

Attachment 3, DS-2022-17
Development Agreement
Old Castle Heights Inc.
Northeast Corner of 8th Concession/North Talbot Road
Development Agreement

DEVELOPMENT AGREEMENT

Between:

The Corporation of the Town of Tecumseh

-and-

Old Castle Heights Inc.

PREPARED BY:

WOLF HOOKER PROFESSIONAL CORPORATION
Barristers & Solicitors
72 Talbot Street North, Suite 100
Essex, Ontario
N8M 1A2

INDEX TO ARTICLES

RECITALS

ARTICLE 1 – DEFINITIONS

- 1.1 – Definitions

ARTICLE 2 – TOWN CONSULTANTS

- 2.1 – Town to Retain

ARTICLE 3 – GENERAL REQUIREMENTS

- 3.1 - Owner Agrees
 - 3.1.1 - Owner to Provide
 - 3.1.2 – Owners Engineer
 - 3.1.3 – Design Information
 - 3.1.3.1 Criteria
 - 3.1.3.2 Servicing Drawings
 - 3.1.3.3 Lot Grading Plan
 - 3.1.3.4 Drainage Plan
 - 3.1.3.5 Reference Plan
 - 3.1.3.6 Forms part of the Agreement
 - 3.1.4 – Services
 - 3.1.4.1 – Roadways
 - 3.1.4.2 – Sanitary Sewer Services
 - 3.1.4.3 – Storm Drainage Services
 - 3.1.4.5 – Water Service Services
 - 3.1.4.6 – Street Lighting
 - 3.1.4.7 – Electrical Services
 - 3.1.4.8 – Sidewalks and Walkways
 - 3.1.4.9 – Trees
 - 3.1.4.10 – Driveway Approaches
 - 3.1.4.11 – Private Services
 - 3.1.4.12 – Notification and Permits
 - 3.1.4.13 – Co-ordination of Services
 - 3.1.4.14 – Tenders
 - 3.1.4.15 – Noise Abatement
 - 3.1.4.16 – Canada Post
 - 3.1.4.17 – Special Works
 - 3.1.5 – Repair
 - 3.1.6 – Dirt and Debris
 - 3.1.7 – Maintenance of Lands
 - 3.1.8 – Removal of Topsoil
 - 3.1.9 – Address Sign
 - 3.1.10 – Environmental Laws

ARTICLE 4 - TIMING

- 4.1 – No Construction without Building Permits
- 4.2 – Building Permits
- 4.3 – Completion
- 4.4 – Phasing
- 4.5 – Timing on a Per Phase Basis

ARTICLE 5 - PAYMENTS

- 5.1 – Costs
- 5.2 – Development Charges
- 5.3 – Park Fees
- 5.4 – Property Taxes
- 5.5 – Drainage Act Assessment and Local Improvements
 - 5.5.1 – Owner’s Services
 - 5.5.2 – Other Services
- 5.6 – Hydro Connection Charges
- 5.7 – Water Connection Charges

ARTICLE 6 – EASEMENTS AND CONVEYANCES

- 6.1 – Easements and Conveyances
 - 6.1.1 – Conveyances
 - 6.1.2 – Easements
- 6.2 – Parkland Dedication

ARTICLE 7 – SECURITY, MAINTENANCE AND ASSUMPTION

- 7.1 – Performance Security
 - 7.1.1 – Amount of Performance Security
 - 7.1.2 – Release of Performance Security
- 7.2 – Maintenance, Construction Lien and Additional Security
 - 7.2.1 – Amount of Construction Lien Security
 - 7.2.2 – Release of Construction Lien Security
 - 7.2.3 – Requirements for Commencement of Maintenance
 - 7.2.4 – Commencement of Maintenance
 - 7.2.5 – Amount of Maintenance Security
 - 7.2.6 – Additional Performance Security during Maintenance
 - 7.2.7 – Owners obligations During Maintenance
 - 7.2.8 – Conclusion of Maintenance, Assumption and Release of Security
- 7.3 - Indemnity and Insurance

ARTICLE 8 - DEFAULT

- 8.1 – Remedies
 - 8.1.1 - Stop Work
 - 8.1.2 - Town May Complete and Use Security
 - 8.1.3 - Town May Complete and Add Costs to Tax Roll
 - 8.1.4 - Remedies Cumulative

ARTICLE 9 - REGISTRATION AND CONSENTS

- 9.1 – Registration and Enforcement
- 9.2 – Consent
- 9.3 – Mortgagees

ARTICLE 10 - MISCELLANEOUS

- 10.1 – Communication
- 10.2 – Time of Essence
- 10.3 – Waiver
- 10.4 – Further Assurances
- 10.5 – Headings
- 10.6 – Successors and Assigns
- 10.7 – Gender
- 10.8 – Severability
- 10.9 – Agreement Complete
- 10.10 – Jurisdiction
- 10.11 – Assignment
- 10.12 – True Copy
- 10.13 – Schedules and Figures
- 10.14 – Contra Proferentem Rule Not Applicable
- 10.15 - Independent Legal Advice

SCHEDULES and FIGURES

- Schedule "A" – The Lands
- Schedule "B" – Roadways
- Schedule "C" – Sanitary Sewers
- Schedule "D" – Storm Drainage
- Figure "D-1" to D-5” – Typical Lot Services, Drainage and Grading layouts
- Schedule "E" – Water Services
- Schedule "F" – Street Lighting
- Schedule "G" – Electrical Services
- Schedule "H" – Sidewalks and Pathways
- Figure “H” – Sidewalk and Pathways
- Schedule "I" – Trees
- Schedule "J" - Driveway Approaches
- Schedule "K" - Development Charges and Other Payments
- Schedule "L"- Conveyances, Contributions & Easements
- Schedule "M"- Parkland Dedication
- Schedule "N" - Required Form of Irrevocable Letter of Credit
- Schedule "O" - Noise Abatement
- Schedule "P" - Special Works
- Schedule “Q” - Agreement Re: Insurance

DEVELOPMENT AGREEMENT

THIS AGREEMENT made in quintuplicate this _____ day of _____, 2022.

B E T W E E N:

THE CORPORATION OF THE TOWN OF TECUMSEH

hereinafter called the "Municipality" or "Town"

OF THE FIRST PART

-and-

OLD CASTLE HEIGHTS INC.

hereinafter called the "Owner" or "Owners"

OF THE SECOND PART

HEREINAFTER collectively referred to as the "Parties"

RECITALS

WHEREAS the Owner owns certain lands situated within the corporate limits of the Town, said lands being more particularly described in Schedule "A" hereto (the "Lands");

AND WHEREAS in accordance with Section 51. of the Planning Act, R.S.O. 1990, the Owners have applied to the approval authority to have a plan of subdivision for the Lands approved;

AND WHEREAS in accordance with Section 51. (26) of the Planning Act, R.S.O. 1990, the approval authority as a condition of the granting of subdivision approval requires that the Owners enter into an Agreement with the Town respecting the servicing of the lands and such other matters as required for the orderly development of the Lands;

AND WHEREAS this Agreement forms part of a Town By-law and Section 446 of The Municipal Act, S.O. 2001, c.25 and amendments thereto, provides certain remedies to the Town when authorized by By-law, said remedies being herein authorized;

AND WHEREAS the proposed development of the Lands is in accordance with the Official Plan and Zoning By-Law of the Town as of the date of this Agreement;

AND WHEREAS the Owner covenants and agrees to develop the Lands in accordance with this Agreement;

WITNESSETH that in consideration of these presents, and other good and valuable consideration, the Parties hereto mutually covenant, promise and agree as follows:

ARTICLE 1

DEFINITIONS

1.1 DEFINITIONS

The following terms and expressions when used in this Agreement and the Schedules attached hereto and any amendments to this Agreement and such Schedules shall have the following meanings:

Agreement shall mean this Agreement, the Design Information and any amendment thereto;

Business Day shall mean any day, other than a Saturday, Sunday or any other day on which the principal chartered banks located in the Town are not open for business during normal banking hours.

Design Information shall mean: a) the servicing drawings, plans, reports any other drawings, specifications, engineering documents, contracts, details, surveys or elevations required to be prepared pursuant to this Agreement that have been approved by the Town, and; b) all information, manuals and specifications required to be referenced to in the preparation of the foregoing;

Figures shall mean the Figures attached hereto and forming part of this Agreement;

Municipal Services shall mean those Services (as hereinafter defined) integrated into the Town's municipal services and those otherwise constructed for the benefit of the Town and not for a third party as an other public work or service (private services) and designated by the Town, at the Towns sole discretion for assumption in accordance with the terms of this Agreement;

Schedules shall mean the schedules attached hereto and forming part of this Agreement;

Services shall mean all municipal and other public works or services including, without limitation, all appurtenances, works, matters or things necessary or incidental thereto, including, where applicable, Special Works as set forth in this agreement, roadways, pathways, sidewalks, curbs, gutters, storm sewers, storm-water management facilities, water services, fire hydrants, sanitary sewers, swales, electrical distribution works, noise barriers, trees, sod, seeding, fencing streetlights and natural gas mains. The above services shall include, without limiting the generality of the foregoing, pipes, conduits, chambers, manholes, works, plants and machinery of every nature and kind, installations, materials, devices, fittings and equipment. Without limiting the generality of the foregoing, services shall include but not be limited to services provided by Hydro One, Essex Power Corporation, Bell Canada, Union Gas Limited and Cogeco Cable Systems Inc., Managed Network Systems Inc. (MNSi), and other Telecommunication service providers operating within the local area, their servants, agents, successors and assigns;

Substantial Completion shall mean the date of substantial completion in accordance with the Construction Act.

ARTICLE 2

TOWN CONSULTANTS

2.1 TOWN TO RETAIN

In addition to persons in the employ of the Town, the Town shall retain the following professionals:

- a) a consulting/professional civil engineer registered with the Professional Engineers of Ontario (the "Town's Engineer"), for the purpose of reviewing all plans, specifications, engineering documents, contracts, details, elevations and other relevant information as well as the occasional inspection of the construction, repair and maintenance of the Services;
- b) the Town's solicitor for the purpose of reviewing all necessary legal matters incidental to the development of the Lands, including, without limiting generality, the preparation of this Agreement together with all other documentation required by the Town to give effect to this Agreement and/or the development of the Lands;

ARTICLE 3

GENERAL REQUIREMENTS

3.1 OWNER AGREES

The Owner jointly and severally make the following covenants, all of which shall be carried out to the satisfaction of the Town at the Owners' expense:

3.1.1 Owner to Provide

The Owner agrees to provide and maintain, to the satisfaction of the Town in its sole discretion and at the Owner's sole expense, all Services contemplated by this Agreement and all other matters and things contemplated by this Agreement.

3.1.2 Owner's Engineer

The Owner shall employ, at the Owner's expense, a Consulting Engineer registered with Professional Engineers Ontario to design the works and services, oversee the installation of the works and services and to attend to all matters and things required by this agreement as a prerequisite for the assumption of the services. The Engineer's responsibilities shall include but not be limited to the:

- a) Preparation and submission of servicing drawings to the Town (and all other authorities having jurisdiction);
- b) Preparation and submission of private drainage connection sheets ("PDC sheets") to the Town;
- c) Preparation of contracts necessary for the construction of the Services;
- d) Provision of full-time inspection services;
- e) Taking of preconstruction photos as well as photos (as required) during the course of construction of the Services. These photographs shall be available for inspection by the Town until the end of the maintenance period and final assumption of the Services by the Town;
- f) Confirmation of the competency of the subsurface soil conditions for the Roadway by means of a Geotechnical sub-consultant; and
- g) Preparation of and submission of "as-built" drawings to the Town (and all other authorities having jurisdiction).

3.1.3 Design Information

3.1.3.1 Criteria

All Drawings, Plans and Specifications shall be completed in accordance with:

- a) Sound engineering practices;
- b) The criteria laid down by governmental authorities having jurisdiction including, without limiting the generality of the foregoing, the Town, the Corporation of the County of Essex, the Essex Power Corporation and/or Hydro One, the Ministry of the Environment, Conservation and Parks, the Ministry of Transportation and the Essex Region Conservation Authority (herein "ERCA"); and
- c) Such other criteria as approved by the Town.

3.1.3.2 Servicing Drawings

The Owner shall provide servicing drawings in accordance with paragraph 3.1.2 a).

The Owner shall provide private drainage connection sheets ("PDC sheets") in accordance with paragraph 3.1.2 b) for each lot in the development, showing the location of all service connections, the finished elevation of the lot, the finished elevation of the rear yard catch-basin and all other relevant grading and servicing information for each lot.

3.1.3.3 Lot Grading Plan

The Owner shall provide a lot grading plan prepared by the Owner's Engineer for the Lands subject to approval of the Town's Engineer. The plan shall provide for the continued drainage of the abutting lands and may require that the development Lands accept storm-water from

the abutting lands. In no case shall the developments be permitted to shed water onto the abutting lands. In order to insure conformity to the lot grading plan the Owner shall have the approved elevation as per the lot grading plan verified by an Ontario Land Surveyor at the following stages of construction:

(a) Prior to the pouring of footings (top of forms elevation); and

(b) Following completion of construction;

Where the finished grade of lot deviates from the original lot grading plan presented to and accepted by the Town, the Owner shall either submit a new lot grading plan to the satisfaction of the Town's Engineer or re-grade the lands to the elevations indicated on the original lot grading plan.

3.1.3.4 Drainage Plan

The Owner shall provide a drainage plan for the lands to the satisfaction of the Town, the Town's Engineer and ERCA.

3.1.3.5 Reference Plan

The Owner, at the Owner's expense, shall engage a registered Ontario Land Surveyor to prepare and submit a Reference Plan, delineating the entire plan for division of the Lands as approved by the Town. The Owner, at the Owner's expense, shall initially provide three (3) copies and (1) diskette of the Reference Plan. All files are to be projected to North American Datum (NAD 83) UTM Zone 17 Geographic Coordinate System.

3.1.3.6 Forms Part of the Agreement

The approved Design Information forms part of the Agreement and all Services, works, matter and things to be built, constructed, completed or provided in accordance with the Design Information shall form part of this Agreement.

3.1.4 Services

The Owner shall construct all Services required by this Agreement in accordance with the Agreement, including but not be limited to, the Design Information and the terms and specifications as set out in the Schedules.

3.1.4.1 Roadways

The Owner shall construct roadways in accordance with this Agreement, including but not limited to, the Design Information and the terms and specifications as set out in Schedule "B".

3.1.4.2 Sanitary Sewer Services

The Owner shall construct sanitary sewer Services in accordance with this Agreement, including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "C". The servicing drawings will provide details of all sanitary sewer works, appurtenances and improvements necessary to accept the flow of sanitary sewage occasioned by the Development, and all such sanitary sewer works, appurtenances and improvements shall be installed to the satisfaction of all relevant governmental authorities, including, without limiting the generality of the foregoing, the Ministry of Environment, Conservation and Parks (Ontario) (herein "MECP"). The Owner shall obtain Environmental Compliance Approval for construction from the MECP. The maintenance of the sanitary sewer Services shall remain the responsibility of the Owner until the Services are assumed by the Town.

3.1.4.3 Storm Drainage Services

The Owner shall construct Storm Drainage Services in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "D" and Figure "D". The servicing drawings will provide details of all storm drainage works, appurtenances and improvements necessary to accept the flow of storm water occasioned by the Development, including storm-water overflow corridors and/or easements. All such storm drainage Services shall be installed to the satisfaction of all relevant governmental authorities, including, without limiting the generality of the foregoing, the MECP and ERCA. The Owner shall obtain Environmental Compliance Approval for construction from the MECP. The maintenance of the Storm Drainage Services shall remain the responsibility of the Owner until the Services are assumed by the Town. The servicing drawings shall indicate the outlet for the storm drainage Services. Storm

drainage Services shall drain to outlets approved by the Town and ERCA. The Owner shall, at its own expense, ensure that all existing drainage tile be intercepted or removed and re-routed to the Town's satisfaction. The Owner agrees that stormwater management measures shall be applicable to the Storm Drainage Services, and the Owner shall construct the Storm Drainage Services in a manner which is in accordance with the provisions of The Drainage Act, R.S.O. 1990, c.D.17 as amended (when and if applicable) and otherwise in accordance with the Windsor-Essex Regional Stormwater Standards Manual (2019) and amendments thereto, and to the satisfaction of the Town's Engineer.

3.1.4.5 Water Services

The Owner shall construct water Services in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "E". The servicing drawings will provide details of all water Services, appurtenances and improvements necessary to provide water Services to the lands, and all such water service works, appurtenances and improvements shall be installed to the satisfaction of all relevant governmental authorities, including, without limiting the generality of the foregoing, the MECP. The Owner shall obtain Environmental Compliance Approval for construction from the MECP. The maintenance of the water Services shall remain the responsibility of the Owner until the Services are assumed by the Town.

3.1.4.6 Street lighting

The Owner shall construct street lighting Services in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "F". The servicing drawings will provide details of the design of all street lighting Services, appurtenances and improvements necessary to provide street lighting Services to the lands, and all such street lighting Services shall be installed to the satisfaction of all relevant governmental authorities. The maintenance of the street lighting Services shall remain the responsibility of the Owner until the Services are assumed by the Town.

3.1.4.7 Electrical Services

The Owner shall construct underground electrical Services in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "G". The servicing drawings will provide details of all electrical Services necessary to provide electrical Services to the lands and all such electrical Services shall be installed to the satisfaction of all relevant governmental authorities.

3.1.4.8 Sidewalks and Pathways

The Owner shall construct sidewalks and pathways in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "H".

3.1.4.9 Trees

The Owner shall provide new trees and preserve existing trees in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "I".

3.1.4.10 Driveway Approaches

The Owner shall construct driveway approaches for each lot in accordance with this Agreement including, but not limited to, the Design Information and the terms and specifications as set out in Schedule "J". Driveway approaches shall not be installed prior to the expiry of ONE (1) year following the completion of any underground Services being installed beneath the location of the proposed driveway approach on a phase by phase basis. Driveway approaches shall not be constructed without the consent of the Town. The driveway approaches shall be constructed at the risk of the Owner. Without limiting the generality of the foregoing, the Owner shall be required to repair or restore such driveway approaches, or construct new driveway approaches, if damage occurs to such driveway approaches as a result of repair or maintenance work being performed on the underground Services, said obligation to extend until the assumption of the Services by the Town. Driveway approaches shall be built from the curb to the front property line. To the extent that the driveway approach for any lot may not be installed in advance of the Owner transferring title to such lot, nevertheless the obligation to complete same shall remain an

obligation binding upon not only the Owner but successors and assigns within the meaning of article 10.6 of this agreement.

3.1.4.11 Private Services

The Owner shall ensure that Private Services are installed to service the lands. The private Services shall include but not be limited to telephone, cable television, gas and other private utilities that may be installed by Bell Canada, Cogeco Cable Solutions, Enbridge, Managed Network Systems Inc. (MNSi) and any other suppliers of private utilities. The Owner shall also ensure that all private Services are installed in locations approved by the Town and in accordance with the Design Information. The Owner shall be responsible for co-ordinating the installation of all private Services. Any costs related to the installation of a private Service not paid for by the private Services shall be paid for by the Owner.

3.1.4.12 Notification and Permits

The Owner hereby agrees to notify all authorities having jurisdiction related to the development and to obtain all necessary permits and/or approvals which may be required from any authority having jurisdiction with respect thereto.

3.1.4.13 Co-ordination of Services

The Owner shall be responsible for coordinating the installation of all Services.

3.1.4.14 Tenders

In the event that the Owner shall call for tenders for any of the work required herein, such tenders shall be called on the basis of the specifications prescribed under this Agreement and the Owner shall provide the Town with a copy of the accepted tender and an executed copy of the contract let to each successful contractor.

3.1.4.15 Noise Abatement

The Owner shall conform and comply with the indoor/outdoor noise control measures and procedures set out in Schedule "O" to this Agreement. The Owner shall include in all Lease Agreements and Agreements of Purchase and Sale a notice advising owners of the possibility of noise affecting the enjoyment of the property. The required wording of this notice or "warning clause" is set out in Schedule "O" to this Agreement.

3.1.4.16 Canada Post

The Owner shall contact Canada Post regarding the provision of mail service to this Development through the use of "community mailboxes". The Owner shall, at its own expense, make satisfactory arrangements with Canada Post regarding the location of the "community mailboxes" within the Development. The location of said "super mailboxes" shall be subject to the Town's approval in order to ensure that same does not interfere with the provision of municipal services in any way. Prior to the construction of any services, the Owner shall provide the Town with satisfactory confirmation that Canada Post has reviewed the plans for this Development for the purposes of locating the "super mailboxes" and that appropriate arrangements have been made with Canada Post as it may require.

3.1.4.17 Special Works

The Owner shall be responsible to supply and install, at the Owner's expense, all Special Works as described in Schedule "P" to this Agreement.

3.1.5 Repair

The Owner agrees that any Municipal property including, without limiting the generality of the foregoing, curbs, gutters, pavements, sidewalks, or landscaped areas on the public highway, and any property belonging to a third party, which are damaged during construction or otherwise, shall be restored by the Owner at its expense, and to the satisfaction of the Town.

3.1.6 Dirt and Debris

The Owner agrees to keep the public highways servicing the subject lands free from dirt and debris caused by construction on the subject lands, and to provide reasonable dust control for the site and adjacent municipal streets during the course of construction. Dust shall be controlled by wetting or establishing vegetative ground cover.

3.1.7 Maintenance of Lands

The Owner shall maintain the lands in accordance with the Town's Land Maintenance Bylaw and Section 8.1.3 of this Agreement shall apply to any work carried out pursuant to that By-law.

3.1.8 Removal of Topsoil

Any topsoil excavated from the subject lands during grading operations shall be stockpiled on the lands in areas compatible for the reception of same and the Owner covenants and agrees that it will not remove or permit anyone to remove such topsoil from the lands without the approval of the Town.

3.1.9 Address Sign

Municipal street numbers for each lot shall be established by the Town before any building permits are released. The Owner shall be bound by the municipal street number approved by the Town. The municipal address shall be placed in a prominent location on the building constructed on the lot and shall be designed to be easily readable from the abutting street.

3.1.10 Environmental Laws

The Owner shall at all times in connection with the development and the implementation of this Agreement comply fully with all environmental laws.

ARTICLE 4

TIMING

4.1 NO CONSTRUCTION WITHOUT APPROVALS

Construction of the Services shall not commence until the servicing drawings have been approved by all requisite governmental authorities and the Town.

4.2 BUILDING PERMITS

No Building Permits for the construction of buildings on the lands shall be issued until the Services contemplated by this Agreement have been installed and/or completed to the satisfaction of the Town as evidenced by a resolution of Council placing the Services on maintenance and authorizing the release of building permits. However, once the Services referred to in this Agreement are under construction, the Owner may be allowed to construct model homes on up to ten percent (10%) of the lots within the Development shown on the draft plan of subdivision or relotting plan as approved by the Town Planner, to a maximum of twelve (12) model homes per phase of the development of the subject lands on the following terms and conditions, namely:

- a. That model homes shall be constructed on lots within five hundred (500) feet (152.4m) of an active fire hydrant;
- b. That a class "B" road be constructed in order that fire trucks have access to each model home prior to the general public being permitted to tour the structures, all to the satisfaction of the Fire Chief;
- c. That the Owner releases and forever discharges the Town from any and all manner of actions, causes of action, claims and demands for damages, loss or injury, costs (as between a solicitor and own client, including counsel fees) and charges whatsoever, occasioned to, or supplied by in respect of any matter or thing in consequence of or in connection with, or arising out of any fire in or about the said model homes, save and until the said Class "B" road referred to in subparagraph (b) hereof has been constructed;
- d. That the Chief Building Official will not undertake a final inspection of the said model homes save and until the construction and acceptance on to maintenance by the Town Engineer of all Services referred to in this Agreement as contemplated in 7.2.4 below;
- e. That the draft plan of approval has been received from the Corporation; and
- f. That this Agreement has been registered against the subject lands; and
- g. A sign permit application has been submitted to the Chief Building Official for a subdivision sign which includes sidewalk locations.

4.3 COMPLETION

The Owners agree to fulfil all of the covenants set out herein to the satisfaction of the Town within TWO (2) years of the date of execution of this Agreement for Phase I and FOUR (4) years of the date of execution of this Agreement for Phase II. Provided that in the event of a labour strike beyond the control of the Owner occurring within the time frames specified above and such labour strike prevents the Owner from installing some or all of the Services (herein “the Delayed Services”), the period for completion of the Delayed Services shall be extended by a period of time equal to the Town’s reasonable estimate of the period in which the Owner was prevented from installing the Delayed Services.

4.4 PHASING (#10, County Approval)

The Owner and Town agrees to development of the subject lands in accordance with the following and in compliance with the Phasing contemplated in the Plan(s) attached hereto as Figure “A” and summarized below as:

Phase 1 - Lots 1-55 and 58-72, inclusive and Block(s)139-165, and part/all of Streets A, B, C, D and F.

Phase 2 - Lots 56-57 and 73-138, inclusive and Block(s)166-167, and part/all of Streets A, F, G and H.

The Owner shall, at its sole expense and to the Town’s satisfaction, submit all necessary site servicing plans, design plans and drawings, securities and any other fees, and any other requirement deemed necessary for the approval by the Town prior to the initiation of each of the Phases identifying interim works, stubs, and cul de sacs required as part of the phased construction of the Services. During the construction of the Services at each Phase, the Owner shall attend to the construction of and otherwise provide for all stubs, cul de sacs, and interim works required until completion of the next Phase and the removal of such interim works and connection or integration of the existing Services into the next Phase of Services. Notwithstanding the contemplated Phasing in this section 4.4, the Owner may proceed with the development of the subject lands in one single Phase, and otherwise in accordance with the terms herein.

4.5 TIMING ON A PER PHASE BASIS

The terms of release of any securities called for under this agreement shall apply with necessary changes to the provision of securities on a phase by phase basis. Notwithstanding the timing set forth in any other provision of this agreement, where any provision of this agreement requires completion of a particular work or item forming part of the Services by a certain deadline contingent on the timing of commencement or completion of other Services, the Town and Owner acknowledge that the deadline for completion of such work or item shall occur on a phase by phase basis and commence on the date of commencement or completion of such other Service within the applicable Phase to which such work relates.

ARTICLE 5

OTHER PAYMENTS

5.1 COSTS

The Owner shall reimburse the Town for all of the Town’s costs with respect to the development including, without limiting the generality of the foregoing, the fees and disbursements of the Town’s Engineer and Solicitor.

5.2 DEVELOPMENT CHARGES

The Owner agrees to pay the sum designated in Schedule "K" to this Agreement for development charges with respect to the development.

5.3 PARK FEES

The Owner agrees to pay the sum designated in Schedule "M" to this Agreement for park fees with respect to the development.

5.4 PROPERTY TAXES

The Owner shall forthwith pay to the Town all tax arrears and current taxes due and unpaid charges against the Lands up to the date of execution of this Agreement. In addition, the Owner shall pay to the Town all current taxes due at any time thereafter while this Agreement is in force.

5.5 DRAINAGE ACT ASSESSMENT AND LOCAL IMPROVEMENTS

5.5.1 Owner's Services

With respect to the construction of any of the drainage works required by this Agreement, on the lands or benefiting the Lands, carried out as improvements under the Drainage Act of Ontario R.S.O. 1990 c.D.17, the Owner shall pay all required assessment charges as determined and shall forfeit its option of placing said charges on the tax roll of the Town and having them collected over time. The Owner shall execute and deliver to the Town any and all documentation required by the Town to give effect to this clause.

With respect to the construction of any Services required by this Agreement, on the Lands, or benefiting the Lands, carried out as improvements under the Local Improvement provisions of O. Reg. 586/06 of the Municipal Act S.O., 2001, c.25, the Owner shall pay all required assessment charges and shall forfeit its option of placing said charges on the tax roll of the Town and having them collected over time. The Owner shall execute and deliver to the Town any and all documentation required by the Town to give effect to this clause.

5.5.2 Other Services

The Owner agrees to sign Local Improvement petitions for, and agrees not to oppose, any municipal Services proposed by the Town to be constructed pursuant to:

- a) the Local Improvement provisions of O. Reg. 586/06 of the Municipal Act S.O., 2001, c.25; or
- b) the Drainage Act of Ontario R.S.O. 1990 c.D.17 and amendments thereto, which shall directly or indirectly benefit the Lands.

5.6 HYDRO CONNECTION CHARGES

The Owner shall pay such costs as Hydro One and/or Essex Power Corporation may require with respect to the installation of hydro services. Without limiting the generality of the forgoing, all costs of connecting hydro lines to existing external services shall be at the Owner's expense.

5.7 WATER CONNECTION CHARGES

All costs of connecting the water mains to existing external service shall be at the Owner's expense. Subject to particulars set out in Schedule "K" to this Agreement, the Owner shall pay to the Town, upon demand, any sums previously established by Town as the Owner's contribution towards the existing water main infrastructure.

ARTICLE 6

EASEMENTS AND CONVEYANCES

6.1 EASEMENTS AND CONVEYANCES

6.1.1 Conveyances

The Owner shall convey in such locations as shall be determined by the Town, upon demand, without cost and free of encumbrance, any lands required by the Town, including, but not limited to, lands for:

- a) road allowances and reserves, including those described in Schedule "L";
- b) road widenings, including those described in Schedule "L";
- c) daylight corners, including those described in Schedule "L";
- d) road extensions or other purposes, including those described in Schedule "L";

- e) public works including those described in Schedule “L”;
- f) parklands required by the Planning Act as described in Schedule “M”;
- g) walkways or pathways required including those described in Schedule “H” and
- h) storm water management facilities including those described in Schedule "D".

For the purposes of this section, conveyances shall include conveyances contemplated in this Agreement as well as conveyances required, at the sole discretion of the Town, subsequent to the execution of this Agreement.

6.1.2 Easements

The Owner shall convey or dedicate in such locations as shall be determined by the Town, upon demand, without cost and free of encumbrance, such easements as may be required by the Town or a private or public utility, including but not limited to easements for:

- a) Public Utilities Easements;
- b) Bell Canada Easements;
- c) Telecommunication service providers in the local area;
- d) Enbridge Easements;
- e) Hydro One and/or Essex Power Corporation Easements;
- f) Floodway Corridor Easements;
- g) Easements required by the Town for public works including those described in Schedule “L”;
- h) Easements for sidewalks or pathways including those described in Schedule “H”;
and
- i) Easements for noise barriers including those described in Schedule “O”.

For the purposes of this section, easements shall include easements contemplated in this Agreement as well as easements required, at the sole discretion of the Town, subsequent to the execution of this Agreement and prior to the formal assumption of the Services by the Town. Easements shall be in a form prescribed by the Town.

6.2 PARKLAND DEDICATION

Subject to particulars set out in Schedule "M" to this Agreement, the Owner shall convey or dedicate to the Town, upon demand, in such locations as shall be determined by the Town, without cost and free of encumbrances, such conveyances as may be required for the Town for parkland dedication under the *Planning Act*.

Subject to particulars set out in Schedule "M" to this Agreement, the Town may, at its sole option, in lieu of parkland dedication under the *Planning Act*, require cash payment from the Owner as set out in Schedule "M" to this Agreement.

6.3 TOWN’S RIGHT TO ENTER

The Owner hereby grants the Town and its employees, agents and assigns, an unfettered right to enter the lands at such times as the Town deems necessary, in order to ensure the Owner’s compliance with this Agreement, and to carry out any rights or duties that the Town may have pursuant to this Agreement or otherwise.

ARTICLE 7

SECURITY, MAINTENANCE AND ASSUMPTION

7.1 PERFORMANCE SECURITY

7.1.1 Amount of Performance Security

So as to assure the performance by the Owner of each of the terms and conditions of this Agreement, the Owner shall, prior to the commencement of any construction of the Services contemplated by this Agreement, deposit with the Town security in an amount which is equal to fifty per cent (50%) of the value of the works required by this Agreement based upon the contract or contracts which are the subject of paragraph 3.1.4.14 hereof, unless such

construction shall be carried out by the Owner in which event the cost shall be estimated by the Owner's engineer and approved by the Town (herein "Performance Security"). The Performance Security shall be either by way of:

- a) Cash; or
- b) Standby Letter of Credit pursuant to UCP500 only, issued by a chartered bank of Canada on its letterhead in the form annexed as Schedule "N". In no event shall the Town be required to pay interest on this security.

7.1.2 Release of Performance Security

The security required under this section may be released when maintenance security, construction lien security and additional Performance Security has been provided in accordance with Section 7.2 to replace the Performance Security.

7.2 MAINTENANCE, CONSTRUCTION LIEN AND ADDITIONAL SECURITY

7.2.1 Amount of Construction Lien Security

Prior to the publication of Substantial Completion and so as to assure the satisfactory completion of the Construction Lien period the Owner shall, deposit with the Town security in an amount which is equal to thirty per cent (30%) of the value of the performance security required pursuant to subsection 7.1.1 of this Agreement (herein "Construction Lien Security"). The Construction Lien Security shall be either by way of:

- a) Cash; or
- b) Standby Letter of Credit pursuant to UCP500 only, issued by a chartered bank of Canada on its letterhead in the form annexed as Schedule "N".

In no event shall the Town be required to pay interest on this security.

Performance Security provided pursuant to Section 7.1 shall be retained as Construction Lien Security until the requirements of Section 7.2 have been complied with.

7.2.2 Release of Construction Lien Security

The security required under this section will be released when;

- (a) all work and Services required to be performed by Owner have been substantially completed in accordance with the provisions of *The Construction Act* of Ontario as certified by the Town's Engineer;
- (b) advertisement for Construction Liens has taken place in accordance with the provision of *The Construction Act* of Ontario;
- (c) the period specified in the advertisement has expired and is in accordance with the provisions of *The Construction Act* of Ontario;
- (d) a sub search has been conducted by the Owner's Solicitor and a written confirmation has been delivered by the Owner's Solicitor to the Town confirming that upon expiry of the Construction Lien period there are no outstanding Construction Liens registered;
- (e) A declaration has been delivered by the Owner to the Town that all claims for materials and services and labour have been fully paid for and that there are no outstanding claims in respect of the work to be performed under the Development Agreement;

7.2.3 Requirements for Commencement of Maintenance

The performance by the Owner of each and every obligation under this Agreement to the satisfaction of the Town shall be a condition precedent to the commencement of the maintenance period.

The Owner shall, upon completion of the Services to its satisfaction, give written notice to the Town of such completion. Said written notice shall state that the Services are completed, that the deficiencies in the Services as identified by the Owner's Engineer have been corrected, and that the Services are ready to be placed on maintenance. Within FORTY-FIVE (45) days of receipt of said notice by the Town, the Town's Engineer shall inspect the Services, and the Owner does hereby consent to such inspection. Also, within FORTY-FIVE (45) days of receipt of said notice by the Town, the Town's Engineer shall advise the Owner that the Services are satisfactory, or shall provide the Owner with written

reasons for the Town's rejection of the Services.

7.2.4 Commencement of Maintenance

The maintenance period shall commence upon the completion of the construction of the Services to the satisfaction of the Town's Engineer and the placing of the Services on maintenance by the Town at the recommendation of the Town's Engineer. Such commencement shall be by resolution of Town Council placing the Services on maintenance and setting a date for the commencement of the maintenance period.

7.2.5 Amount of Maintenance Security

So as to assure the satisfactory performance of the Services during the maintenance period the Owner shall, deposit with the Town security in an amount which is equal to fifty percent (50%) of the value of performance security required pursuant to subsection 7.1.1 of this Agreement (herein "Maintenance Security"). The Maintenance Security shall be either by way of:

- a) Cash; or
- b) Standby Letter of Credit pursuant to UCP500 only, issued by a chartered bank of Canada on its letterhead in the form annexed as Schedule "N".

In no event shall the Town be required to pay interest on this security.

The Town may, at the Town's sole discretion, maintain the twenty five percent (25%) maintenance security to assure both:

- a) the satisfactory performance of the Services; and
- b) the completion of those Services, works, matters or things not completed during the initial installation of the Services.

7.2.6 Additional Performance Security During Maintenance

Additional Performance Security may be required during the maintenance period, the amount of which shall be at the Town's sole discretion to assure completion of those Services, works, matters or things not undertaken during the initial installation of the Services. The Additional Performance Security will be released upon the satisfactory completion of the outstanding Services, works, matters or things.

7.2.7 Owners Obligations During Maintenance

The Owner shall be fully responsible during the maintenance period for all Services installed upon the Lands including, but not restricted to, any deficiencies in workmanship, materials and labour as well as the function of all Services installed by or on behalf of the Owner pursuant to this Agreement. During such period, the Owner shall, at its own expense, effect any such repairs, replacement and/or reconstitution as may be necessary to ensure that at all times during the term of the maintenance period and at the conclusion of the maintenance period, all Services installed by or on behalf of the Owner shall be in proper and adequate working condition to the satisfaction of the Town's Engineer.

During the maintenance period, the Town shall be entitled to conduct such tests, at the Owner's expense, as may be deemed necessary by the Town's Engineer in order to verify the sufficiency of the Services. In the event of such testing, the report of any engineer(s) approved by the Town as to the sufficiency of the service shall be deemed satisfactory to warrant acceptance or rejection of the Service/ Services by the Town.

7.2.8 Conclusion of Maintenance, Assumption Municipal of Services and Release of Security

The maintenance period, on a phase by phase basis, shall conclude when all deficiencies, works, matters and things existing at the end of ONE (1) year following the date of the commencement of the maintenance period, as set by resolution of Town Council, have been corrected to the satisfaction of the Town and the Town's Engineer. The assumption of Municipal Services and the conclusion of the maintenance period shall occur by resolution of Town Council on the recommendation of the Town's Engineer.

The maintenance period shall automatically extend and assumption shall not take place until all deficiencies, works, matter and things required by this Agreement have been

complied with to the Town's satisfaction. It shall be a further requirement of this agreement that assumption shall not take place until homes have been constructed upon seventy-five per cent (75%) of the lots in the development.

Prior to the final assumption of the Municipal Services by the Town, the Owner shall, at its own expense, complete the following, which shall be in addition to any other obligations of the Owner as set out in this Agreement:

- (a) flush clean all storm sewers, and clean and vacuum all catch basins;
- (b) inspect all storm sewers and private storm connections including the cleanout with sewer cameras to confirm that no deficiencies exist and that the storm sewers and private storm connections including the cleanout are in good working condition;
- (c) flush clean all sanitary sewers;
- (d) inspect all sanitary sewers and private sanitary connections including the cleanout with sewer cameras to confirm that no further deficiencies exist and that the sanitary sewers and private sanitary connections including the cleanout are in good working condition;
- (e) repair all damaged curbs;
- (f) all water valves shall be checked to insure that they are operational and that they are at grade level and that no further deficiencies exist.

The camera work will be carried out at the expense of the Owner and the videotapes presented to the Town. The Owner, at its own expense, shall effect any steps required to correct any deficiencies.

The security required for maintenance shall not be released until assumption of the Municipal Services by the Town.

7.3 INDEMNITY AND INSURANCE

The Owner shall indemnify and save harmless the Town from and against all actions, claims, loss, damage and liability connected with the development as contemplated herein arising directly or indirectly out of the negligence or unlawful performance or the non-performance of any obligation of the Owner or any contractors to the Owner under this Agreement.

While any of the facilities and works herein have not been Assumed by the Town, the Owner shall maintain in full force and effect a policy of personal liability and property damage insurance in form and amount satisfactory to the Town's solicitor wherein the Owner shall be insured as principal and the Town insured as an additional named insured against such liability to the limit of FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence.

The Owner shall provide the Town with a Certificate of Liability Insurance prior to the commencement of construction of any of the Services and shall within 15 days of request by the Municipality, provide to the Town a certified copy of such policy and provide certified copies of any renewals where the term of such policy expires prior to the assumption of the Municipal Services by the Town. Where the Owner is unable to obtain or provide the requested Certificate of Insurance prior to commencement of construction of the facilities, and the Owner is not otherwise in default of any of its obligations under this agreement, the Owner may allow for its Contractor to provide the necessary insurance subject to the Owner and Contractor entering into the agreement attached hereto as Schedule Q to this agreement.

ARTICLE 8

DEFAULT

8.1 REMEDIES

If the Owner shall fail in the performance of any of the terms and conditions of this Agreement during the construction of the Services then in addition to any other remedies it may have, the Town shall be entitled to any or all of the remedies below:

8.1.1 Stop Work

The Town shall be entitled to refuse building and/or occupancy permits with respect to any buildings to be constructed on the Lands. Further, the Town shall be entitled to issue stop work orders with respect to any matters in respect of which a building permit has been issued and/or may refuse to grant to the Owner any permissions, permits, certificates, approvals or authorities of any kind or nature which the Owner would have been entitled to receive had the Owner otherwise complied with the terms of this Agreement, and/or shall be

entitled to refuse to issue releases, all of which may be done until such time as the default has been cured in a manner satisfactory to the Town.

8.1.2 Town May Complete and Use Security

In the event that the Owner fails to observe, perform or fulfil any of the terms and conditions of this Agreement or neglects, in the opinion of the Town, to proceed with reasonable speed in the construction of the work or Services contemplated herein or in the event that the work and Services are not constructed or located in the manner provided for in the engineering drawings or in accordance with the plans and specifications approved by the Town, then upon the Town giving SEVEN (7) days notice to the Owner with respect thereto specifying such default, and in the event that the Owner has not within SEVEN (7) days of the receipt of such notice commenced the correction of such default and completed the correction of such default within the time period specified or within a reasonable time period where none is specified, the Town may, at its sole option, without further notice enter upon the Lands and proceed to supply all materials and do all necessary work (including the repair or re-construction of faulty work and the replacement of materials not in accordance with the specifications or the drawings) and to charge all costs including the requisite fees for any engineering and administration to the Owner and pay the any expenses incurred from the Security so held by the Town. The Owner hereby authorizes the Town (including, without limiting the generality of the foregoing, its employees, agents and servants) to enter upon the Lands to do any such matter or thing.

8.1.3 Town May Complete and Add Costs to Tax Roll

The Owner acknowledges that a Bylaw has been passed by the Town approving the entering into of this Agreement by the Town and incorporating the terms of this Agreement into that Bylaw. Accordingly, it shall be a provision of this Agreement, and therefore the By-law, that, should the Owner be in default of completing any matter or thing required by this Agreement then the Town may complete such matter or thing at the Owner's expense and the cost for doing so may be added to the tax roll or recovered through action.

8.1.4 Remedies Cumulative

The remedies set out in this Agreement are cumulative and the Town may enforce one or more of the remedies set forth herein at any time or times, and from time to time, during the life of this Agreement.

ARTICLE 9

REGISTRATION AND CONSENTS

9.1 REGISTRATION AND ENFORCEMENT

Pursuant to Section 51(26) of the said Planning Act, R.S.O. 1990, c.P.13 and amendments thereto, this Agreement shall be registered against the Lands to which it applies at the Owner's expense, and the Town is entitled to enforce the provisions hereof against the Owner(s), who shall be jointly and severally liable for the Owner's covenants and obligations outlined herein, and, subject to the provisions of The Registry Act, R.S.O. 1990, c.R.20 and amendments thereto, and the Land Titles Act, R.S.O. 1990, c.L.5 and amendments thereto, against any and all subsequent owners of the Lands.

The Owner covenants and agrees with the Town to provide the Town with the following, prior to the registration of this Agreement:

- (i) a legal description in a form capable of being registered in the Land Registry Office at Windsor, Ontario or the Land Titles Office at Windsor, Ontario, covering all of the property to which this Agreement applies;
- (ii) a Solicitor's opinion prepared by the Solicitor of the Owner or, at the sole option of the Town, the Town's Solicitor, expressing an opinion to the Town that the legal description contained in this Agreement encompasses all of the Lands to which this Agreement applies, and that the said Lands are owned by the Owner in fee simple, with good and marketable title free and clear of all encumbrances, subject only to municipal, provincial and federal by-laws affecting the subject Lands; and

9.2 CONSENT

The Owner hereby consents to the registration of this Agreement on the title of the Lands, said registration (as well as the preparation of this Agreement) to be at the Owner's expense.

9.3 MORTGAGEES

The Owner agrees to obtain and register on title a postponement in favour of this Agreement of any mortgages or other encumbrances which may be registered against title to the Lands.

ARTICLE 10

MISCELLANEOUS

10.1 COMMUNICATION

Subject to the express provisions of this Agreement, all communications provided for or permitted hereunder shall be in writing, personally delivered to an officer of the addressee or sent by registered and receipted mail, charges prepaid, or by facsimile transmission or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner.

Communications sent to the Town shall be addressed to:

917 Lesperance Road,
Tecumseh, Ontario
N8N 1W9

Communications sent to the Owner shall be addressed to:

Old Castle Heights Inc.
c/o Abdul Karim Habib
4521 Southwood Lakes Blvd.
Windsor ON
N9G 2M6

Any communication so personally delivered shall be deemed to have been validly and effectively given on the date of such delivery. Communications so sent by registered and receipted mail shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is received, as evidenced by the postal receipt. Communications so sent by facsimile transmission or other means of recorded telecommunication shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is sent. Any party may from time to time change its address for service on written notice to the others.

10.2 TIME OF THE ESSENCE

Time shall be of the essence of this Agreement and of every part thereof. Wherever the consent or approval of either party is required, it will not be unreasonably withheld or delayed. In the event of a dispute regarding such consent or approval, such matter can be referred by either party, on 30 days notice to the other, to Arbitration, by single arbiter, and otherwise in accordance with the Arbitrations Act (Ontario). Notwithstanding the foregoing, the failure of the Town to provide a consent or approval shall not entitle the Owner to damages (in front of the Arbiter, the Ontario Municipal Board or any other board or court of competent jurisdiction) and the only remedy of the Arbiter shall be to decide whether or not the consent or approval is being unreasonably withheld or delayed and should be given.

10.3 WAIVER

No waiver by any part of a breach of any of the covenants, conditions and provisions herein contained shall be effective or binding upon such party unless the same shall be expressed in writing and any waiver so expressed shall not limit or affect such party's rights with respect to any other future breach.

10.4 FURTHER ASSURANCES

Each of the Parties covenants and agrees that he, his heirs, executors, administrators and assigns will sign such further Agreements, assurances, waivers and documents, attend such meetings, enact such by-laws or pass such resolutions and exercise such votes and influence, do and perform or cause to be done and performed such further and other acts and things as may be necessary or desirable from time to time in order to give full effect to this Agreement and every part thereof.

10.5 HEADINGS

The headings of the Articles of this Agreement are inserted for convenience only and do not constitute part of this Agreement.

10.6 SUCCESSORS AND ASSIGNS

The covenants hereunder shall run with the land and this Agreement shall be binding upon and ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

10.7 GENDER

All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case require and the verb shall be construed as agreeing with the required word and pronoun.

10.8 SEVERABILITY

If any covenant or provision contained herein is determined to be in whole or in part, invalid or unenforceable by reason of any rule of law or public policy, such invalidity or unenforceability shall not affect the validity or enforceability of any other covenant or provision contained herein and, in the case of partial invalidity or unenforceability of a covenant or provision, such partial invalidity or unenforceability shall not affect the validity or enforceability of the remainder of such covenant or provision, and such invalid or unenforceable covenant or provision or portion thereof, as the case may be, shall be severable from the remainder of this Agreement.

10.9 AGREEMENT COMPLETE

This Agreement expresses the final Agreement among the parties hereto with respect to all matters herein and no representations, inducements, promises or Agreements or otherwise among the parties not embodied herein shall be of any force and effect. This Agreement shall not be altered, amended or qualified except by a memorandum in writing, signed by all the parties hereto, and any alteration, amendment or qualification thereof shall be null and void and shall not be binding upon any such party unless made and recorded as aforesaid.

10.10 JURISDICTION

This Agreement and all other Agreements, security and documents to be delivered in connection with this Agreement shall be governed by and construed in accordance with the applicable laws of the Province of Ontario and of Canada.

10.11 ASSIGNMENT

This Agreement is not assignable by the Owner prior to completion of the works without the consent of the Town.

10.12 TRUE COPY

All of the parties hereto acknowledge having received a true copy of this document.

10.13 SCHEDULES AND FIGURES

Schedules A through to and including Schedule Q and Figure H hereto form part of this Agreement.

In the event of conflict between the Schedules or Figures to the Agreement and the body

of the Agreement itself, the Schedules and Figures shall prevail.

The parties acknowledge, confirm and agree that Schedules and Figures not attached to the agreement as registered on title were removed prior to registration on title based on the requirements of the Land Registry Office, reduced copies of same were attached to the agreement at the time of execution by the parties and full sized copies are on file with the Town.

10.14 CONTRA PROFERENTEM RULE NOT APPLICABLE

It is agreed and acknowledged that both parties, directly or through their agents, principals, representatives and/or solicitors, have participated in the preparation and/or negotiation of the provisions of this agreement.

Should any provision of this agreement require judicial interpretation, mediation or arbitration, it is agreed that the court, mediator or arbitrator interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against one party or so as to disadvantage any party on the basis that such party and/or its solicitor or agent:

- a. *Prepared this agreement or any part of it; or*
- b. *Seeks to rely on this agreement or any part of it."*

10.15 INDEPENDENT LEGAL ADVICE

To the extent that the solicitors of Wolf Hooker Professional Corporation has been involved in the preparation of this agreement, such solicitors act solely as solicitors for the Town and with regard to the interests of the Town and not for any other party to this agreement. It is strongly recommended that all other parties to this agreement obtain independent legal advice prior to signing this agreement. Each such party acknowledges:

- 1) having obtained independent legal advice from his, her, or its' own solicitor with respect to the terms of this Agreement prior to its execution or having otherwise been given a reasonable opportunity to obtain such advice and declined to so;
- 2) that he *or* she *or* it understands the terms, and his *or* her rights and obligations, under this Agreement.

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED

in the presence of:

}
 } **THE CORPORATION OF THE**
 } **TOWN OF TECUMSEH**
 }
 } Per: _____
 } **Gary McNamara – MAYOR**
 }
 } _____
 } **Laura Moy - CLERK**
 }
 } **OLD CASTLE HEIGHTS INC.**
 }
 }
 } Per: _____
 } **Abdul Karim Habib - PRESIDENT**

SCHEDULE "A"

THE LANDS

PART OF LOT 11 CONCESSION 8 SANDWICH EAST, PARTS 1-2, PLAN 12R27533,
SAVE AND EXCEPT PARTS 1 TO 4, PLAN 12R28359; SUBJECT TO AN EASEMENT

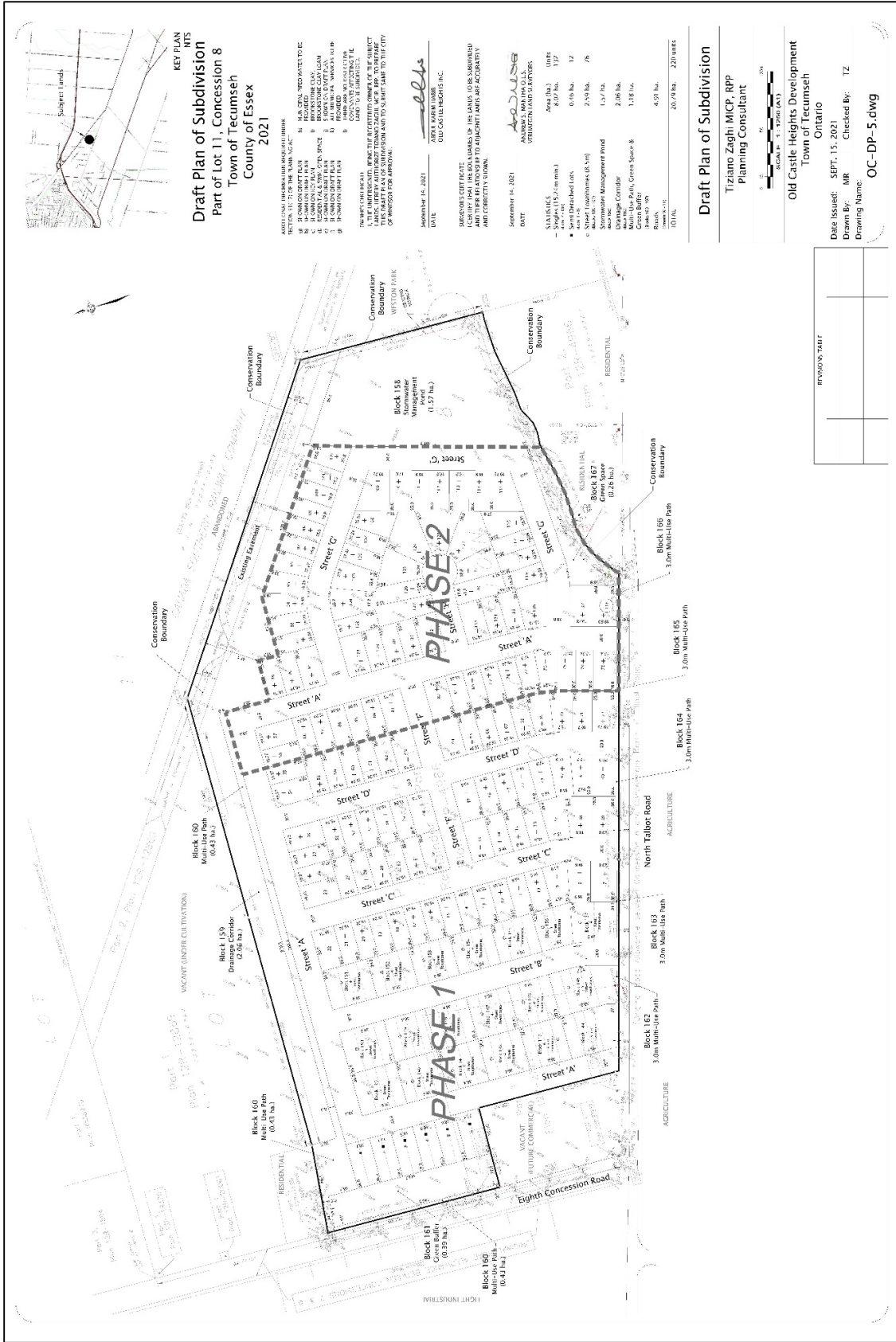
Being all of PIN 75236-0379 (LT)

DRAFT PLAN OF SUBDIVISION

References to "the Draft Plan" in this agreement shall be to the draft plan of subdivision as shown on Figure "A" attached hereto.

FIGURE "A"

DRAFT PLAN



SCHEDULE “B”

ROADWAYS

TRAFFIC IMPACT STUDY (#21, County Approval)

The Owner shall construct the roads and highway improvements in accordance with the Traffic Impact Study prepared by RC Spencer Associates Inc., dated November 2020 and as otherwise called for and set out in the Design Information.

MAIL BOX SITE STANDARDS (#25, County Approval)

That the Owner shall, in accordance with the Design Information, provide the following for each community mail box sites: any required walkway across the boulevard, per municipal standards; any required curb depressions for wheelchair access, with an opening of at least two metres (consult Canada Post for detailed specifications) and a community mail box concrete base pad per Canada Post specifications.

STREET NAMES

The Owner has requested and the Town has agreed to the naming of the streets as follows:

- **Street A – “Habib Drive”**
- **Street B – “Talia Street”**
- **Street C – “Rafael Street”**
- **Street D – “Aiden Street”**
- **Street F – “Amar Avenue”**
- **Street G – “Maryam Crescent”**
- **Street H – “Jana Court”**

CONSTRUCTION ACCESS

During the construction of the services for this Development the Owner shall ensure, for as much as is reasonably possible, that construction access to the Lands is obtained via North Talbot Road only except as otherwise permitted by the Town in its sole discretion. Any permission given for other temporary access will be done on a phase by phase basis.

ROADWAY LANE REQUIREMENTS

The roadway width for all streets within the subdivision shall be 8.6m from face of curb to face of curb. The curb shall be a barrier curb built OPSD 600.040.

PAVEMENT CROSS-SECTION

The Owner shall provide for the inspection of the subgrade by a geotechnical engineer during the construction of the roadway. Subject to confirmation by the geotechnical engineer, the pavement cross-section shall consist of a minimum of 450mm of granular A, 65mm of HL4 base asphalt and 40mm of HL3 surface asphalt. The geotechnical engineer shall provide the Town with a letter confirming that the road cross section will support the anticipated loads given the type and condition of the subgrade or provide for the modification of the road cross section to ensure that it will adequately support the anticipated loads.

SUBDRAINS

The Owner shall, at its own expense construct 150 millimetre (placed with a laser level) diameter perforated sub-drains pre-wrapped with geotextile fabric on either side of the new roadways.

SURFACE COURSE ASPHALT

The Owner shall not place the surface course of asphalt prior to homes being built on seventy five per cent (75%) of the lots in each phase of the development.

TACK COAT

Prior to the placement of surface course asphalt, a tack coat shall be applied over the entire

surface of the base course asphalt, at the Owner's expense. The Owner shall clean the base course asphalt to the Town's satisfaction prior to the placement of the tack coat.

SEEDING OR SODDING

The Owner shall be responsible for the seeding and/or sodding of all boulevard areas and areas adjacent to drainage ditches to the satisfaction of the Town and as otherwise called for in the details of the Design Information.

DEAD-END BARRIER

The Owner shall install dead-end barriers at the end of "Street A" and "Street F" where such roads abut Phase 2 of the development, to the satisfaction of the Town and as otherwise set out in the Design Information applicable to each phase.

SCHEDULE “C”

SANITARY SEWERS

SANITARY SEWER DESIGN CRITERIA

The sanitary sewer design criteria shall be as approved by the Town and the Town’s Engineer.

SANITARY SEWERS

For single-unit residential lands, the Owner shall provide ONE (1) 125 mm diameter individual sanitary service connection to each building lot. For multi-unit residential lands, the Owner shall provide ONE (1) 125 mm diameter individual sanitary service connection to each dwelling unit.

SERVICE CONNECTIONS

The Owner is hereby advised that the sanitary connections for each lot shall be installed at 1.5m depth at the lot line to ensure that the sanitary line is above the basement floor elevation and a sewage ejector pump is required. Accordingly, any below grade sanitary drainage branch will require the use of an ejector pump system installed in conformance with the Ontario Building Code. The Owner shall include the following notice in the Offer of Sale and Purchase Agreement for each lot:

“The purchaser is hereby advised that the sanitary sewer connection for each lot in the development has been installed at 1.5m depth at the lot line to ensure that the sanitary line is above the basement floor elevation and a sewage ejector pump is required in conformance with the Ontario Building Code.”

SCHEDULE “D”

STORM DRAINAGE

STORM DRAINAGE SERVICES DESIGN CRITERIA (#14 and 15 County Approval)

The storm drainage services design criteria shall be as approved by the Town and ERCA.

Prior to obtaining final approval on any phase of the development, that the Owner will finalize an engineering analysis to identify stormwater quality and quantity measures as necessary to control any increase in flows in downstream watercourses in accordance with the Windsor-Essex Region Stormwater Management Standards Manual and any other relevant municipal/provincial, standards or guidelines. The engineering analysis shall also address the conveyance and management of stormwater quality and quantity through the subject lands from the commercial block located at the northeast corner of the 8th Concession Road/North Talbot Road intersection.

Further, the Owner shall install the stormwater management measures identified in the engineering analysis completed as part of the development for the site and undertake to implement the recommendations contained therein, to the satisfaction of the Municipality and the Essex Region Conservation Authority.

STORM SEWER SERVICES

The Owner shall construct a new storm sewer to service the lots in the Development, with sufficient capacity to store the one in five year rainfall event. The one in one hundred year and greater rainfall event shall be provided for on the roadways and within the storm-water management pond to be constructed on the Lands. Water quality measures shall be incorporated as part of the storm sewer system to the satisfaction of the Town and ERCA and all other requisite governmental authorities. Block 158 on the Draft Plan shall be conveyed to the Town as a storm-water pond.

SERVICE CONNECTIONS

For single-unit residential lands, the Owner shall provide ONE (1) 150 mm diameter individual storm service connection to each building lot. For multi-unit residential lands, the Owner shall provide ONE (1) 150 mm diameter individual storm service connection to each dwelling unit.

ROOF WATER LEADERS

Roof water leaders will be discharged onto the lawn of each building lot.

REAR YARD DRAINS

For single-unit residential lands, the Owner shall, at its own expense, install rear yard drainage on each building lot in the location and according to the specifications prescribed by the Owner's Engineer, such specifications being subject to the approval of the Town. Rear yard drainage shall be installed contemporaneously with the construction of the dwelling unit on each building lot, and shall include the installation of a 450 mm diameter PVC catch-basin in the centre of the rear yard of each building lot offset off the rear lot line between 1.5m (min) to 3.0m (max) in accordance with the Town's Lot Grading and Service Sheet (French drains, without a catch-basin in the rear yard, will not be acceptable). The Owner shall ensure that, when houses and other structures are built upon the building lots, the lot grading plan is adhered to.

For multi-unit residential lands, the Owner shall at its own expense, install rear yard drainage for each dwelling unit in the location and according to the specifications prescribed by the Owner's Engineer, such specifications being subject to the approval of the Town. Rear yard drainage shall be installed contemporaneously with the construction of each dwelling unit, and shall include the installation of a 450 mm diameter PVC catch-basin in the centre of the rear yard of internal dwelling units. For external (end-units), rear yard drainage shall include a 450 mm diameter PVC catch-basin in the centre of the rear yard of each building lot offset off the rear lot line between 1.5m (min) to 3.0m (max) in accordance with the Town's Lot Grading and Service Sheet (French drains, without a catch-basin in the rear yard, will not be acceptable). The Owner shall ensure

that the lot grading plan is adhered to at the time houses and other structures are built upon the building lots.

FOOTING DRAINS

Footing drains shall drain to basement sump pits and pumped to the storm sewer system constructed on the lot.

EXISTING DRAINAGE TILE

There exists a possibility that abandoned drainage tiles may be encountered during the excavation of footings for homes being constructed on lots within the development. Where drainage/field tiles are encountered the Owner shall take measure to ensure that the tile is decommissioned in such a manner that water cannot be conducted to the footing drainage system via the abandoned tile.

AMENDMENT OF DRAINAGE AREAS

The Owner shall, at its own expense, and in conformity with the provision of the *Drainage Act* amend the drainage area boundaries to include the Lands in the appropriate drainage area. Subsequent to the execution of this agreement The Town shall appoint a Drainage Engineer for the purpose of completing a section 76 report in accordance with the *Drainage Act*. The costs for completing this report shall be borne solely by the Owner.

FIGURE "D-3"

TYPICAL LOT SERVICES DRAINAGE AND GRADING LAYOUT (MULTI-UNIT INNER)

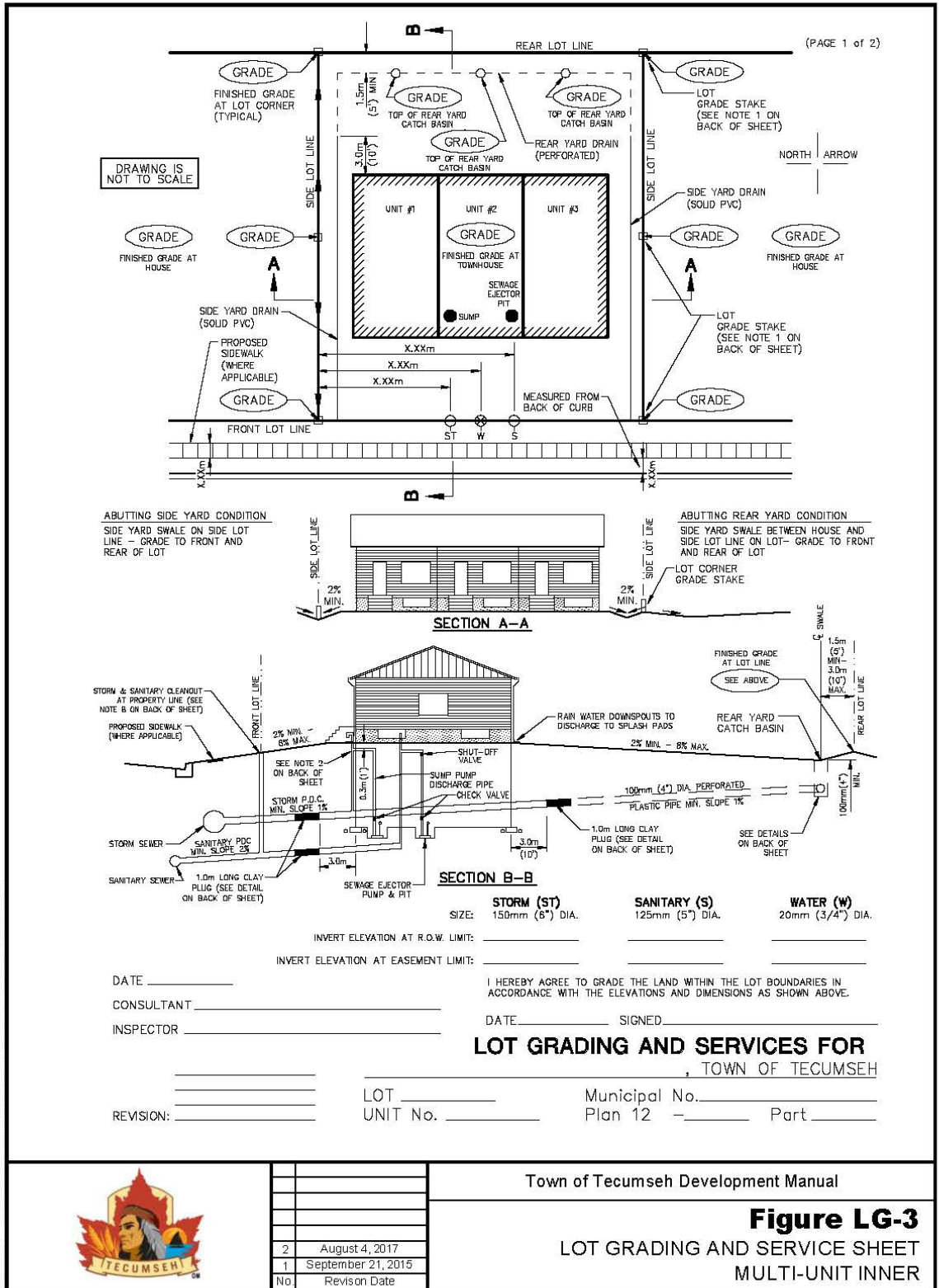
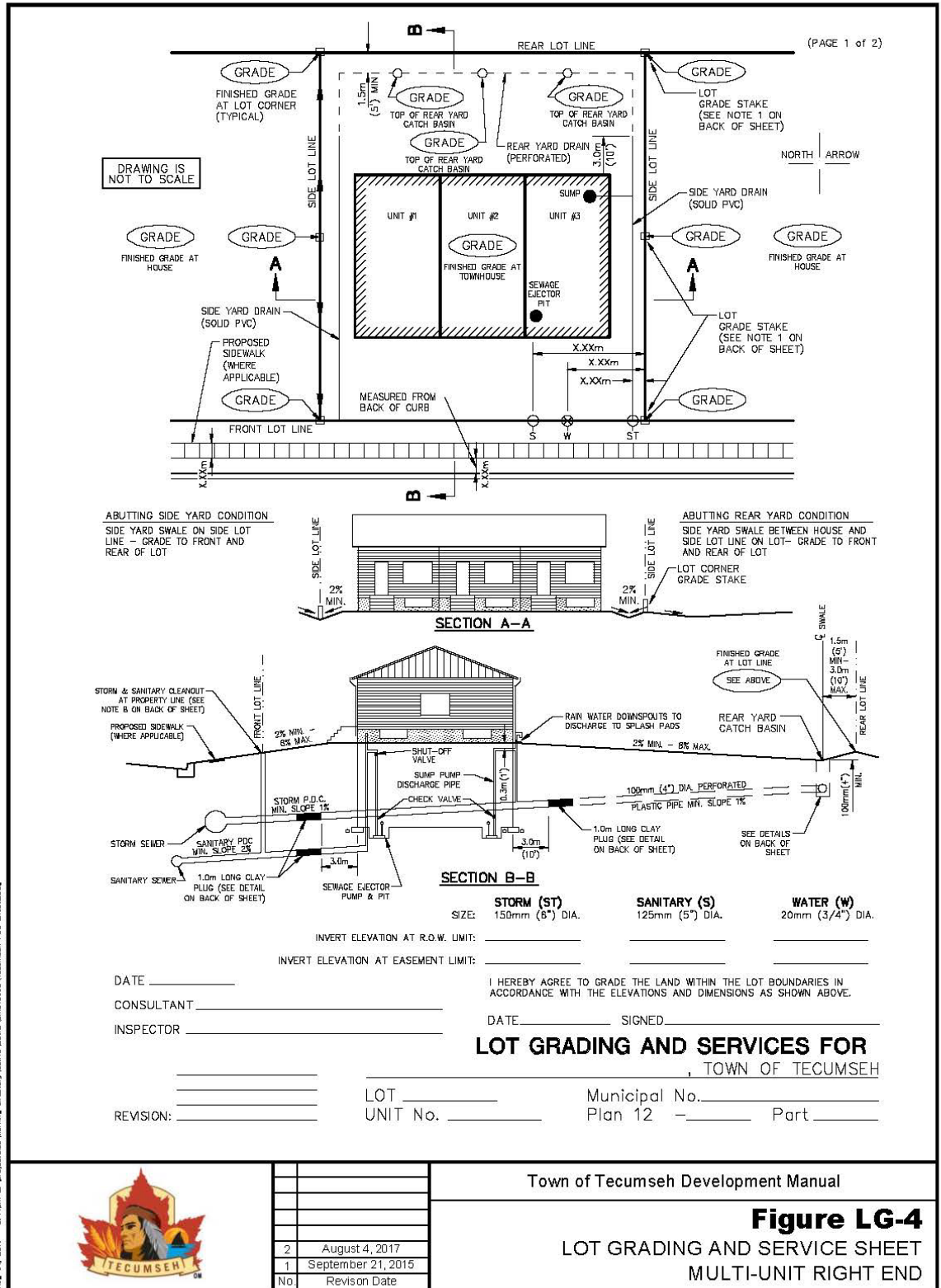


FIGURE "D-4"

TYPICAL LOT SERVICES DRAINAGE AND GRADING LAYOUT (MULTI-UNIT RIGHT END)



No.	Revision	Date
2		August 4, 2017
1		September 21, 2015

Town of Tecumseh Development Manual

Figure LG-4
LOT GRADING AND SERVICE SHEET
MULTI-UNIT RIGHT END

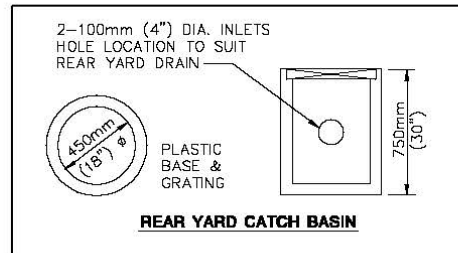
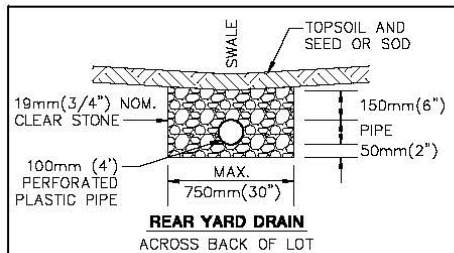
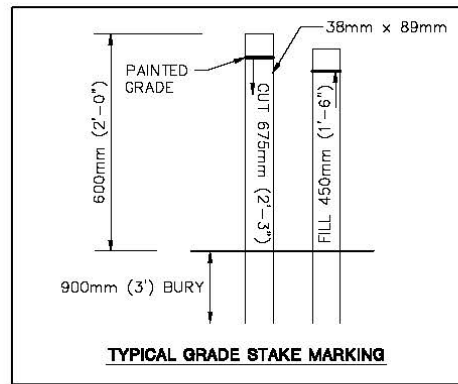
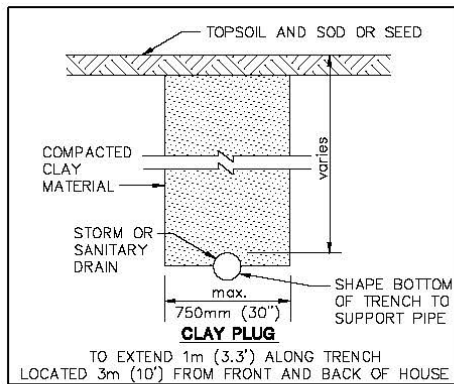
FIGURE "D-5"

TYPICAL LOT SERVICES DRAINAGE AND GRADING LAYOUT (LOT GRADING AND SERVICE SHEET)

NOTES:

(PAGE 2 of 2)

1. PLACE A 38 X 89 X 1500mm LONG (2" X 4" X 5') WOOD STAKE AT EACH LOT CORNER AND AT SIDE YARDS ADJACENT TO HOUSE. MARK THE CUT OR FILL TO FINISHED GRADE FROM TOP OF STAKE ON EACH STAKE. ALL STAKES TO REMAIN IN PLACE UNTIL CHIEF BUILDING OFFICIAL APPROVES FINAL LOT GRADING.
2. SUMP PUMP DISCHARGE PIPE SHALL BE CONNECTED TO THE PRIVATE STORM SERVICE AT AN ELEVATION NOT LESS THAN 300mm (12") BELOW FINISHED GRADE AT THE HOUSE.
3. CLAY PLUGS TO BE COMPACTED FOR FULL HEIGHT OF TRENCH AND 1.0m LONG.
4. ADDITIONAL AREA DRAINS TO BE INSTALLED AS PER SITE CONDITIONS OR AS DIRECTED.
5. RAIN WATER DOWNSPOUT DISCHARGING ON SIDEWALKS OR DRIVEWAYS SHALL BE CONNECTED TO REAR YARD DRAINAGE SYSTEM.
6. SOLID WALLED PIPES SHALL BE BEDDED ON UNDISTURBED SOIL.
7. TILE DRAIN TO BE BIG 'O' WITH FILTER CLOTH OR APPROVED EQUAL.
8. THE STORM AND SANITARY CLEAN OUTS AT THE PROPERTY LINE ARE TO BE CUT FLUSH WITH THE FINISHED GRADE, HAVE A PVC CAP (IF LOCATED WITHIN GRASSED AREA) OR A CAST IRON CAP (IF LOCATED WITHIN PAVEMENT/DRIVEWAY), AND BE FULLY ACCESSIBLE.



Aug 04, 2017 - 2:46pm C:\Users\33396\Documents\Local\Temp\Var\Jah...6621\Tecumseh PDC Sheet.dwg



No.	Revision	Date
2		August 4, 2017
1		September 21, 2015
No.	Revision	Date

Town of Tecumseh Development Manual

Figure LG-5
LOT GRADING AND SERVICE SHEET
BACK OF SHEET

SCHEDULE “E”

WATER SERVICES

WATER SERVICE DESIGN CRITERIA

The water service design criteria shall be to the satisfaction of the Town. For the purpose of preparing the engineering drawings for this development the Owner is hereby advised that the Town's water service specifications can be found on the Town's website.

WATER SERVICES

The Owner shall install water Services to the lot line for each lot/unit within the development. All water Services shall be installed to the satisfaction of the Town. The service connections shall be bored (open cutting of the road is not permitted).

WATER METERS

Remote registry water meters shall be installed as specified by the Town's Water Services Division.

SCHEDULE “F”

STREET LIGHTING

STREETLIGHT SPECIFICATIONS

Streetlights shall be designed to provide illumination levels to ANSI/IESNA RP-8-00 based on the applicable roadway classification. Streetlights shall be decorative type to the Town’s standards, as generally described below:

- o 25’-0” above ground or as otherwise approved by the Town, etched decorative, octagonal Belmont Highwayman concrete pole with midnight lace finish, as manufactured by Stresscrete model number KBH25(CLASS B)-G-E10 c/w 140-25/30
- o One (1) fixture arm 6’-0” in length, decorative, aluminum with textured black finish as manufactured by Stresscrete model number KA30-T-1-6’-KPL20-PR
- o Series 8060 LED fixture with flat array and clear flat glass lens, 60W solid state lighting wired for 120 volt operation, 4000K and leveling device. Fixture shall be finished in textured black. Manufactured by King Luminaire model number K803-P4FL-III-60(SSL)-8060-120 S/F KPL20-PR

LOCATION

The Owner shall supply a street lighting plan for the development to be approved by the Town.

SCHEDULE “G”

ELECTRICAL SERVICES

Electrical Services for the development shall be underground.

SCHEDULE “H”

SIDEWALKS AND PATHWAYS

The Owner shall construct the following Sidewalks and Pathways as shown on the attached Figure H to facilitate pedestrian movement, bus routing stops and the safety of school children as called for in condition #22 of the Draft Plan Approval of the County of Essex issued February 14, 2022 file no 37-T-21004 (herein “the County Approval”).

The owner shall construct a 1.5m wide concrete sidewalk on all roadways within the development as shown on Figure H, with the exception of those areas/blocks identified for pathways, in accordance with “Paving and Grading Plan” prepared by the Owner’s engineer, that is on-file with the Town, and in accordance with the approved design information and OPSD 310.010 and 310.030.

Sidewalks shall not be constructed prior to the expiration of one year from the completion of the installation of all services to be installed beneath the sidewalks. Sidewalks shall be continuous within this development. As such, it is anticipated that the sidewalks will be constructed prior to the construction of the driveway approaches. However, where it is proposed that a driveway approach be constructed prior to the placement of the sidewalk as a whole, then the sidewalk shall be formed through the driveway approach (in the location shown in the engineering data) and poured separately from the pouring of the abutting driveway approach. The sidewalk shall be constructed with 2% cross-fall.

The owner shall construct a 3.0m wide asphalt pathway on that part of Blocks 160, 162, 163, 164, 165, 166 and along “Street A”, “Street G” and a 4.0m wide asphalt pathway along “Street G” and on Block 158 as shown in Figure H and in accordance with the “Paving and Grading Plan” prepared by the Owner’s engineer, that is on-file with the Town.

The Owner shall be responsible for the seeding and/or sodding of areas adjacent to the pathways to the satisfaction of the Town and as otherwise shown in Figure H or called for in the details of the Design Information.

FIGURE "H"

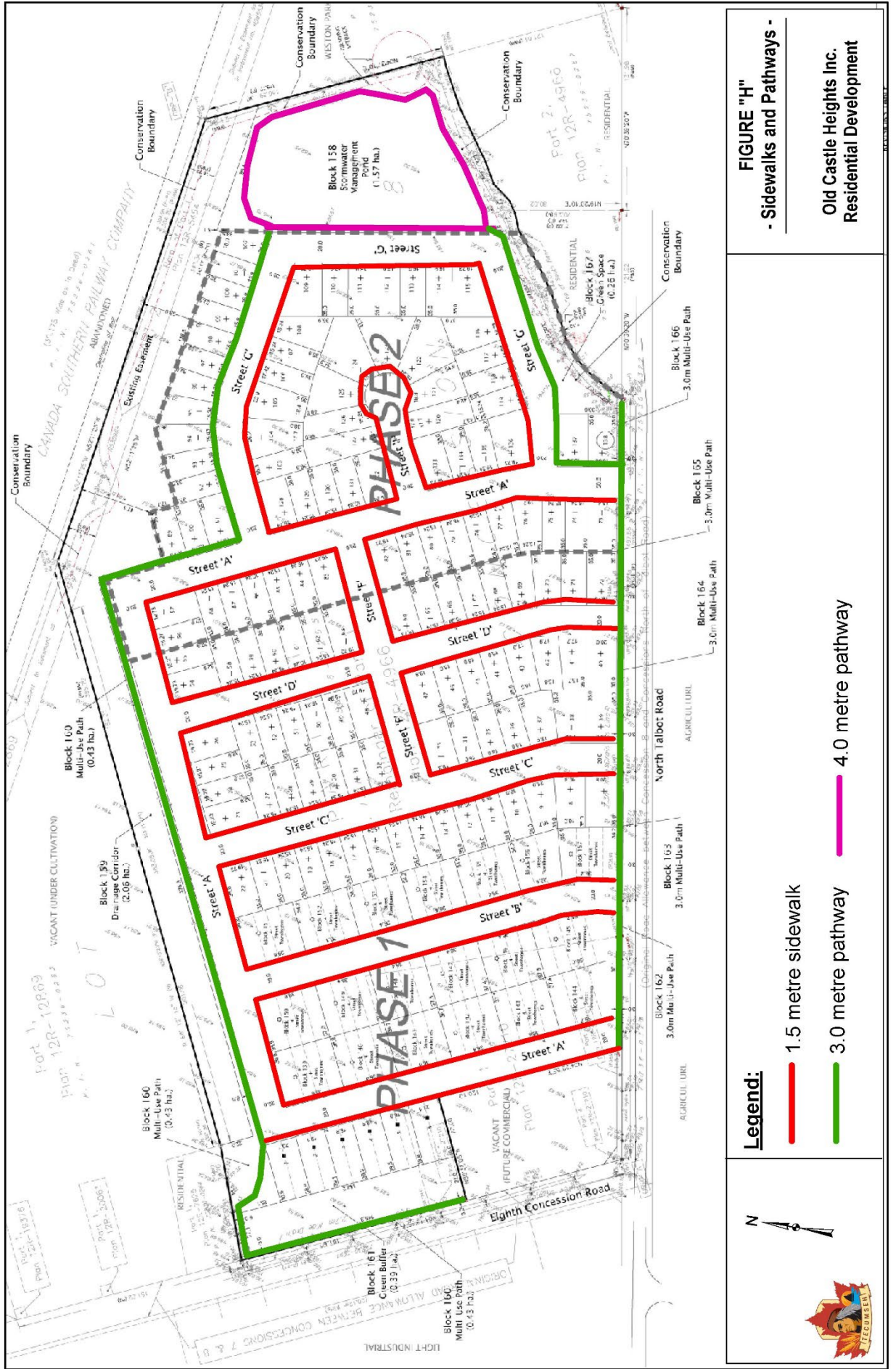


FIGURE "H"
- Sidewalks and Pathways -
Old Castle Heights Inc.
Residential Development

Legend:

- 1.5 metre sidewalk
- 3.0 metre pathway
- 4.0 metre pathway

N

SCHEDULE “I”

TREES

The Owner shall install one boulevard tree for every 12m of boulevard between the sidewalk and the curb. The species, timing of the installation and location of the trees (minimum 50mm calliper) to be planted shall be determined by the Town subsequent to the construction of the driveways on the lots within the Development. The Owner shall coordinate with the Town’s Arborist for the inspection and approval of each tree at the nursesey prior to their delivery to the site.

The Owner shall install one pathway tree for every 12m of pathway staggered on opposite sides. The species, timing of the installation and location of the trees (minimum 50mm calliper) to be planted shall be determined by the Town subsequent to the construction of the pathway. The Owner shall coordinate with the Town’s Arborist for the inspection and approval of each tree at the nursesey prior to their delivery to the site.

In addition, the Owner shall plant one tree (minimum 50 mm calliper) within the front yard of each building lot within the Development.

In addition, the Owner shall plant one tree for every 12m of length of the Buffer Area (Block 161) and one tree for every 12m of pathway staggered within the Stormwater Pond (Block 158), to the satisfaction of the Town such trees being located in each area in accordance with detailed drawing(s) approved as part of the Design Information. The species, timing of the installation and location of the trees (minimum 50mm calliper) to be planted shall be determined by the Town subsequent to the construction of the pathway. The Owner shall coordinate with the Town’s Arborist for the inspection and approval of each tree at the nursesey prior to their delivery to the site.

Any existing trees on the Lands shall not be removed without the prior approval of the Town. Generally, the Towns approval to remove a tree shall only be given for the purpose of facilitating the construction of a home upon a Lot or for the construction of services.

SCHEDULE “J”

DRIVEWAY APPROACHES

The Owner shall construct a driveway approach for each lot/unit in the development utilising one of the following sets of specifications and materials:

- (i) a minimum thickness of 150 mm, 30 Mpa concrete (the use of reinforced concrete is not permitted) on a minimum 150mm compacted granular A sub-base; or
- (ii) a minimum thickness of 100 mm of hot mix asphalt on a minimum 250mm compacted granular A sub-base.

Where it is proposed that a driveway approach be constructed prior to the placement of a sidewalk or pathway as a whole, then the sidewalk or pathway shall be formed through the driveway approach and poured separately from the pouring of the abutting driveway approach. The sidewalk or pathway shall be constructed with 2% cross-fall.

SCHEDULE “K”

DEVELOPMENT CHARGES AND OTHER PAYMENTS

DEVELOPMENT CHARGES

The Owner agrees to pay the applicable development charges in accordance with the Town's Development Charges By-Law in effect at the time of the issuance of a building permit as a condition of obtaining a building permit for the construction of any and all buildings on the lands.

SCHEDULE “L”

CONVEYANCES, EASEMENTS AND NOTICES

Conveyances

All conveyances set out herein shall be made to the Town upon demand at the expense of the Owner free and clear of all encumbrances:

1. Block 161 on Draft Plan for the Buffer Area.
2. Blocks 158 to 167 on the Draft Plan.
3. Block 158 on the Draft Plan as a storm-water pond.

Easement Conflicts (#26 County Approval)

The Owner agrees that should any conflict arise with existing Bell Canada facilities or any other existing easement permitting a public utility, private utility or Town service where a current and valid easement exists within a subject area in favour of Bell Canada, any other third party or the Town as the case may be, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

Notices

The Owner shall ensure that the following notices are registered on title for all lots within the Development and that a copy of these notices are contained in all lease agreements or offers of sales and purchase for each lot and/or dwelling unit within the Development:

“The purchaser is hereby advised that the sanitary sewer connection for each lot in the development has been installed at 1.5m depth at the lot line to ensure that the sanitary line is above the basement floor elevation and a sewage ejector pump is required in conformance with the Ontario Building Code.”

“The purchaser is hereby advised that students may not be able to attend the closest neighbourhood school and could be bused to a distant school with available capacity.” (see #23, County Approval)

“The purchaser is hereby advised that the plans for this Development provide for the future construction of a sidewalk and the planting of trees in the boulevard area”.

“The purchaser is hereby advised that mail service for this development shall be provided via community mailboxes. The purchaser should prior to purchasing a lot make themselves aware of the location of the community mailbox servicing this development”. (see #24, County Approval)

SCHEDULE “M”

PARKLAND

PARKLAND DEDICATION - CASH IN LIEU

Cash in lieu of parkland dedication (pursuant to the provisions of the Planning Act R.S.O. 1990) shall be \$147,217.72 for this Development, said amount being payable prior to the release of building permits for the Development which amount is equal to 2.3% per cent of the Lands as a portion of the 5% the parkland dedication. The balance of the parkland dedication (2.7%) is through a land dedication of 0.5633 hectares comprising of pathways located on the buffer area and adjacent to the stormwater management pond and drainage corridor.

SCHEDULE "N"

REQUIRED FORM OF IRREVOCABLE LETTER OF CREDIT (to be put on letterhead of financial institution)

Standby Letter of Credit pursuant to UCP500

Letter of Credit No. _____ Amount: \$ _____

1. Initial Expiry Date: _____

TO: THE CORPORATION OF THE TOWN OF TECUMSEH
Address: 917 Lesperance Road, Tecumseh, ON, N8N 1W9

WE HEREBY AUTHORIZE YOU TO DRAW ON THE
for the account of _____
(Name of Customer)

UP TO AN AGGREGATE AMOUNT OF _____ Dollars

2. (\$ _____) available
on demand

PURSUANT TO THE REQUEST OF our customer: _____

(Name of Bank)

3. hereby establish and give you an Irrevocable Letter of Credit in your favour in the amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon as by you which demand we shall honour without inquiring whether you have the right, as between yourself and the said customer to make such demand, and without recognising any claim of our said, customer, or object by it to payment by us.

4. THE LETTER OF CREDIT we understand relates to those Municipal Services and financial obligations set out in an Agreement between the customer and the Town and referred to as the _____
(Name of Project)

5. THE AMOUNT of this Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned from time to time by the Corporation of the Town of Tecumseh

6. THIS LETTER OF CREDIT will continue in force for a period of 1 year, but shall be subject to the condition hereinafter set forth.

7. IT IS A CONDITION of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing by registered mail, that we elect not to consider this Letter of Credit to be renewable for any additional period.

DATED AT _____, **Ontario this** _____ **day of 20**__.

COUNTERSIGNED BY: _____

(Name of Financial Institution)
Per: _____

SCHEDULE “O”

NOISE ABATEMENT

Not Required.

SCHEDULE “P”

SPECIAL WORKS

Endangered Species Act compliance (#18)

That the development agreement between the Owner and the Municipality contain a provision, to the satisfaction of the Municipality and the Essex Region Conservation Authority, that prior to site alteration of any kind, and final approval by the County of Essex, the Owner shall undertake to ensure that any site alteration will be completed in accordance with the Endangered Species Act, 2007, and more specifically in compliance with the recommendations provided in the Issues Scoping Report (ISR) prepared by BioLogic (now MTE Consultants) dated November 18, 2015, and the subsequent EIA Update Memo prepared by MTE Consultants and dated December 22, 2020.

Well Searches (#19)

The Owner acknowledges that improperly constructed, maintained or abandoned oil, gas and water wells (“Wells”) present a safety risk to humans as well as a potential risk to pollute groundwater resources. The Owner represents and warrants that it has researched Oil, Gas and Salt Resources Library and the Ministry of the Environment and Climate Change Well Records (the “Records”) and has made itself aware of the presence of any Wells on the Lands. The Owner acknowledges that not all Wells are recorded or located accurately in the Records. The Owner further represents and warrants that is has:

- i. Systematically searched the lands for potential Well sites; and
- ii. Taken all other necessary steps to ensure that there are no other Wells on the Lands and that any Well found has been or will be capped in accordance with the applicable legislation, regulations or guidelines, the proof of which shall be submitted to the Municipality.

Construction Management Plan (#20)

That the development agreement between the Owner and the Municipality shall contain a provision that the Owner agrees to submit a Construction Management Plan which addresses among other matters, site access, construction traffic, parking for construction trades, material delivery and storage, staging, mud, dust and noise controls to the satisfaction of the Municipality, prior to commencement of subdivision servicing.

The Owner shall finish grade and seed Blocks 158, 159 161 and 167 on the Draft Plan, in accordance with the design information and to the satisfaction of the Town.

SCHEDULE Q

AGREEMENT RE INSURANCE

THIS AGREEMENT made as of the ____ day of _____, 20____ (the "Agreement").

B E T W E E N:

THE CORPORATION OF THE TOWN OF TECUMSEH
(hereinafter the "Municipality")

OF THE FIRST PART

-and-

(hereinafter the "Owner")

OF THE SECOND PART

-and-

(hereinafter the "Contractor")

OF THE THIRD PART

WHEREAS the Municipality and the Owner entered into a Development Agreement dated _____, 20____, relating to the development of the property municipally known as/ legally described as _____, Tecumseh, Ontario (the "Development Agreement");

AND WHEREAS the Development Agreement stipulates in Section 6.4 that the Owner shall maintain certain minimum insurance requirements;

AND WHEREAS the Owner has retained the Contractor to complete the works required under the Development Agreement and the Contractor is willing to provide such minimum insurance requirements as required under the Development Agreement;

NOW THEREFORE this agreement witnesses that in consideration of the sum of two dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Contractor hereby covenants and agrees to maintain in full force and effect a policy a policy of Commercial General Liability insurance covering personal and bodily injury liability and property damage with a limit of not less than \$5,000,000.00 and otherwise in form satisfactory to the Municipality's solicitor wherein the Contractor shall be insured as principal and the Municipality insured as an additional named insured against such liability to the limits noted. The Contractor shall provide the Municipality with a Certificate of Liability Insurance prior to the commencement of construction of any of the facilities and works referred to herein and shall within 15 days of request by the Municipality, provide to the Municipality a certified copy of such policy.
2. The parties hereby acknowledge and agree that the Contractor's policy of insurance pursuant to Section 1 herein shall satisfy the Owner's obligations as set forth in Section 7.3 of the Development Agreement on an interim basis until such time as the Owner can obtain its own policy of insurance which the Owner undertakes to obtain within 30 days from the date of this agreement set out above. The Contractor's policy of insurance shall be maintained in full force and effect until such time as the Owner has directly satisfied its obligations under Section 6.4 of the Development Agreement.
3. Time shall be of the essence of this Agreement and of every part thereof.
4. This Agreement shall inure to the benefit of and be binding upon the parties, their executors, administrators, successors and assigns.
5. No waiver by any party of a breach of any of the covenants, conditions and provisions herein contained shall be effective or binding upon such party unless the same shall be expressed in writing and any waiver so expressed shall not limit or affect such party's rights with respect to any other future breach.
6. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same instrument. The parties hereto consent and agree to the use of electronic signature pursuant to the Electronic Commerce Act 2000 S.O. 2000, C.17 as amended from time to time with respect to this Agreement.
7. This Agreement and all other agreements, security and documents to be delivered in connection with this Agreement shall be governed by and construed in accordance with the applicable laws of the Province of Ontario and the laws of Canada applicable therein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

THE CORPORATION OF THE TOWN OF TECUMSEH

Per: _____
Name: Gary McNamara
Title: MAYOR

Per: _____
Name: Laura Moy
Title: CLERK

XXX Inc. - Owner

Per: _____
Name:
Title:

YYY Inc. - Contractor

Per: _____
Name: