

**The Corporation of The Township of**

**North Kawartha**

**By-law # 28/12**

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**Being a By-Law of the Corporation of the Township of North Kawartha to authorize the execution of a Site Plan Agreement between Albert Trotter and the Corporation of the Township of North Kawartha**

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**Whereas** pursuant to the provisions of The Planning Act, the Township of North Kawartha has designated the property as an area for site plan control;

**Now Therefore** the Council of the Corporation of the Township of North Kawartha enacts as follows:

1. That the Reeve and Clerk be and they are hereby authorized to execute and affix the corporate seal to a Site Plan Agreement with Albert Trotter
2. That this by-law shall come into force and effect on the 17<sup>th</sup> day of April, 2012.

**Read a First, Second and Third time and passed in Open Council this 17<sup>th</sup> day of April, 2012**

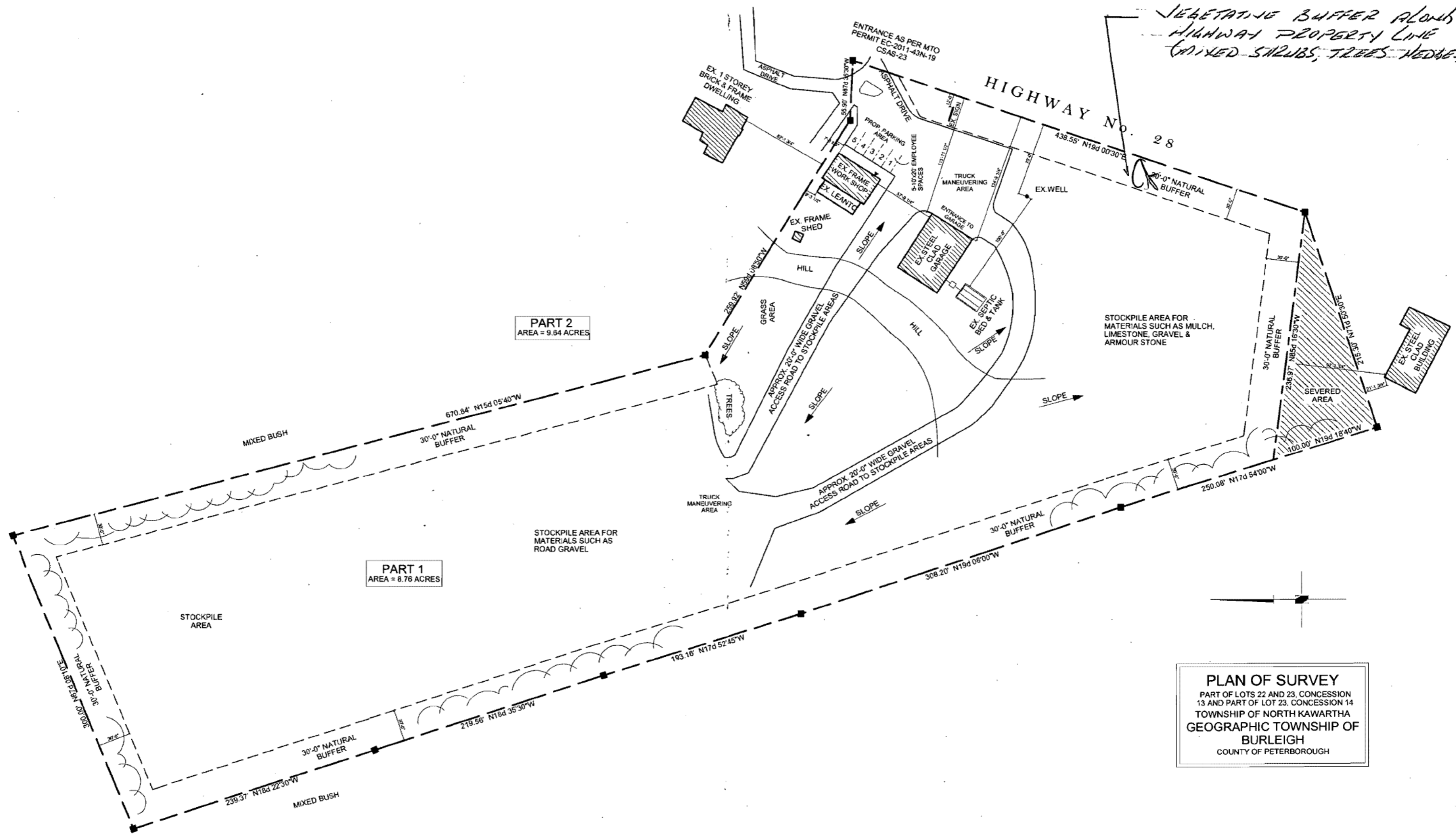


Jim Whelan, Reeve



Connie Parent, Clerk

VEGETATIVE BUFFER ALONG  
HIGHWAY PROPERTY LINE  
(MIXED SHRUBS, TREES, HEDGES)



**PLAN OF SURVEY**  
PART OF LOTS 22 AND 23, CONCESSION 13 AND PART OF LOT 23, CONCESSION 14  
TOWNSHIP OF NORTH KAWARTHA  
GEOGRAPHIC TOWNSHIP OF BURLEIGH  
COUNTY OF PETERBOROUGH

CONTOUR LINE NOT TO BE SCALED  
THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON SITE BEFORE PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES SHALL BE REPORTED TO THE CLIENT PRIOR TO COMMENCEMENT OF WORK.  
THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF SURVEY, STRUCTURAL OR ENGINEERING INFORMATION SHOWN ON THESE DRAWINGS OR FOR CONSTRUCTION STARTED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. REFER TO THE APPROPRIATE ENGINEERING DRAWINGS BEFORE PROCEEDING WITH WORK.  
THIS DRAWING IS AN INSTRUMENT OF SERVICE, IS PROVIDED BY AND IS THE PROPERTY OF THE SURVEYOR. THIS DRAWING IS NOT TO BE SCALED.  
NOTE: SOME ITEMS MAY BE SHOWN TO HELP ILLUSTRATE ROOM SIZES & LAYOUT, THEY ARE NOT NECESSARILY INCLUDED IN THE PRICE. PLEASE ASK FOR DETAILS.

|  |              |                        |      |
|--|--------------|------------------------|------|
| ARMSTRONG PROPERTY   |              | SITE PLAN              |      |
| DATE:  | DEC. 12 2011 | AREA:                  | XXXX |
| DWG. SCALE:  | 1"=40'-0"    |                        |      |
| DRAWN BY:  | A.J.L.       |                        |      |
| CHECKED BY:  |              |                        |      |
|  |              |                        |      |
| <small>3004 Hwy. 28 WOODVILLE, ONTARIO, L8B 3C2<br/>PH: (705) 664-4172 FAX: (705) 654-3463</small> |              | <small>1<br/>1</small> |      |

**Site Plan Agreement**

This Agreement made this   §   day of March A.D., 2012.

**Between:           “ALBERT TROTTER”**

Hereinafter called the “Owner”

Of The First Part

- and -

**The Corporation of the  
Township of North Kawartha**

Hereinafter called the “Municipality”

Of The Second Part

**Whereas** the Owner has represented to the Municipality that the lands described in Schedule “A” attached hereto are owned by it as stated in the Certificate of Ownership attached to this Agreement as Schedule “B”, and further warrants that all municipal taxes levied against the lands have been paid and will be paid as the same falls due;

**And Whereas** pursuant to the provisions of The Planning Act, the Municipality has designated the property as an area for site plan control;

**And Whereas** the parties desire to enter into a Site Plan Agreement in regard to certain on-site features of the development of the said property and the provision of services thereto;

**Now Therefore, This Agreement Witnesseth** that the parties hereto for themselves, their heirs, executors, administrators, successors and assigns, do covenant and agree as follows:

In this agreement:

- (a)           “Municipal Engineer” means the Engineer for the time being or representative of the Corporation of the Township of North Kawartha;
- (b)           “Owner” includes a mortgagee in possession, a tenant in possession pursuant to a leasehold interest, and an encumbrancer in possession, and may mean more than one Owner as specified in the Certificate of Ownership;
- (c)           “services” or “facilities” includes sewers, grading, drainage work, sewers/culverts, curbs, parking areas, driveways, asphalt paving, sodding/seeding, landscaping, sidewalks, walkways, fencing, signs, building structural upgrading and other works required to be provided pursuant to this Agreement;
- (d)           where the context permits, words importing the singular number or the masculine or neuter gender also include more persons, parties or things of the same kind than one, and females as well as males.

1. The obligations imposed pursuant to this Agreement affect the land described in Schedule "A" hereto and any restrictive covenants expressed herein run with the land and bind successors in title to the said property as well as the successors and assigns of the Owner.
2. The encumbrancer(s), if any, agree(s) to satisfy all of the obligations imposed pursuant to this document if it should enter into possession of the said lands.
3. The following schedules are attached to and form part of this Agreement and no building, structure, or other facility shall be erected, altered, or placed on the said lands except in accordance with the attached Schedules and Plans:

Schedule 1: Site Plan Drawings – Site Plan

Schedule 2: Ministry of Transportation Encroachment Permit

Schedule 3: Ministry of Transportation Building and Land Use Permit

The Owner further agrees to provide the Municipality with any and all plans, information, sketches, surveys or reports as may be requested by the Municipality during the term of this agreement.

4. It is hereby understood and agreed that the Owner shall apply to the Municipality for a building permit for any change of use of the existing buildings.
5. The Owner shall perform all the work and provide all the materials necessary for the construction of facilities as outlined on the Site Plan which is attached and noted as Schedule "1" and "2" to this Agreement. Such work shall be fully completed no later than the 31st day of December, 2012, (known as "the completion date").
6. The Owner further agrees that the entrance to the subject property is to be constructed to the standard as set out by the Ministry of Transportation Ontario and to the satisfaction of the Ministry.
7. The Owner shall prevent damage being caused to existing public highways, other public works, or municipal property in the course of the development of the said commencement of development.
8. The Owner shall be solely responsible for maintaining all facilities, services and vegetative screening subject to this Agreement, in a good state of repair and provide the care and attention necessary to maintain the landscaping in a healthy maintain the site in a dust free condition.
9. The Owner shall, during any excavation, grading and construction on the site, maintain and keep the site in a satisfactory condition, and without limiting the generality of the foregoing, shall:
  - a) prevent any damage to abutting properties from erosion, runoff, surface water drainage or other nuisance; and
  - b) keep all construction materials, bags, dust or other debris on the site and clean abutting properties immediately if this obligation is not performed.
10. The Owner shall bring all municipal taxes into good standing as at the date of the execution of this agreement and shall keep all municipal taxes levied against the lands and premises described in Schedule "A" in good standing thereafter.
11. In the event of the sale of the said lands, the Owner will obtain the Purchaser's covenant, in writing, to assume full and complete responsibility for the

performance of the Owner's continuing obligations under this Agreement including the payment of municipal taxes as the same fall due.

12. The Owner shall bear all costs and expenses incurred by the Municipality in retaining consultants to provide advice and assistance to the staff of the Municipality in reviewing, considering and analyzing any aspect of the application for approval of development of the land described in Schedule "A" hereto annexed, whether such cost and expenses were incurred prior to the execution of this agreement or subsequent to such execution. Without limiting the generality of the foregoing, the Owner specifically acknowledges that the Municipality shall require written confirmation from its consultants that the work illustrated in the schedules referenced in paragraph 3 of this agreement has been inspected when advised that the same has been completed by the Owner and has been found to be in compliance with the approved schedules. The cost of such inspection shall be borne by the Owner and may be deducted from any security held by the Municipality to ensure performance of the Owner's obligations. Upon receiving the aforesaid written confirmation from its consultants, the Municipality covenants and agrees to surrender to the Owner any remaining security which it might hold. The Municipality may require the Owner to deposit with the Municipality financial security in a form satisfactory to the Municipality, sufficient to meet such anticipated costs and expenses. In the event that the Owner fails to deposit such security within 10 days of written demand by the Municipality, the Municipality may discontinue all procedures relating to the development of the lands and may cause the Owner to delay commencement of or cease further work on the project until such time as the requirements of the section have been satisfied.
13. The Owner shall deposit with the Municipal Clerk an irrevocable letter of credit in satisfactory form in favour of the Municipality from any Chartered Bank in Canada, or, certified cheque or cash for the amount set out in Schedule "C". It shall be on such terms that the Bank shall pay to the Municipality such sums as may be requested from time to time to the maximum limit of the credit without recourse. The letter of credit shall continue to run until the completion date and may be extended at the option of the Municipality if the said services or facilities on the site have not been completed or provided. The letter of credit shall be in such a form that it cannot be revoked unless authorized by the Municipal Clerk and cannot be transferred to any other party. The Owner shall further pay the levies referred to in Schedule "C" annexed hereto upon execution of this agreement.
14. The Owner acknowledges that this agreement shall not in any way relieve it of responsibility for the payment of fees, levies or other charges imposed by the Municipality or by other levels of government.
15. In the event the Owner fails to install or maintain the facilities covered by this Agreement, or fails to proceed expeditiously, or fails to install the services in accordance with the specifications and requirements of this Agreement, then, upon the Municipal Engineer, or his designate, giving seven (7) days written notice by prepaid registered mail to the Owner, the Municipality, through its employees, agents, or contractors may, without further notice, enter upon the lands and proceed to supply all materials and to do all the necessary inspections and works in connection with the facilities including the repair or reconstruction of faulty work and the replacement of materials which are not in accordance with plans or specifications and to charge the cost thereof, together with the cost of engineering, and any other reasonable expenses incurred by the Municipality, against the Owner. Such entry and work shall not be deemed as acceptance or assumption of said facilities nor an assumption by the Municipality of any liability. It is expressly agreed that the Owner or any person in possession shall not question the cost incurred by the Municipality for labour, materials and all other costs incidental to do the said work and this provision shall be deemed to operate as an effective estoppel in judicial proceedings if such costs are challenged or placed in question. The Owner agrees to permit the Municipal Engineer, or its

agents, to enter on the lands at any time to inspect the work. The Municipality may perform any of the required services and collect the cost for the enforcement of this Agreement, as well as for the provision or installment of the requisite services, against the said lands, and collect the same in the same manner as municipal taxes.

16. The Owner further agrees that entry and performance of works or procedures by the Municipality as herein provided shall not constitute a trespass and the Municipality shall not be responsible for any damages caused in the performance of such work except such damages as may be directly caused by the negligence of the agents, contractors, servants or workmen of the Municipality.
17. The Owner shall indemnify and save the Municipality harmless from any and all actions, claims or demands made or brought against the Municipality by any person or persons for damages arising out of the negligent act, or omissions, or breaches of the Owners, its agents, servants, workmen, and sub-contractors, and assigns in respect of its obligations under this Agreement. It is expressly acknowledged that the Municipality does not warrant the quality of work performed on behalf of the Owner.
18. Unless otherwise stipulated in this Agreement minor alterations or changes to the plan may be requested by the Owner. For the purposes of this provision, a minor amendment is deemed to be:
  - (a) a change which results in an alteration to the building coverage of five percent (5%), (or less), of such coverage, or two hundred (200) square feet, (or less), whichever is the least coverage, as the case may be;
  - (b) a modification to a specific provision of the Agreement which will not conflict with the general intent and purpose of the Site Plan Agreement.

Such requests shall be made to the Municipal Clerk who may authorize the change, in writing. A building permit may be required to implement the proposed alteration.

19. In the event that the Owner shall hereafter propose to alter or amend a previously approved Site Plan drawing, landscape drawing or site servicing drawing, the Owner shall, if directed by the Municipality to do so, provide written notice of such proposed alteration or amendment to all Owners of land which abut the lands described in Schedule "A" hereto annexed, to such extent, in such form and in such manner as the Municipality may from time to time specify, and the Owner shall file with the Municipality such evidence as the Municipality may require as to the giving of such notice. The Municipality shall thereupon either process the application for approval of the proposed alteration or amendment or require that the Owner give to such abutting Owner such further and/or other notice and information as the Municipality may specify, prior to the processing of the application.
20. Any notice required to be given pursuant to the terms hereof shall be in writing and sent by prepaid registered mail, or personally delivered, to the other party at the following address:
  - (a) Notice to the Owner shall be addressed to Albert Trotter or, the Owner's Solicitor, James Jordan at the addresses set out below and such shall be deemed to be effective notice.

Albert Trotter  
 9636 Highway 28  
 RR1, Apsley, ON  
 K0L 1A0  
 Telephone No. 705-656-4449

OR TO

Roger Howson  
 Barrister & Solicitor  
 310 Rubidge Street, P.O. Box 1077  
 Peterborough, ON  
 K9J 7A9  
 Telephone No. 705-748-3093 Fax No. 705-742-8718

- (b) Notice to the Municipality shall be addressed to the Corporation of the Township of North Kawartha at the address set out below and such shall be deemed to be effective notice.

The Corporation of the Township of North Kawartha  
 P.O. Box 550  
 280 Burleigh St.,  
 Apsley, ON  
 K0L 1A0

Attention: Connie Parent, Clerk  
 Telephone No. 705-656-4445  
 Facsimile No. 705-656-4446

The Owner shall advise the Municipality of any changes of address and subsequent purchasers shall advise the Clerk, in writing, of any changes for service of Notices pursuant to this Agreement. Any such notice that is mailed shall be deemed received by the addressee on the fifth day after it is mailed.

21. Notwithstanding any provisions hereof relating to notice, the Municipality may, in case of emergency as determined by the Municipal Engineer, perform such work as the said Engineer may consider necessary without notice and all other provisions hereof shall apply mutatis mutandis.
22. The Owner further warrants that this Agreement is in registerable form, or will be brought into registerable form, at the Owner's expense, and that actual notice of the existence and terms of this Agreement have been provided to any party who has executed, or will execute an offer or option to purchase the said lands. Concurrently with the execution of this Agreement, the Owner shall provide the Municipality with adequate security as outlined herein and all instruments necessary to implement the conveyance of lands, easements, or other interests to the Municipality.
23. Notwithstanding anything in this agreement to the contrary, in the event that the Owner is delayed in the performance of any of the Owner's obligations pursuant to this agreement for any reason which the Municipality recognizes as being beyond the control of the Owner, the Owner shall be permitted such extension of time as the Municipality may, in writing, grant for the performance of such obligations.
24. The Municipality may elect to enforce any or all of the enforcement provisions of this agreement in such order or succession as the Municipality may see fit and exercise of any one or more of such provisions shall not preclude exercise of any other of such provisions until such time as complete compliance with this agreement by the Owner has taken place.
25. The Owner shall provide adequate security to the Site during the course of construction. If the structures, site features or building have not been completed by the 31<sup>st</sup> day of December, 2012, then the Municipality may take appropriate steps to secure the Sites and to assess any costs incurred thereby against the Owner. In order to provide adequate security to the Site during the course of construction, the Owner acknowledges that the Municipality may construct an appropriate barrier or fence around the perimeter of the subject lands or affected



Schedule "A"  
DESCRIPTION OF THE LAND

Part Lots 22 – 23 Concession 13 Burleigh (Northern Division), Part Lot 23 Concession 14, Burleigh (Northern Division) being Part 1, RP No. 45R14719, Township of North Kawartha

Schedule "B"

Certificate of Ownership

SOLICITOR'S CERTIFICATE

I, Roger Howson of the City of Peterborough, a Solicitor duly authorized to practice law in the Province of Ontario, DO HEREBY PROVIDE AN OPINION that Albert Trotter is the true Owner in fee simple of all lands included in the plan as described in Schedule "A" to this Agreement in accordance with Instruments No. PE106262 and \_\_\_\_\_, registered in the Land Registry Office for the Land Registry Division of Peterborough (No. 45) on July 22, 2009.


I FURTHER PROVIDE AN OPINION THAT Albert Trotter is the true Owners in fee simple of all land, if any, to be conveyed to the Municipality over which easements or rights are to be conveyed to the Municipality pursuant to the terms of this Agreement.

I FURTHER REPRESENT that such lands are free from all encumbrances save and except the following:

none

This certificate is given by me to the Municipality for the purpose of having the said Municipality act in reliance on it and approving and registering the said proposed Site Plan Agreement

DATED at Peterborough this 19th day of March, 2012

  
 Roger Howson  
 Barrister and Solicitor

TO: THE CORPORATION OF THE  
 TOWNSHIP OF NORTH KAWARTHA  
 P.O. Box 550, 280 Burleigh Street  
 Apsley, ON K0L 1A0  
 Phone: 705-656-4445  
 Fax: 705-656-4446

**SCHEDULE "C"**

The letter of credit or certified cheque/cash deposited in favour of the Municipality shall be in the amount of \$2,000.00.

The Owner shall also pay a development charge, if applicable, to the Municipality upon execution of the agreement herein.

**SCHEDULE "1"**

Site plan Drawings -Site Plan – Armstrong  
9636 Highway 28, RR 1, Apsley  
Dated December 12, 2011

This plan as referred to in Paragraph 3 of the agreement is on file with the Clerk of the Corporation of the Township of North Kawartha and may be viewed at the municipal office, upon request, during normal business hours.

**SCHEDULE "2"**

Ministry of Transportation Ontario

Encroachment Permit – Number EC-2011-43N-19

This permit as referred to in Paragraph 3 of the agreement is on file with the Clerk of the Corporation of the Township of North Kawartha and may be viewed at the municipal office, upon request, during normal business hours.

**SCHEDULE "3"**

Ministry of Transportation Ontario

Building and Land Use Permit – Number BL 2011-43N-22

This permit as referred to in Paragraph 3 of the agreement is on file with the Clerk of the Corporation of the Township of North Kawartha and may be viewed at the municipal office, upon request, during normal business hours.