

## **Restructuring Agreement – Boundary Adjustment**

**Between:**

**The Corporation of the Township of Elizabethtown-Kitley,**  
“Elizabethtown-Kitley”

**and**

**The Corporation of the United Counties of Leeds and Grenville**  
“The United Counties”

**and**

**The Corporation of the City of Brockville**  
“Brockville”

### **Introduction**

Elizabethtown-Kitley and Brockville (the municipalities) have negotiated an agreement among them for the transfer of land (“the annexed lands”) located in Elizabethtown-Kitley to Brockville by way of a restructuring proposal pursuant to sections 171 to 186.1 of the Municipal Act, S.O. 2001, Chapter 25.

This document sets out the agreement among the municipalities.

The United Counties consents to this restructuring.

This Document Witnesses that, in consideration of the mutual covenants and agreements contained in it, and subject to the terms and conditions contained in it, the municipalities agree as follows:

### **1. Effective Date and Implementation**

- 1.1. This agreement is deemed to constitute a restructuring proposal, which will be submitted to the Minister of Municipal Affairs and Housing (“the Minister”) for implementation, effective January 1, 2018 (“the effective date”). The Minister is authorized by the municipalities to implement those provisions of this agreement that the Minister has authority to implement. The municipalities agree that all of the provisions of the agreement are binding upon them, whether contained in the Minister’s Order or otherwise.

### **2. Lands to be Annexed**

- 2.1. This Boundary Adjustment Agreement concerns a proposed annexation of part of Elizabethtown-Kitley in the United Counties to Brockville;

The lands as offered by Elizabethtown-Kitley to Brockville, generally described as shown on Schedule “A” attached hereto and more specifically described as follows:

St. Lawrence Lodge – 1803 County Road 2 PIN 64131-483 AND 04606-484

Con. 1, Pt. Lot 6, including Part 1 on Reference Plan 28R-660, Geographic Township of Elizabethtown

Brockville Wastewater Treatment Facility – 1807 County Road 2  
PIN 38399-480

Con. 1, Pt. Lot 6, Part 1 on Reference Plan 28R-7016, Part 1 on Reference Plan 28R-7243 and Part 1 on Reference Plan 28R-15, Geographic Township of Elizabethtown

### **3. Representation**

- 3.1. The annexed lands shall be located in the City of Brockville as of the effective date and the residents of the annexed lands shall be entitled to vote in Brockville in the regular municipal elections to be held in October, 2018 in accordance with the Municipal Elections Act, 1996.

### **4. Compensation**

- 4.1. In consideration of the transfer of the annexed lands from Elizabethtown-Kitley to Brockville, Elizabethtown-Kitley and Brockville have agreed to the minutes of settlement as set out in Schedule “B” attached hereto.

### **5. Taxation Collection and Assessment**

- 5.1. The properties in question are exempt from property taxation, however are subject to payment in lieu of taxation (PIL). Any payment in lieu owing or outstanding will be settled in accordance with Schedule “B” attached hereto.

### **6. Studies, Plans, Records**

- 6.1. Elizabethtown-Kitley will transfer to Brockville any studies, plans, records, designs or similar material that it has prepared and that are public in nature and relate to the annexed lands.
- 6.2. Elizabethtown-Kitley agrees that after the effective date they will continue to cooperate with Brockville by providing such supporting information and documentation that is in their possession or under their control that is requested

by Brockville to enable Brockville to respond to court actions or appeals brought to the Ontario Municipal Board by residents of the annexed lands.

## **7. Employees**

7.1. There will be no transfer of employees or other staff from Elizabethtown-Kitley to Brockville as a result of this Restructuring Agreement.

## **8. Property**

8.1. Both properties to be annexed are municipal properties owned by either the City of Brockville or the United Counties of Leeds and Grenville.

8.2. Any securities, letters of credit or similar instruments that are held in trust by Elizabethtown-Kitley with respect to any Site Plan Agreements, Subdivision Agreements or any other development agreements in the annexed lands shall vest with Brockville as of the effective date and documentation related thereto shall be transferred to Brockville prior to January 1, 2019.

## **9. Provision of Municipal Services**

9.1. Brockville will assume responsibility for the provision of municipal services including water, sewer, police protection, fire protection and transit for the annexed lands.

## **10. Liabilities**

10.1. Except as specifically provided for in this agreement, any liabilities, obligations or responsibilities that Elizabethtown-Kitley may have that relate to the annexed lands shall be transferred to Brockville as of the effective date. Elizabethtown-Kitley is not aware of any litigation, liabilities, obligations or responsibilities that relate to the annexed lands.

10.2. Any litigation commenced prior to the effective date, or after the effective date with respect to matters that occurred prior to the effective date with respect to the annexed lands, remains the obligation of Elizabethtown-Kitley, as the case may be.

## **11. Municipal By-laws and Official Plans**

11.1. Any comprehensive Zoning By-law or amendments thereto, or site plan control by-laws, passed pursuant to section 34, 41, 45 and 53 or predecessor of those sections of the Planning Act, or any Official Plan or amendments thereto of Elizabethtown-Kitley that have been approved or adopted for the annexed lands pursuant to the provisions of the Planning Act shall be deemed to be part

of the Zoning By-law and Official Plan for Brockville as of the effective date and shall remain in full force and effect in the annexed lands until amended or repealed or otherwise replaced by Brockville pursuant to the provisions of the Planning Act.

11.2. Any application to amend the comprehensive Zoning By-law or the Official Plan for Elizabethtown-Kitley that was initiated prior to the effective date for the annexed lands shall be continued by Brockville having regard for the Zoning By-law and Official Plan for Elizabethtown-Kitley.

11.3. Save and except as provided for in Section 10.1 and 10.2, and this paragraph, any By-laws and Resolutions of Brockville shall come into force and take effect in the annexed lands as of the effective date save and except for Elizabethtown-Kitley by-laws passed pursuant to the Highway Traffic Act or the Municipal Act, that regulate the use of highways by vehicles or pedestrians, which establish speed limited or parking restrictions within the annexed lands or that regulate the encroachment or projection of buildings or any portion thereof upon or over highways, by-laws of Elizabethtown-Kitley passed under section 45, 58 or 61 or a predecessor of those sections of the Drainage Act, by-laws passed under section 10 of the Weed Control Act, and by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of Elizabethtown-Kitley, which By-laws shall be deemed to be By-laws of Brockville and shall remain in force and effect until amended or replaced by the Council for Brockville.

## **12. Dispute Resolution**

12.1. Mediation: A dispute arising out of the interpretation of this agreement may be resolved through mediation by way of a mediator agreed to by the municipalities to this agreement. If the municipalities cannot agree on a mediator or the dispute is not resolved through the mediation, the matter in dispute shall be referred to arbitration as set out in section 12.2 below.

12.2. Arbitration: A dispute arising out of the interpretation of this agreement may be referred to arbitration to resolve the dispute in accordance with the provisions of the Arbitrations Act, 1991. The appointment of the arbitrator and the conduct of the arbitration will be governed by the provisions of the Arbitrations Act, 1991.

12.3. Where a dispute is referred to arbitration under subsection 2, the decision of the arbitrator shall be final.

12.4. The costs associated with mediation or arbitration proceedings under this section shall be shared equally between the municipalities.

## **13. Other Provisions**

- 13.1. This agreement is conditional upon the issuance of an Order by the Minister implementing the restructuring proposal submitted by the municipalities.

#### **14. Binding Agreement**

- 14.1. The municipalities agree that all provisions of this agreement, inclusive of Schedules "A" and "B" attached hereto, whether or not they are contained in the Minister's restructuring order, are binding among the municipalities.

#### **15. Signatures**

- 15.1. The municipalities, by the respective persons authorized by by-law on behalf of Elizabethtown-Kitley, Brockville and the United Counties, are executing this agreement under seal.

The Corporation of the Township of Elizabethtown-Kitley

\_\_\_\_\_  
Jim Pickard, Mayor

\_\_\_\_\_  
Yvonne L. Robert, Administrator-Clerk

The Corporation of the City of Brockville

\_\_\_\_\_  
Dave Henderson, Mayor

\_\_\_\_\_  
Sandra MacDonald, Clerk

The Corporation of the United Counties of Leeds and Grenville

\_\_\_\_\_  
Robin Jones, Warden

\_\_\_\_\_  
Lesley Todd, Clerk

Schedule "A"

PIN 64131-483 AND 04606-484

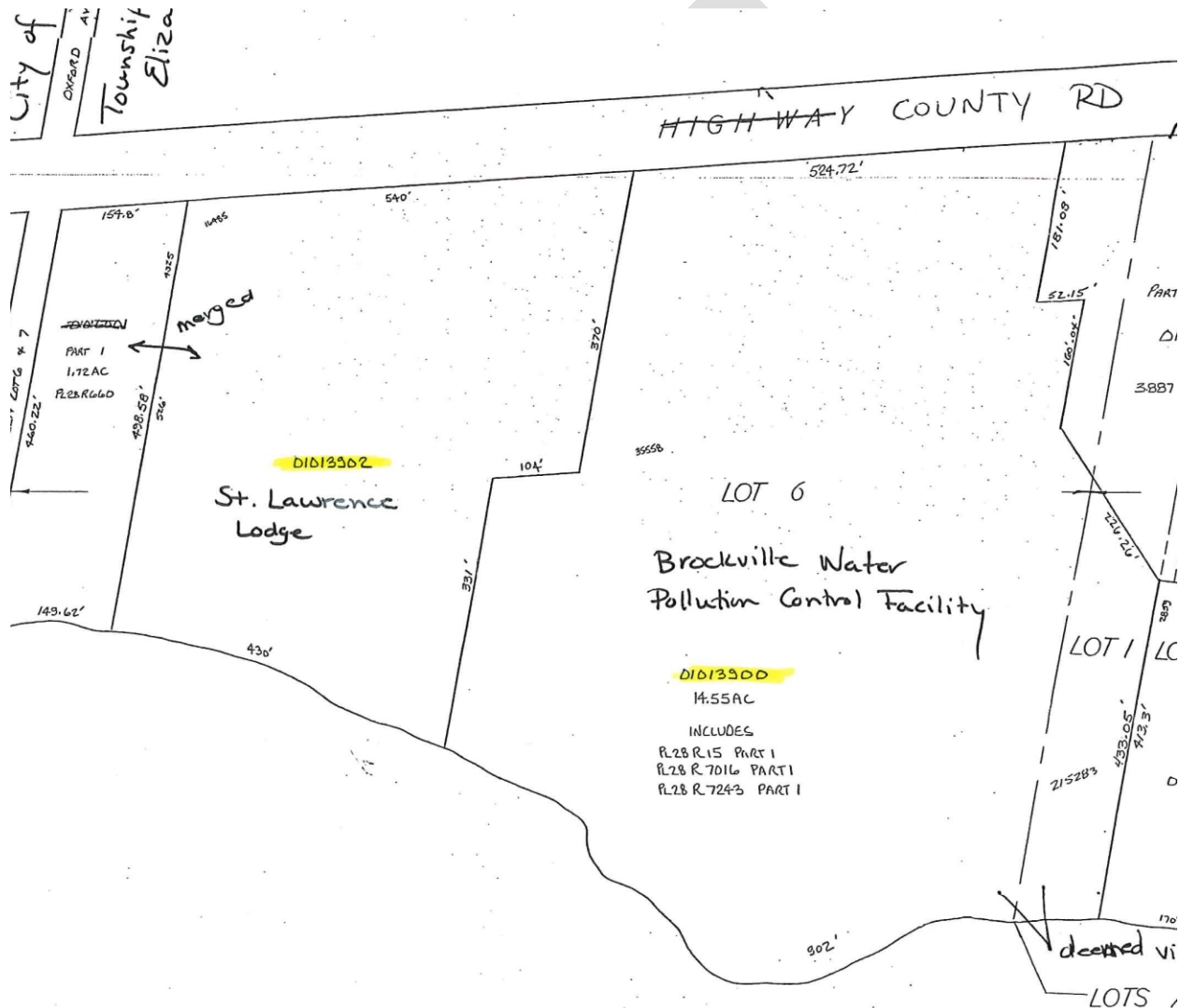
St. Lawrence Lodge – 1803 County Road 2

Con. 1, Pt. Lot 6, including Part 1 on Reference Plan 28R-660, Geographic Township of Elizabethtown

PIN 38399-480

Brockville Wastewater Treatment Facility – 1807 County Road 2

Con. 1, Pt. Lot 6, Part 1 on Reference Plan 28R-7016, Part 1 on Reference Plan 28R-7243 and Part 1 on Reference Plan 28R-15, Geographic Township of Elizabethtown



Schedule "B"

**MINUTES OF SETTLEMENT**

BETWEEN:

THE CORPORATION OF THE CITY OF BROCKVILLE  
("Brockville")

- and -

THE CORPORATION OF THE TOWNSHIP OF ELIZABETHTOWN-KITLEY  
("Elizabethtown")

**RECITALS**

**WHEREAS** Brockville and Elizabethtown (the "Parties") have engaged in extensive discussions concerning the settling of various matters related to the provision of services in each municipality; the renegotiation of certain cost sharing and service agreements between the Parties related to the provision of these services; the settlement of certain matters related to the provision of payments in lieu of taxes from Brockville to Elizabethtown; the annexation by Brockville of certain lands located in Elizabethtown; and other related matters;

**AND WHEREAS** the Parties have agreed to enter into these Minutes of Settlement to resolve the above noted issues as particularly set out herein;

**NOW THEREFORE** the Parties, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby covenant and agree as follows:

**1. Definitions**

- a. **"1984 WWTP Agreement"** means the agreement entered into between Brockville and Elizabethtown on November 13, 1984 and as subsequently amended, regarding the provision of waste water treatment services by Brockville to Elizabethtown and the sharing of costs associated with such provision.

- b. **“1984 Water Supply Agreement”** means the agreement entered into between the Public Utilities Commission of the City of Brockville and Elizabethtown on June 26, 1984 regarding the provision of water treatment and distribution services by Brockville to Elizabethtown and the sharing of costs associated with the provision of such services.
- c. **“2000 Water Supply Agreement”** means the agreement entered into between the Public Utilities Commission of the City of Brockville and Elizabethtown on January 14, 2000 regarding the provision of water treatment and distribution services by Brockville to Elizabethtown and the sharing of costs associated with the provision of such services.
- d. **“2009 Fire Services Agreement”** means the agreement dated August 28, 2008, entered into between Brockville and Elizabethtown respecting the provision of firefighting services by Brockville in Elizabethtown and the sharing of costs associated with the provision of such services.
- e. **“PILT”** means payment in lieu of taxes.
- f. **“October 2000 PILT Agreement”** means the agreement entered into between Brockville and Elizabethtown regarding the provision of payments in lieu of taxes from Brockville to Elizabethtown executed by the Parties in October 2000 for the Airport and WWTP owned by Brockville and located in Elizabethtown.
- g. **“St. Lawrence Lodge”** means the retirement residence located on the lands municipally known as 1803 County Rd 2 and legally described as PT LT 6 CON 1 ELIZABETHTOWN PT 1 28R660; S/T INTEREST IN LR68236; ELIZABETHTOWN-KITLEY and PT LT 6 CON 1 ELIZABETHTOWN; PT LT 1 PL 39 AS IN E14113, E16485, LR215284, PT 1 R15, PT 1 287016, PT 1 28R7243; S/R E16485, LR215284; T/W LR219582; S/T LR40226; ELIZABETHTOWN-KITLEY.
- h. **“WWTP”** means the waste water treatment facility owned and operated by Brockville and located on the lands which are municipally known as 1803 County Rd 2 and legally described as CON 1 PT LOT 6 RP 28R7016 PART 1 RP 28R7243 PART 1 RP 28R15 PART 1 with a municipal tax assessment Roll number of 08 01 000 010 13900 0000.
- i. **“WWTP and St. Lawrence Lodge Lands”** means those lands municipally known as 1803 County Rd 2 and legally described as PT LT 6 CON 1 ELIZABETHTOWN PT 1 28R660; S/T INTEREST IN LR68236; ELIZABETHTOWN-KITLEY and PT LT 6 CON 1 ELIZABETHTOWN; PT LT 1 PL 39 AS IN E14113, E16485, LR215284, PT 1 R15, PT 1 287016, PT 1 28R7243; S/R E16485, LR215284; T/W LR219582; S/T LR40226; ELIZABETHTOWN-KITLEY and as shown on **Schedule “A”**.



## **2. Municipal Boundary Adjustment**

- 2.1 The Parties agree, acting reasonably, to take all steps required to adjust the geographical municipal boundary of the City of Brockville and the Township of Elizabethtown-Kitley to include the WWTP and St. Lawrence Lodge Lands within the new boundaries of the City of Brockville as shown on Schedule "A" (the "Boundary Adjustment").
- 2.2 The Parties, acting reasonably, further agree to approve a Restructuring Proposal to effect the Boundary Adjustment which shall be submitted to the Minister of Municipal Affairs and Housing in accordance with Part V of the *Municipal Act, 2001*.
- 2.3 The Parties agree that 2015 will be treated as the year that the Boundary Adjustment took place for the purposes of calculating compensation for the Boundary Adjustment.

## **3. Compensation for the Boundary Adjustment**

- 3.1 The Parties agree that Brockville will make a lump sum payment of \$774,118.97.00 to Elizabethtown as compensation for the Boundary Adjustment. From this lump sum, \$623,371.73 will be paid to Elizabethtown and \$150,747.24 will be paid to the United Counties of Leeds and Grenville. The payment of 25% of this lump sum shall be made by Brockville upon execution of these Minutes of Settlement, with the balance of the payment made within 30 days of the date that the Minister's Order approving the Boundary Adjustment becomes final.
- 3.2 Brockville agrees that failure to pay the balance when due shall accrue interest at the rate of 1.25% per month (15% per annum) until paid in full.
- 3.3 The Parties further agree that payment of the lump sum amount constitutes a full and final discharge of Brockville's obligation to Elizabethtown with respect to the Boundary Adjustment and shall not be subject to further adjustment.

## **4. The October 2000 PILT Agreement with respect to the WWTP**

- 4.1 The Parties agree that Brockville shall pay a total of **\$280,778.86** to Elizabethtown for all PILT arrears (inclusive of Elizabethtown, County and Educational portions) owing with respect to the WWTP Lands. Brockville shall make this payment within 30 days of the execution of these Minutes of Settlement by both Parties.

The Parties agree that the United Counties of Leeds and Grenville shall pay a total of **\$216,647.55** to Brockville for all PILT arrears owing with respect to

the WWTP lands. The United Counties of Leeds and Grenville shall make this payment within 30 days of the execution of these Minutes of Settlement by both Parties.

- 4.2 Upon receipt of the payment described in section 4.1 Elizabethtown agrees to forthwith withdraw its lawsuit against Brockville for collection of arrears, without costs, and in exchange Elizabethtown agrees to provide a full and final release to Brockville in a form satisfactory to its solicitors.

## **5. The 1984 WWTP Agreement**

5.1 The Parties agree to amend the existing 1984 WWTP Agreement pursuant to the following principles:

- 5.1.1 Wastewater rates charged to customers shall be common across the entire system for both Brockville and Elizabethtown and will be set annually by the budget process of Brockville;
- 5.1.2 Capital repairs and upgrades to the existing wastewater system will be funded by the wastewater rates and shall utilize the following revenue sources: operating funds, reserves and reserve funds or debentures specific to the wastewater system;
- 5.1.3 Subject to section 5.1.4 below, major capital improvements to the waste water treatment plant and distribution system that require funding that exceeds the capacity of the revenue sources described in section 5.1.2 above, and which are deemed necessary by Brockville, acting reasonably, will be charged to each municipality based on the percentage of total wastewater processed from each respective municipality. The net cost calculated to each Party shall be calculated after accounting for any federal and provincial grants or other sources of external funding;
- 5.1.4 Charges for major capital improvements as described in 5.1.3, if any, shall be assessed by Brockville for each calendar year and charged to Elizabethtown on an annual basis. Elizabethtown shall not be responsible for payment of any major capital improvement to the distribution system unless such improvement is to the portion of the system that serves Elizabethtown and for greater certainty includes the Wastewater Treatment Plant, Main Pumping Station and Forcemain utilized by Elizabethtown. Such charges shall be assessed on the basis of the actual payments made by Brockville for the construction of the major capital improvements or parts thereof which are deemed necessary by Brockville, acting reasonably. When seeking reimbursement from Elizabethtown, Brockville shall provide to Elizabethtown a record of the nature of the major capital improvements

and an invoice showing the total amount paid for same. This cost breakdown and charge assessment shall include a record of the total wastewater processed from each municipality upon which the proportionate share of the cost payable has been based. Elizabethtown shall provide payment to Brockville of the full amount charged to it within 30 days following the receipt of the detailed cost breakdown. Any amounts not paid within this period will accrue interest at a rate of 1.25% per month (15% per annum) from the due date until payment.

- 5.1.5 Elizabethtown shall have guaranteed access to 5% of the wastewater plant capacity. The exact amount represented by this 5% of capacity is subject to confirmation from Brockville provided to Elizabethtown. Brockville shall also provide Elizabethtown with an estimate of Elizabethtown's current share of capacity after transfer of the St. Lawrence Lodge property to Brockville;
- 5.1.6 New wastewater sewer lines will be funded by developer contributions, development charges, area charges, impost fees, or the respective municipality where the new sewers are to be located, at the discretion of the municipality within which the new sewers are to be located subject always to the maximum capacity allocated in paragraph 5.1.5; and
- 5.1.7 Nothing in this agreement will restrict the ability of Elizabethtown to impose area rating charges on users within Elizabethtown in addition to those being levied by Brockville.

## **6. The 1984 and 2000 Water Supply Agreements**

- 6.1 The Parties agree that Elizabethtown shall pay Brockville the sum of \$50,000 in full and final satisfaction of all claims for payment under the 1984 and 2000 Water Supply Agreements prior to 2017. Elizabethtown agrees to make this payment forthwith upon receipt of a full and final release from Brockville, in a form satisfactory to Elizabethtown's solicitors.
- 6.2 The Parties agree to enter into a new Water Supply Agreement pursuant to the following principles:
  - 6.2.1 Water rates charged to customers shall be common across the systems for both Brockville and Elizabethtown and will be set annually by the budget process of Brockville;
  - 6.2.2 Capital repairs and upgrades to the existing water systems will be funded by the water rates and shall utilize the following revenue

sources: operating funds, reserves and reserve funds or debentures specific to the water system;

- 6.2.3 Subject to section 6.2.4 below, major capital improvements to the water treatment plant and distribution system that require funding that exceeds the capacity of the revenue sources described in section 6.2.2 above, and which are deemed necessary by Brockville, acting reasonably, will be charged to each municipality based on the percentage of total water processed from each respective municipality. The net cost calculated to each Party shall be calculated after accounting for any federal and provincial grants or other sources of external funding;
- 6.2.4 Charges for major capital improvements as described in 6.2.3, if any, shall be assessed by Brockville for each calendar year and charged to Elizabethtown on an annual basis. Elizabethtown shall not be responsible for payment of any major capital improvement to the distribution system unless such improvement is to the portion of the system that serves Elizabethtown and for greater certainty includes the Water Treatment Plant, Force Main and Water Tower utilized by Elizabethtown. Such charges shall be assessed on the basis of the actual payments made by Brockville for the construction of the major capital improvements or parts thereof which are deemed necessary by Brockville, acting reasonably. When seeking reimbursement from Elizabethtown, Brockville shall provide to Elizabethtown a record of the nature of the major capital improvements and an invoice showing the total amount paid for same. This cost breakdown and charge assessment shall include a record of the total water processed for each municipality upon which the proportionate share of the cost payable has been based. Elizabethtown shall provide payment to Brockville of the full amount charged to it within 30 days following the receipt of the detailed cost breakdown. Any amounts not paid within this period will accrue interest at a rate of 1.25% per month (15% per annum) from the due date until payment.
- 6.2.5 Elizabethtown shall have guaranteed access to 5% of the water plant capacity. The exact amount represented by this 5% of capacity is subject to confirmation from Brockville provided to Elizabethtown. Brockville shall also provide Elizabethtown with an estimate of Elizabethtown's current share of capacity after transfer of the St. Lawrence Lodge property to Brockville;
- 6.2.6 New water mains will be funded by the developer, development charges, area charges, impost fees, or the respective municipality where the new water mains are to be located, at the discretion of the municipality within which the new water mains are to be located

subject always to the maximum capacity allocated in paragraph 6.2.5;  
and

- 6.2.7 Nothing in this agreement will restrict the ability of Elizabethtown to impose area rating charges on users within Elizabethtown in addition to those being levied by Brockville.

## **7. The 2009 Fire Services Agreement**

7.1 The Parties agree that Elizabethtown shall pay Brockville the amount of \$52,500 in satisfaction of all arrears under the current Fire Services Agreement, being from 2010 to 2017.

7.2 The Parties agree to amend the current 2009 Fire Services Agreement on the following basis:

7.2.1 The Brockville Fire Department will provide fire coverage for the area of Elizabethtown east of Brockville from the Brockville Border to the Township of Augusta Border;

7.2.2 Elizabethtown will pay Brockville the sum of \$7,500 in the first year plus "fire incident" costs (which shall be defined in the amended agreement to the satisfaction of the parties) with annual cost adjustments based on the annual percentage increase in Fire Service Labour Cost of the Brockville Fire Department; and

7.2.3 The 2009 Fire Services Agreement, as amended will be reviewed at 5 year intervals and will be terminable by either Party at such time on not less than 6 months' written notice prior to the end of any 5 year term.

## **8. Recreation Services Agreement**

8.1 The Parties agree that Elizabethtown shall pay Brockville the sum of \$100,000 as compensation for the use (by residents of Elizabethtown for the years 2011 to 2015) of the recreation facilities operated by Brockville. This payment shall represent a full and final payment of all amounts owing by Elizabethtown to Brockville for the use of Brockville's recreation facilities for this period.

8.2 The Parties agree that Elizabethtown shall pay Brockville the sum of \$57,000 on account of recreation services provided to residents of Elizabethtown in 2016 and 2017 by Brockville. The Parties further agree that they shall make best efforts to reach a mutually agreeable arrangement in 2018 for the calculation of compensation for the provision of recreation services in future years.

8.3 The parties agree that any payment made by Elizabethtown in accordance with this section 8 shall be without prejudice to the rights of Elizabethtown to negotiate the cost share formula in any future agreement.

## **9. Payment of Legal and Consulting Costs**

9.1 The Parties agree to pay their own legal and consulting costs incurred in the process of implementing these Minutes of Settlement.

## **10. Lawsuit for Arrears of Payment**

10.1 The Parties agree that Elizabethtown will discontinue its lawsuit against Brockville having court file No. CV-12-311-00 without costs and the Parties will provide full and final release to one another with respect to that action and with respect to any claims by Brockville for payment of amounts owing by Elizabethtown under the 1984 WWTP Agreement, the 2000 Water Supply Agreement, the 2009 Fire Services Agreement and the current arrangement concerning Elizabethtown residents' use of Brockville recreational facilities.

**IN WITNESS WHEREOF** the parties have affixed their corporate seals, duly attested by the hands of their proper signing officers in that regard.

) **THE CORPORATION OF THE CITY OF**  
) **BROCKVILLE**  
)  
)

) \_\_\_\_\_  
) Mayor

) \_\_\_\_\_  
) Clerk

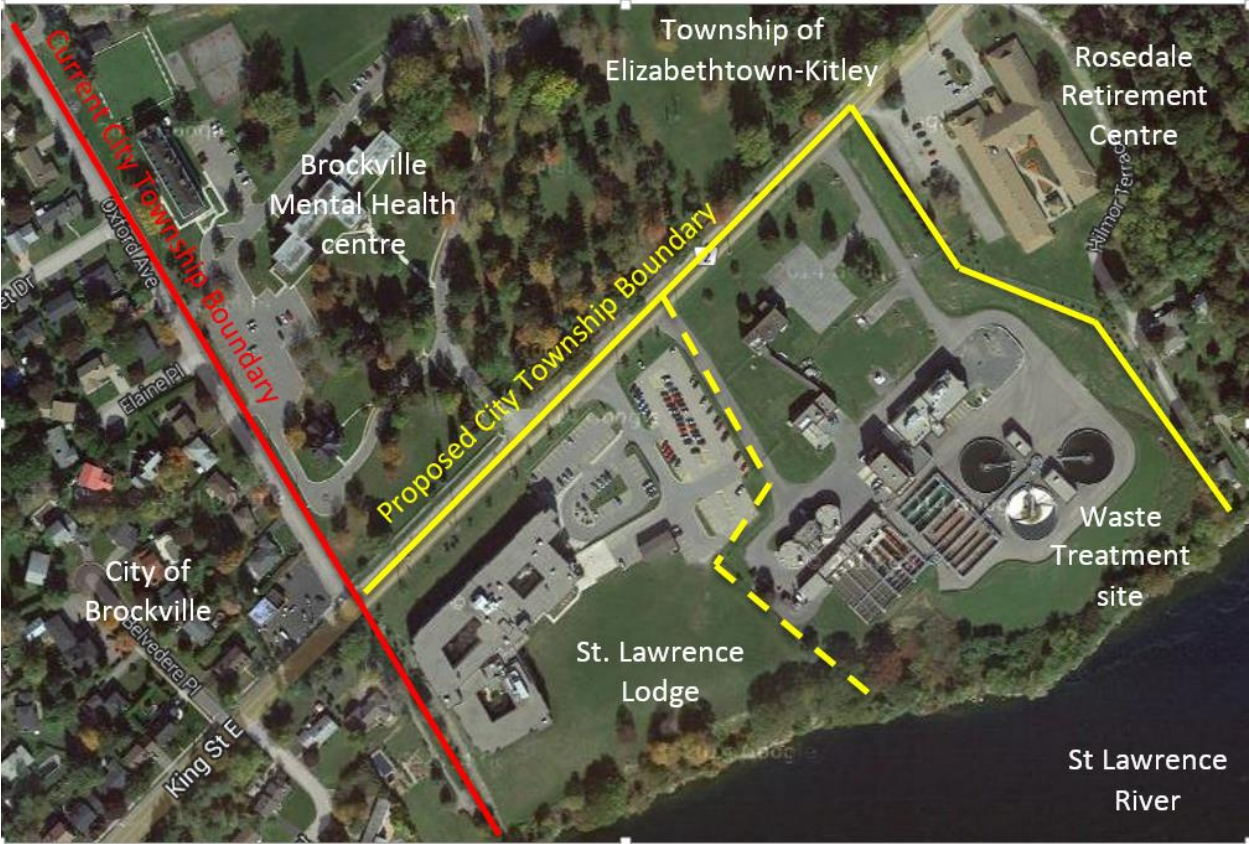
) **THE CORPORATION OF THE TOWNSHIP**  
) **OF ELIZABETHTOWN-KITLEY**  
)  
)

) \_\_\_\_\_  
) Reeve

) \_\_\_\_\_  
) Clerk

DRAFT

SCHEDULE "A"





SCHEDULE "A"

