

MINUTES OF SETTLEMENT
(these “**Minutes**” or this “**Agreement**”)

THESE MINUTES dated _____, 2024 (the “**Effective Date**”).

AMONG:

CITY OF TORONTO

(the “**City**”)

and

THE PARTIES LISTED IN SCHEDULE A AND SCHEDULE B

RECITALS:

- A. In March 2022, City Council, through City By-law No. 209-2022, adopted Official Plan Amendment No. 536 “Development in Proximity to Rail” (“**OPA 536**”) which, *inter alia*, included policies aimed at addressing safety concerns related to development in proximity to rail corridors;
- B. OPA 536 was appealed to the Ontario Land Tribunal (the “**Tribunal**”) pursuant to subsection 17(24) of the *Planning Act* by the appellants as shown in Schedule A (the “**Appellant Parties**”), which was assigned Tribunal Case No. OLT-22-003472 (the “**Appeals**”);
- C. On July 21, 2022, the Tribunal held a case management conference for the Appeals, during which the Tribunal granted party status to a number of non-appellant parties as shown in Schedule B (the “**Non-Appellant Parties**”), as noted in the Decision and Order of the Tribunal issued on August 26, 2022; and
- D. The Appellant Parties and the Non-Appellant Parties, with the exception of those parties listed in Schedule D (collectively, the “**Appeal Parties**”) and the City have agreed to a resolution of the issues raised in the Appeals, and wish to reflect their agreement in these Minutes.

NOW THEREFORE in consideration of the foregoing and in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Appeal Parties and the City hereto agree with one another as follows:

- 1. The Appeal Parties and the City shall jointly notify the Tribunal of the settlement of the Appeals and file a copy of these Minutes with the Tribunal following execution of these Minutes by the Appeal Parties and the City. The Appeal Parties agree to support a request by the City for a date

for a settlement hearing (or written settlement hearing) for as soon as possible following execution of these Minutes.

2. The Appeal Parties and the City shall jointly request that the Tribunal allow the Appeals, in part, and approve OPA 536 as modified as shown in Schedule C ("**Modified OPA 536**"). As and to the extent required for this purpose, the City will lead evidence in support of this settlement.
3. If required by the City for a development, the indemnity referenced in Policy 3.6.3(c) in Modified OPA 536 would be added to one of the agreements, authorized by legislation, that would be entered into as part of the approvals of a development proposal, such as a site plan agreement or a subdivision agreement, for the development. The provisions would include the following:
 - (a) The City will provide prompt written notice to the landowner of any claim that could give rise to damages;
 - (b) The City will allow the landowner to assume the control of the defense of a claim and any settlement thereof;
 - (c) The City will secure written consent from the landowner before settling all or any part of such claims; and
 - (d) Where a landowner sells its interest in the applicable property, the City will release the former landowner from the indemnity in respect of any claim arising as a result of a subsequent owner constructing, altering or failing to maintain rail safety mitigation measures after the date of sale, provided the City is satisfied that the new landowner is bound by the agreement specifying the owner's obligations.
4. For greater certainty, the provisions of subsection 3(a), (b), and (c) above will apply where any one of the Appeal Parties or a related corporation, as confirmed by corporate opinion satisfactory to the City Solicitor, is signatory to an agreement described in paragraph 3 hereof.
5. The Appeal Parties and the City shall bear their own costs in connection with the Appeals and shall not make requests to the Tribunal for costs from an Appeal Party in connection with the Appeals.
6. The schedules attached to this Agreement form an integral part of it.
7. The Appeal Parties and the City shall take all such action and shall execute and deliver all such documents as is or are reasonably required to carry out the terms, intent and purpose of this Agreement.
8. Time is of the essence of this Agreement.
9. This Agreement constitutes the entire agreement between the Appeal Parties and the City with respect to the matters contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Appeal Parties and the City with respect to such matters. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the

Appeal Parties and the City in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement.

10. This Agreement becomes effective when executed by all of the Appeal Parties and the City. After that time, it will be binding upon and enure to the benefit of the Appeal Parties and the City and their respective successors and assigns.
11. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.
12. This Agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.
13. This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by email or other electronic means is as effective as a manually executed counterpart of this Agreement.

(The remainder of this page is intentionally blank.)

The Appeal Parties and the City have executed this Agreement as of the Effective Date.

City of Toronto

By: _____

Name:

Title:

By: _____

Name:

Title:

Pinnacle International Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Minto Communities Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

Choice Properties

By: _____
Name:
Title:

By: _____
Name:
Title:

Dunpar Developments Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

**35 Cawthra Ave, Toronto – 2530507
Ontario Inc.**

By: _____
Name:
Title:

By: _____
Name:
Title:

**80 30th Street, Toronto – 1322104 Ontario
Inc.**

By: _____
Name:

Title:

By: _____

Name:

Title:

**49-53 Judson Street, Toronto – 1742875
Ontario Inc.**

By: _____

Name:

Title:

By: _____

Name:

Title:

2530507 Ontario Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Lanterra Management Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Laurier Paradise CC 347-357 Kennedy Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Laurier Paradise CC 375 Kennedy Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Dream Unlimited Corp.

By: _____

Name:

Title:

By: _____

Name:

Title:

GGG Property Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

G&N Developments

By: _____

Name:

Title:

By: _____

Name:

Title:

**Castlepoint Weston Limited Partnership,
by its general partner, Castlepoint Weston
GP Inc.**

By: _____

Name:

Title:

By: _____

Name:

Title:

Cityscape Holdings Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

**Dream Distillery District Commercial (GP)
Inc.**

By: _____

Name:

Title:

By: _____

Name:

Title:

Ribbon East Corp.

By: _____

Name:

Title:

By: _____

Name:

Title:

Ribbon West Corp.

By: _____

Name:

Title:

By: _____

Name:

Title:

OTP Management Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

**Weston Road Limited Partnership, by its
general partner, Weston Road Limited
Partnership GP Inc.**

By: _____

Name:

Title:

By: _____

Name:

Title:

Rail Deck District Corporation

By: _____

Name:

Title:

By: _____

Name:

Title:

2470347 Ontario Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

RioCan Holdings Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

2075936 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

2076031 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

**Junction Road Nominee Inc. on behalf of
Diamond Corp.**

By: _____

Name:

Title:

By: _____

Name:

Title:

St. Clair Caledonia Partnership, by ●

By: _____

Name:

Title:

By: _____

Name:

Title:

2501882 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Vandyk Properties Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

OTT 33 Development Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Limen Developments Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

i2Developments (Old Weston) Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

HTC Sterling Road Property 3 Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

HTC Sterling Road Property 4 Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

HTC Sterling Road Property 5 Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

H&R REIT

By: _____

Name:

Title:

By: _____

Name:

Title:

1077558 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

1289777 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

578602 Ontario Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

1573416 Ontario Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

1058100 Ontario Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Entuitive Corp.

By: _____

Name:

Title:

By: _____

Name:

Title:

Johnson Sustronk Weinstein & Associates

By: _____

Name:

Title:

By: _____

Name:

Title:

Arup Canada Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Hatch Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

The Cadillac Fairview Corporation Limited

By: _____

Name:

Title:

By: _____

Name:

Title:

Aukland Residences Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

TAS Tecumseth Niagara LP, by its general partner, ●

By: _____

Name:

Title:

By: _____

Name:

Title:

888DS TAS LP, by its general partner, ●

By: _____

Name:

Title:

By: _____

Name:

Title:

Campont Developments Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Sterling 4B Developments Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Sterling Developments Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

500 MacPherson Avenue Holdings Limited

By: _____

Name:

Title:

By: _____

Name:

Title:

City Front Developments Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Northcrest Developments

By: _____

Name:

Title:

By: _____

Name:

Title:

WDL 20 GP Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Tricon Residential Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

Canadian National Railway Company

By: _____

Name:

Title:

By: _____

Name:

Title:

**Association of Consulting Engineering
Companies - Ontario**

By: _____

Name:

Title:

By: _____

Name:

Title:

Ontario Society of Professional Engineers

By: _____

Name:

Title:

By: _____

Name:

Title:

European Bakery Supply Inc.

By: _____

Name:

Title:

By: _____

Name:

Title:

**Fengate CCC Holdings LP,
by its general partner,
Fengate CCC Holdings GP Inc.**

By: _____

Name:

Title:

By: _____

Name:

Title:

G. Gagliano Properties Ltd.

By: _____

Name:

Title:

By: _____

Name:

Title:

Benton Property Corp.

By: _____

Name:

Title:

By: _____

Name:

Title:

MTCC GP Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

Oxford Properties Group Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

Canadian DC Facilities Holdings Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

8 De Grassi Street Development Inc.

By: _____
Name:
Title:

By: _____
Name:
Title:

**H&R Developments and H&R Property
Management**

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule A Appellant Parties

1.	Pinnacle International Ltd.
2.	Minto Communities Inc.
3.	Choice Properties
4.	2530507 Ontario Inc. (Dunpar Homes)
5.	Lanterra Management Ltd.
6.	Laurier Paradise CC 347-357 Kennedy Inc. and Laurier Paradise CC 375 Kennedy Inc.
7.	Dream Unlimited and Great Gulf
8.	G&N Developments
9.	Castlepoint Weston Limited Partnership, by its general partner, Castlepoint Weston GP Inc.
10.	Cityscape Holdings Inc., Dream Distillery District Commercial (GP) Inc., Ribbon East Corp., Ribbon West Corp., and OTP Management Ltd
11.	Weston Road Limited Partnership, by its general partner, Weston Road Limited Partnership GP Inc.
12.	Rail Deck District Corporation (formerly known as Craft Kingsmen Rail Corp. and CKF Rail Development Limited Partnership)
13.	2470347 Ontario Inc.
14.	RioCan Holdings Inc., 2075936 Ontario Ltd., and 2076031 Ontario Ltd.
15.	Junction Road Nominee Inc. on behalf of Diamond Corp.
16.	St. Clair Caledonia Partnership, by ● and 2501882 Ontario Ltd.
17.	VANDYK Properties Inc.
18.	OTT 33 Development Inc.
19.	Limen Developments Ltd.
20.	i2Developments (Old Weston) Inc.
21.	HTC Sterling Road Property 3 Ltd., HTC Sterling Road Property 4 Ltd., and HTC Sterling Road Property 5 Ltd.
22.	H&R REIT
23.	1077558 Ontario Ltd.

24.	1289777 Ontario Ltd.
25.	578602 Ontario Inc.
26.	1573416 Ontario Inc.
27.	1057100 Ontario Ltd.
28.	Entuitive Corp.
29.	Johnson Sustronk Weinstein & Associates
30.	Arup Canada Inc.
31.	Hatch Ltd.
32.	The Cadillac Fairview Corporation Limited
33.	Aukland Residences Inc.
34.	TAS Tecumseth Niagara LP and 888DS TAS LP, by its general partner, ●
35.	Campont Developments Ltd., Sterling 4B Developments Ltd., and Sterling Developments Ltd.
36.	500 MacPherson Avenue Holdings
37.	City Front Developments Inc.
38.	Northcrest Developments
39.	WDL 20 GP Inc.
40.	Tricon Residential Inc.
41.	Canadian National Railway Company
42.	DK Victoria Park Inc.
43.	Talus (Bathurst) Limited
44.	Dun West Properties Ltd on behalf of Lormel Homes Inc.

Schedule B
Non-Appellant Parties

1.	Association of Consulting Engineering Companies - Ontario
2.	Ontario Society of Professional Engineers
3.	European Bakery Supply Inc.
4.	Fengate CCC Holdings LP
5.	G. Gagliano Properties Ltd. and Benton Property Corp.
6.	Oxford Properties Group Inc. (site specific signatories by MTC GP Inc., Canadian DC Facilities Holdings Inc.)
7.	8 De Grassi Street Development Inc.
8.	H&R Developments and H&R Property Management

**Schedule C
Modified OPA 536**

CITY OF TORONTO

BY-LAW No. 209-2022

To adopt Amendment 536 to the Official Plan of the City of Toronto with respect to Rail Infrastructure and Public Safety.

Whereas authority is given to Council under the Planning Act, R.S.O. 1990, c.P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided information to the public, held a public meeting in accordance with Section 17 of the Planning Act;

The Council of the City of Toronto enacts:

The attached Amendment No. 536 to the Official Plan of the City of Toronto is hereby adopted.

Enacted and passed on March 9, 2022

Frances Nunziata
Speaker

City Clerk

(Seal of the City)

AMENDMENT NO. 536 TO THE OFFICIAL PLAN OF THE CITY OF TORONTO

The following unshaded text, policies and schedule constitute Amendment No. 536 to the Official Plan for the City of Toronto:

1. Section 3, BUILDING A SUCCESSFUL CITY, is amended by adding a new section 3.6, Rail Infrastructure, Mitigating Derailment and Public Safety as follows:

3.6 Rail Facilities, Mitigating Derailment and Public Safety (*unshaded text*)

Transportation of people and goods by rail continues to be an important component of the transportation network that supports Toronto's economic health. It is the City's responsibility to balance the interests of protecting public health, transportation corridors, and the viability of transportation corridors, while supporting intensification. In particular, this section 3.6 addresses physical rail safety and mitigation associated with the potential for derailment.

When new development proposes to introduce new or intensified land uses in proximity to rail facilities, risk is introduced to both the users of the development and the rail facilities. For the purpose of this Plan, rail facilities are rail corridors, rail sidings, train stations, inter-modal facilities, rail yards and associated uses, including designated lands for future rail facilities.

Because development sites near rail facilities can vary in size, orientation to rail facilities and/or proposed land uses, proponents shall design solutions tailored to the applicable unique local context, which may include the appropriate separation of uses from rail facilities and the provision and construction of risk mitigation design solutions on site such as crash walls or structures, as proposed through a Rail Safety and Risk Mitigation Report for Derailments (RSRM). Terms of reference prepared by the City will inform the content of these reports.

Policies

1. For the purposes of this section 3.6 and Schedule 3, the area of influence of rail (for the purpose of mitigating physical risk arising from potential derailments) means the area within 30 metres of the property line of a rail facility. These policies will apply where any portion of a development site subject to the planning application falls within this area of influence.

Sidebar note: Nothing in these policies will preclude the City from raising rail safety concerns in response to an application.

2. Subject to policies 3.6.4 and 3.6.5, an application for a zoning bylaw amendment, subdivision or site plan application seeking to introduce, develop or intensify land uses within the area of influence of rail will include a RSRM prepared, signed and stamped by a qualified engineer, which will be subject to a third party peer review retained on behalf of the City at the applicant's expense.

3. If the RSRM is accepted by the City and reviewed by the applicable rail operator, and the application is approved:
 - (a) construction, ongoing maintenance, and replacement of the approved rail safety mitigation measures will be secured through an agreement between the City and the landowner;
 - (b) warning clauses in all relevant documents will be registered on title to provide notice for future purchasers; and
 - (c) as part of an agreement between the landowner and the City to be registered on title, the landowner will be required to assume responsibility for the construction and maintenance of the approved rail safety mitigation measures, and will be required to indemnify the City from claims relating to damages incurred on the property arising from a failure to construct and/or maintain the approved rail safety mitigation measures in accordance with the aforesaid agreement, where such damage is caused by a derailment.

4. If an RSRM report was submitted, peer reviewed and accepted by the City in conjunction with a planning application:
 - (a) a revised RSRM report will not be required for a subsequent application if a professional engineer has confirmed in writing to the City that the subsequent application does not propose to do any of the following within the area of influence:
 - i. change the location of land uses;
 - ii. remove or alter buildings or structures that would have acted as a rail safety protection feature;
 - iii. reduce the rail setback distances of building(s); or
 - iv. change the proposed site grading;from what was identified in the accepted RSRM report, in a manner that would adversely impact the effectiveness of the risk mitigation measures.
 - (b) If a revision to the accepted RSRM report is required because the confirmation in policy 3.6.4(a) is not provided, the revised RSRM report will demonstrate how the adverse impacts referenced in policy 3.6.4(a) will be mitigated as necessary to ensure the required level of rail safety is achieved in accordance with the rail safety standards applied in the accepted RSRM report.
 - (c) Notwithstanding the foregoing, the construction specifications for approved rail safety mitigation measures shall be revised at the time of a complete application for site plan control, if applicable, to reflect current engineering standards.

5. If a change to the zoning permissions has been approved or approved in principle, or a draft plan of subdivision has been approved or approved in principle, as a result of a decision by the Ontario Land Tribunal or the Province, then:

- (a) Where the RSRM report was accepted by a City peer reviewer through that process, then policy 3.6.4 will apply; or
- (b) Where the approval occurred in the absence of the acceptance of an RSRM report by a City peer reviewer, then:
 - i. Any rail safety mitigation measures required as part of the approval will be integrated and secured in subsequent applications as necessary, and no RSRM report will be required in connection with subsequent applications;

Sidebar note: A Provincial approval that addresses rail safety mitigation measures, as referred to in Policy 3.6.5, includes circumstances where the Province addresses rail safety mitigation through contractual arrangements in connection with the approval. An applicant will provide details respecting the manner in which rail safety mitigation measures have been addressed as a part of the Provincial approval and the City will require that any required rail safety mitigation measures be reflected and secured through the site plan process.

- ii. If, as part of the approval, it is determined that the development does not require rail safety mitigation measures, no RSRM report will be required in connection with subsequent applications; and
 - iii. If, as part of the approval, there is no determination as to whether rail safety mitigation measures are required, an RSRM report will be required in connection with subsequent applications.
6. If an application has been deemed complete for a development prior to section 3.6 coming into effect, and:
- (a) an RSRM report is peer reviewed and accepted by the City in relation to that application, then policies 3.6.1 to 3.6.5 and the portion of Schedule 3 relating to RSRMs will not apply to that application and any related subsequent application will be processed in accordance with policy 3.6.4; or
 - (b) the application is approved or approved in principle as a result of a decision of the Ontario Land Tribunal, then policies 3.6.1 to 3.6.5 and the portion of Schedule 3 relating to RSRMs will not apply to that application and any related subsequent application will be processed in accordance with policy 3.6.5.

2. Schedule 3, Application Requirements is amended by adding the following additional requirement of the Official Plan:

ADDITIONAL REQUIREMENTS of the OFFICIAL PLAN	Official Plan	Zoning By-law	Plan of Subdivision	Plan of Condominium	Consent to Sever	Site Plan Control Approval
<p>Rail Safety and Risk Mitigation Report: for all properties within the area of influence of rail, a Rail Safety and Risk Mitigation Report (RSRM) and peer review is required where indicated in Section 3.6 of this Plan. The RSRM Report will be evaluated against the criteria established in the Rail Association of Canada/Federation of Canadian Municipalities Guidelines for New Development in Proximity to Railway Operations, and as set out in Section 3.6 of this Plan.</p>		●	●			●