

THIS AGREEMENT made this _____ day of 2019

BETWEEN:

RUSSELL PINES PROPERTY CORP.(hereinafter called "the Owner")
OF THE FIRST PART;

- and-

**THE CORPORATION OF THE
TOWN OF HALTON HILLS**
(hereinafter called the "Town")

OF THE SECOND PART

WHEREAS the Owner owns lands located within the area bounded by 10 Sideroad, the Tenth Line, and the Hamlet of Norval ("the Southeast Georgetown Secondary Plan Area") in the Town of Halton Hills, in the Regional Municipality of Halton, as shown on the attached Schedule "A";

AND WHEREAS the Owner wishes to develop its lands for residential and other uses;

AND WHEREAS the Owner's lands are predominantly designated "Future Residential/Mixed Use Area" in the Town's Official Plan, as amended by OPA No. 10;

AND WHEREAS the policies contained in the Town's Official Plan as amended by OPA No. 10 require, among other things, that a secondary plan for the Southeast Georgetown Secondary Plan Area ("the Secondary Plan") be completed prior to the development of the Owner's lands;

AND WHEREAS the Town's approved Capital Forecast identifies the Secondary Plan as commencing in 2020;

AND WHEREAS the Owner wishes to advance the completion of the Secondary Plan including related background studies relative to the timelines set out in the Town's approved Capital Forecast;

AND WHEREAS the Owner has agreed to finance the cost of the Secondary Plan including related background studies upon the terms contained in this Agreement;

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) now paid by each of the parties hereto to the other (the receipt and adequacy of which are hereby acknowledged), and for other good and valuable consideration, THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

Estimated Cost of the Secondary Plan

1. The parties acknowledge that the Town has estimated the cost of the Secondary Plan including related background studies to be \$300,000.00. Immediately upon execution of this agreement and prior to the solicitation of bids or other expressions of interest as contemplated by Section 3 below, the Owner shall pay

\$300,000.00 towards this cost to the Town. The Parties agree that this payment represents a contribution of 100% of the estimated cost of the Secondary Plan including related background studies.

2. The Town agrees to reimburse the Owner \$300,000.00, plus any additional amounts paid to the Town under Sections 5 and/or 6, without interest and in accordance with the following provisions:
 - a) The reimbursement shall be paid in two equal installments of \$150,000 plus 50% of any additional amounts paid to the Town under Sections 5 and/or 6 ;
 - b) the first installment shall be paid no later than December 31, 2025;
 - c) the second installment shall be paid no later than December 31, 2030.
3. It is agreed that, following the execution of this agreement, the Town may proceed to solicit bids or other expressions of interest for the undertaking of the Secondary Plan including related background studies in such manner as the Town, in its sole discretion sees fit.
4. The Parties acknowledge and agree that the Town shall not be obligated to accept any bid or other expression of interest. Should the Town decline to accept any such bid or other expression of interest, this agreement shall be terminated, all obligations hereunder shall cease and no Party shall be entitled to any remedy relating to this agreement, except that the Owner shall be entitled to the return of any unused portion of the monies paid by the Owner pursuant to Section 1 above forthwith.
5. Following the acceptance of a bid by the Town, should the cost of the Secondary Plan including related background studies, as set out in that bid or other expression of interest which has been accepted by the Town ("the Bid Price"), exceed the initial estimate of \$300,000.00, the Owner shall, prior to any work on the Secondary Plan and the related background studies being commenced, pay to the Town an amount equal to the Bid Price minus \$300,000.00.
6. Following the commencement of work on the Secondary Plan including related background studies, should additional work or additional and/or unexpected expenses become necessary and/or arise, any of which would result in the total cost of the Secondary Plan and related background studies exceeding the Bid Price, the Town's Commissioner of Planning & Sustainability shall obtain an estimate of any additional costs arising from the same ("the Estimate"), consult with the Owner and, following such consultation, determine, acting reasonably, whether or not to proceed with such additional work or incur such additional expenses, as the case may be. Should the Town's Commissioner of Planning & Sustainability decide not to proceed, this agreement shall be terminated, all obligations hereunder shall cease and no Party shall be entitled to any remedy relating to this agreement, other than any unused portion of the monies paid by the Owner pursuant to Section 1 above, which amount shall be repaid to the Owner forthwith. Should the Town's Commissioner of Planning and Sustainability

decide to proceed, the Town shall not be required to proceed with any further work on the Secondary Plan including related background studies until the Owner has paid to the Town an amount equal to the Estimate. Following such payment, the Bid Price shall be deemed to have been increased by the amount of the Estimate, and, subject to that change, this paragraph shall continue to apply should additional work become necessary and/or should additional and/or unexpected expenses arise thereafter.

7. In the event that this agreement is terminated for any of the reasons set out in the preceding paragraph 6, the Town shall be entitled to ownership of any portion of the Secondary Plan and the related background studies completed to the date of such termination, regardless of the state of completion or form of the said unfinished work, including any study, work, data, calculations, observation, electronic data, photographs, draft reports, field notes, notes, analysis, lab results, computer modeling and regardless of the media upon which such unfinished work is recorded and the Town shall be deemed to be the owner of any intellectual property in such unfinished work. Within 20 days of any such termination, the Town shall demand that the consultants who completed the work to date provide the unfinished work, as defined herein, to the Owner and the Town. Notwithstanding the foregoing, the Owner shall be entitled to copies of the same. Any contract entered into by the Town pursuant to this agreement shall contain a clause which complies with the obligations of this Paragraph 7.

Payments

8. Any payment made to the Town by the Owner pursuant to this agreement shall be in the form of a cash deposit or letter of credit.
9. Any letter of credit submitted to the Town pursuant to this agreement must have the following characteristics:
 - a. It must be an irrevocable letter of credit;
 - b. It must be in the form attached as Schedule "C" and from a financial institution to the satisfaction of the Town Treasurer;
 - c. It must renew automatically and provide the Town with 30 days' notice of cancellation;
 - d. It must contain the address of the bank branch where inquiries can be made and the Letter of Credit called upon; and
 - e. It must authorize the Town to draw down on the Letter of Credit from time to time during the term of this Agreement to pay the Owner's contribution toward the costs of the Secondary Plan including related background studies when those costs become payable.
10. The Town may draw down the funds provided under Section 1 from time to time, based on its needs in its sole discretion. Upon request by the Owner, the Town shall provide copied of any invoices reimbursed using the said cash deposit or letter of credit.
11. Prior to any work on the Secondary Plan including related background studies being commenced or continued, letters of credit and/or cash deposits in the total amounts required under this agreement in excess of the amount paid on

execution pursuant to Paragraph 1 must be received by the Town and must have been deemed satisfactory by the Town Treasurer.

12. As work on the Secondary Plan including related background studies proceeds, the Town shall draw down the Owner's letter of credit and/or cash deposit in the amount of any costs incurred in association with such work (including the cost of any administrative fees required to draw down the same).

Preparation and Completion of Secondary Plan including related Background Studies

13. The preparation of the Secondary Plan including related background studies shall be undertaken under the Town's sole direction using such resources, including Town staff and/or outside professionals, as the Town may see fit, in its sole discretion. The Owner acknowledges and agrees that nothing in this agreement shall fetter the discretion of Town Council in considering any matter which may come before it in connection with the Secondary Plan, the related background studies or any application made by the Owner under the *Planning Act* or any other legislation.

Interpretation Not Affected by Headings, Etc.

14. Grammatical variations of any terms defined herein shall have similar meanings; words importing the singular number shall include the plural and vice versa; words importing the masculine gender shall include the feminine and neuter genders and vice versa. The division of this Agreement into separate Articles, Sections, Subsections, Paragraphs and Subparagraphs, the provision of a table of contents and index thereto, and the insertion of headings and marginal notes and references are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

Severability

15. If any covenant, obligation or provision of this agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this agreement or the application of such covenant, obligation or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each covenant, obligation and agreement of this agreement shall be separately valid and enforceable to the fullest extent permitted by law, unless such covenant, obligation or provision of this agreement or application of the same which has been determined to be invalid or unenforceable is deemed by the Town, in its sole discretion to be fundamental to this agreement, in which case this agreement shall be null and void.

Governing Law

16. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

Disclaimer of Partnership

17. The parties disclaim any intention to create a partnership or joint venture or to constitute either of them the agent of the other. Nothing in this agreement shall constitute the parties as partners or agents of the other.

Notices

18. All notices under this agreement shall be given to the Parties at the following addresses:

To the Town:

Attention: Town Clerk
The Corporation of the Town of Halton Hills
1 Halton Hills Drive
Georgetown, Ontario
L7G 5G2
Fax No.: (905)873-2347

To the Owner:

Jack Eisenberger, A.S.O
Russell Pines Property Corp.
5400 Yonge Street, Fifth Floor
Toronto, Ontario
M2N 5R5

or to such other address of a party as it shall specify to the other parties by written notice given in the manner aforesaid. Any such notice delivered or sent by facsimile as aforesaid shall be deemed to have been given and received on the date of actual delivery to the addressee.

Waiver

19. No consent or waiver, express or implied, by a party to or of any breach or default by another party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party hereunder. Failure on the part of a party to complain of any act or failure to act of another party or to declare another party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first-mentioned party of its rights hereunder.

Amendments

20. This agreement may not be modified or amended except with the written consent of all parties hereto.

Further Assurances

21. The parties hereto agree that they will from time to time, at the reasonable request of any of them execute and deliver such assignments, instruments and conveyances, and take such further actions, as may be required to accomplish the purposes of this agreement.

Successors and Assigns

22. This Agreement shall enure to the benefit of and be binding upon the respective successors and assigns of each of the parties hereto.

No Assignment Without Consent

23. This agreement shall not be assignable by the Owner without the prior written consent of the Town. Any attempt to assign any of the rights, duties or obligations of this agreement without written consent is void.

Effective Date

24. This agreement shall not be in force, or bind any of the parties, until executed by all of the parties named in it.

Entirety

25. It is agreed and understood that there is no representation or warranty, collateral term or condition affecting this agreement other than those set forth herein, and no other representation or warranty, collateral term or condition shall be binding upon the parties unless expressed in writing, signed by each party hereto and purporting to be expressed in modification of this agreement.

IN WITNESS WHEREOF, the parties have affixed their respective corporate seals, attested by the hands of their respective officers duly authorized in that behalf.

THE CORPORATION OF THE TOWN OF HALTON HILLS

Mayor

Clerk

OWNER

I have the authority to bind the corporation.