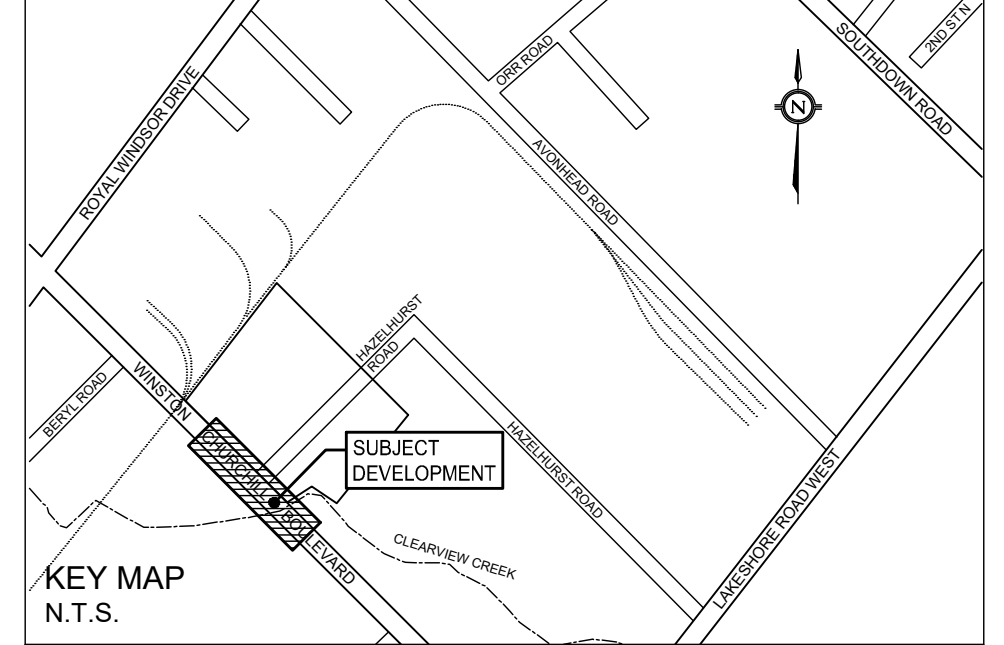
### 2.1 Civil Drawings

Consultant: EMC Group Limited  
Date: November 1<sup>st</sup> 2024  
Drawing: 221145-RP, 221145-PMSP, 221145-P1, 221145-P2





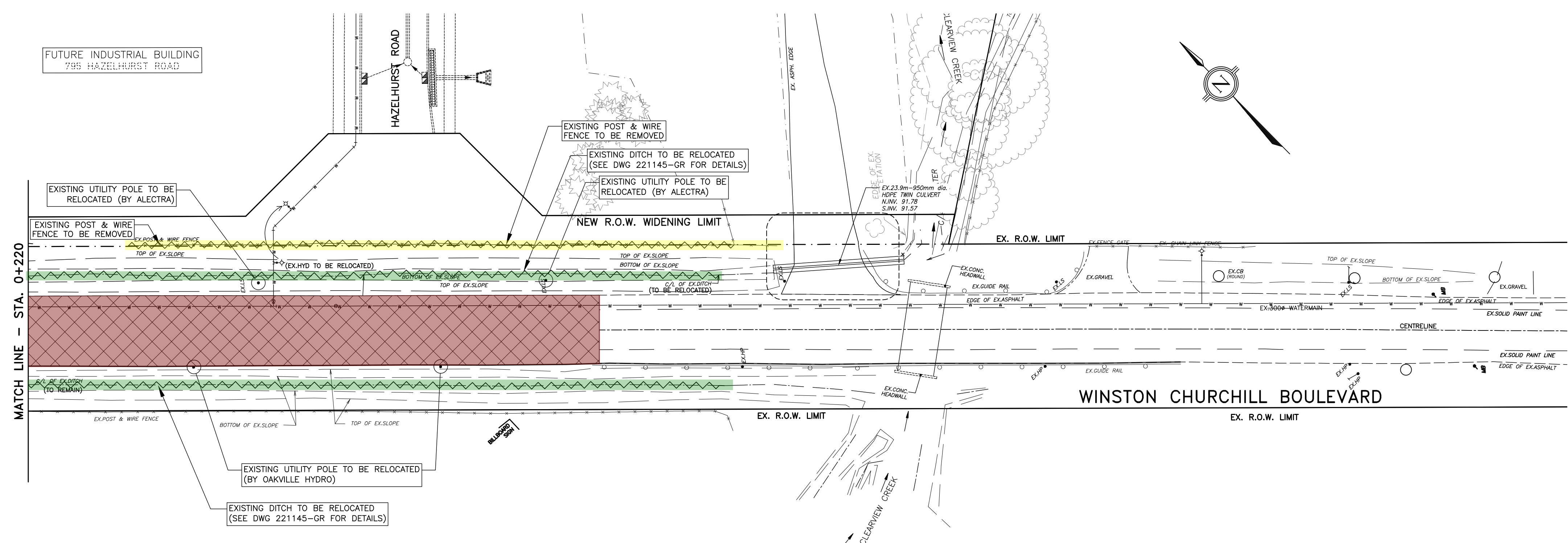
REVISIONS		
DATE	DETAILS	INIT.
MAY 19, 2023	4TH SUBMISSION	M.Z.
JUN 1, 2023	ISSUED FOR TENDER	M.Z.
AUG 3, 2023	5TH SUBMISSION	M.Z.
SEPT 13, 2023	REVISION PER REGION OF PEEL COMMENTS	M.Z.
NOV. 1, 2024	ISSUED FOR CVC PERMIT	M.Z.



**NOT APPROVED FOR CONSTRUCTION**

**LEGEND**

- EXISTING DITCH
- EXISTING CULVERT
- EXISTING FENCE
- EXISTING GUARDRAIL
- EXISTING HYDRO POLE/LIGHT STANDARD
- REMOVAL (ALL TYPE)
- ASPHALT REMOVAL
- GRAVEL REMOVAL



**General Notes**  
All Driveways Are ASPHALT Unless Otherwise Noted  
All Water And Sanitary Service Locations Are Approximate And Must Be Located Accurately In The Field  
All Pipes Size In mm

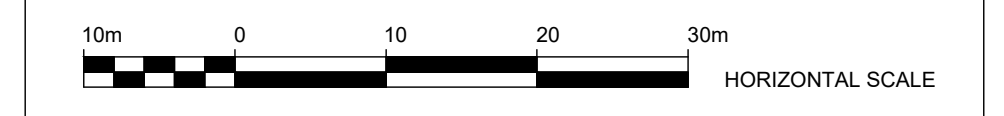
**Bench Mark Notes**  
B.M. No. Mississauga - 774  
B.M. Elev. 101.356m  
B.M. Description On the West face at the North end of a brown brick office building on the East Side of Winston Churchill Blvd, (No. 935)  
B.M. Location 137m South of Royal Windsor Drive

The Contractor Is Responsible For Locating And Protecting All Existing Utilities Prior To And During Construction. Location Of Existing Utilities Approximate Only. To Be Verified In Field By Contractor.



**NOTICE TO CONTRACTOR**  
48 HOURS PRIOR TO COMMENCING WORK NOTIFY THE FOLLOWING, AS APPLICABLE

- |  |                                       |
|--|---------------------------------------|
| THE REGIONAL MUNICIPALITY OF PEEL      | CABLE TELEVISION/FIBROPTIC PROVIDERS: |
| CITY OF MISSISSAUGA WORKS DEPT.        | BELL CANADA                           |
| CITY OF BRAMPTON WORKS DEPT.           | ENERSOURCE TELECOM                    |
| TOWN OF CALEDON WORKS DEPT.            | HYDRO ONE TELECOM                     |
| BELL CANADA                            | ROGERS CABLE                          |
| ENBRIDGE INCORPORATED-GAS DISTRIBUTION | ALLSTREAM PSN (PUBLIC SECTOR NETWORK) |
| ONTARIO MINISTRY OF TRANSPORTATION     | FUTUREWAY (FCI BROADBAND)             |
| ONTARIO CLEAN WATER AGENCY             |                                       |
| HYDRO ONE NETWORKS                     |                                       |
| ENERSOURCE, HYDRO MISSISSAUGA          |                                       |
| HYDRO ONE BRAMPTON                     |                                       |



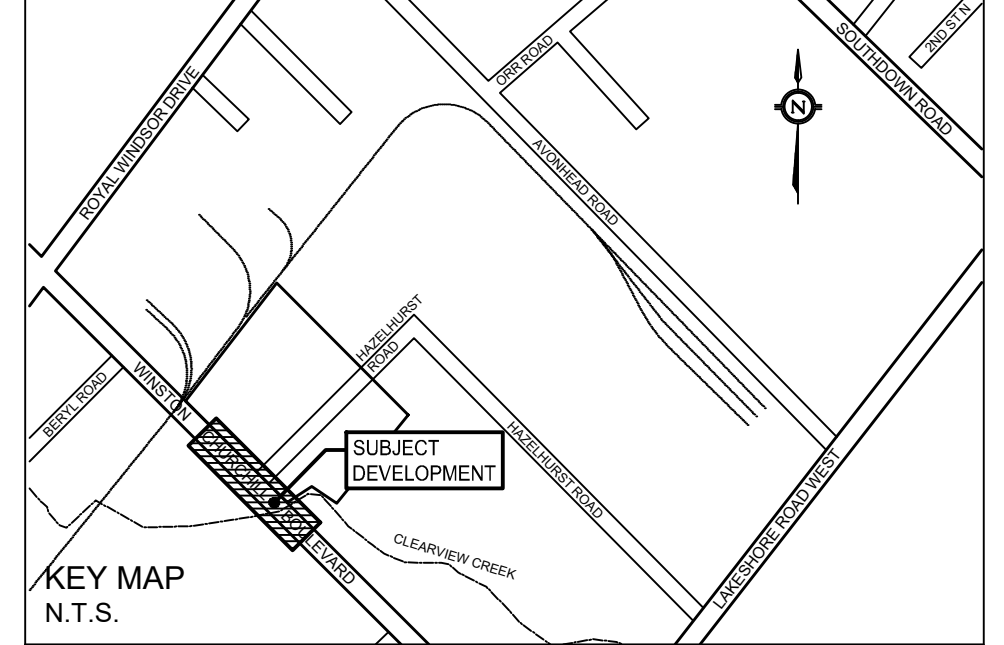
**EMC GROUP LIMITED**  
Engineers Planners Project Managers  
Vaughan Ontario (905) 738-3939

**INTERSECTION IMPROVEMENT**  
**WINSTON CHURCHILL BLVD./ HAZELHURST RD.**  
**REMOVAL AND ADJUSTMENT PLAN**

CAD Area	X-XX	Area	X-XX	Project No.	221145
Checked by	M.Z.	Drawn by	J.C.	Plan No.	221145-RP
Date	JULY, 2022	Sheet	3 of 11		

TRAFFIC FILE# D-01901311E  
SP# 21-164-W2

REVISIONS		
DATE	DETAILS	INIT.
MAY 19, 2023	4TH SUBMISSION	M.Z.
JUN 1, 2023	ISSUED FOR TENDER	M.Z.
AUG 3, 2023	5TH SUBMISSION	M.Z.
SEPT 13, 2023	REVISION PER REGION OF PEEL COMMENTS	M.Z.
NOV. 1, 2024	ISSUED FOR CVC PERMIT	M.Z.



THE LOCATION OF ALL UNDERGROUND AND ABOVEGROUND UTILITIES AND STRUCTURES IS NOT NECESSARILY SHOWN ON THE CONTRACT DRAWINGS, AND WHERE SHOWN, THE ACCURACY OF THE LOCATION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED. BEFORE STARTING WORK THE CONTRACTOR SHALL INFORM HIMSELF OF THE EXACT LOCATION OF ALL SUCH UTILITIES AND STRUCTURES AND SHALL ASSUME ALL LIABILITY FOR DAMAGE TO THEM. THIS DRAWING INDICATES SITE SERVING AND GRADING INFORMATION ONLY. FOR BUILDING AND SITE LAYOUT DETAILS REFER TO ARCHITECTURAL DRAWINGS.

**NOT APPROVED FOR CONSTRUCTION**

**PAVEMENT MARKINGS**

1	SOLID YELLOW, 10cm
2	SOLID DOUBLE YELLOW, 10cm
3	363 BROKEN YELLOW, 10cm
4	SOLID YELLOW, 20cm
5	SOLID WHITE, 10cm
6	333 BROKEN WHITE, 10cm
7	363 BROKEN WHITE, 10cm
8	393 BROKEN WHITE, 10cm
9	SOLID WHITE, 20cm
10	111 BROKEN WHITE, 10cm
11	333 BROKEN WHITE, 20cm
12	333 BROKEN WHITE, 30cm
13	SOLID WHITE, 30cm
14	SOLID WHITE, 45cm
15	SOLID WHITE, 60cm
16	SOLID YELLOW, 30cm
20	SYMBOLS
21	LIMITS OF MARKINGS

**EXISTING TRAFFIC SYMBOLS**  
**PROPOSED TRAFFIC SYMBOLS**  
**TRAFFIC DIRECTION**

**NOTES:**

- 333, 363, 393, DENOTES PAVEMENT MARKING SPACING (IE, 3m LINE, 3m GAP, 3m LINE)
- USE (1) TO DENOTE PAVEMENT MARKING
- USE (T) TO DENOTE PAVEMENT MARKING, TEMPORARY
- USE (A) TO DENOTE PAVEMENT MARKING, TEMPORARY-REMOVABLE
- USE (D) TO DENOTE PAVEMENT MARKING, DURABLE
- LADDER PEDESTRIAN CROSSWALK MARKINGS ARE LONGITUDINAL WHITE LINES INSTALLED ACROSS THE PEDESTRIAN CROSSWALK, PARALLEL TO THE DRIVER'S DIRECTION OF TRAVEL. THE LINES ARE 60CM WIDE AND ARE SPACED 60CM APART.

**General Notes**  
 All Driveways Are ASPHALT Unless Otherwise Noted  
 All Water And Sanitary Service Locations Are Approximate And Must Be Located Accurately In The Field  
 All Pipes Size In mm

**Bench Mark Notes**  
 B.M. No. Mississauga - 774  
 B.M. Elev. 101.356m  
 B.M. Description On the West face at the North end of a brown brick office building on the East Side of Winston Churchill Blvd, (No. 935)  
 B.M. Location 137m South of Royal Windsor Drive

The Contractor Is Responsible For Locating And Protecting All Existing Utilities Prior To And During Construction. Location Of Existing Utilities Approximate Only, To Be Verified In Field By Contractor.

**NOTICE TO CONTRACTOR**  
 48 HOURS PRIOR TO COMMENCING WORK NOTIFY THE FOLLOWING, AS APPLICABLE

THE REGIONAL MUNICIPALITY OF PEEL	CABLE TELEVISION/FIBROPTIC PROVIDERS:
CITY OF MISSISSAUGA WORKS DEPT.	BELL CANADA
CITY OF BRAMPTON WORKS DEPT.	ENERSOURCE TELECOM
TOWN OF CALEDON WORKS DEPT.	HYDRO ONE TELECOM
BELL CANADA	ROGERS CABLE
ENBRIDGE INCORPORATED-GAS DISTRIBUTION	ALLSTREAM PSN (PUBLIC SECTOR NETWORK)
ONTARIO MINISTRY OF TRANSPORTATION	FUTUREWAY (FCI BROADBAND)
ONTARIO CLEAN WATER AGENCY	
HYDRO ONE NETWORKS	
ENERSOURCE, HYDRO MISSISSAUGA	
HYDRO ONE BRAMPTON	

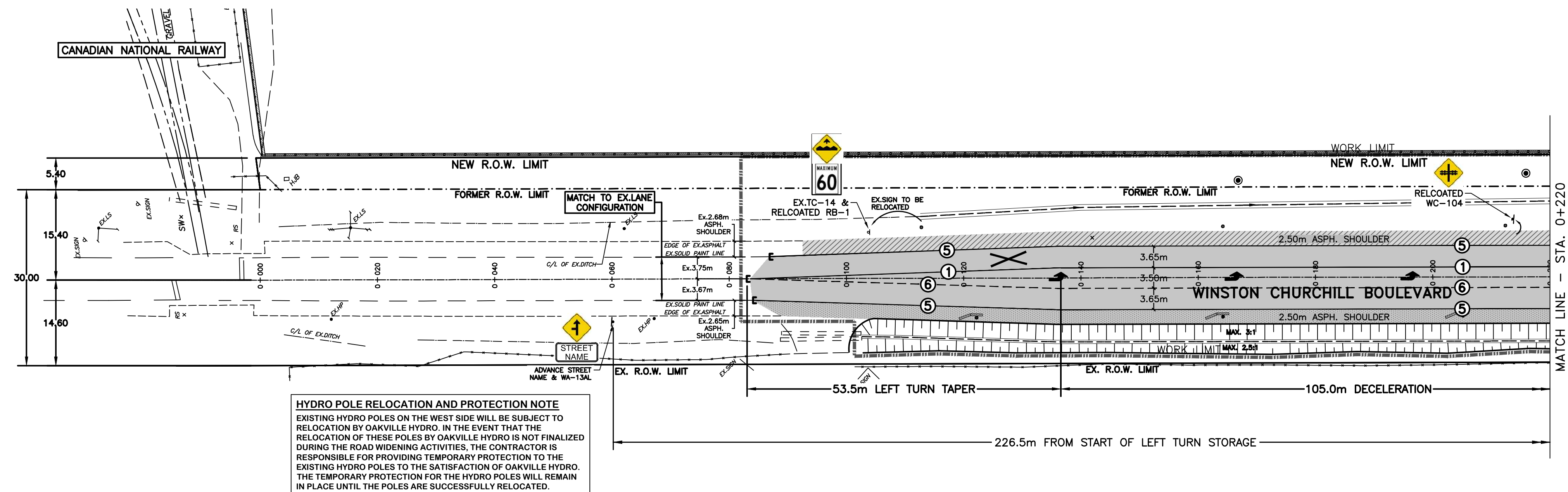
10m 0 10 20 30m HORIZONTAL SCALE

**EMC GROUP LIMITED**  
 Engineers Planners Project Managers  
 Vaughan Ontario (905) 738-3939

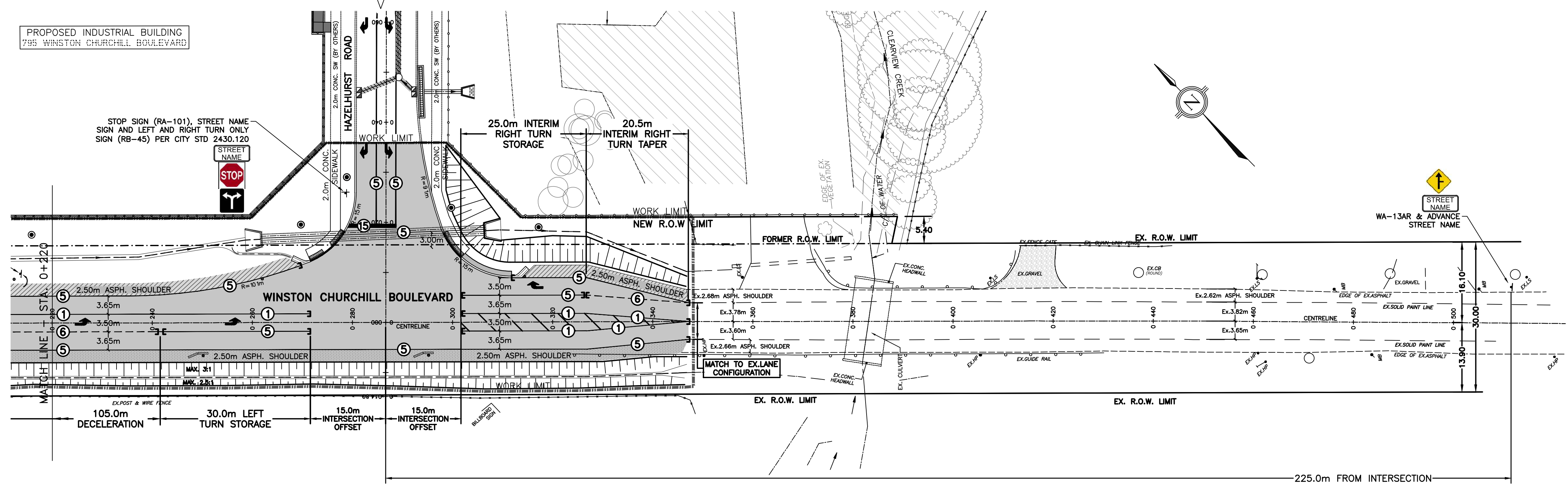
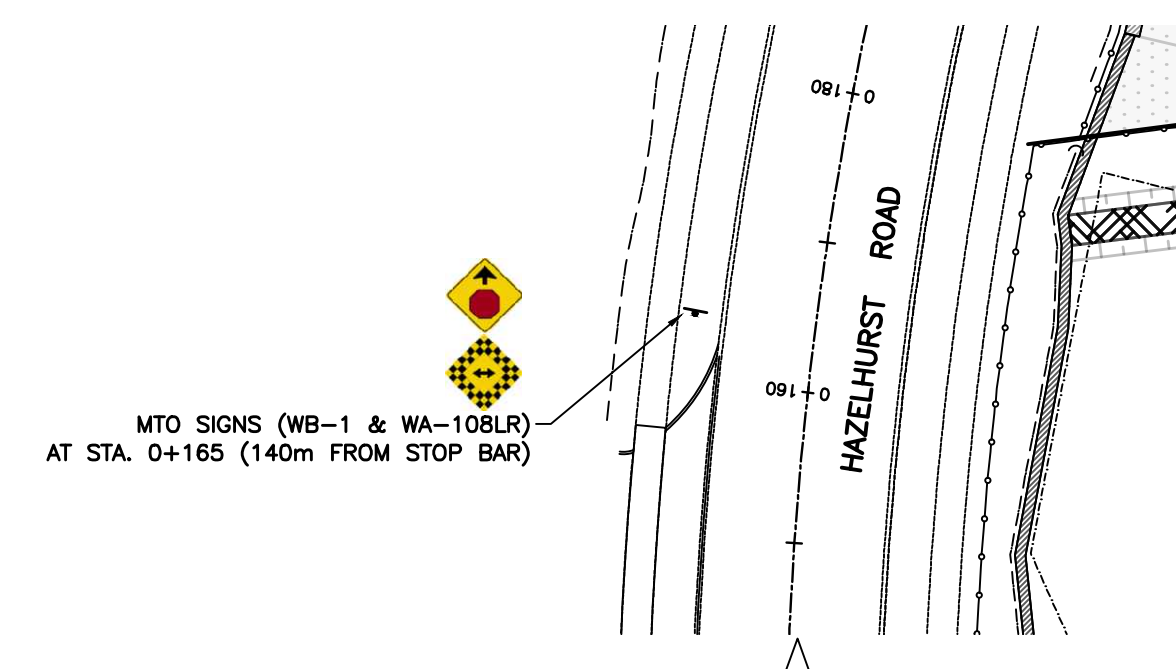
**INTERSECTION IMPROVEMENT**  
**WINSTON CHURCHILL BLVD./ HAZELHURST RD.**  
**PAVEMENT MARKING AND SIGNAGE PLAN**

CAD Area	X-XX	Area	X-XX	Project No.	221145
Checked by	M.Z.	Drawn by	J.C.	Plan No.	221145-PMSP
Date	JULY, 2022	Sheet	4 of 11		

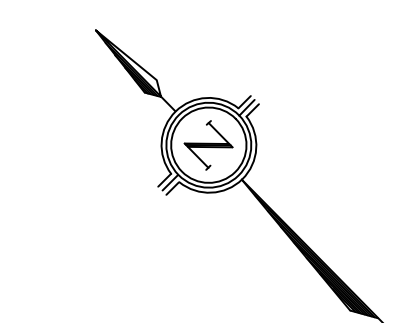
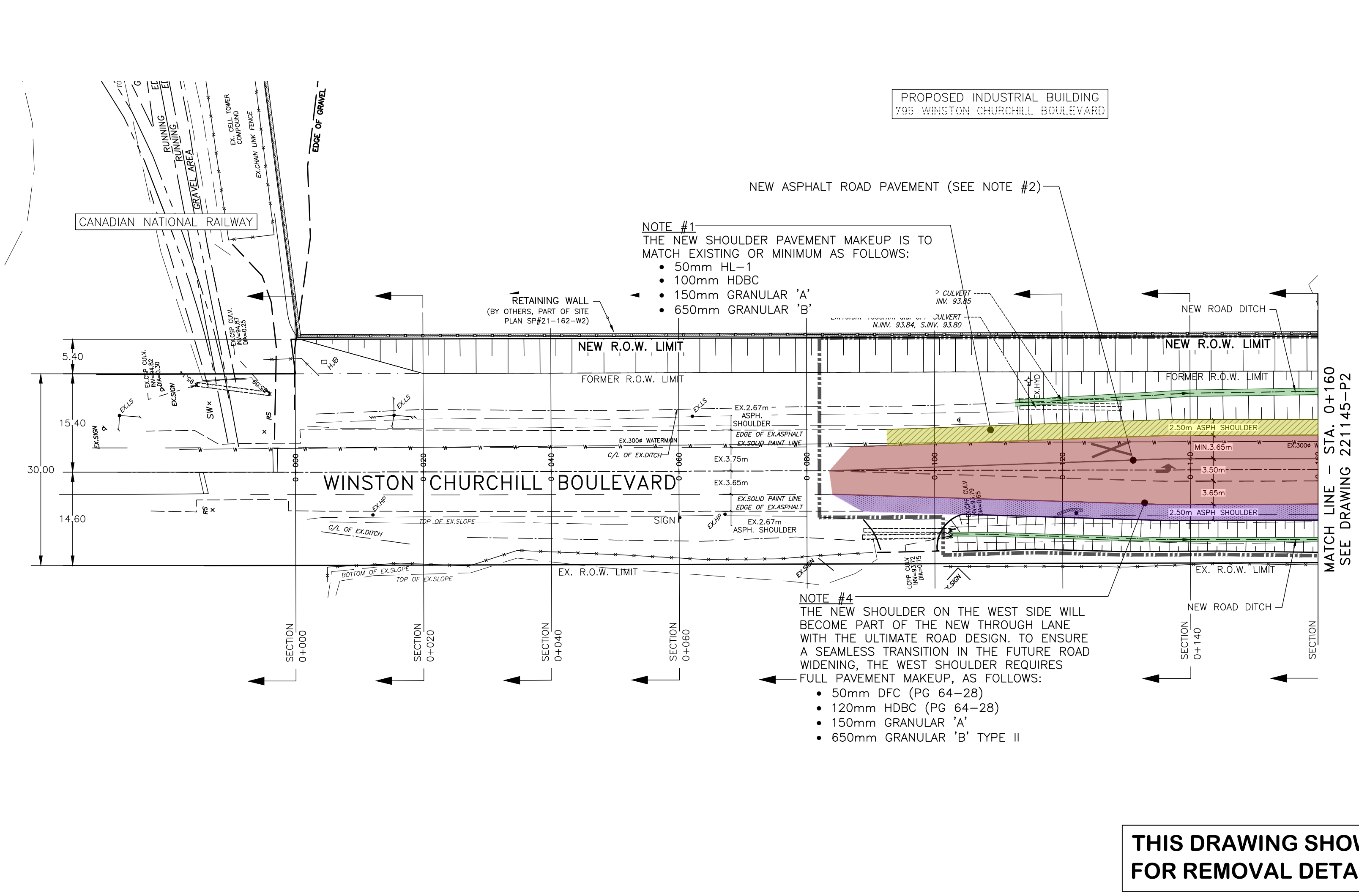
TRAFFIC FILE# D-01901311E  
 SP# 21-164-W2



**HYDRO POLE RELOCATION AND PROTECTION NOTE**  
 EXISTING HYDRO POLES ON THE WEST SIDE WILL BE SUBJECT TO RELOCATION BY OAKVILLE HYDRO. IN THE EVENT THAT THE RELOCATION OF THESE POLES BY OAKVILLE HYDRO IS NOT FINALIZED DURING THE ROAD WIDENING ACTIVITIES, THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING TEMPORARY PROTECTION TO THE EXISTING HYDRO POLES TO THE SATISFACTION OF OAKVILLE HYDRO. THE TEMPORARY PROTECTION FOR THE HYDRO POLES WILL REMAIN IN PLACE UNTIL THE POLES ARE SUCCESSFULLY RELOCATED.



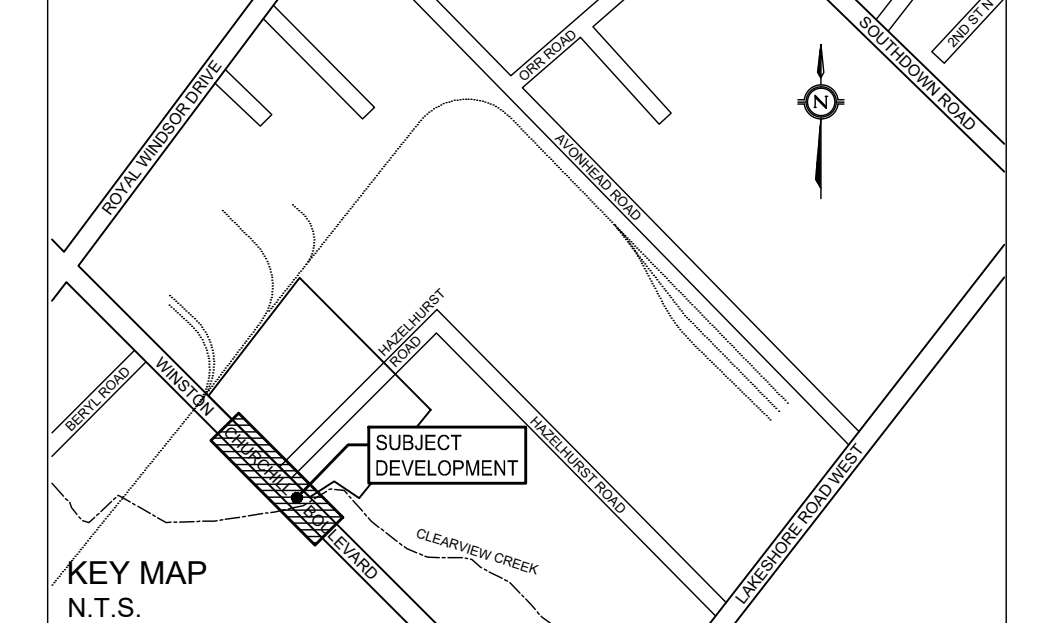
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SERVICE DATA					
SERVICE	DATE	INIT.	SERVICE	DATE	INIT.
SAN SEWERS			GAS MAINS		
STORM SEWERS			BELL U/G CABLE		
WATERMANS			HYDRO U/G CABLE		
TRANSIT			HYDRO ONE		
PARKS & REC.			CTV		
GNT. CLEAN WATER			COMMUNIC. CABLES		

REVISIONS		
DATE	DETAILS	INIT.
MAY 19, 2023	4TH SUBMISSION	M.Z.
JUN 1, 2023	ISSUED FOR TENDER	M.Z.
AUG 3, 2023	5TH SUBMISSION	M.Z.
SEPT 13, 2023	REVISION PER REGION OF PEEL COMMENTS	M.Z.
NOV. 1, 2024	ISSUED FOR CVC PERMIT	M.Z.



**NOT APPROVED FOR CONSTRUCTION**

**LEGEND**

- WATERMAIN
- DITCH
- STORM CULVERT
- FIRE HYDRANT
- NEW ASPHALT SHOULDER (SEE NOTE #1)
- NEW ASPHALT PAVEMENT (SEE NOTES #2 & 3)
- NEW ASPHALT SHOULDER (SEE NOTE #4)
- 45' CURB OUTLET
- MAX. 2.5:1 SLOPE (UNLESS NOTED OTHERWISE)
- RELOCATED HP/SL (BY ALECTRA)
- CONSTRUCTION LIMIT

**THIS DRAWING SHOWS PROPOSED WORKS ONLY.  
FOR REMOVAL DETAILS, REFER TO REMOVAL PLAN 221145-RP**

STATION	92.70	92.66	92.60	92.53	92.43	92.31	92.19	92.06	91.93	91.80	91.67	91.54
PROP. STM. INVERT												
RESTRAINED JOINTS												
BOT. EL. OF WM.	92.40	92.36	92.30	92.23	92.13	92.01	91.89	91.76	91.63	91.50	91.42	91.32
PROP. DITCH ELEV.								(93.88)	93.71	93.54	93.38	93.21
EX. DITCH ELEV.		94.52	94.47	94.35	94.22	94.06	94.02	93.88	93.69	93.48	93.29	93.22
PROP. ROAD ELEV.				(94.96)	94.87	94.78	94.69	94.61	94.51	94.39	94.22	94.10
EX. ROAD ELEV.	95.55	95.39	95.33	95.25	95.15	95.06	94.96	94.85	94.70	94.56	94.43	94.30
ROAD CHAINAGE	0+000	0+020	0+040	0+060	0+080	0+100	0+120	0+140	0+160	0+180	0+200	0+220

**NOTE #2**  
NEW ASPHALT PAVEMENT, TOP AND BINDING COURSE ONLY FROM STATION 0+085 TO 0+170, WHERE THE ROAD GRADE ELEVATION INCREASE IS LESS THAN 100mm.  
THE FOLLOWING STEPS, IN ACCORDANCE WITH THE PAVEMENT INVESTIGATION AND DESIGN REPORT (THURBER ENGINEERING LTD. FILE# 36272), SHALL BE TAKEN:  
**MILLING**  
REMOVE THE TOP COURSE OF THE EXISTING ASPHALT TO A DEPTH OF 50mm  
**REPLACEMENT**  
REPLACE THE MILLED AREA WITH A MINIMUM THICKNESS OF 100mm OF HDBC (PG 64-28)  
**SURFACE LAYER**  
APPLY A CONSISTENT THICKNESS OF 50mm DFC (PG 64-28)

**General Notes**  
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All Water And Sanitary Service Locations Are Approximate And Must Be Located Accurately In The Field  
All Pipes Size In mm

**Bench Mark Notes**  
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DESIGNED BY:

APPROVED BY: \_\_\_\_\_

**NOTICE TO CONTRACTOR**  
48 HOURS PRIOR TO COMMENCING WORK NOTIFY THE FOLLOWING

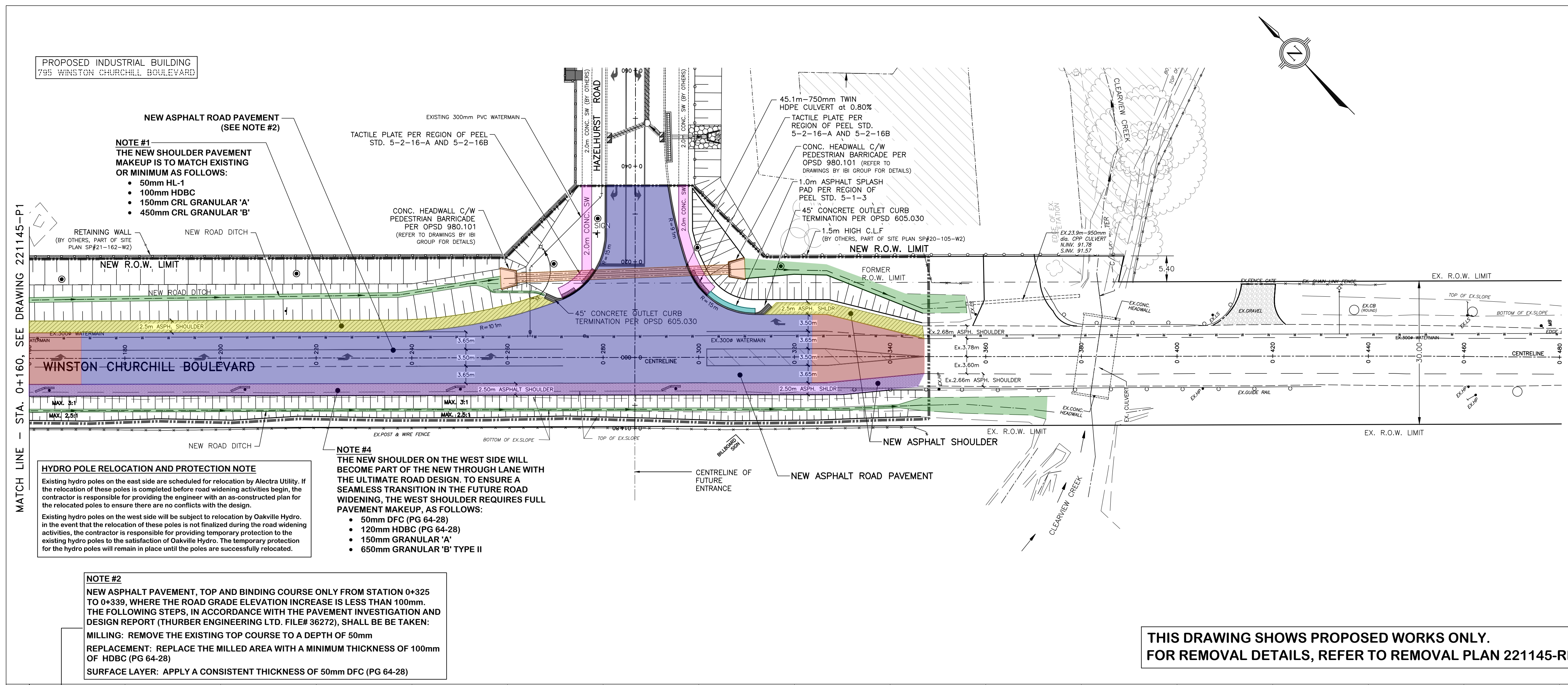
THE REGIONAL MUNICIPALITY OF PEEL	CABLE TELEVISION/FIBROPTIC PROVIDERS:
CITY OF MISSISSAUGA WORKS DEPT.	BELL CANADA
CITY OF BRAMPTON WORKS DEPT.	ENERSOURCE TELECOM
TOWN OF CALEDON WORKS DEPT.	HYDRO ONE TELECOM
BELL CANADA	ROGERS CABLE
ENERSOURCE INCORPORATED-GAS DISTRIBUTION	ALLSTREAM PSN (PUBLIC SECTOR NETWORK)
ONTARIO MINISTRY OF TRANSPORTATION	FUTUREWAY (FCI BROADBAND)
ONTARIO CLEAN WATER AGENCY	
HYDRO ONE NETWORKS	
ENERSOURCE, HYDRO MISSISSAUGA	
HYDRO ONE BRAMPTON	

10m 0 10 20 30m HORIZONTAL SCALE  
1m 0 1 2 3m VERTICAL SCALE

**EMC GROUP LIMITED**  
Engineers Planners Project Managers  
Vaughan Ontario (905) 738-3939

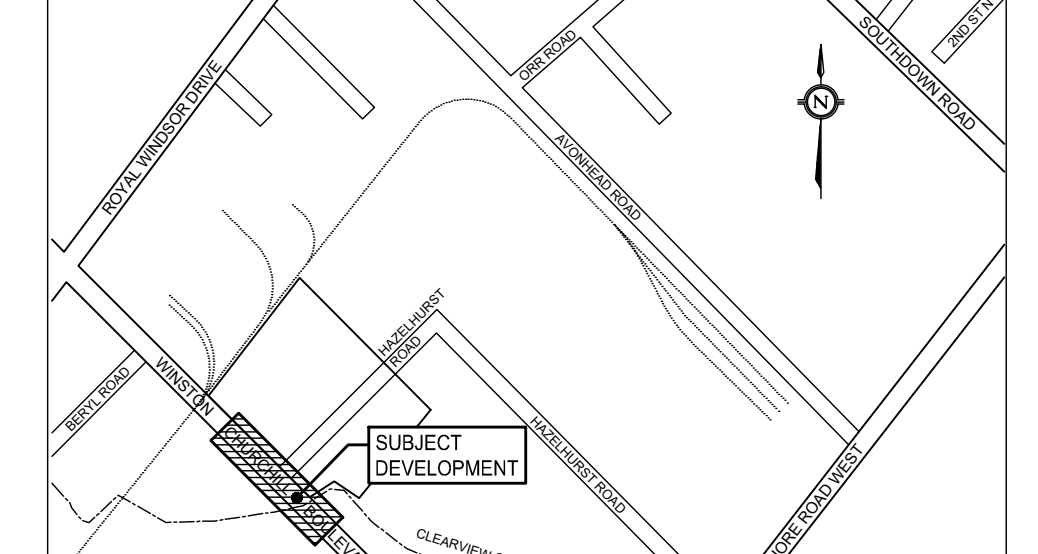
**INTERSECTION IMPROVEMENT**  
**WINSTON CHURCHILL BLVD. / HAZELHURST RD.**  
(FROM SOUTH OF CNR TO NORTH OF LAKESHORE ROAD)  
**PROPOSED ROAD WIDENING**  
STA. 0+000 TO STA. 0+160

CAD Area	X-XX	Area	X-XX	Project No.	221145
Checked by	M.Z.	Drawn by	J.C.	Plan No.	221145-P1
Date	JULY, 2022	Sheet	5 of 11		

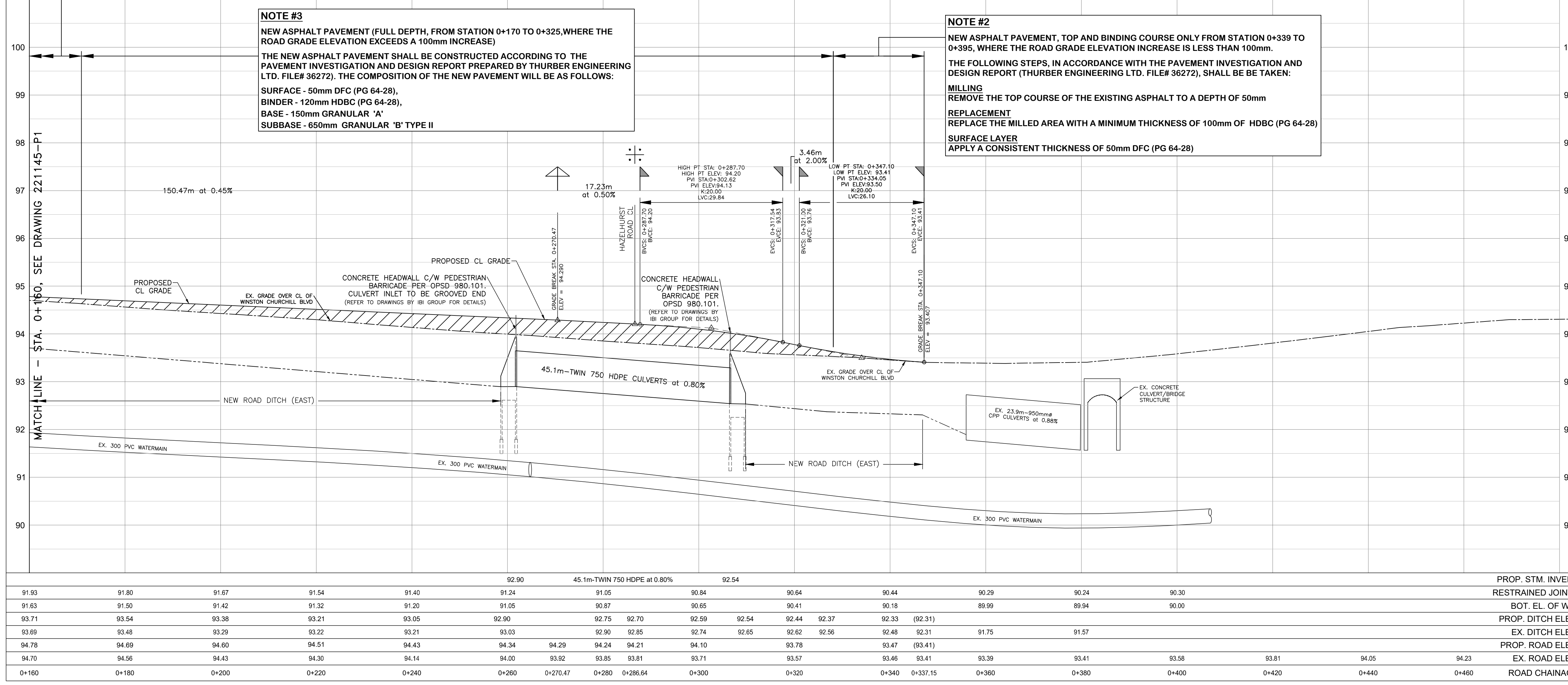


SERVICE DATA					
SERVICE	DATE	INIT.	SERVICE	DATE	INIT.
SAN SEWERS			GAS MAINS		
STORM SEWERS			BELL U/G CABLE		
WATER MAINS			HYDRO U/G CABLE		
TRANSIT			HYDRO ONE		
PARKS & REC.			CTV		
GNT. CLEAN WATER			COMMUNIC. CABLES		

REVISIONS		
DATE	DETAILS	INIT.
MAY 19, 2023	4TH SUBMISSION	M.Z.
JUN 1, 2023	ISSUED FOR TENDER	M.Z.
AUG 3, 2023	5TH SUBMISSION	M.Z.
SEPT 13, 2023	REVISION PER REGION OF PEEL COMMENTS	M.Z.
NOV. 1, 2024	ISSUED FOR CVC PERMIT	M.Z.



**NOT APPROVED FOR CONSTRUCTION**



**General Notes**  
All Driveways Are Asphalt Unless Otherwise Noted  
All Water And Sanitary Service Locations Are Approximate And Must Be Located Accurately In The Field All Pipes Size In mm

**Bench Mark Notes**  
B.M. No. Mississauga - 774  
B.M. Elev. 101.356m  
B.M. Description On the West face of the North end of a brown brick office building on the East Side of Winston Churchill Blvd. (No. 935)  
B.M. Location 137m South of Royal Windsor Drive

The Contractor Is Responsible For Locating And Protecting All Existing Utilities Prior To And During Construction. Location Of Existing Utilities Approximate Only. To Be Verified In Field By Contractor.

**NOTICE TO CONTRACTOR**  
48 HOURS PRIOR TO COMMENCING WORK NOTIFY THE FOLLOWING

THE REGIONAL MUNICIPALITY OF PEEL	CABLE TELEVISION/FIBROPTIC PROVIDERS:
CITY OF MISSISSAUGA WORKS DEPT.	BELL CANADA
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ENERSOURCE, HYDRO MISSISSAUGA	
HYDRO ONE BRAMPTON	

10m 0 10 20 30m HORIZONTAL SCALE  
1m 0 1 2 3m VERTICAL SCALE

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**INTERSECTION IMPROVEMENT**  
**WINSTON CHURCHILL BLVD. / HAZELHURST RD.**  
(FROM SOUTH OF CNR TO NORTH OF LAKESHORE ROAD)  
**PROPOSED ROAD WIDENING**  
STA. 0+160 TO STA. 0+460

CAD Area	X-XX	Area	X-XX	Project No.
Checked by	M.Z.	Drawn by	J.C.	221145
Date	JULY, 2022	Sheet	6 of 11	Plan No. 221145-P2

TRAFFIC FILE# D-01901311E  
SP# 21-164-W2

### Winston Churchill Roadworks



ID	Task Name	Duration	Start	Finish	Timeline											
					Oct	Nov	Dec	Half 1, 2025	Jan	Feb	Mar	Apr	May			
1	<b>Winston Churchill Roadworks</b>	<b>153 days</b>	<b>Mon 10/7/24</b>	<b>Wed 5/7/25</b>	[Summary bar from Oct to May]											
2	<b>Construction</b>	<b>153 days</b>	<b>Mon 10/7/24</b>	<b>Wed 5/7/25</b>	[Summary bar from Oct to May]											
3	Authorization to Proceed	0 days	Mon 10/7/24	Mon 10/7/24	7 ◆ <b>Authorization to Proceed</b>											
4	As built survey	20 days	Mon 10/7/24	Fri 11/1/24	7 → <b>As built survey</b>											
5	Scope existing Services	20 days	Mon 10/7/24	Fri 11/1/24	7 → <b>Scope existing Services</b>											
6	Obtain Municipal Approvals	0 days	Fri 11/1/24	Fri 11/1/24	11/1 ◆ <b>Obtain Municipal Approvals</b>											
7	Mobilization	5 days	Mon 11/4/24	Fri 11/8/24	11/4 → <b>Mobilization</b>											
8	Reinstate Erosion Control	3 days	Mon 11/11/24	Wed 11/13/24	11/11 → <b>Reinstate Erosion Control</b>											
9	Clear and Grub as required	5 days	Thu 11/14/24	Wed 11/20/24	11/14 → <b>Clear and Grub as required</b>											
10	Fine Grade Hazelhurst Road	7 days	Thu 11/14/24	Fri 11/22/24	11/14 → <b>Fine Grade Hazelhurst Road</b>											
11	Construct Curbs to Hazelhurst Road and adjust catchk	7 days	Wed 11/20/24	Thu 11/28/24	11/20 → <b>Construct Curbs to Hazelhurst Road and adjust catchbasins</b>											
12	Construct Sidewalks to Hazelhurst	8 days	Fri 11/29/24	Tue 12/10/24	11/29 → <b>Construct Sidewalks to Hazelhurst</b>											
13	Topsoil and sod to Hazelhurst	10 days	Wed 12/11/24	Tue 12/24/24	12/11 → <b>Topsoil and sod to Hazelhurst</b>											
14	Asphalt Pavement to Hazelhurst	20 days	Mon 11/25/24	Fri 12/20/24	11/25 → <b>Asphalt Pavement to Hazelhurst</b>											
15	Demo and Grading to Intersection Works	10 days	Thu 11/21/24	Wed 12/4/24	11/21 → <b>Demo and Grading to Intersection Works</b>											
16	Head walls to culverts	10 days	Thu 12/5/24	Wed 12/18/24	12/5 → <b>Head walls to culverts</b>											
17	Construct new curbs and Splash Pad to Intersection	10 days	Thu 12/19/24	Wed 1/1/25	12/19 → <b>Construct new curbs and Splash Pad to Intersection</b>											
18	Strip and Remove Asphalt to New Intersection	5 days	Thu 1/2/25	Wed 1/8/25	1/2 → <b>Strip and Remove Asphalt to New Intersection</b>											
19	Topsoil and Sod to Intersection	8 days	Thu 4/3/25	Mon 4/14/25	4/3 → <b>Topsoil and Sod to Inte</b>											
20	New Paving to Intersection Works	12 days	Tue 4/15/25	Wed 4/30/25	4/15 → <b>New Paving to</b>											
21	Final Clean and Demobilization	5 days	Thu 5/1/25	Wed 5/7/25	5/1 → <b>Final Clean</b>											

Task [blue bar] Milestone ◆ Summary [black bar]

Note: Schedule is based on optimal working conditions, no provisions made for any weather related delays or impact to critical path.

**Industrial New Build - Winston Churchill Roadworks**

GENERAL INFORMATION

Project	<b>Winston Churchill Intersection Works and Hazelhurst Road Extension</b>		
Client	<b>Moldenhauer</b>		
Date Issued	<b>06-Nov-24</b>		
Project Type	<b>Civil Works</b>		
Construction Budget	<b>\$2,732,000.00</b>		
Cost psf			
Construction Schedule	<b>3</b>	months	
Consultants	<b>included</b>		
Gross Floor Area (sf)	<b>n/a</b>		

SCOPE OF WORK	description	Cost	%	cost psf	Notes
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**SOFT COSTS**

Municipal Fees	\$10,000.00				
Civil Engineering	\$127,000.00				inspections and sign off
Landscape Architect	\$5,000.00				inspections and sign off
Electrical engineering	\$5,000.00				inspections and sign off
Environmental	\$20,000.00				
Topo Survey	\$18,000.00				
Service scoping	\$10,000.00				
Hydro Connection Costs	\$0.00				excluded
Service Connection Costs	\$0.00				excluded
Testing and Inspections	\$10,000.00				
Project insurance	\$15,000.00				
Pre Construction Services	\$10,000.00				
General Conditions - 3 months	\$132,000.00				
Overhead and Fee - 3.0%	\$80,000.00				

**HARD COSTS**

Intersection upgrade work	\$1,150,000.00	42.1%
<b>Road extension work</b>		
Layout	\$6,000.00	0.2%
Misc grading and rework	\$25,000.00	0.9%
Fine grading	\$57,191.00	2.1%
Base asphalt	\$178,764.00	6.5%

Top asphalt including sweep and tack	\$125,332.00	4.6%
Line painting	\$9,500.00	0.3%
Adjust catch basins	\$15,400.00	0.6%
Complete sidewalks	\$135,771.00	5.0%
Complete curbs	\$65,592.00	2.4%
Sodwork	\$101,450.00	3.7%
rework cul de sac	\$40,000.00	1.5%
concrete headwalls	\$40,000.00	1.5%
landscape works	\$70,000.00	2.6%
electrical	\$70,000.00	2.6%

#### ADDITIONAL ITEMS

winter construction provisional	\$ 100,000.00	3.7%	allowance
general contingency and unknowns	\$ 100,000.00	3.7%	allowance

#### TOTAL PROJECT BUDGET

**\$2,732,000.00** 100.0%

Excludes replacement of asphalt or any works due to weather conditions or Municipal direction

07-Nov-24

**Royal Windsor Drive Roadworks and Extension**

Task	Description	unit	quantity	unit rate	Extended Cost
					\$ -
<b>General Conditions Construction Phase - 3 months</b>					
Project Manager	50% time	weeks	13	\$ 1,800.00	\$ 23,400
Project Coordinator	as needed	weeks	13	\$ 700.00	\$ 9,100
Site Superintendent	on site suervision 50% time	weeks	13	\$ 2,200.00	\$ 28,600
Site Labour / site clean up	one labourer 50% time during construction duration	weeks	13	\$ 1,400.00	\$ 18,200
All office staff and office supplies. Including but not limited to; estimator, accounting etc.	Includes estimating support, accounting and misc. office supplies	lump sum	1	\$ 5,000.00	\$ 5,000
Leed coordinator	additional if required	lump sum	1	\$ -	\$ -
Field offices, including all equipment & supplies		weeks	13	\$ 200.00	\$ 2,600
Site telecommunications, internet		weeks	13	\$ 200.00	\$ 2,600
Temporary Electrical street connection	is this required??	lump sum	1	\$ 15,000.00	\$ 15,000
Temporary Electrical distribution		lump sum	1	\$ -	\$ -
Temporary Electrical Consumption	by client	weeks	21	\$ -	\$ -
Temporary Water		lump sum	1	\$ -	\$ -
Site Safety inspections	independent safety company	weeks	13	\$ 300.00	\$ 3,900
Temporary Facilities (washrooms, trailers, storage bins, etc.)		months	13	\$ 600.00	\$ 7,800
Garbage removal including disposal and recycling as required including recycling as required.		bins	1	\$ 1,100.00	\$ 1,100
Small tools, tool rentals		lump sum	1	\$ 6,000.00	\$ 6,000
Set up and dismantle temporary access stairs		lump sum	1	\$ -	\$ -
Temporary access stair rental		weeks	26	\$ -	\$ -
Final Cleaning		lump sum	1	\$ 7,000.00	\$ 7,000
All printing and courier charges		lump sum	1	\$ 700.00	\$ 700
Pumping and dewatering	cost of work	lump sum	0	\$ -	\$ -
Construction Layouts	cost of work	lump sum	1	\$ -	\$ -
Final as built survey	cost of work if required	lump sum	1	\$ -	\$ -
Site Security and Cameras	cost of work if required	lump sum	1	\$ -	\$ -
Temporary Fencing	cost of work if required	lump sum	1	\$ -	\$ -
Insurance and Bonds	cost of work if required	lump sum	1	\$ -	\$ -
Safety Supplies, fire extinguisher		lump sum	1	\$ 1,000.00	\$ 1,000
Project Signage		lump sum	1	\$ -	\$ -
<b>TOTAL CONSTRUCTION PHASE</b>					<b>\$ 132,000</b>
<b>Office Overhead</b>					
					<b>0.40%</b>
<b>Construction Managers Fee</b>					
					<b>2.60%</b>





## DRAWING LIST

Building Confidence

Project: ON24-17 Winston Churchill Road Works

November 11, 2024

Drawing Title	Drawing #	Revision #	Date
<b>Hazelhurst Extension - EMC</b>			
Grading Plan - Part 1	220130-GR1	6	2022-11-07
Grading Plan - Part 2	220130-GR2	6	2022-11-07
Plan & Profile Hazelhurst Road STA 0+000 to STA 0+320	220130-P1	6	2022-11-07
Plan & Profile Hazelhurst Road STA 0+320 to STA 0+626.82	220130-P2	6	2022-11-07
Leeswood Scope of Work (4 pages including drawing markup)		0	2024-11-07
<b>Winston Churchill - EMC</b>			
Cover Sheet		8	2024-11-01
General Notes	221145-N	8	2024-11-01
Removal and Adjustment Plan	221145-RP	8	2024-11-01
Plan & Profile - STA 0+000 TO 0+160	221145-PMSP	8	2024-11-01
Plan & Profile - STA 0+160 TO 0+460	221145-P1	8	2024-11-01
Grading and Pavement Elevations	221145-P2	8	2024-11-01
Section Details Plan - Part 1	221145-SEC1	8	2024-11-01
Section Details Plan - Part 2	221145-SEC2	8	2024-11-01
Erosion and Sediment Control	221145-ES	8	2024-11-01
Standard Detail Page	221145-STD	8	2024-11-01
Leeswood Scope of Work (6 pages including drawing markup)		0	2024-11-07
<b>Topographic Survey</b>			
Draft Topographic Survey (in CAD)		0	2024-11-08

## Appendix “C”

**759 Winston Churchill GP Inc., and 759 Winston Churchill L.P.**  
Statement of Receipts and Disbursements  
For the Period ending November 11, 2024  
(\$; unaudited)

<b>Description</b>	<b>Amount</b>
<b>Receipts</b>	
Rent collections	2,201,319
HST collected	306,681
Cash from debtor's bank account	96,259
Interest	12,417
	<u>2,616,676</u>
<b>Disbursements</b>	
Property taxes	944,872
Third party consultant costs	300,000
HST remittance to CRA	186,552
Security	101,160
Insurance	70,933
HST/PST paid on disbursements	66,616
Rent / Leases	45,929
Intercompany transfers	25,000
Third party contractor fees	20,058
Utilities	16,883
Other	2,194
	<u>1,780,197</u>
<b>Balance</b>	<u><u><b>836,478</b></u></u>

**KINGSETT MORTGAGE  
CORPORATION**  
Applicant

and

**759 WINSTON CHURCHILL GP INC., 759 WINSTON  
CHURCHILL L.P., 688 SOUTHDOWN GP INC., 688  
SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC.  
AND 2226 ROYAL WINDSOR LP**  
Respondents

Court File No: CV-24-00714543-00CL

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,  
R.S.C 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT TORONTO**

**FIRST REPORT OF THE RECEIVER**

**OSLER, HOSKIN & HARCOURT LLP**

100 King Street West  
1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto ON M5X 1B8

**Marc Wasserman (LSO# 44066M)**

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**Dave Rosenblat (LSO# 64586K)**

Tel: 416.862.5673  
Email: [drosenblat@osler.com](mailto:drosenblat@osler.com)

Lawyers for the Receiver