

DEVELOPMENT AGREEMENT

Between:

The Corporation of the Town of Tecumseh

-and-

851381 ONTARIO LTD.

**(SYLVESTRE COMMERCIAL/INDUSTRIAL SUBDIVISION
County Road #42)**

TOWN FILE: D12 SYL42

PREPARED BY:

WOLF HOOKER PROFESSIONAL CORPORATION

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DEVELOPMENT AGREEMENT

THIS AGREEMENT made in quintuplicate this _____ day of _____, 20 ____.

B E T W E E N:

THE CORPORATION OF THE TOWN OF TECUMSEH

OF THE FIRST PART

-and-

851381 ONTARIO LTD.

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 the County of Essex, as approval authority, has given draft plan approval to the division of the Lands in accordance with Section 51 of the Planning Act, R.S.O. 1990, c.P.13 and amendments thereto;

AND WHEREAS in accordance with Section 51(26) of the Planning Act, R.S.O. 1990, c.P.13, as a condition of the draft plan approval, the approval authority requires the Owner to enter into an Agreement with the Town;

AND WHEREAS this Agreement is authorized by and its terms form 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 Schedules and figures attached thereto by original, copy or reduced copy, the Design Information and any amendment thereto;

Approvals shall mean the permits and/or approvals of a Relevant Authority as per Section 3.1.2 h).

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.

Consulting Engineer means the professional engineer retained under Section 3.1.2 of this Agreement.

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

Environmental Laws means all applicable federal, provincial, municipal and local laws, regulations and orders issued by any governmental or regulatory agency relating to the environment, occupational health and safety, product safety, product liability and storage of Designated Substances and transportation of goods

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

Lands shall mean those lands described on Schedule A to this Agreement.

Municipal Services shall mean those Services integrated into the Town's municipal services located on municipally owned land or municipal rights of ways and other municipal easements and designated by the Town, at the Town's sole discretion, for assumption by the Town in accordance with the terms of this Agreement.

Provide and/or Provision shall mean and include, in respect of Services, an obligation to install, repair, maintain, operate and/or decommission a Service at the expense of the Owner.

Relevant Authority(ies) means a public authority (other than the Town) or a public or private utility that has mandate or authority by statute, regulation or other such legal authority to regulate or provide a Service.

Schedules shall mean the schedules attached hereto by original, copy or reduced copy and forming part of this Agreement;

Services shall mean all municipal and other works, facilities, or services called for under this Agreement including, without limitation, all appurtenances, devices, equipment, works, matters or things necessary or incidental thereto, including, where applicable, roadways, pathways, sidewalks, curbs, gutters, storm sewers, stormwater management facilities, water services, fire hydrants, sanitary sewers, swales, electrical distribution works, noise barriers, trees, sod, seeding, streetlights and natural gas mains and without limitation, Special Works. 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 domestic utilities and telecommunication services provided by parties such as Hydro

One, Essex Power Corporation, Bell Canada, Enbridge, Managed Network Systems Inc. and Cogeco Cable Systems Inc., their servants, agents, successors and assigns;

Special Works shall mean those referenced in Schedule “P” and/or subsection 3.1.4.17 of this Agreement.

Substantial Completion shall mean the date of substantial completion in accordance with the Construction Act, R.S.O. 1990, c. C.30 as amended or replaced.

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:

- 3) 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 Owners 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

Except as expressly otherwise provided in this Agreement, the Owner agrees to Provide 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 until: a) expressly and specifically assumed by the Town (where the Service is a Municipal Service); or b) otherwise assumed expressly and specifically by a Relevant Authority.

3.1.2 Owner’s Engineer

The Owner shall retain, at the Owner’s expense, a Consulting Engineer registered with Professional Engineers Ontario to design the Services, oversee the installation of the Services and to attend to all matters and things required by this agreement as a prerequisite for the assumption of the Municipal 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 contract administration and 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 Services by way of a geotechnical report;
- g) Coordination, scheduling and chairing of site meetings and preparation and distribution of meeting minutes;
- h) Preparation of and submission of “as-built” drawings to the Town (and all other authorities having jurisdiction); and
- i) Assisting the Owner who shall obtain and provide to the Town any and all reports, permits or approvals from any Relevant Authority.

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 Relevant Authorities 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, the MTO 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. In no case shall the Developments be permitted to shed water onto the abutting lands. In order to ensure conformity to the lot grading plan the Owner shall have the approved elevations as per the lot grading plan verified by an Ontario Land Surveyor at the following stages of construction:

- (a) Prior to the pouring of the finished floor (top of floor elevation); and
- (b) Following completion of construction;

Where the finished grade of the 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 Stormwater Management Plan

The Owner shall prepare a design report that encapsulates all aspects of municipal site servicing, inclusive of Stormwater Management (herein “The Design Report”) for the Lands to the satisfaction of the Town, the Town’s Engineer and ERCA in accordance with this paragraph and Schedule D, and shall install/construct the master stormwater management measures identified therein (herein “the storm works”). Each individual lot Owner shall provide a Lot Stormwater Management Plan for each lot within the Development as part of the Site Plan Control Agreement for each Lot in the Development to the satisfaction of the Town, the Town’s Engineer, ERCA and the requirements of the Design Report and further, the Owner shall install/construct the lot stormwater management measures as identified in the Lot Stormwater Management Plan.

3.1.3.5 Plan of Subdivision

The Owner, at the Owner’s expense, shall engage a registered Ontario Land Surveyor to prepare and submit a Subdivision 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, 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 asset 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 forgoing, the Ministry of Environment (Ontario) (herein "MOE"). The Owner shall provide satisfactory documentation evidencing completion of work in accordance with Town's Approved Consolidated Linear Infrastructure Environmental Compliance Approvals (CLI-ECA) for storm and sanitary sewer infrastructure. The Owner must ensure that all criteria related to the design, construction, and inspection of pre-authorized works, as outlined in the MECP's published Design Criteria document as amended (Design Criteria for Sanitary Sewers, Storm Sewers, and Forcemains for Alterations Authorized under an Environmental Compliance Approval), is met and confirmed by a Registered Professional Engineer.

The maintenance of the sanitary sewer Services shall remain the responsibility of the Owner until any such portions or all of such Services are expressly assumed by the Town as a Municipal Service.

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 asset out in Schedule "D". The servicing drawings will provide details of all storm drainage works, appurtenances and improvements necessary to accept the flow of stormwater occasioned by the Development, including stormwater 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 MOE and ERCA. The Owner shall provide satisfactory documentation evidencing completion of work in accordance with Town's Approved Consolidated Linear Infrastructure Environmental Compliance Approvals (CLI-ECA) for storm and sanitary sewer infrastructure. The Owner must ensure that all criteria related to the design, construction, and inspection of works, as outlined in the MECP's published Design Criteria document as amended (Design Criteria for Sanitary Sewers, Storm Sewers, and Forcemains for Alterations Authorized under an Environmental Compliance Approval), is met and confirmed by a Registered Professional Engineer. The maintenance of the Storm Drainage Services shall remain the responsibility of the Owner until any such portion or all of such Services are expressly assumed by the Town as a Municipal Service. The servicing drawings shall indicate the outlet for the storm drainage Services. Storm drainage Services shall drain to outlets approved by the Town. 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.

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 asset out in Schedule "E". The servicing drawings will provide details of all water services, appurtenances, infrastructure and improvements necessary to provide water services to the lands, and all such water service works, appurtenances, infrastructure and improvements shall be installed as described in all relevant governmental authorities and legislative documents, including, but not limited to, SDWA 2002, Ontario Regulation 170/03, Ontario Regulation 169/03 and approved AWWA standards. Verification of the watermain design shall be certified by a Registered Professional Engineer in accordance with the conditions provided under the MECP's published "Form 1 – Record of Watermains Authorized as a Future Alteration." The Owner shall ensure that Form 1 is signed by the Engineer and submitted to the Town prior to the commencement of the construction of Services. The Owner shall ensure that all materials and supplies relating to water service appurtenances and infrastructure installation follow the Town's standards and specification document as referenced in Schedule "E". To ensure compliance and conformance during water service installation operations, Town of Tecumseh certified water service operator(s) shall be on-site. The maintenance of the water Services shall remain the responsibility of the Owner until any such portion or all of such Services are expressly assumed by the Town as a Municipal Service.

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 asset 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 any such portion or all of such Services are expressly assumed by the Town as a Municipal Service.

3.1.4.7 Electrical Services

The Owner shall construct 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 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". 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 and poured separately and prior to the pouring of the abutting driveway approach. The sidewalk shall be constructed with a 2% cross-fall and be of the same cross-section as required for the driveway approach.

3.1.4.9 Trees

The Owner shall provide trees in accordance with the requirements of this Agreement including, but not limited to, the terms and specifications as set out in Schedule "I".

3.1.4.10 Driveway Approaches

Prior to obtaining the building permit for each lot, the Owner (which includes any successor in title) to such lot shall obtain a driveway permit from the Town and construct driveway approaches for each lot in accordance with this Agreement, including but not limited to, the Design

Information and the terms and specifications asset 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. 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 Municipal Services by the Town. Driveway approaches shall be built from the curb to the front property line.

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 and prior to the pouring of the abutting driveway approach. The sidewalk shall be constructed with 2% cross-fall and be of the same cross-section as the driveway approach.

3.1.4.11 Private Utility and Telecommunication Services

The Owner shall ensure that private utility and telecommunication Services are installed to service the lands. The private utility and telecommunication 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 Gas Inc., Managed Network Systems Inc. and any other suppliers of private utilities and telecommunication Services. The Owner shall also ensure that all private utility and telecommunication Services are installed in locations approved by the Town and Relevant Authority and in accordance with the Design Information and sized to accommodate the range of uses permitted under the Town’s zoning by-law for these lands. Any costs related to the installation of a Service not paid for by the Relevant Authority shall be paid for by the Owner.

In addition, the Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

3.1.4.12 Notification and Permits

The Owner hereby agrees to notify all Relevant Authority 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 with the Town, contractors, the Consulting Engineer and the Relevant Authorities.

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 Design Information 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 awarded 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. Further, the Owner shall include the warning clause detailed in Schedule “Q” into all Agreements of Purchase and Sale, Leases and Transfers for all lots within the development Lands

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 "super mailboxes". The Owner shall, at its own expense, make satisfactory arrangements with Canada Post regarding the location of the "super 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.

In addition, the Owner shall provide the following for each community mail box site and to include these requirements on the appropriate servicing plans: 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.

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 and any other applicable legislation including, without limitation, O. Reg 406/19: Onsite and Excess Soil Management under the Environmental Protection Act, R.S.O. 1990 as amended from time to time.

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.

3.1.11 Archaeological Assessment

The Owner shall have a licensed consultant archaeologist carry out and complete an archaeological assessment of the subject property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No grading or other soil disturbances shall take place on the subject property prior to the Town and the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have been addressed. Such study shall identify any staged completion of the works otherwise called for under this agreement as may be approved by the Town and Ministry.

3.1.12 Environmental Impact Assessment

Intentionally deleted

3.1.13 Traffic Impact Assessment

The Owner shall update, finalize and thereafter implement (including constructing the works called for by) the Traffic Impact Assessment prepared for the Owner by AECOM, dated October 29, 2021, in accordance with the comments provided by the County of Essex, to the satisfaction of the Town and the County of Essex Infrastructure Services. The Owner shall undertake all of the works and complete all of the recommendations contained in the Traffic Impact Assessment.

3.1.14 Warning Clauses

The Owner further agrees to insert the “Warning Clauses” detailed in Schedule “Q” into all Agreements of Purchase and Sale, Leases and Transfers for all lots within the Lands.

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, Relevant Authorities, and the Town, including without limitation, any approval or clearance called for in the body of this agreement or any schedule attached hereto.

4.2 BUILDING PERMITS

No Building Permits for the construction of buildings on the lands shall be issued until: a) the Conveyances and Easements called for in Schedule L have been provided; and b) 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

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. 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.

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 retained in relation to Article 2.1 of this Agreement.

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

Refer to 6.2 below.

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 obtain an offer to connect or connection agreement from and 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 foregoing, 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 watermain constructed under this agreement to existing water main infrastructures 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 watermain 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 "L and/or M";
- g) walkways or pathways required including those described in Schedule "H" and
- h) stormwater management facilities including those described in Schedule "D" or "L".

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 to the extent such a conveyance is required to accommodate a Municipal Service provided under the terms of this Agreement and not otherwise accommodated by an easement in favour of the Town or located within lands already owned by the Town.

6.1.2 Easements

The Owner shall convey or dedicate in such locations and at such time 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 Relevant Authority, including but not limited to easements for:

- a) Easements to a Relevant Authority for a Service;
- b) easements for applicable telecommunication service providers;
- c) Enbridge Gas easements;
- d) Hydro One and/or Essex Power Corporation easements;
- e) Floodway corridor easements;
- f) Easements required by the Town for Municipal Services including those described in Schedule "L";
- g) Easements for sidewalks or pathways including those described in Schedule "H"; and
- h) 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. Easements shall be in a form prescribed by the Town or Relevant Authority.

6.2 PARKLAND DEDICATION

Subject to particulars set out in Schedule "L" 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 percent (50%) of the value of the construction cost of the Services 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 such portion of 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 or Credit Union registered pursuant to the provisions of the Credit Union and Caisses Populaires Act, Ontario on its letterhead in the form annexed as Schedule "N". In no event shall the Town be required to pay interest, opportunity cost, lost profit or the like on this security.

7.1.2 Release of Performance Security

The security required under this section shall 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 twenty percent (20%) 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 or Credit Union on its letterhead in the form annexed as Schedule "N".

In no event shall the Town be required to pay interest, opportunity cost, lost profit or the like 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) the construction of all Services required to be Provided by the Owner have been substantially completed in accordance with the provisions of *The Construction Lien 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 Lien Act* of Ontario;
- (c) the period specified in the advertisement has expired and is in accordance with the provisions of *The Construction Lien Act* of Ontario;
- (d) a subsearch 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 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 and that the deficiencies in the Services as identified by the Owner's Engineer have been corrected or otherwise detail the outstanding deficiencies, 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 subject to any outstanding deficiencies as detailed in the notice, 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, 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:

- a) placing the Services on maintenance; and
- b) 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 or Credit Union on its letterhead in the form annexed as Schedule "N".

In no event shall the Town be required to pay interest opportunity cost, lost profit or the like on this security.

The Town may, at the Town's sole discretion, maintain, apply and/or use the Maintenance Security to assure both:

- a) the satisfactory Provision 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 and the Owner agrees to provide this Security during the maintenance period, the amount of which shall be at the Town's satisfaction acting reasonably to assure completion and/or Provisions 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 Owner's 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, performance, operations, maintenance, repair and/or replacement 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 of Municipal Services and Release of Security

The maintenance period 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 Town shall not assume responsibility for the provision of any service that is not a Municipal Service. To the extent the terms of an Approval require the Relevant Authority to consent to the assumption of the Municipal Service, the Town may require the Owner to arrange for such consent and/or such transfer of the Approval by the Owner to the Town at the expense of the Owner. Upon formal assumption of the Municipal Services, title and responsibility for the Municipal Services shall vest in the Town.

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 the assumption of Municipal Services shall not take place until buildings have been constructed upon forty per cent (40%) 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 with sewer cameras to confirm that no deficiencies exist and that the storm sewers are in good working condition;
- (c) flush clean all sanitary sewers;
- (d) inspect all sanitary sewers with sewer cameras to confirm that no further deficiencies exist and that the sanitary sewers 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

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 generally not be released until assumption of the Municipal Services by the Town. Should however the maintenance period be extended in

accordance with the provisions of this section then the maintenance security may be reduced to the cumulative value of all deficiencies works, matters, and things that remain outstanding, at the Town's sole determination and discretion.

7.3 INDEMNITY AND INSURANCE

The Owner shall indemnify and save harmless the Town and its agents, officers, and employees 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, the Town, (and the Corporation of the County of Essex where the Lands are adjacent to a County Road), shall be named as additional insured respecting such liability to a minimum of FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence. The Owner shall provide the Town with a certified copy of such policy prior to the commencement of construction of any of the facilities and works referred to herein 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.

ARTICLE 8 DEFAULT

8.1 REMEDIES

If the Owner shall fail in the performance of any of the terms and conditions of this Agreement, 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 or Providing for any matter or thing required by this Agreement then the Town may complete or Provide such matter or thing at the Owner's expense and the cost for doing so may be added to the tax roll of any or all of the Lands 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, as a first charge, 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:

The Corporation of the Town of Tecumseh
917 Lesperance Road,
Tecumseh, ON
N8N 1W9

Communications sent to the Owner shall be addressed to:

851381 Ontario Ltd.
1865 Manning Road, Tecumseh, ON N9K 0B1

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 enure 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 which will not be unreasonably withheld or delayed provided the Owner is not then in default and all security has been posted.

10.12 TRUE COPY

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

10.13 SCHEDULES AND FIGURES

The Schedules and Figures attached 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.

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:

- (i) prepared this agreement or any part of it; or
- (ii) 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:

- (i) 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 do so; and
- (ii) that he *or* she *or* it understands the terms, and his *or* her rights and obligations, under this Agreement.

... see next page for signing...

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

SIGNED, SEALED AND DELIVERED

in the presence of:

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**THE CORPORATION OF THE
TOWN OF TECUMSEH**

Per: _____
Gary McNamara- MAYOR

Per: _____
Robert Auger- Director Legislative Services/Clerk

851381 ONTARIO LTD .

Per: _____
Jeannette Sylvestre, President
I have authority to bind the Corporation.

SCHEDULE “A”
THE LANDS

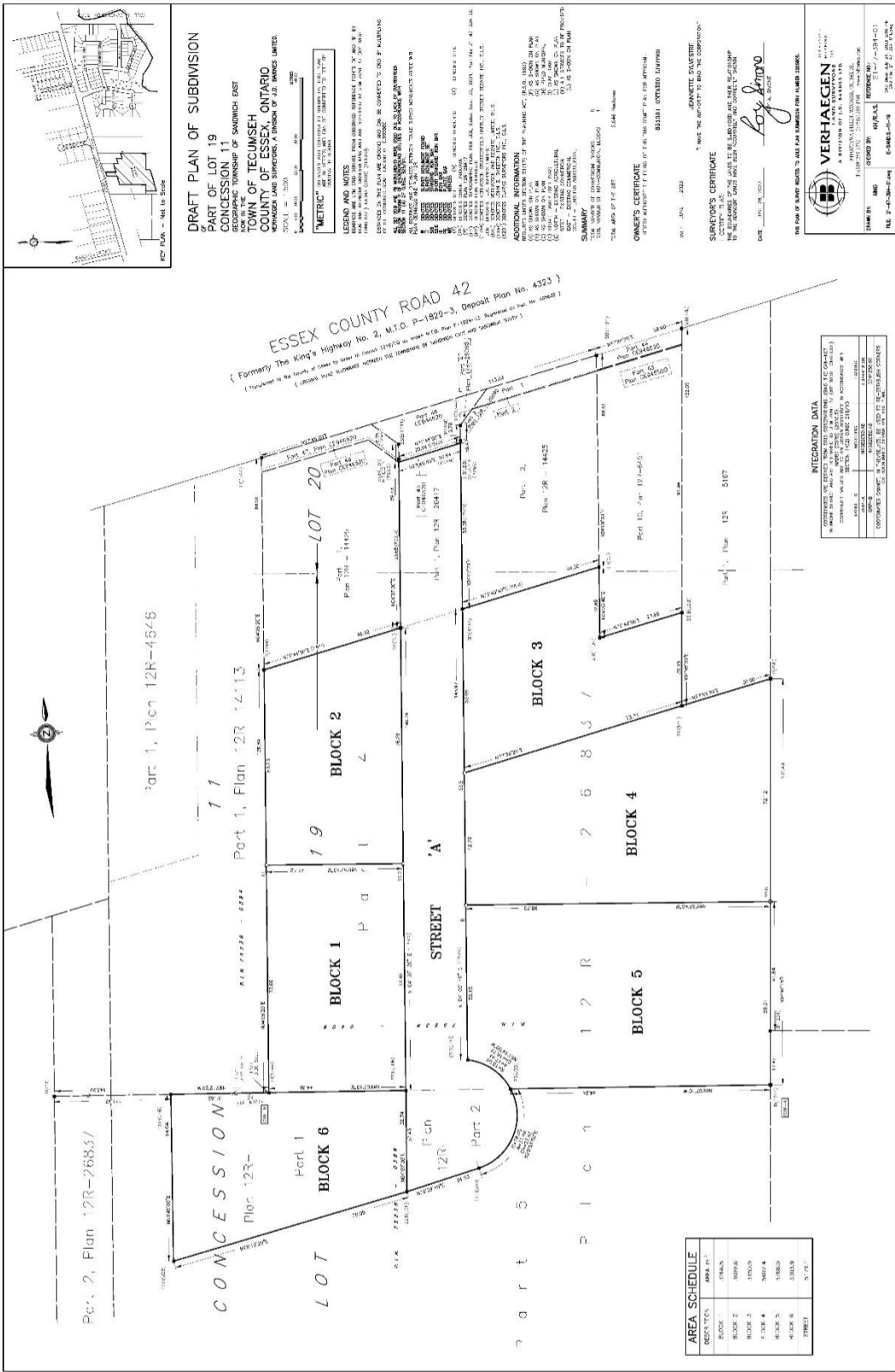
PINs all of 75238-0406 and part of 75238-0386

PT OF LOT19 Concession 11
In the TOWN OF TECUMSEH,
designated as Part(s) 1 AND 2 ON Plan 12-29393 and Part 4 on Plan 12R-26837

DRAFT PLAN OF SUBDIVISION

References to “the Draft Plan” in this agreement shall be a reference to the draft plan of subdivision as shown on Figure “A” attached hereto. Prior to final plan approval, the Owners shall submit a copy of the draft M-Plan for this subdivision to for review and approval. Upon the subdivision being given final approval, the MTO shall be provided with a copy of the registered plan for their files.

FIGURE "A" DRAFT PLAN



**SCHEDULE “B”
ROADWAYS**

ROADWAY

The Owner shall construct all roadways within the Development in accordance with the approved design information. In general the Roads shall be of curb and gutter construction.

The Owner shall provide for the repair of any damaged curbs prior to the placement of final course asphalt. The timing and scheduling of the completion of this work shall be subject to the approval of the Town.

Prior to commencement of site alteration and site servicing/construction of Services, the Owner shall obtain requisite permits from the County of Essex in accordance with County standards. A permit is required to be obtained from the County of Essex for the construction of Cedarhurst Avenue in accordance with County By-law #2481. Any and all signage visible from County Road 42 shall be identified on the plans and shall conform to the County guidelines and the Owner shall obtain a County sign permit prior to installation. Further, Owner acknowledges and agrees that the County requires the geometric design of Cedarhurst Avenue with County Road 42 for review and approval in advance of issuing any such permit..

ROADWAY LANE REQUIREMENTS

The roadway widths for all roadways within the Development shall be 8.6 metres from face of curb to face of curb. The curb shall be a barrier curb built to OPSD 600.040.

PAVEMENT CROSS-SECTION AND SERVICE TRENCHES

The Owner shall retain a Geotechnical Engineer to prepare a report detailing the design of the roadway cross section and service trenches.

The Owner shall provide for the inspection of the subgrade and roadway by a geotechnical engineer during the construction of the roadway. A copy of the resultant inspection report or other document deemed acceptable by the Town produced by the geotechnical engineer shall be provided to the Town forthwith.

SUBDRAINS

The Owner shall, at its own expense construct 150 millimetre diameter perforated sub-drains pre-wrapped with geotextile fabric (100mm if placed with a laser level) on either side of the new roadways.

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 to the satisfaction of the Town.

STREET NAMES

The Owner and the Town have agreed to the naming of the Street shown on the Draft Plan Cedarhurst Avenue on the Plan prior to its deposit/registration.

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 COUNTY ROAD 42

OFF-SITE ROAD IMPROVEMENTS BY THE OWNER

The construction of the intersection with County Road #42 shall be undertaken contemporaneously with the construction of Cedarhurst Avenue. The intersection and lane design shall meet all County requirements. The Owner's engineer shall prepare a drawing (to the County's satisfaction) showing all improvements required, including but not limited to, tapers and associated shoulder and drainage works to verify that the work can be accommodated within the existing right of way and with future planned roadway improvements to County Road 42; without any property acquisition.

The Owner shall be responsible for any Road Improvements that are not required immediately but that are identified (as part of the Draft Plan approval process) by the County as being required in the future as a result of the Development. Any such future Road Improvements shall be the responsibility (financially or otherwise) of the Owner and must be addressed to the County's satisfaction before any permits will be issued. No further accesses to County Road _42_ from the Lands will be considered by the County.

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

The Owner shall construct new sanitary sewers within the Development with sufficient capacity to service the lots within the Development.

SERVICE CONNECTIONS

The Owner shall provide ONE (1) 125 mm diameter individual sanitary sewer connection to each building lot within the Development.

SCHEDULE “D”
STORM DRAINAGE

STORM DRAINAGE SERVICES DESIGN CRITERIA

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

The storm drainage services design criteria and stormwater management for this development is to be in accordance with the County Road 42 Commercial Development Design Report , County Road 42 Commercial Development (Cedarhurst Avenue) Drawing Set and related engineering drawings, as prepared by AECOM Canada Ltd. (AECOM) as finally approved by and subject to the comments provided by ERCA and the Town (all of which inclusive of any terms or conditions of approval in Town or ERCA comments is herein referred to as the “County Road 42 Commercial Development Design Report” or “Design Report”).

In order to assure the proper operation and maintenance of the Stormwater Management Facility. The Town shall assume the Stormwater Management Facility and associated outlet as part of the Municipal infrastructure.

STORM SEWER SERVICES

Prior to commencing any site alteration or construction of Services the Owner shall submit and obtain approval of plans designed by the Owner’s consultant and approved by the Essex Region Conservation Authority, the County of Essex, and the Municipality for the storm sewer infrastructure located on County Road 42, and complete all construction work for this storm sewer infrastructure so as to ensure a fully functioning outlet to the servicing for the proposed development, ,.

The Owner shall construct new storm sewers within the Development with sufficient capacity to store and convey the one in five year rainfall event. Water quantity and quality measures shall be incorporated as part of the storm sewer system to the satisfaction of the Town and all other requisite governmental authorities.

SERVICE CONNECTIONS

The Owner shall provide each lot with an individual storm service connection to the new storm sewers to be constructed within the Development, in accordance with the Design Information. For greater certainty, refer to Figure D.

ROOF WATER LEADERS

Roof water leaders will be discharged onto the lawn or parking lot of each building lot, except where to do so would cause an unsafe condition.

SITE DRAINAGE

The Owner hereby acknowledges and confirms that Individual Lot Stormwater Management Plans may be required to be prepared and implemented for each Lot within the Development (in accordance with the approved County Road 42 Commercial Development Design Reportas part of the Site Plan Control Agreement process.

As per the County Road 42 Commercial Development Design Report, the development of each lot within this subdivision may be subject to stormwater management design criteria in consideration of the following:

- The proposed stormwater management system for the development and associated

dry pond are intended to provide the required stormwater quantity and quality controls for the whole development assuming the building lots have a final runoff coefficient of $C=0.90$ or less. Should development of any lot exceed a runoff coefficient of 0.90 an additional supplementary lot-level stormwater management system will be required pursuant to the provisions of the Windsor/Essex Regional Stormwater Management Standards Manual (2018).

In the event that lot-level storm water management is necessary to accommodate individual lot development, the Owner hereby acknowledges that Individual Lot storage requirements may not be achievable by surface ponding in the parking lots alone; thereby requiring additional storage in grassed swales, on-site ponds, and underground storage facilities.

A minimum freeboard depth as measured from the 1:100 year design high water level to the lowest building opening should be a minimum of 0.3 metres.

Important Note to Proponents and Practitioners: Minimum freeboard depth is a flood proofing measure based on a minimum standard level of service, which has been defined as a 1:100 year design storm. The prescribed on-site storage requirements do not guarantee that a given site will never flood but rather, they provide mitigating measures to achieve a low risk of flooding. Where an individual site's potential damages due to flooding are high, it is the practitioner's responsibility to design to a more conservative standard or to provide a sufficient emergency flow route in accordance with the proponent's site specific needs.

EXISTING DRAINAGE TILE

There exists a possibility that abandoned drainage tiles may be encountered during the excavation of footings for buildings being constructed on lots within this 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.

PRIVATE RETAINING WALLS AND BERMS

As part of the construction of the proposed development, the Owner shall be responsible for the design and construction of PRIVATE retaining walls and berms in accordance with the County Road 42 Commercial Development (Cedarhurst Avenue) Drawing Set. The private retaining walls and berms are generally located around the exterior perimeter of Blocks 1-5 and are intended to serve as a component of the storm water management system to ensure that the 1:100 year flood level is contained within the limits of the development. Private retaining walls and berms of this nature are not to be removed, destroyed, altered or otherwise injured by the Owner or successive owners of lots within the subdivision. Future repair and maintenance of these walls and berms will be the responsibility of the lot owner(s) as it relates to the portion of wall/berm within such lot entirely at their cost. Reciprocal access shall be granted by future owners to abutting future owners to accommodate such future repair and maintenance of retaining walls and berms vis a vis abutting lot owners as contemplated and required by By-law 2023-086 (Right of Access for Maintenance) authorized by Section 132 of the Municipal Act. In the event such reciprocal access is not granted and maintained and/or repair and maintenance is not carried out by the responsible lot owner, the Town may, without obligation to do so, attend on site to address a failure to maintain or repair any such wall or berm as part of its rights under section 8.1 of the main body of the agreement to which this Schedule is appended /or in such manner(s) as may be authorized under the Municipal Act.

PUBLIC RIGHT-OF-WAY RETAINING WALLS AND BERMS

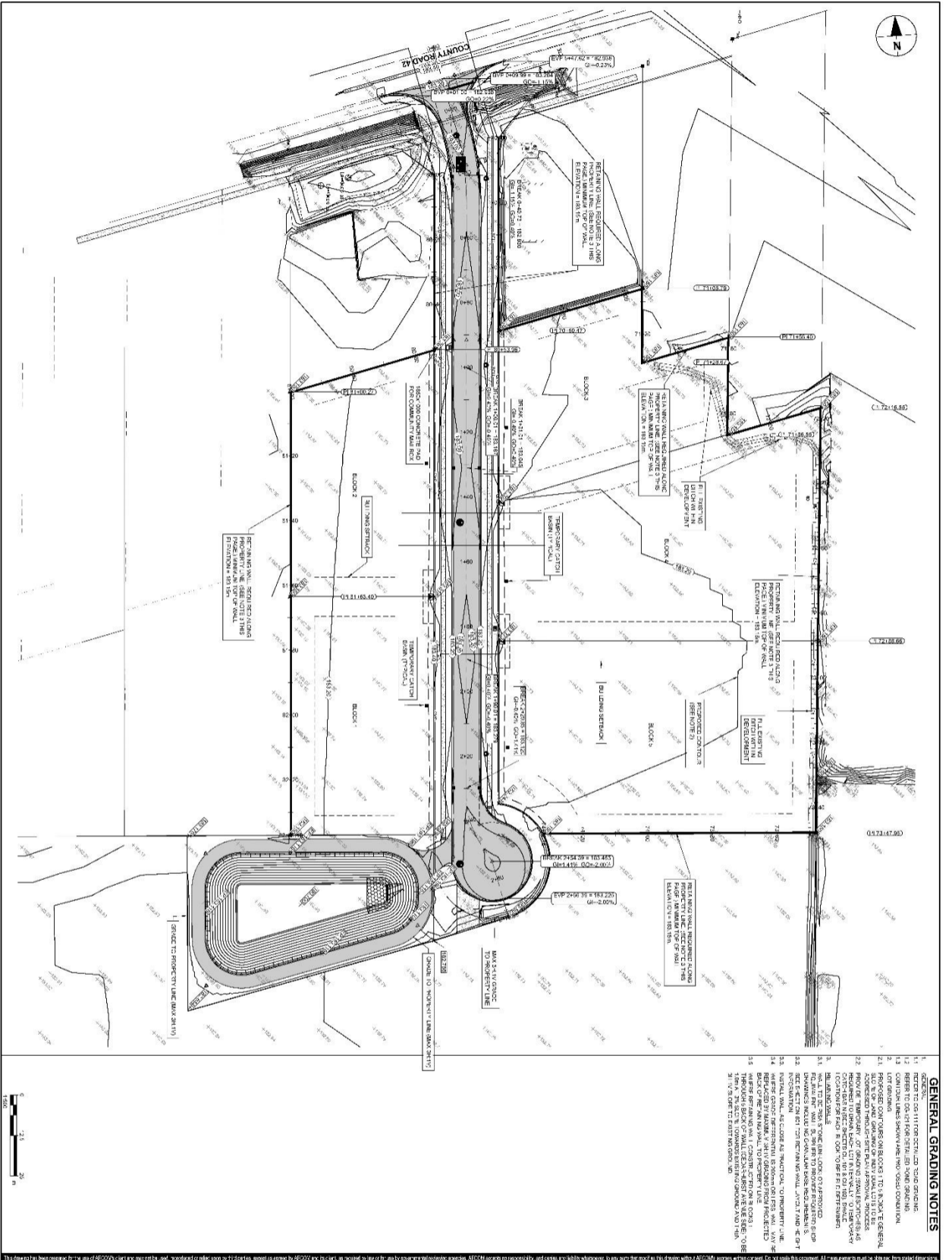
As part of the construction of the proposed development, the Owner shall be responsible for the design and construction of PUBLIC retaining walls and berms in accordance with the County Road 42 Commercial Development (Cedarhurst Avenue) Drawing Set. The public retaining walls and berms are generally located on both sides of the public right-of-way of Cedarhurst Avenue, south of the intersection of County Road 42. These walls and berms are intended to serve as a component

of the storm water management system to ensure that the 1:100 year flood level is contained within the limits of the development. Public retaining walls and berms of this nature are not to be removed, destroyed, altered or otherwise injured by the Owner or successive owners of lots within the subdivision. Future repair and maintenance of these walls and berms will be the responsibility of the Town.

FIGURE "D" TYPICAL LOT SERVICES DRAINAGE AND GRADING LAYOUT

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Project Management Initials Designer Checked Approved: ARC:10.24" x 36"



GENERAL GRADING NOTES

1. REFER TO SHEET 40-0001 FOR GENERAL GRADING NOTES.
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100. REFER TO SHEET 40-0001 FOR GENERAL GRADING NOTES.

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REGISTRATION

ISSUE/REVISION

NO.	DATE	DESCRIPTION
1	2023-11-09	ISSUED FOR PERMIT REVIEW
2	2023-11-09	ISSUED FOR PERMIT REVIEW
3	2023-11-09	ISSUED FOR PERMIT REVIEW
4	2023-11-09	ISSUED FOR PERMIT REVIEW
5	2023-11-09	ISSUED FOR PERMIT REVIEW
6	2023-11-09	ISSUED FOR PERMIT REVIEW
7	2023-11-09	ISSUED FOR PERMIT REVIEW
8	2023-11-09	ISSUED FOR PERMIT REVIEW
9	2023-11-09	ISSUED FOR PERMIT REVIEW
10	2023-11-09	ISSUED FOR PERMIT REVIEW

PROJECT INFORMATION

PROJECT NUMBER: 60960612

SHEET TITLE: TYPICAL LOT SERVICES DRAINAGE AND GRADING LAYOUT

PROJECT LOCATION: COUNTY ROAD 42

CLIENT: AECOM

CONSULTANT: AECOM

PROJECT MANAGER: [Name]

DESIGNER: [Name]

CHECKER: [Name]

APPROVED: [Name]

SCHEDULE “E”
WATER

WATER MAINS

The Owner shall construct new water mains within the Development to service the Lands with water services and fire protection to the satisfaction of the Town and the Town’s Engineer.

WATER SERVICE DESIGN CRITERIA

The water service design criteria shall be to the satisfaction of the Town and the Town’s Engineer. 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 under the heading “Water Department”.

WATER SERVICES

The Owner shall install water Services to the lot line for each lot within the Development. All water Services shall be installed to the satisfaction of the Town and the Town’s Engineer.

WATER METERS

Remote registry water meters shall be installed as specified by the Town’s Water Department.

SCHEDULE "F"
STREET LIGHTING / GENERAL LIGHTING

STREETLIGHT SPECIFICATIONS

Streetlights shall be designed to provide illumination levels to ANSI/IESNA RP-8-14 based on the applicable roadway classifications. Streetlights shall be standard roadway type to the Town's standards, as generally described below:

- 30' direct buried, Class A, round, spun concrete poles as manufactured by Stresscrete model number E-300-APR-G
- One (1) fixture arm 4' or 6' in length, elliptical, aluminum mast arm to suit the application and design
- Standard LED roadway type street light fixture complete with 20-year life photocell control. Road focus series LED fixture, wattage and LED module size as required by the designer, wattage to be field adjustable, wired for universal voltage (120-277 V) operation, 4000K, distribution pattern to be type II or type II medium (ASYM) as required by the designer, individual photocell receptacle and photocell, and leveling device. Manufactured by Philips Lighting Canada, Cat. No. RFS-__W__LED4K-T-R__M-UNIV-FAWS-RCD-GY3

The Owner shall submit electrical drawings and photometric calculations for the Development to the Town and the Town's Engineer for approval. No work shall begin until the Town has approved the drawings as submitted.

LOCATION OF STREETLIGHTS

The Owner shall supply a street lighting plan for the Development to the County of Essex, the Town and the Town's Engineer to be approved by same.

SCHEDULE "G"
ELECTRICAL SERVICES

ELECTRICAL SERVICES

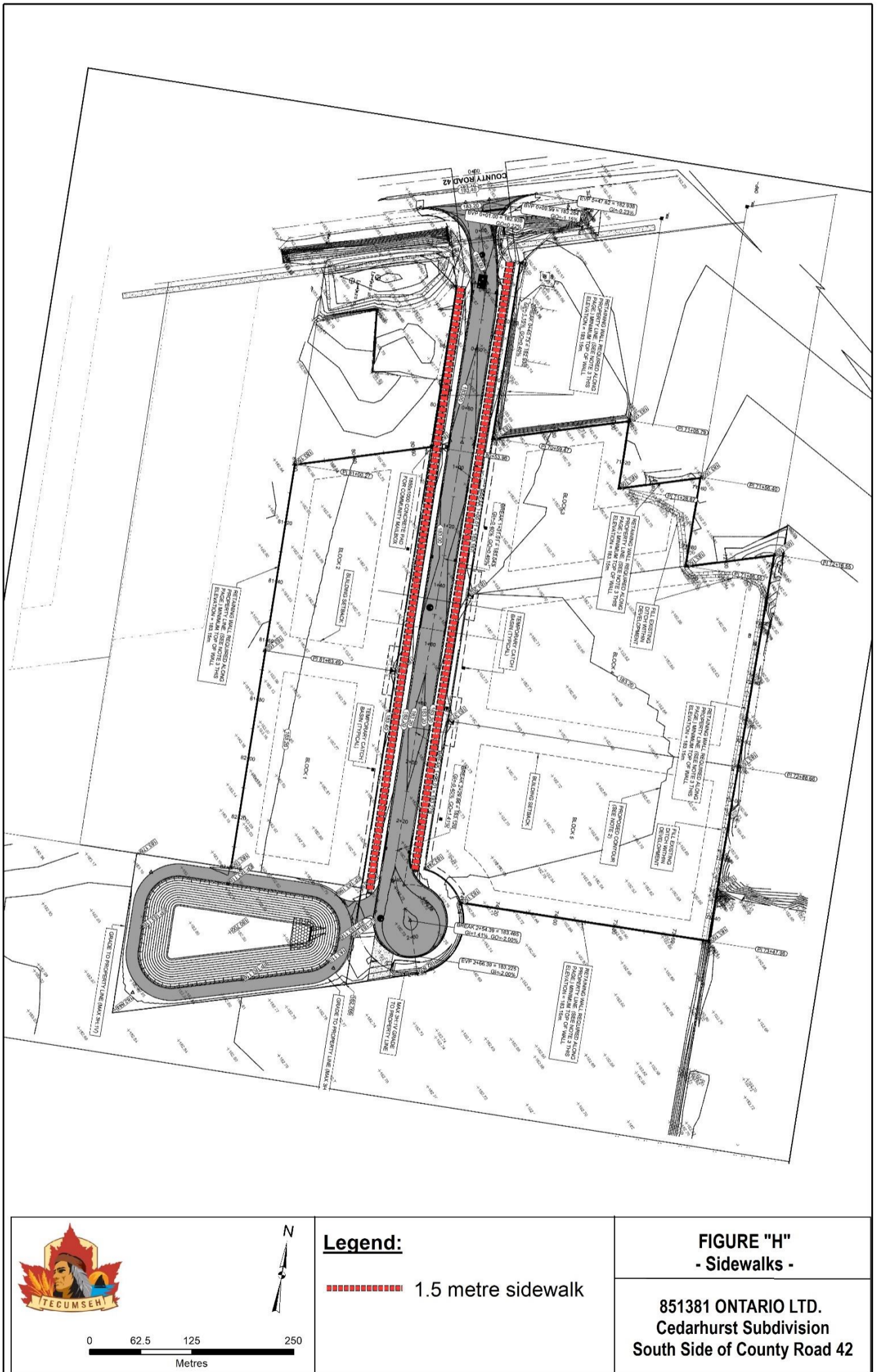
The Owner shall, at the Owner's expense, coordinate the design and construction of the electrical system for the Development, including all related private utilities and street lighting.

SCHEDULE “H”
SIDEWALKS AND PATHWAYS

SIDEWALKS AND PATHWAYS

The Owner shall construct sidewalks in accordance with the approved design information and OPSD 310.010, 310.039, and 310.030. Where a sidewalk passes through a driveway approach it shall be constructed as shown on Figure “H”. Sidewalks shall be 1.5m wide and generally spaced 1.9 metres from the back of the curb.

**FIGURE "H"
SIDEWALKS AND PATHWAYS**



SCHEDULE “I”
TREES

The Owner shall install one boulevard tree for every twelve metres of boulevard between the sidewalk and the curb. Where there is no sidewalk, the owner shall install one boulevard tree for every twelve metres of boulevard located not greater than 2.4 metres from the curb. The species, timing of the installation and location of the trees (minimum 60 mm calliper) to be planted shall be determined by the Town subsequent to the construction of the driveways on the lots within the Development.

SCHEDULE “J”
DRIVEWAY APPROACHES

DRIVEWAY APPROACHES

Prior to obtaining the building permit for each lot, the Owner (which includes any successor in title to such lot) shall construct a driveway approach for each lot in accordance with Figure “J” attached hereto.

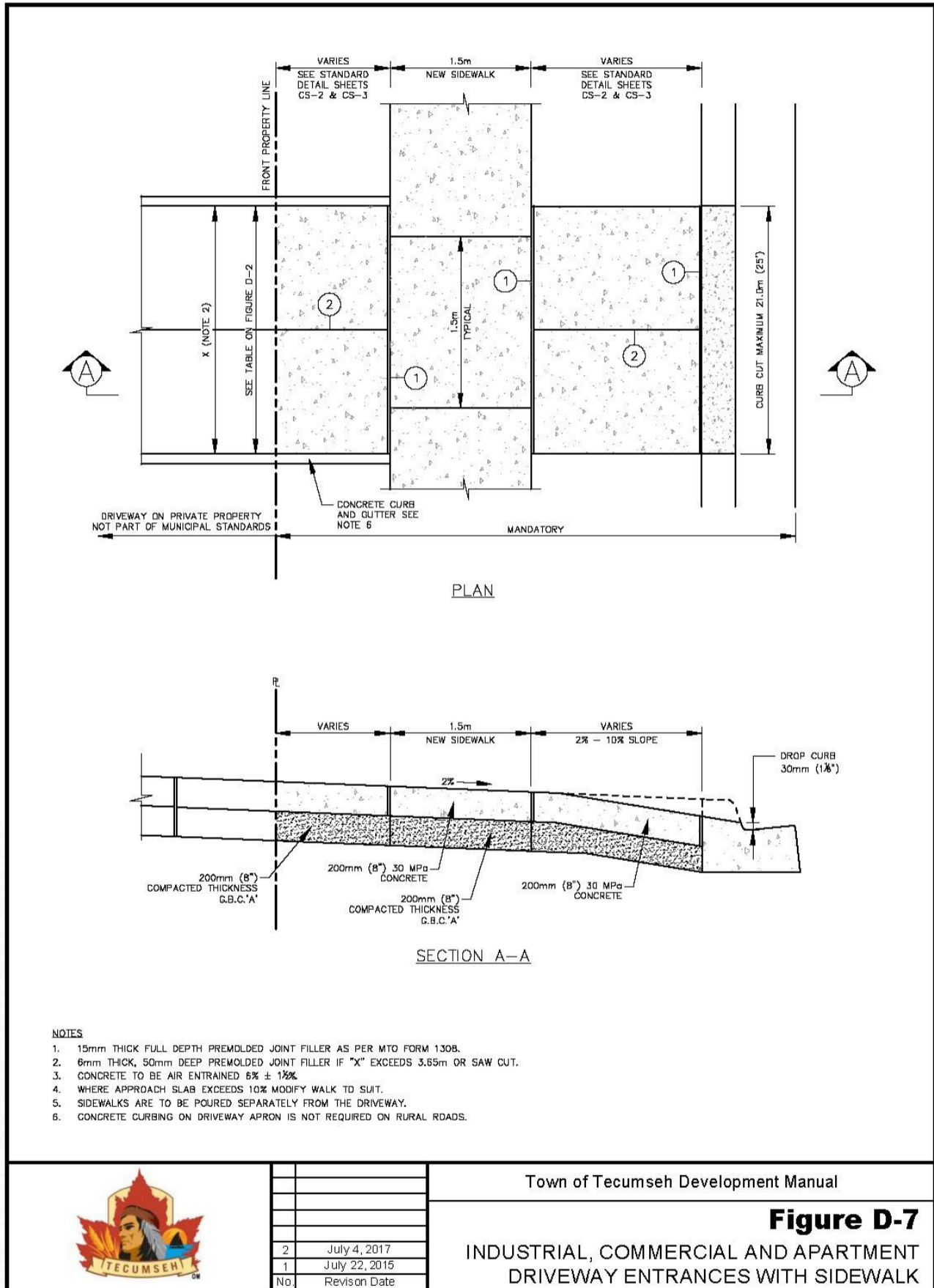
The Driveway approach shall not be constructed prior to the construction of the sidewalks within the Development. Sidewalks shall be constructed through the driveway approach and the driveway approach shall be subsequently constructed to abut the sides of the sidewalk. Where it is proposed that a driveway approach be constructed prior to the placement of the sidewalk as a whole, then the sidewalk shall be formed through the driveway approach and poured separately from the pouring of the abutting driveway approach. The sidewalk shall be constructed with 2% cross-fall.

Driveway approaches shall be of concrete construction in accordance with “Figure J”.

FARM ACCESS DRIVEWAY APPROACH

As part of the development, the Owner shall construct a single farm access driveway approach according to the County Road 42 Commercial Development (Cedarhurst Avenue) Drawing Set. Said approach shall provide access to the abutting agricultural lot to the immediate south of the development and shall be constructed at the south end of the new cul-de-sac. The Farm Access Driveway approach shall be of concrete construction and in accordance with “Figure J-”.

FIGURE "J" DRIVEWAY APPROACHES



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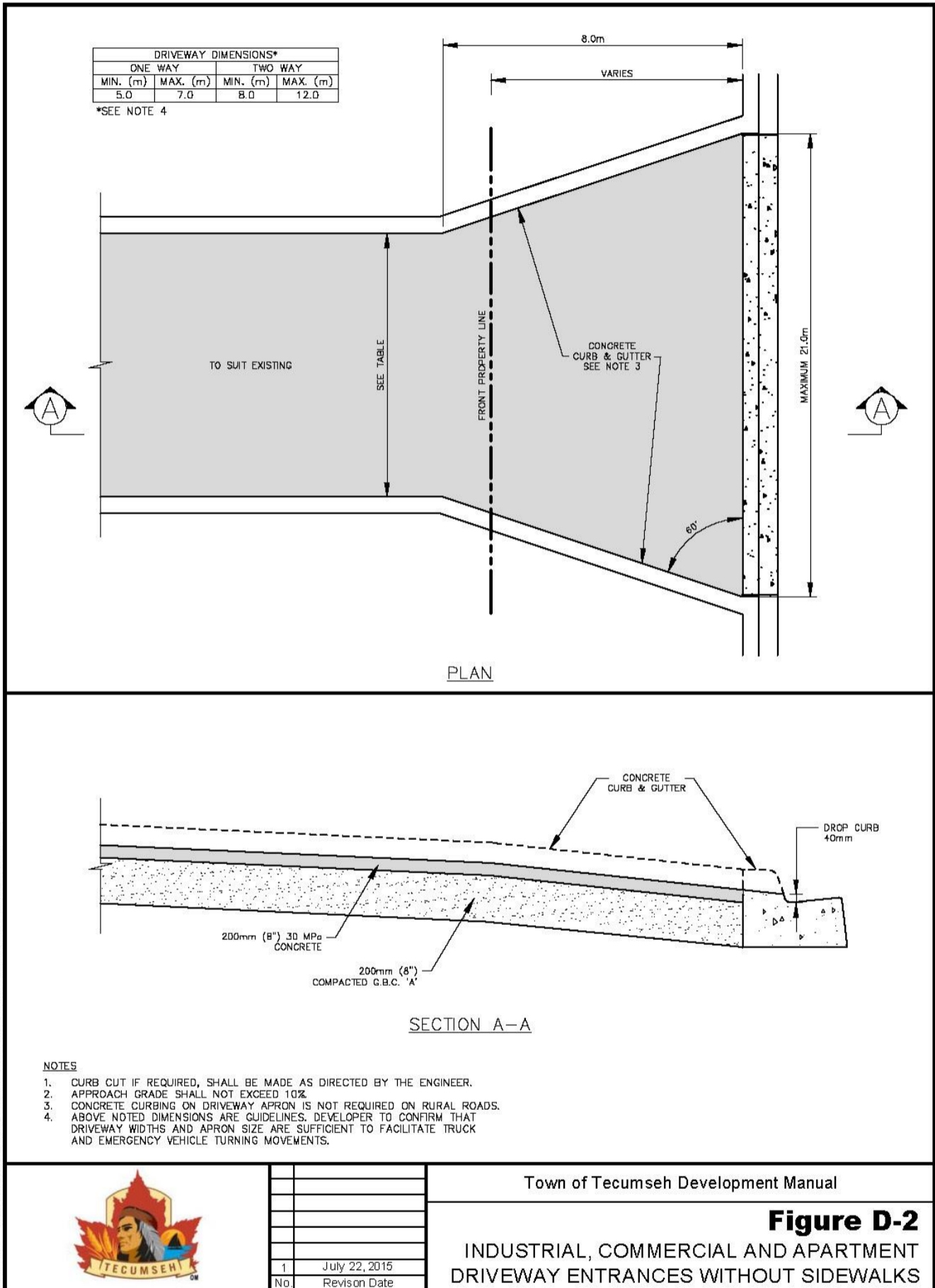


2	July 4, 2017
1	July 22, 2015
No.	Revision Date

Town of Tecumseh Development Manual

Figure D-7
INDUSTRIAL, COMMERCIAL AND APARTMENT
DRIVEWAY ENTRANCES WITH SIDEWALK

FIGURE "J-1"
FARM ACCESS DRIVEWAY APPROACHES



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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 all buildings on the lands.

SCHEDULE "L"
CONVEYANCES AND EASEMENTS

All conveyances set out herein shall be made at the expense of the Owner.

The Owner shall convey Block __6__ to the Town of Tecumseh for use as a stormwater management pond.

The Owner shall convey all of the Cedarhurst Avenue road allowance to the southerly limit of County Road 42 as shown on the Draft Plan.

SCHEDULE "M"
PARKLAND DEDICATION

CASH IN LIEU OF PARKLAND

Cash in lieu of parkland dedication (pursuant to the provisions of the *Planning Act* R.S.O. 1990) shall be \$6,960.00 for this Development, said amount being payable prior to the release of building permits for the Development.

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

Noise abatement measures are not required for this Development. Should however noise control measures be required by any governmental authority at any future date, then said noise control measures shall be constructed at the then current owner of the relevant portion of the lands sole expense.

SCHEDULE "P"
SPECIAL WORKS

None

**FIGURE "P"
SPECIAL WORKS**

Not applicable

SCHEDULE “Q”
WARNING CLAUSES

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 of sales and purchase for each lot within the Development:

“The purchaser is hereby advised that the plans for this Development provide for the construction of a sidewalk in the boulevard on the east and westside of Cedarhurst Avenue.”

“The purchaser is hereby advised that mail service for this Development will 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”.

“The purchaser is hereby advised that noise abatement measures are not required for this Development. Should however noise control measures be required by any governmental authority at any future date, then said noise control measures shall be constructed at the current land owner’s sole expense.”

“The purchaser is hereby advised that the minimum freeboard depth is a flood proofing measure required as the minimum standard level of service, which has been defined as a 1:100 year design storm. The prescribed on-site storage requirements do not guarantee that a given site will never flood but rather, they provide mitigating measures to achieve a low risk of flooding. Where an individual site’s potential damages due to flooding are high, it is the purchaser’s responsibility to engage the services of a professional engineer to design to a more conservative standard or to provide a sufficient emergency flow route in accordance with the site’s specific needs.”

“The purchaser is hereby advised of the following individual lot restrictions respecting storm water management:The proposed stormwater management system for the development and associated dry pond are intended to provide the required stormwater quantity and quality controls for the whole development assuming the building lots have a final runoff coefficient of C=0.90 or less. Should development of any lot exceed a runoff coefficient of 0.90 an additional supplementary lot-level stormwater management system will be required pursuant to the provisions of the Windsor/Essex Regional Stormwater Management Standards Manual (2018).

In the event that lot-level storm water management is necessary to accommodate individual lot development, the Owner hereby acknowledges that Individual Lot storage requirements may not be achievable by surface ponding in the parking lots alone; thereby requiring additional storage in grassed swales, on-site ponds, and underground storage facilities.

A minimum freeboard depth as measured from the 1:100 year design high water level to the lowest building opening should be a minimum of 0.3 metres.”

“The purchaser is hereby advised that as part of the construction of the proposed development, the Owner shall be responsible for the design and construction of PRIVATE retaining walls and berms in accordance with the County Road 42 Commercial Development (Cedarhurst Avenue) Drawing Set. The private retaining walls and berms are generally located around the exterior perimeter of Blocks 1-5 and are intended to serve as a component of the storm water management system to ensure that the 1:100 year flood level is contained within the limits of the development. Private retaining walls and berms of this nature are not to be removed, destroyed, altered or otherwise injured by the Owner or successive owners of lots within the subdivision. Future repair and maintenance of these walls and berms will be the responsibility of the lot owner(s) as it relates to the portion of wall/berm within such lot entirely at their cost. Reciprocal access shall be granted to accommodate such future repair and maintenance vis a vis abutting lot owners as contemplated and required by By-law 2023-086 (Right of Access for Maintenance) authorized by Section 132 of the Municipal Act. In the event that the lot owner(s) responsible for the future repair and maintenance of these walls and berms fail to attend to the maintenance and/or repair following a notice from the Municipality to attend to same, the Municipality shall be authorized (but not obligated) to enter onto the property and complete such work at the expense of such owner and to

recover the costs of same as contemplated by section 8.1 of the main body of the agreement to which this Schedule is appended /or in such manner(s) as may be authorized under the Municipal Act.

“The Owner acknowledges that an oil, gas or water well ("Well") that is improperly constructed, maintained or abandoned presents a safety risk to humans as well as a potential risk to pollute groundwater resources. The Owner represents and warrants that it has researched the Oil, Gas and Salt Resources Library and the Ministry of Environment, Conservation, and Parks Well Records (together the "Records") and has made itself aware of the presence of any Well 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 it has:

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

In the event that an improperly constructed, maintained or abandoned Well is found upon or within any lands either conveyed to the Municipality as a requirement of the development agreement or lands which become owned by and/or under the jurisdiction of the Municipality as a result of the registration of the plan of subdivision, the Owner covenants and agrees to indemnify and save harmless the Municipality for all costs incurred relating to the capping, repairing or otherwise remediating of such Well in accordance with the applicable legislation, regulations, guidelines or orders. It is the intention of the parties that this provision shall survive the closing of any transaction related to the transfer of the applicable lands.”