

CORPORATION OF THE TOWN OF GODERICH

SUBDIVISION AGREEMENT

between

LARRY OTTEN CONTRACTING INC.

- and -

THE CORPORATION OF THE TOWN OF GODERICH

Dated April __, 2021

The Corporation of the Town of Goderich
57 West St.
Goderich, ON
N7A 2K5

THE CORPORATION OF THE TOWN OF GODERICH

Section 1 – Interpretation.....	2
1.1 Definitions.....	2
1.2 List of Schedules.....	3
Section 2 -- Order of Procedure.....	3
Section 3 -- Installation of Services.....	4
3.1 General.....	4
3.2 Town’s Legal, Planning, and Engineering Costs.....	4
3.3 Developer’s Engineer.....	5
3.4 Works to be Installed	5
3.5 Approval of Plans	6
3.6 Notification of Commencement.....	6
3.7 Progress of Works.....	6
3.8 Scheduling of Works.....	7
3.9 Contractor	7
3.10 Utility Costs and Charges	7
3.11 Access Roads	7
3.12 Movement of Fill	7
3.13 Damage to Existing Plant.....	7
3.14 Signs.....	7
3.15 Testing.....	7
3.16 Erosion and Silting Control	8
3.17 Emergency Access	8
3.18 Construction Refuse and Weeds	8
3.19 Dust Control.....	8
3.20 Street Names	8
3.21 Municipal Street Numbers	8
3.22 Blasting	9
3.23 Driveways	9
3.24 Contaminants	9
Section 4 -- Acceptance of Works.....	9
4.1 Stages of Construction and Services.....	9
4.2 Inspection and Acceptance of the Works.....	9
4.3 Final Acceptance of the Works.....	10
4.4 Acceptance During Winter Months	10
4.5 Use of Works by Town	10
4.6 Replacement of Survey Bars.....	10
4.7 Ownership of Services	10
Section 5 -- Maintenance of Works	11
5.1 Maintenance of Works	11
5.2 Road Maintenance	11
5.3 Emergency Repairs	11
Section 6 -- Drainage and Landscape Design	12
6.1 Drainage	12
6.2 Preservation of Trees	12
6.3 Lots Unsuitable for Building	12
6.4 Lot Grading.....	12
6.5 Maintenance of Lot Grading.....	14

Section 7 -- Lands to be Conveyed.....	14
7.1 Lands for Municipal Purposes	14
7.2 Easements	15
7.3 Turning Circles	15
Section 8 -- Administration	15
8.1 Voiding Agreement.....	15
8.2 Developer's Expense	15
8.3 Phasing.....	15
8.4 Developer's Liabilities.....	15
8.5 Insurance	15
8.6 Legal Notice to Developer and Town.....	15
8.7 Registration.....	16
8.8 Mortgages/Encumbrances	16
8.9 Requirements for Building Permits	16
8.10 Requirements for Occupancy.....	17
8.11 Special Building Permits/Model Homes.....	17
8.12 Right to Enter into an Agreement	18
8.13 Successors and Assigns.....	18
8.14 Notification to Purchaser	18
8.15 Scheduling, Progress and Completion	18
8.16 No Municipal Liability	18
8.17 Assignment	19
8.18 Conflict	19
8.19 Severability	19
8.20 Amendment.....	19
8.21 Further Assurances.....	19
8.22 Joint and Several	19
8.23 Headings	19
8.24 Enurement.....	19
Section 9 -- Financial Provisions.....	19
9.1 Development Charges, Drainage and Local Improvement Charges.....	19
9.2 Securities.....	20
9.3 Reduction of Securities	21
9.4 Statutory Declaration of Accounts Paid.....	21
9.5 Construction Act	21
9.6 Partial Release.....	22
Section 10 -- Special Provisions	
- See Schedule "M"	22
Section 11 -- Finalization of Agreement	22
Section 12 -- Signatures	22

LIST OF SCHEDULES

Schedule “A” -- Description of Lands Being Subdivided.....23

Schedule “B” -- Plan of Subdivision.....24

Schedule “C” -- Municipal Servicing Standards.....25

Schedule “D” -- Checklist of Works to be Constructed26

Schedule “E” -- Itemized Estimate of Costs of Construction of Each Part of the Works.....27

Schedule “F” -- List of Lots Unsuitable for Building Purposes28

Schedule “G” -- Owner’s Final Grading Certificate.....29

Schedule “H” -- List of Lands for Municipal Purposes and Easements to be Granted
to the Town30

Schedule “I” -- No Occupancy Agreement.....31

Schedule “J” -- Application for Reduction of Security32

Schedule “K” -- Form of Partial Release.....33

Schedule “L” -- Conditions of Draft Approval34

Schedule “M” -- Special Provisions.....37

TOWN OF GODERICH
SUBDIVISION AGREEMENT

THIS AGREEMENT made in triplicate on the _____ day of April, 2021 A.D.

BETWEEN:

LARRY OTTEN CONTRACTING INC.

hereinafter called the “Developer” of the FIRST PART

- and -

THE CORPORATION OF THE TOWN OF GODERICH

hereinafter called the “Town” of the SECOND PART

WHEREAS the Developer is the owner of the Land described in Schedule “A” to this Subdivision Agreement (hereinafter called the “Agreement”) and proposes to subdivide it for the purpose of selling, conveying, or leasing it in lots, by reference to a Registered Plan of Subdivision.

AND WHEREAS the Developer declares that it is the registered owner of the lands and has applied to the County of Huron (hereinafter called the “County”), for approval of a Plan of Subdivision (hereinafter called the “Plan”), which is annexed hereto as Schedule “B” to this Agreement.

AND WHEREAS the Town has been authorized by the County to require the Developer to agree to construct and install certain municipal services as hereinafter provided and herein referred to as the “Works” set out in Schedule “D” and to make financial arrangements with the Town for the installation and construction of required services before final approval of the Plan by the County.

AND WHEREAS the Developer is required to dedicate for public purposes certain portions of the Lands or make a cash payment to the Town in lieu of dedicating such land.

AND WHEREAS the word “Developer” where used in this Agreement includes an individual, an Association, a Partnership, or a Corporation and wherever the singular is used herein, it shall be construed as including the plural.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other good and valuable consideration and the sum of One Dollar (\$1.00) of lawful money of Canada, now paid by each of the parties hereto to each of the other parties hereto, (the receipt whereof is hereby acknowledged), the parties hereto hereby covenant, promise and agree with each other as follows:

SECTION 1 – INTERPRETATION

1.1 Definitions

The terms defined in this Section 1.1 shall have the following meanings unless the context expressly or by necessary implication otherwise requires:

“**Agreement**” means this Agreement titled “Subdivision Agreement”.

“**Business Day**” means any day that is not a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**Certificate of Final Acceptance**” means the certificate issued by the Town after satisfaction of the conditions identified in Section 4.3.

“**Certificate of Inspection Re: Readiness for Occupancy**” means the certificate issued by the Town after satisfaction of the conditions identified in Section 8.10.

“**Certificate of Preliminary Acceptance**” means the certificate issued by the Town after satisfaction of the conditions identified in Section 4.2.

“**Chief Building Official**” or “**CBO**” means the Director of Building and Planning or the Chief Building Official, or designate for the Town of Goderich.

“**Clerk**” means the Clerk or designate of the Town of Goderich.

“**Conservation Authority**” means the Maitland Valley Conservation Authority and its successors and assigns.

“**County**” means the Corporation of the County of Huron and its successors and assigns.

“**Damage/Lot Grading Deposit**” means the amount of \$2500.00 per lot or block shall be paid by the Developer to the Town by way of cash or letter of credit as described in Section 8.9 of this Agreement.

“**Developer**” means, collectively, **LARRY OTTEN CONTRACTING INC.** and their respective successors and assigns. “Developer” where used in this Agreement includes an individual, an Association, a Partnership, or a Corporation and wherever the singular is used herein, it shall be construed as including the plural.

“**Director of Operations**” means the Director of Operations or designate for the Town of Goderich.

“**Land and/or Lands**” means the real property which is the subject of the Plan, the legal description of which is attached as Schedule “A”.

“**Municipality**” or “**Town**” means the Corporation of the Town of Goderich, and its successors and assigns.

“**Owner**” means the Owner of a lot or block and may include the “Developer”.

“**Plan**” means the plan of subdivision relating to the Land, a draft copy of which is attached as Schedule “B”.

“**Works**” means the Works and services described in Schedule “D”.

1.2 List of Schedules

The following schedules are attached to and form part of this Agreement:

- Schedule "A" -- Description of Lands Being Subdivided
- Schedule "B" -- Plan of Subdivision
- Schedule "C" -- Municipal Servicing Guidelines
- Schedule "D" -- Checklist of Works to be Constructed
- Schedule "E" -- Itemized Estimate of Costs of Construction of Each Part of the Works
- Schedule "F" -- List of Lots Unsuitable for Building Purposes
- Schedule "G" -- Owner's Final Grading Certificate
- Schedule "H" -- List of Lands for Municipal Purposes and Easements to be Granted to the Town
- Schedule "I" -- No Occupancy Agreement
- Schedule "J" -- Application for Reduction of Security
- Schedule "K" -- Form of Partial Release
- Schedule "L" -- Conditions of Draft Approval
- Schedule "M" -- Special Provisions

SECTION 2 -- ORDER OF PROCEDURE

2.1 Upon application to the Town for the preparation of an Agreement the . Developer shall:

- (a) Pay to the Town the fee required by the Town's Tariff of Fees By-law.
- (b) Pay to the Town the sum of five thousand (\$5,000.00) dollars as a deposit in respect of the Town's legal and engineering costs referred to in Section 3.2 (a) herein.
- (c) Submit a General Plan outlining the services to be installed.

2.2 Prior to Registering the Agreement the Developer shall:

- (a) Deposit with the Town Securities and Insurance as outlined in the Agreement.
- (b) Pay in full any outstanding taxes or drainage, local improvement charges and charges under the Municipal Act including outstanding sewer rates and/or water rates.
- (c) Mutually agree with the Town on the parcel of land to be deeded to the Town for parkland or the amount of cash to be given to the Town in lieu of Parkland.
- (d) Pay the amount in lieu of parkland to the Town or deposit the Transfers/Deeds of Land for the parkland with the Town.
- (e) Provide proof of postponement of any encumbrances on the lands.
- (f) Deposit with the Town's Solicitor, copies of this Agreement executed by the Developer, to be executed by the Town and retained by the Town's Solicitor for registration as hereinafter provided.

- (g) Deliver to the Town's Solicitor written authorization to register this Agreement or Notice of this Agreement both before and after registration of the Plan, and a cheque in respect of the cost of the said registrations where upon the Town's Solicitor shall register this Agreement.

2.3 Prior to starting construction on the Services, the Developer shall:

- (a) Have obtained final approval of the Plan from the County and have obtained Registration of the Plan.
- (b) Have submitted and obtained the written approval of the Town's Engineer for the following all to be done in accordance with the Municipal Servicing Standards of the Town:
- The Drainage Area Plans;
 - The Lot Grading Plan;
 - The Service Layout Plan for underground electrical services, telephone, gas, etc.;
 - Final approved drawings for all Works required in Schedule "D" to this Agreement.
- (c) Provide written confirmation of having obtained the approval for drainage, road crossings, encroachment, etc. of all road authorities including the Town, County, Conservation Authority, the Ministry of Transportation of Ontario and any other authority involved.
- (d) Have deeded to the Town the lands/blocks/easements listed in Schedule "H".
- (e) Arrange for and participate in a pre-construction meeting that includes the developer, the developer's engineer, the general contractor, municipal representatives, and the municipal engineer. The meeting is to be chaired by the developer's engineer. The Town can be expected to include discussion on testing requirements for various component of the Works and upon the requirements of this agreement.

2.4 Prior to the issuance of building permits the Developer shall:

- (a) Have complied with all requirements of Section 8.9 of this Agreement.

2.5 Prior to any person occupying any building, the Developer shall:

- (a) Have complied with all the requirements of Section 8.10 of this Agreement.

SECTION 3 -- INSTALLATION OF SERVICES

3.1 General

Upon approval of the Plan by the County, the Developer shall design, construct and install at his own expense and in good workmanlike manner Municipal services to the servicing standards of the Town as set out in Schedule "C" to this Agreement.

3.2 Town's Legal and Engineering Costs

- (a) The Developer agrees to pay the Town's cost of the Municipal Solicitor and of the Town's Engineer's invoices for the checking of plans and specifications and for supervision and inspection on behalf of the Town.
- (b) The Developer shall be invoiced regularly by the Town for all costs incurred by the Town with respect to this Agreement pursuant to Section 3.2 (a).

- (c) The Developer shall reimburse the Town for all costs incurred by the Town as referred to in Section 3.2 (a) herein, within thirty (30) days of each billing, failing which the Town and its agents shall cease all work with respect to the review of the Subdivision.
- (d) The deposit referred to in Section 2.1 (a) of this Agreement shall be retained by the Town as a float against any unpaid bills and such deposit (or the balance thereof, if any) shall be returned to the Developer at Final Acceptance of the Subdivision by the Town and the Town being satisfied, in its discretion, that all costs in Section 3.2 (a) herein and any contingencies with respect to the Subdivision have been paid in full.
- (e) The Developer shall pay to the Town, on thirty (30) days written notice from the Town, such amount as is necessary to maintain the deposit referred to in Section 2.1 (a) at the sum of five thousand (\$5,000.00) dollars, failing which the Town and its agents shall cease all work with respect to the review of the Subdivision.

3.3 Developer's Engineer

The Developer shall employ engineers holding a certificate of authorization from Professional Engineers Ontario and approved by the Town:

- (a) To prepare designs;
- (b) To prepare and furnish all required drawings;
- (c) To prepare the necessary contract(s);
- (d) To obtain the necessary approvals in conjunction with the Town, the County Health Unit and the Ministry of Environment, Conservation and Parks, and others as required.
- (e) To provide the field layout, the contract documentation and the full time supervision of construction.
- (f) To maintain all records of construction and upon completion, to advise the Town's Engineer of all construction changes and to prepare final "as built" drawings. Paper prints and digital versions of the "as built" drawings shall be submitted to the Town prior to the issuance of the Certificate of Final Acceptance.
- (g) To act as the representative of the Developer in all matters pertaining to the construction.
- (h) To provide co-ordination and scheduling to comply with the timing provisions of this Agreement and the requirements of the Town's Engineer, for all Works specified in this Agreement.
- (i) To provide certification that the installation of services was in conformance to said plans and specifications, such certification to be in a form acceptable to the Town's Solicitor and the Town's Engineer.
- (j) To take such other actions as may be required by the Town, acting reasonably, for the completion of the subdivision in accordance with this Agreement and good engineering practices.

3.4 Works to be Installed

The Works to be installed are set out in Schedule "D" to this Agreement. This schedule is to set out the Works in general terms only and shall not be construed as covering all

items in detail. If at any time and from time to time during the development, the Town's Engineer is of the opinion that additional Works are necessary to provide adequately any of the public services required by the Plan, the Developer shall, at his expense, construct, install or perform such additional Works at the request of the Town's Engineer.

3.5 Approval of Plans

The detailed plans and specifications of all services must be submitted by the Developer to the Town's Engineer for endorsement of approval and such endorsement of approval shall in no way absolve the Developer or its consulting Engineers of responsibility for errors in or omissions from such plans and specifications.

3.6 Notification of Commencement

The Developer shall not commence the construction of any of the Works until the plan has been registered and the Developer has provided 72 hours written notice to the Town's Engineer of his intent to commence work. Should, for any reason, there be a cessation or interruption of construction, the Developer shall provide 72 hours written notification to the Town's Engineer before work is resumed.

3.7 Progress of Works

The Developer shall install all Works in a timely manner, in accordance with the requirements of Schedule "C" and this Agreement. If he fails to do so, having commenced to install the aforesaid Works, fails or neglects to proceed with reasonable speed, or in the event that the aforesaid Works are not being installed in the manner required by the Town, then upon the Town giving seven (7) days written notice by prepaid registered mail to the Developer, the Town may, without further notice, enter upon the said lands and proceed to supply all materials and to do all the necessary Works in connection with the installation of the said Works, including the repair or reconstruction of faulty work and the replacement of materials not in accordance with the specifications, and to charge the cost thereof together with an engineering fee of ten percent (10%) of the cost of such materials and Works to the Developer who shall forthwith pay the same upon demand. If the Developer fails to pay the Town within thirty (30) days of date on the bill, the money owing may be deducted from the cash deposit, letters of credit, or other securities. It is understood in the event that the Town must enter upon said lands and have Works completed or repaired due to situations as outlined above any or all original mylars and specifications prepared by the Developer's Engineer must be turned over to the Town's Engineer for his use should he require same. It is understood and agreed between the parties hereto that such entry upon the lands shall be as agent for the Developer and shall not be deemed for any purpose whatsoever, as an acceptance or assumption of the said Works by the Town. The Town, in addition to all other remedies may refuse to issue building permits until such Works are completely installed in accordance with the requirements of the Town.

Without limiting the obligations of the Developer herein, if the Developer shall default on the performance of any term, covenant or provision of this Agreement and if such default shall continue for ten (10) days after the Developer receives written notice of such default by the Town (or such shorter time as may be required in the cases of an emergency or other urgent matters or as otherwise provided for herein), the Town may perform that obligation on the Developer's behalf and may enter onto the lands constituting the Plan for this purpose. If the Town is compelled or elects to incur any expense in connection with its performance of the Developer's obligations (including any engineering or legal fees incurred in connection with such actions), any reasonable costs so incurred by the Town, together with all interest thereon and any damages incurred, shall be payable to the Developer and shall be collectible by the Town in like manner as municipal taxes. The Developer also acknowledges and agrees that the Town has the right to draw down any Letters of Credit, cash or other security for the purpose of collecting any such expenses incurred by the Town.

3.8 Scheduling of Works

Prior to the start of construction and prior to the issuance of building permits, the Developer shall supply for the approval of the Town's Engineer a Schedule of Works setting out the order in which he considers the various sections of the Works within the Plan will be built. The Town's Engineer may amend this schedule and the Developer must construct, install or perform the work as the Town's Engineer from time to time may direct.

3.9 Contractor

The said services shall be installed by an experienced, competent contractor or contractors retained by the Developer.

3.10 Utility Costs and Charges

The Developer shall deal directly with all Utility companies. He or his Consulting Engineer, shall obtain all approvals and permits and pay all fees and charges directly to the appropriate Utility.

3.11 Access Roads

All access roads must be maintained by the Developer in good repair acceptable to the Town's Engineer during the time of construction. This shall include the removal of mud tracked from the Subdivision as well as dust control. No roadway outside the limits of the proposed Subdivision may be closed without the written consent of the Town. To obtain such consent, the Developer shall advise the Municipal Clerk, not later than 14 days prior to the proposed closure, of the date, time and duration they wish to close a roadway. All costs for advertising the closure and signage shall be borne by the Developer. The Town reserves the right to limit or prohibit the use of any existing access road by the Developer.

3.12 Movement of Fill

The Developer covenants and agrees that it shall not dump nor permit to be dumped any fill or debris on, nor shall it remove or permit to be removed any fill, topsoil, trees or shrubs from any public lands, other than roads, without the written consent of the Town's Engineer. The Developer further agrees that no topsoil shall be removed from the lots and/or blocks except for construction purposes within the development and then such topsoil shall be stockpiled during grading operations and as each building is completed, the topsoil so stockpiled shall be replaced on the ground around each building to comply with the Municipal standards, and the replacing of such topsoil shall include all surfaces not covered by buildings, driveways or pavement within the development. Excess topsoil may be removed from the site with the approval of the Town's Director of Operations.

3.13 Damage to Existing Plant

The Developer shall repair any damage caused to any existing road, road allowance or existing structure or plant located on the road allowance as a result of the development and shall pay for any costs involved in relocation of existing service such as hydrants, telephone poles, hydro poles, pad mount transformers, cubicles and pedestals, etc., which may be necessary because of the development.

3.14 Deleted

3.15 Testing

The Town's Engineer may have any qualitative or quantitative tests made of any materials which have been or are proposed to be used in the construction of any of the Works required by this Agreement, or may require television camera or soil tests to be carried out, and the cost of such tests shall be paid by the Developer within ten days of the account being rendered by the Town. Nothing herein shall relieve the Developer of its responsibility to carry out any tests required by good engineering practice.

3.16 Erosion and Silting Control

The Developer must take all necessary precautions to prevent erosion and sedimentation of sewers, ditches, culverts, slopes, etc., both within the Development and downstream during construction and completion of servicing. Failing adequate precautions being taken, the Developer will be responsible for correcting any damages and paying all maintenance costs resulting therefrom.

3.17 Emergency Access

The Developer shall at all times during construction and development of the Works maintain emergency access to the land to the satisfaction of the Town's Engineer.

3.18 Construction Refuse and Weeds

The Developer, and each subsequent Owner of Lots or Blocks within the Plan, shall regularly dispose of all construction refuse, debris or weeds whether it be from site servicing or house building or any other source related to the development of the site, in an orderly and sanitary fashion. If the Developer or subsequent Owner of the Lots or Blocks within the Plan fails to remove and dispose of construction refuse, debris or weeds to the satisfaction of the Town's By-law Officer, the Town may give written notice to the Developer or lot Owner. If the Developer or each subsequent Owner of Lots or Blocks within the Plan fails to dispose of the refuse, debris or weeds within forty-eight (48) hours after receiving a written request from the Town to do so, the Town may, without further notice, undertake such removal and disposition and the cost thereof shall be paid by the Developer or each subsequent Owner of the Lots or Blocks within the Plan forthwith upon demand, which costs shall include all expenses incurred by the Town in carrying out such removal and disposition. The burning of construction refuse, debris or weeds, whether it be from site servicing or house building or any other source related to the development of the site on any lands within the Plan is prohibited.

3.19 Dust Control

Until the Final Acceptance of all Services to be constructed under this Agreement, the Developer shall use such reasonable method to prevent any dust problem to traffic or home occupants as the Town shall deem necessary and for this purpose the Town's Director of Operations shall notify the Developer in writing from time to time of the requirements of the Town.

3.20 Deleted

The Developer shall name all streets within the Land forming part of the Plan with names approved by the Town.

3.21 Municipal Street Numbers

- (a) All Lot, Block or building numbers for use within the Plan shall be allocated by the Chief Building Official. To obtain such allocation, the Developer shall furnish the Chief Building Official with a copy of the Plan as registered upon which the Chief Building Official will designate the proper numbers for each Lot, Block or building.
- (b) The Developer shall display by means of a legible sign at least 300 mm x 300 mm to be erected on each Lot or Block within the Plan, the Lot or Block number as shown on the Plan and the street number and Lot or Block number for each Lot or Block prior to the issuance of a Building Permit for that Lot or Block which sign shall remain until such time as the building on such Lot or Block is occupied in accordance with the provisions of this Agreement.
- (c) Each Owner shall cause the street number so provided to be placed and maintained in a conspicuous position in the front of the property upon occupancy.

- (d) All costs related to Lot, Block or building numbering shall be the responsibility of the Developer.

3.22 Blasting

The Developer agrees that no blasting will be undertaken without the written consent of the Municipal Engineer.

3.23 Driveways

The Developer hereby agrees that the driveways for all lots will be in a location and have a width and design as may be approved by the Town. Without in any way limiting the discretion of the Town, the location of the driveways may be further limited by special provision in Schedule "M" of this Agreement. Further, all driveways for all lots in the plan should be located in a manner that will minimize the amount of snow that will accumulate in the lot's driveway. The location of driveways is particularly important with respect to all corner lots located in the plan, as these driveways entrances must be located as far as possible from the street corner to minimize the amount of snow that will block these driveways during the Town's efforts to remove snow.

3.24 Contaminants

In the event the Developer discovers any waste, contaminants, pollutants, hazardous substances or any other similar substances that may be detrimental to the environment during the development of the lands constituting the Plan, the Developer hereby agrees to notify the Town and the Ministry of Environment, Conservation and Parks immediately and take all necessary steps and remedial efforts required by the Ministry of Environment, Conservation and Parks and the Town to remove such waste, contaminants, pollutants, hazardous substances or other substances that could be detrimental to the environment. In taking such action, the Developer shall fulfill all legislative requirements for the remediation and clean-up of lands constituting the Plan and shall comply with all legislative requirements regulating the removal, transportation and disposal of such waste, contaminants, pollutants, hazardous substances or any other similar substances from the said lands.

SECTION 4 -- ACCEPTANCE OF WORKS

4.1 Stages of Construction and Services

The Town will grant Preliminary or Final Acceptance of servicing based upon three (3) stages of construction; and when the development is phased, within the whole of each phase as approved by the Town. Stages of construction are as follows:

- (a) Stage 1 - consists of all underground Works including storm sewers and storm water management facilities, sanitary sewers, watermains and the completion of road restoration on existing streets.
- (b) Stage 2 - services shall include the balance of the road restoration, including, grading of boulevard areas, sidewalks, conduits, piping and facilities for the completion of electrical servicing, and other utilities such as gas, telephone and Cable T.V.
- (c) Stage 3 - services including the final coat of asphalt, topsoil and sodding, trees, fencing and any other requirements of this agreement.

4.2 Inspection and Acceptance of the Works

When all of the services in any stage of servicing as identified above have been completed and the Town's Engineer has been given written certification by the

Developer's Engineer that such services have been constructed in each stage in accordance with the approved plans and specifications in this Agreement and upon satisfactory inspection by the Town's Engineer, the Town's Engineer will recommend that the Town grant a Certificate of Preliminary Acceptance. This Certificate may include a list of minor deficiencies which the Developer must repair. The services shall then be subject to a guaranteed maintenance period as described in Section 5.1.

4.3 Final Acceptance of the Works

On receipt of a written request from the Developer for final inspection and final acceptance following completion of the guaranteed maintenance period outlined in Section 5.1, the Town's Engineer will complete an inspection and if there are no deficiencies, will recommend to the Town that the Certificate of Final Acceptance be issued. This Certificate will be issued provided that the Developer has paid all accounts to the Town and the Town is:

- Satisfied the applicable services have been completely installed;
- Satisfied all repairs or maintenance work on the applicable services have been completed.

and the Town has:

- Approved the formal certification of final completion from the Developer's Engineer certifying that all Works and services have been installed;
- Received as-built drawings as detailed elsewhere in this Agreement.

4.4 Acceptance During Winter Months

The Town will not be required to provide Certificates of Preliminary or Final Acceptance during the winter months or any other time of year when inspection of the Works and services is impractical due to snow cover or other adverse conditions.

4.5 Use of Works by Town

The Developer agrees that:

- (a) The Works may be used prior to acceptance by the Town, or other authorized persons for the purposes for which such Works were designed.
- (b) Such use shall not be deemed an acceptance of the Works by the Town.
- (c) Such use shall not in any way relieve the Developer of his obligations in respect of the construction and maintenance of the Works so used.

4.6 Replacement of Survey Bars

Prior to the final acceptance by the Town, the Developer shall deliver to the Municipal Clerk a statement from an Ontario Land Surveyor approved by the Town that after the completion of the work, he has found or replaced all survey monuments and iron bars as shown on the registered plan.

4.7 Ownership of Services

Upon the issuance to the Developer of the Certificate of Final Acceptance, the ownership of the services described shall vest in the Town and the Developer shall have no claim or rights thereto except those occurring as an owner of the lands abutting the streets where such services are installed.

Notwithstanding the above, the Developer and Town agree that on connection of water distribution systems, the Town will then become the operator of said systems. This

shall not relieve the Developer of any maintenance responsibilities under this Agreement. Any costs associated with the repair and maintenance of the water infrastructure during the warranty period as outlined in Section 5.2 of this Agreement shall be borne by the Developer.

SECTION 5 -- MAINTENANCE OF WORKS

5.1 Maintenance of Works

The Developer will be responsible for the repair and maintenance of all services until a Certificate of Final Acceptance is issued for the Stage 2 services by the Town. This maintenance period shall extend for two (2) years from the date of the Certificate of Preliminary Acceptance for each Stage of the Works. During this maintenance period, a 10% security holdback shall be retained by the Town in accordance with the provisions of Clause 9.3 (e) of this agreement. If during this period, the Developer fails to carry out maintenance work within seventy-two (72) hours after receipt of the request from the Town, then the Town's Engineer or Director of Operations may, without further notice, undertake such maintenance work and the total costs of such work, including engineering fees, shall be borne by the Developer. If the Developer fails to pay the Town within thirty (30) days of the date of billing then the money owing may be deducted from the deposited securities. Towards the end of the Maintenance Period, the Developer shall make written request to the Town for a final inspection to be made in respect to the issuance of the Certificate of Final Acceptance.

Notwithstanding the provisions above, operational responsibility for the water distribution system shall be transferred to the Town once the distribution system is commissioned. All costs associated with repair and maintenance of the water distribution system during the maintenance period shall be charged back to the Developer and the Developer shall pay all such amounts to the Town forthwith upon receiving the associated invoices.

5.2 Road Maintenance

The Developer will be responsible for the maintenance of the roadcuts until final acceptance.

In the event that proper maintenance is not provided by the Developer, the Town, through its servants, contractors or agents may provide maintenance without notice to the Developer. Such work will be carried out at times deemed to be an emergency by the Town's Director of Operations. All costs of such work shall be paid by the Developer within thirty (30) days of date of billing or otherwise may be deducted from the deposited securities. The Developer further agrees that any work done by the Town pursuant to this contract before the roads are accepted by the Town shall not be deemed in any way, to be an acceptance by the Town of the roads in the said Subdivision upon which such work is done. The Developer acknowledges that the Town, in providing maintenance or during snow removal, may damage or interfere with the Works of the Developer and cause damage to such Works and the Developer hereby waives all claims against the Town that he might have arising therefrom and covenants that he will make no claim against the Town for such interference or damage. Representation may be made requesting that the Town consider entering into a separate Agreement with the Developer to undertake the winter road maintenance within the Subdivision.

5.3 Emergency Repairs

Employees or agents of the Town may enter onto the Land at any time or from time to time for the purpose of making emergency repairs to any of the Works. Such entry and repairing shall not be deemed an acceptance of any of the Works by the Town or an assumption by the Town of any liability in connection therewith or a release of the Developer from any of his obligations under this Agreement.

SECTION 6 -- DRAINAGE AND LANDSCAPE DESIGN

6.1 Drainage

All Lots and Blocks within the Plan and all lands abutting the Plan shall be graded to drain in accordance with the Drainage Plan as approved by the Town's Engineer. It is understood and agreed by the parties hereto that the drainage of surface waters on the Lots and Blocks in the Plan, are the sole responsibility of the Developer and subsequent purchasers, and the Developer is to provide and maintain adequate drainage of such surface waters. Satisfactory drainage outlets shall be provided. Drainage outlets shall be constructed from the limits of the Subdivision to a sufficient outlet in accordance with the approved engineering drawings.

6.2 Preservation of Trees

The Developer must preserve all healthy trees within the limits of the Subdivision. Except for the actual area of roadway construction and installation of services, no trees whether on the road allowance, or on the parkland, or on the individual lots, shall be removed without the Town's written permission.

6.3 Lots Unsuitable for Building

Any lot which will require special attention in order to be serviced will be listed in Schedule "F" of this Agreement. Prior to the issuance of a building permit for any lot listed in Schedule "F", the Developer's Engineer must submit a letter to the Town's Engineer outlining the measures to be taken to correct the problems on the lots. This proposal must be approved prior to applying for a building permit.

6.4 Lot Grading

All Lands shown within the Plan shall be graded in general conformity with the Lot Grading Plan, including fill and excavation as required for the full width and length of the grades and levels, and to the specifications, requirements and satisfaction of the Town's Engineer; provided that for residential lots and blocks, grading must be brought within zero decimal five (0.5) metres of the final grade and such further residential development may complete the grading. All work done by the Developer must be of such a nature as to ensure that the integrity and intent of the overall grading plan is functional until the Lands are fully developed.

(a) Obligation to Grade According to Lot Grading Plan

The Lands shall not be graded except in general conformity with the grades and elevations shown on the Accepted Grading Plan. The Plan shall bear the signature and seal of an Ontario Professional Engineer holding a Certificate of Authorization from Professional Engineers Ontario or who is employed by a partnership or corporation holding such Certificate of Authorization to offer professional engineering services to the public (hereinafter called a "Professional Engineer") or a Registered Ontario Land Surveyor who certifies thereon that the Plan generally conforms with the Lot Grading Plan attached to the Agreement or filed with the Town's Engineer.

(b) Certified Building Lot Site Plan

Subject to Section 8.9 herein, no building shall be constructed on a Lot or Block within the Plan until a Building Lot Site Plan certified by a Registered Ontario Land Surveyor or Professional Engineer has been filed with and approved by the Chief Building Official of the Town. The Building Lot Site Plan shall show:

- the proposed finished elevation of these lands at each corner of the lot or block;

- the proposed finished elevation of these lands at the front and rear of the building;
- the proposed finished elevations of the underside of the footings and the proposed finished height of the foundation of the building;
- the proposed finished elevation of any retaining walls, the proposed elevation of any walk-out onto these lands from the basement of the building, and the proposed finished height of the foundation of the building;
- the proposed finished elevation and slope of any driveway and the proposed location of any swale or rear yard catch basin;
- the location of eavestrough downspouts; no downspouts will be allowed to discharge in a sideyard between residences;
- swale location and elevations;
- sidewalk;
- service and driveway locations;
- any abrupt changes in the proposed finished elevation of these lands; and
- the Lot and Registered Plan number, the municipal address for the subject Lot or Block and the proposed location of the building thereon in relation to the Lot or Block boundaries.

The Developer hereby agrees that the existing property line grades abutting developed lands are not to be altered or disturbed, except as approved otherwise by the Town's Engineer.

The Developer shall complete such other actions as may be required by the Town, acting reasonably, to ensure that the subdivision is developed in accordance with the terms of this Agreement and good engineering practices.

(c) Owner's Final Grading Certificate

- No newly constructed building shall be occupied or used unless there is filed, prior to occupancy, with the Town's Chief Building Official, an Owner's Final Grading Certificate in the form attached as Schedule "G" bearing the signature and seal of a Professional Engineer or Registered Ontario Land Surveyor that the actual finished elevation and grading of these lands generally conform with the Lot Grading Plan and the Certified Building Lot Site Plan.
- If occupancy occurs between November 1 and May 31 next and an Owner's Final Grading Certificate is not filed prior to occupancy with the Town's Chief Building Official, then the Owner shall provide the Town's Chief Building Official with a written undertaking to file the said Owner's Final Grading Certificate with the Town's Chief Building Official by the following June 1.
- If and when the Owner's Final Grading Certificate is accepted by the Town's Chief Building Official that the Lands generally conform with the Lot Grading Plan and the Certified Building Lot Site Plan, the Damage/Lot Grading Deposit referred to in Section 8.9 (g) is returnable to the Owner subject to this Section and Section 8.9 (g) of this Agreement.
- The Owner agrees that, should drainage rectification become necessary in the absolute discretion of the Town, and the Owner fails to make such rectification when so instructed by the Town, the Town may, at its option, undertake the correction of such drainage and all costs over and above the two thousand five dollar (\$2,500.00) deposit shall be charged back to the Owner and shall include a management fee of 15% of the cost of labour and material shall be a charge against the Lot or Block for which regrading was carried out and shall be payable forthwith. The Owner agrees that neither it nor its successors or assigns will alter the grading or change the elevation or contour of the Land except in accordance with

drainage plans approved by the Town. In addition to any other remedy, the cost for such rectification if completed by the Town will be at the expense of the subsequent owner and the Town may recover such expense under Section 446 of the *Municipal Act, 2001* in the same manner as taxes.

(d) Obligation to Maintain Grading

After the building or Block is graded in accordance with the Lot Grading Plan and the Certified Building Lot Site Plan, no change shall be made to the actual finished elevation and grading of the building Lot or Block in any way that results in a material alteration of drainage on or across the building Lot or Block or adjacent lands from that shown on the Lot Grading Plan for the adjacent lands or the Owner's Final Grading Certificate for the building Lot or Block.

(e) Prevention of Surface Water Flow

The Developer and each subsequent owner shall not block, impede, obstruct or prevent the flow of surface water as provided for in the Drainage Plan, the Lot Grading Plan or the Certified Building Lot Site Plan over any Lot or Block by the construction, erection or placement thereon of any damming device, building, structure or other means.

(f) Erosion Control

The Developer shall construct silt fences or other facilities as required during construction to control overland flows from this Subdivision to ensure that mud, silt, construction debris, etc. does not adversely affect abutting properties, all to the specifications of the Town's Engineer.

6.5 Maintenance of Lot Grading

The facilities and Works required by Section 6 shall be provided and maintained by the Developer or subsequent owner of each lot from time to time at such party's sole risk and expense.

Should, for any reason, the Developer or subsequent Owner fail to maintain the lot grading, they acknowledge that the Town, or in the case of a subsequent Owner, the Town or the Developer may enter onto said property to correct any drainage issues. The cost for any such correction completed by the Town will be at the expense of the subsequent Owner and the Town may recover such expense under Section 427 of the *Municipal Act* in the same manner as taxes.

SECTION 7 – LANDS TO BE CONVEYED

7.1 Easements

The Developer agrees to grant at his expense all such easements and right-of-ways as may be required for the installation and supply of services to the Subdivision. A list of easements and right-of-ways to be granted to the Town shall be set out in Schedule "H" of this Agreement.

SECTION 8 – ADMINISTRATION

8.1 Voiding Agreement

In the event that the Plan is not registered within one year from the date of the signing of this Agreement, the Town may at its option declare this Agreement to be null and void. All costs incurred shall be deducted from the deposit paid by the Developer to the Town pursuant to this Agreement or any other agreement between the Developer and the Town referred to herein.

8.2 Developer's Expense

Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" and "as approved or accepted by the Town", unless specifically stated otherwise.

8.3 Phasing

No phasing is proposed.

8.4 Developer's Liabilities

Until the Town has issued the Certificate of Final Acceptance for the Works, the Developer hereby indemnifies and saves harmless the Town against all actions, causes of action, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the Developer undertaking the Plan.

8.5 Insurance

The Developer shall insure against all damages or claims for damage in an Insurance Company satisfactory to the Municipal Clerk. Such policy or policies shall be issued in the joint names of the Developer, the Town and the Town's Engineer and the form and content shall be subject to the approval of the Town. The minimum limits of such policies shall be \$5,000,000 all inclusive, but the Town shall have the right to set higher amounts. The said insurance policy shall include a provision that requires the insurance company to provide the Town with thirty (30) days notice of termination of such policy. The policy shall be in effect for the period of this Agreement including the period guaranteed maintenance pursuant to Section 5 of this Agreement. The issuance of such a policy of insurance shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, for which he may be held responsible.

8.6 Legal Notice to Developer and Town

Any notice required to be given hereunder may be given by fax, personal service delivered directly to the Developer or the Developer's engineer or by registered mail addressed to the Developer at its principal place of business, as identified in this Agreement or as provided by the Developer from time to time or as shown on the last revised assessment roll in the possession of the Town's Clerk, and shall be effective as of the date delivered or sent via fax or shall be effective, in the case of registered mail, the 5th day after the date the Notice was deposited in the Post Office.

Any notice required to be given to the Town hereunder shall be given to the Town by registered mail to:

Andrea Fisher, Clerk,
Town of Goderich
57 West St.
Goderich, ON
N7A 2K5

8.7 Registration

The Developer consents and authorizes the registration of this Agreement by the Town's Solicitor on title to the Lands both before and after the registration of the Plan in the Land Registry Office, which said registration is at the sole discretion of the Town and all costs of registration shall be paid for by the Developer.

The Developer hereby agrees that until the Town has registered this Agreement upon title to the Lands, no lots or blocks in the plan shall be conveyed.

8.8 Mortgages/Encumbrances

The Developer covenants and agrees to obtain and register, at its sole cost and expense, a postponement from each encumbrancer with a charge registered against title to the Land (or part thereof) so that notice of this Agreement shall be registered in priority to any such charge.

Further, the mortgagee, if any, agrees that in the event of him assigning or transferring the mortgage on the lands, the assignment or transfer shall be subject to the terms hereof in the same manner as if the assignee or transferee had executed this Agreement.

8.9 Requirements for Building Permits

The approval of the Plan by the Town or the acceptance by the Town of the Works shall not be deemed to give any assurance that Municipal building permits, when applied for will be issued in respect of the Lots or Blocks shown on the Plan. Notwithstanding the foregoing, the Developer agrees that it, or anyone claiming titled from it or under its authority, shall not apply for any building permits for Lots or Blocks within the Plan until all requirements hereinafter set out have been carried out to the satisfaction of the Town. It is agreed that a copy of this Section 8.9 shall be delivered by the Developer to each and every Purchaser of Land within the Plan and to each and every Builder obtaining a Building Permit for any Lot or Block or part of a Lot or Block within the Plan and the Developer shall extract a covenant similar to this covenant from all such Purchasers and Builders. The Town shall have the right to refuse any such application until:

- (a) Preliminary Acceptance has been granted for Stage 1 servicing for that phase of the Subdivision.
- (b) The Developer has provided sufficient documentation to the Town's Engineer confirming that electrical distribution and the remaining underground services, telephone, cable t.v., and gas are being scheduled for installation; and will be completed within six (6) weeks of the date of issuance of the building permit.
- (c) Approval of the Town has been obtained for the construction of any buildings to be erected on Lots or Blocks that may be listed in Schedule "F" hereto.
- (d) A certificate has been given by the Town's Chief Building Official that the building location is in compliance with the zoning by-law of the Town.
- (e) All dead trees within the limit of the Plan have been removed.
- (f) Payment to the Town by cash or letter of credit in the amount of \$2,500.00 as a Works Damage/Lot Grading Compliance Deposit (herein "Damage/Lot Grading Deposit") per Lot or Block in the Plan of which the sum of \$100.00 is non-refundable. The balance of the Damage/Lot Grading Deposit shall be refundable in whole or in part after the building has been constructed and occupied, an Owner's Final Grading Certificate has been filed with and accepted by the Town's Chief Building Official and the required service connections have been made and all damages to the Works which form the subject matter of this

Agreement resulting from house building and/or landscaping activities on the subject Lot or Block have been repaired to the satisfaction of the Town's Chief Building Official and Town's Director of Operations.

- (g) With respect to repair of damage to the Works, in the event that the Owner fails to repair the damage to the Works when so instructed by the Town's Chief Building Official or the Town's Director of Operations, the Town may, at its option, undertake the repair of such damage and all costs over and above the \$2,500.00 deposit shall be charged back to the Owner and shall include a management fee of 15% of the cost of labour and material, shall be a charge against the Lot or Block for which repairs were carried out and shall be payable forthwith.
- (h) Payment to the Town by cash in the amount of the current applicable Development Charge(s) per Lot or Block in the Plan under the Development Charges By-law of the Town.
- (i) A Certified Building Lot Site Plan has been filed with the Chief Building Official of the Town pursuant to Section 6.4 (b).

The Developer agrees that the preceding requirements in this Section 8.9 are in addition to and not in substitution of the requirements of the Ontario Building Code Act as amended and regulations thereunder with respect to the issuance of Building Permits.

8.10 Requirements for Occupancy

Subject to Section 8.11 herein, no building erected on the Lots or Blocks within the Plan shall be occupied until a Certificate of Inspection re: Readiness for Occupancy has been issued by the Town's Chief Building Official and the said Certificate shall not be issued until:

- (a) Preliminary Acceptance has been granted for Stage 2 servicing for the phase of the Subdivision including the Lot or Block.
- (b) The traffic and street signs have been installed and approved by the Town's Engineer.
- (c) Subject to Section 6.4 (c), the final grading of the Lot or Block is in conformity with the overall grading plan or such variances therefrom as have been approved by the Town's Chief Building Official pursuant to Section 6.4 (c).
- (d) The telephone lines, cable T.V. and gas mains have been installed and approved by the Town's Engineer.

The Developer agrees that the preceding requirements in this Section are in addition to and not in substitution of the requirements of the *Building Code Act, 1992, S.O. 1992, c.23*, and any amendments thereto and regulations thereunder with respect to certificates for occupancy.

8.11 Special Building Permits / Model Homes

Pursuant to Section 8.9 building permits are not obtainable until certain services are installed and approved by the Town's Engineer. The Town agrees that if the Developer or a builder wishes to obtain a building permit prior to the installation of services, as set out in Section 8.9, a permit may be issued provided the Developer or Builder has executed a No-Occupancy Agreement (Schedule "I") and the Town may require a deposit or Letter of Credit as a guarantee of no-occupancy. In the event that the Developer fails to meet all the requirements set out in Section 8.10 for any building permit that is issued pursuant to the Developer's delivery of a No-Occupancy Agreement, the Developer hereby acknowledges that the deposit shall be immediately forfeited to the Town. Such failure to meet the Section 8.10 obligations shall constitute a breach of this Agreement and the Town may immediately draw down any security held under this Agreement to complete any work

required or fulfill any other requirements of Section 8.10 for any model home that was built pursuant to this Section 8.11.

8.12 Right to Enter into an Agreement

The Developer agrees not to call into question directly or indirectly in any proceedings whatsoever in law or in equity any administrative tribunal, the right to the Town to enter into this Agreement and to enforce each and every term, covenant and condition herein contained and this Agreement may be pleaded as an estoppel against the Developer in any such proceedings.

The Developer acknowledges that the Town is entering into this Agreement and approving the Plan on the express representation of the Developer that it and its successors and assigns shall observe and perform all the provisions of this Agreement and that the Town is of the opinion that the Plan would not be in the public interest if the Developer, its successors and assigns, the owner or owners from time to time of the land within the Plan were not obligated to observe and perform all the provisions hereof except to the extent the Town may lawfully change them.

8.13 Successors and Assigns

The covenants, agreement, conditions, and undertakings herein contained on the part of the Developer shall run with the land and shall be binding upon it and upon its successors and assigns as owners and occupiers of the said lands from time to time.

8.14 Notification to Purchaser

The Developer shall in every Agreement of Purchase and Sale or Offer to Purchase pertaining to any Lot or Block within the Plan notify each purchaser of all of the payments to be made by the purchaser to the Town pursuant to this Agreement and all of the provisions of this Agreement which shall continue in force after the completion of the sale. Further, the Developer shall furnish a list of those services included in the purchase, specifying those installed and those to be installed at no additional cost.

8.15 Scheduling, Progress and Completion

The Developer shall commence construction of services within eighteen (18) months of the signing of this Agreement or the registration of the Plan whichever is earlier. Within eighteen (18) months of the date of commencement of the servicing of any phase, the Developer shall complete the installation of the Stage 1 and Stage 2 services. In any phase, the top coat of asphalt shall be completed within twenty-four (24) months of preliminary acceptance of Stage 2 of the services; unless written consent altering this condition is received from the Municipal Engineer. Failure to adhere to the above schedule may result in the Town completing the Works in accordance with Section 3.7 of this Agreement. If the development is phased, the date for commencement of construction on the balance of the phases may be delayed for up to five years. Failure to commence construction within the time schedule above may result in the Town declaring this Agreement to be null and void, and the Town may deem the property not to be a Plan of Subdivision.

8.16 No Municipal Liability

This Agreement and the provisions herein do not give the Developer or any person acquiring any interest in the land within the Plan (each hereinafter in this clause called "such person"), any rights against the Town or the Town's Engineer with respect to the failure of any such person to perform any obligations under this Agreement or the failure of the Town to force such person to perform any obligations under this Agreement or any negligence of any such person in the performance of the said obligations.

The only duty and responsibility of the Town's Engineer arising out of this Agreement is to the Town and this Agreement. Any work or services done or performed by the

Town's Engineer under this Agreement do not in any way create any liability on the part of the Town's Engineer to the Developer or any person acquiring any interest in the land within the Plan.

8.17 Assignment

The Developer shall not assign this Agreement without the prior written consent of the Town, which consent may not be unreasonably withheld.

8.18 Conflict

In the event of any conflict between or among the plans and specifications relating to the construction of the Works, the Town's Engineer shall decide which provisions shall prevail.

8.19 Severability

If any term, covenant or provision of this Agreement shall be found or declared by a Court of competent jurisdiction to be invalid, unenforceable or ultra vires, such term, covenant or provision shall be conclusively deemed to be severable from all other terms, covenants and provisions of this Agreement and the remainder of this Agreement shall be and remain in full force and effect.

8.20 Amendment

Without in any way limiting the rights of the Town, the Developer agrees that the Town may, with the consent of the then registered owner of any land within the Plan, amend this Agreement insofar as it specifically affects such land or any part thereof.

8.21 Further Assurances

The Developer agrees that it shall and will, on the request of the Town, make, do, execute or cause to be made, done or executed all such further and other deeds, acts, things and assurances to ensure the full implementation of this Agreement and to satisfy the intention of the parties as set out in this Agreement.

8.22 Joint and Several

All terms, covenants, provisions and obligations of the Developer in this Agreement shall be joint and several.

8.23 Headings

The headings contained herein are for reference only.

8.24 Enurement

This Agreement shall be binding upon and enure to the benefit of the parties hereto and its respective heirs, executors, administrators, successors and assigns.

SECTION 9 – FINANCIAL PROVISIONS

9.1 Development Charges, Drainage and Local Improvement Charges

Development Charges shall be paid in accordance with the current Development Charges By-law of the Town.

The Developer agrees to pay for all arrears of taxes outstanding against the property herein described before the approval of the said Plan is obtained. The Developer further undertakes and agrees to pay all taxes levied on the said lands on the basis and

in accordance with assessment and collector's roll entries until such time as the lands herein being subdivided have been assessed and entered on the Collector's Roll according to the Registered Plan.

Before the Plan is approved the Developer agrees to commute and pay all charges made with respect to the Drainage Act, the Local Improvement Act, and the Municipal Act, including but not limited to charges or rates outstanding in respect of the Lands under any sewer rate and/or water rate by-law which are assessed against the property on the Plan. Before the Plan is approved the Developer agrees to commute and pay the Town's share of any charges made under the said Drainage Act, the said Local Improvement Act and the said Municipal Act presently servicing this property and assessed against it.

9.2 Securities

Prior to registering this Agreement, the Developer shall deposit with the Town to cover the faithful performance of the contract for the installation of the services and the payment of all obligations and contingencies arising thereunder the following securities:

- (a) Cash in the amount of One Hundred Percent (100%) of the estimated cost of all of the Works as set out in Schedule "E" and as approved by the Town's Engineer and Municipal Council, or
- (b) An irrevocable Letter of Credit from a chartered bank, issued in form and content satisfactory to the Town's Solicitor, in the amount of One Hundred Percent (100%) of the estimated cost of all Works as set out in Schedule "E" and as approved by the Town's Engineer or
- (c) Some combination of cash and Letter of Credit, totaling 100% of the Schedule "E" estimate.
- (d) Prior to depositing the securities, the Developer's Engineer shall submit an estimate of the cost of the Works to the Town's Engineer for approval. When the cost estimate has been approved it will be set out in Schedule "E" of this Agreement and will become the basis for the limits of these securities.
- (e) All Letters of Credit shall be for a minimum guaranteed period of one (1) year or such longer time as the Town may decide. All Letters of Credit referred to in this Section shall contain the following clause:

"It is a condition of the 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 thereof, unless at least thirty (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."
- (f) Unless each and every Letter of Credit is renewed as noted above, the Town shall have the absolute right to refuse to issue building permits and to prohibit occupancy of homes, whether partially or fully completed, from the said date thirty (30) days prior to the expiration of that Letter of Credit.
- (g) The amount for securities shall be submitted by the Engineer for the Developer to the Municipal Engineer for review. The agreed upon security amount shall be inserted in Schedule "E" to this Agreement.

The Town reserves the right, at any time, to review the amount of security deposited in light of the value of the work remaining to be completed for any current or subsequent phases of the project and to require an adjustment in the securities, such adjustment to be based upon any anticipated changes to site conditions or construction costs.

9.3 Reduction of Securities

An application for the reduction of the security on deposit with the Town pursuant to Section 9.2 herein may be made no earlier than thirty (30) days after the commencement of construction of the Works and every thirty (30) clear days thereafter.

- (a) To obtain a reduction in security the Developer shall file with the Town's Engineer a written application in accordance with Schedule "J" attached hereto.
- (b) The application shall include written confirmation from the Developer's Engineer:
 - describing the Works constructed as at the date of the application and a calculation of the cost thereof.
 - confirming that the Works have been installed by the Developer with full time supervision of the Developer's Engineer and in accordance with the requirements of this Agreement and schedules hereto.
 - describing the Works remaining to be completed as at the date of the application and a calculation of the estimated cost thereof.
- (c) The value of the reduction shall be determined by the Town's Engineer who shall give a certificate to the Municipal Clerk and the Developer confirming the amount of the reduction of the security and the amount of the security remaining on deposit with the Town.
- (d) The value of the reduction shall be based upon the one hundred percent (100%) of the value of the Works remaining to be completed by the Developer plus ten percent (10%) of the value of the Works completed to the date of the application. Should Final Acceptance be granted for any Stage or Stages of the works, then the reduction shall be based upon one hundred percent (100%) of the value of the Works remaining to be completed by the Developer plus ten percent (10%) of the value of the Works for those Stages of construction that have not received Final Acceptance to the date of the application
- (e) As a minimum security, subject to any outstanding deficiencies or contingencies, the Town throughout the maintenance period shall hold as security the greater of ten percent (10%) of the estimate of the cost of the Works as set out in Schedule "E" or twenty thousand dollars (\$20,000.00).

9.4 Statutory Declaration of Accounts Paid

The Developer agrees that upon applying for a discharge of securities or for a Certificate of Preliminary Acceptance for the services, he shall supply the Town with a Statutory Declaration that all accounts for work and materials for said services have been paid except normal guarantee holdbacks and that there are no claims for liens or otherwise in connection with such work done or materials supplied for or on behalf of the Developer in connection with the Subdivision.

9.5 The Construction Act, R.S.O. 1990 c. C.30

The Developer agrees that it will hold back in its payments to any Contractor who may construct the services, such sums as are provided in accordance with the Construction Act, R.S.O. 1990, c. C.30, and will otherwise indemnify and save harmless the Town against any claims, actions or demands for construction liens or otherwise in connection with the Works and all costs in connection therewith, and on the demands of the Town's Solicitor will forthwith take such steps to immediately discharge all liens upon the services.

Notwithstanding anything to the contrary contained in this Agreement, the Developer hereby agrees that the filing of any liens pursuant to the said Construction Act, with respect to the land described in Schedule "A" attached hereto, shall constitute a default by the Developer of the terms of this Agreement and shall entitle the Town to draw on

any or all of the security referred to in Section 9.2 of this Agreement and to utilize said draw to make payment into Court of the holdback together with costs.

9.6 Partial Release

The Town may enact a bylaw, or by-laws to provide that the Clerk is to execute a partial release of this Agreement, which partial release should be in the form attached hereto as Schedule “K”. The completion and registration of such partial release shall constitute a full and final release of the obligations of the Developer with respect to the matters specified in the release, with the exception of lot grading requirements included in Section 6 of this Agreement, as established hereunder with respect to the lot named therein.

Notwithstanding the foregoing, the Clerk shall not be required to execute a partial release until the various services have been completed in accordance with the terms of this Agreement and the plans and specifications provided for herein.

SECTION 10 – SPECIAL PROVISIONS

10.1 The Developer and the Town agree that the provisions set forth in the attached Schedule “M” form an integral part of this Agreement.

SECTION 11 – FINALIZATION OF AGREEMENT

11.1 The Developer and Mortgagee(s), if any, hereby authorize the Town to add to Schedule “A” to this Agreement and to all deeds, easements and other documents delivered by the Developer to the Town to fulfil the terms of this Agreement, the number of the Plan once registered.

SECTION 12 – SIGNATURES

IN WITNESS WHEREOF the parties hereto have affixed their hands and seals attested to by the hands of the proper officer duly authorized on its behalf.

(LARRY OTTEN CONTRACTING INC.
(
(_____
(Larry Otten, President
(I/We have authority to bind the Corporation
(
(THE CORPORATION of THE TOWN OF (GODERICH
(
(
(_____
(Mayor
(
(_____
(Clerk
(We have authority to bind the Corporation

Developer’s Address: 103 Fairfield Drive, Stratford, ON, N5A 0A7

Developer’s Telephone: (519) 276-1454

Developer’s Email: webuild@rogers.com

SCHEDULE "A" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

DESCRIPTION OF LANDS BEING SUBDIVIDED

Part of Lots 8 and 9, and Part of South Street, (closed by By-Law no. 33 of 1973 registered as inst. no. R125253), Registered Plan No. 452, Geographic Township of Goderich, now in the Town of Goderich, County of Huron

SCHEDULE "B" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

PLAN OF SUBDIVISION

A Draft Plan of Subdivision of Subdivision, completed by MTE OLS Ltd. as filed with The Corporation of the County of Huron, file 40T20005 as part of an application for a Plan of Subdivision is available in the offices of the Town of Goderich for review.

SCHEDULE “C” OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town’s Agreement.

TOWN SERVICING GUIDELINES

Design of the works and for servicing of this Plan shall be in substantial conformity with the Town of Goderich Servicing Guidelines, dated March 8, 2019 subject to the provisions of section 3.1 of this Agreement and the exceptions to the Guidelines set out therein.

The Town Servicing Guidelines published by the Town dated March 8, 2019, shall provide the basis of designing Town services with the Development. The Town reserves the right, should those Servicing Guidelines be amended more than five years from the date of registration of the first phase of any Development to require the Developer to alter its designs to satisfy those new Guidelines. The Town and the Developer agree that no material changes to the Guidelines made within 5 years of the execution of the first Phase Agreement shall apply to the Plan.

SCHEDULE "D" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

CHECKLIST OF WORKS TO BE CONSTRUCTED

1.	Roads restoration complete with asphalt paving and curb and gutter	X
2.	Grading and drainage on lots	X
3.	Sanitary sewer service connections to the lot line	X
4.	Water service connections to the lot line	X
5.	Grading and requirements of a site grading plan	X
6.	Underground electrical services	X
7.	Utility obligations – telephone, cable t.v., gas service	X
10.	Topsoil and sod on boulevard from property line to curb	X
12.	Vegetation retention plan.	X
13.	Lot house number signs.	X

Note: Works Required Denoted by -- X

SCHEDULE "E" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

**ITEMIZED ESTIMATE OF COSTS OF CONSTRUCTION
OF EACH PART OF THE WORKS**

Item	Amount
1 Project Startup	8,000.00
2 Sanitary Sewer Services	12,000.00
3 Storm Sewers Services	22,000.00
4 Water Services	20,000.00
5 Roadworks/Road restoration	46,000.00
6 Contingency	20,000.00
Subtotal Construction	128,000.00
Allowance for Engineering	13,000.00
Subtotal with Engineering	141,000.00
HST (13% rounded)	18,000.00
Total Security required	159,000.00

SCHEDULE "F" OF THE AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

LIST OF LOTS UNSUITABLE FOR BUILDING PURPOSES – CLAUSE 6.3

None

SCHEDULE "G" OF THE AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

OWNER'S FINAL GRADING CERTIFICATE

The undersigned hereby certifies to the Corporation of the _____ of _____ (the "Town") that the foundations of the buildings and structures and any openings in any such foundation walls constructed on the following property:

STREET NO.

STREET

TOWN

LOT/BLOCK

REGISTERED PLAN NO.

Have been constructed, at or above the elevations illustrated on the overall Certified Building Lot Site Plan (as approved by or on behalf of the Town) referred to in the Agreement registered against the title to the above property as shown on the as-built grading survey attached.

The undersigned further certifies to the Town that a field survey has been completed by the undersigned and that:

1. The final grading of the above referred to property has been completed in substantial compliance with the Certified Building Lot Site Plan referred to in the Agreement.
2. The grade elevation of all lot boundaries and corners including the front lot corners of the property are in substantial compliance with the Certified Building Lot Site Plan; and
3. The above lot has been graded to provide positive drainage in the front, rear and sideyard and that there is no area of the property which is subject to ponding of water; and
4. That in all cases, the final grading conforms to the intent of the grading plant.

This certificate is given and delivered to the Town in full knowledge that the Town relies on this certification in providing a release of the applicable Agreement affecting this property.

DATED at _____, Ontario this _____ day of _____, 20___.

Signature of OLS/Professional Engineer

NOTE: Copies of this Owner's Final Grading Certificate are available at the Town's Building Department.

SCHEDULE "H" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

LANDS FOR MUNICIPAL PURPOSES TO BE CONVEYED TO THE TOWN

None

LIST OF EASEMENTS TO BE GRANTED TO THE TOWN

None

SCHEDULE "T" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

NO OCCUPANCY AGREEMENT

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other good and valuable consideration and the sum of One (\$1.00) Dollar of lawful money of Canada, the Parties hereto mutually covenant and agree as follows:

1. In consideration of the Corporation of the _____ of _____ issuing a building permit to the Owner for _____, the Owner covenants and agrees that it will not apply for an occupancy permit until the above referred to services have been installed to the satisfaction of the Town;
2. The Town hereby acknowledges that it has a cash deposit from the Developer in the sum of _____ and will use its best efforts to see to it that the above referred to services are completed by _____.

THIS AGREEMENT shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

SIGNED, SEALED AND DELIVERED

This _____ day of _____, 20 ____.

(
 (
 (_____
 (DEVELOPER (NAME OF DEVELOPER)
 (
 (THE CORPORATION OF THE
 (_____ OF _____
 (
 (
 (Mayor
 (
 (
 (Clerk
 (We have authority to bind the Corporation.

SCHEDULE “J” OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town’s Agreement.

APPLICATION FOR REDUCTION OF SECURITY

To: (Name of Town’s Engineer), Engineer, _____ of _____

Developer: (Name of Developer)

Agreement: (Date of Agreement)

Property: (Legal Description of Property)

Application No. (Specify number of application)

The undersigned, (Name of Developer’s Engineer) being the Developer’s Engineer, hereby confirms that the Works constructed as at the date of this Application have been installed by the Developer under the full time supervision of the Developer’s Engineer and in accordance with the requirements of the Agreement between the Developer and the Town.

The Works installed to the date hereof and the calculation of the cost thereof are detailed in the schedule attached hereto.

Further, the undersigned Developer’s Engineer hereby confirms that the Works remaining to be constructed as at the date of this Application and the calculation of the estimated cost thereof are also detailed in the schedule attached hereto.

This Application is given and delivered to the Town’s Engineer with full knowledge that the Town’s Engineer and the Town will rely upon the information contained herein in granting a reduction of the security held by the Town pursuant to Section 9.2 of the said Agreement affecting the above property.

DATED at _____, Ontario this _____ day of _____, 201 ____.

Signature of Developer’s Engineer

Name of Developer’s Engineer

SCHEDULE "K" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

FORM OF PARTIAL RELEASE:

PARTIAL RELEASE

IN FAVOUR OF:

Herein called the "Owner"

WHEREAS the Owner entered into certain obligations in favour of the Corporation of the _____ of _____ under an Agreement registered against the lands hereinafter described as Instrument No. _____.

AND WHEREAS the Owner has satisfied and fulfilled all of those obligations.

NOW THEREFORE the Corporation of the _____ of _____ releases the Owner from the obligations contained in the said Agreement, with the exception of the lot grading provisions in Section 6.5 in said Instrument No. _____, as amended, and certifies that all other provisions of that Agreement, as amended, are no longer binding with respect to the said lands. The lands released hereby are:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the _____ of _____ (_____), County of _____ and being composed of Lot _____ Registered Plan _____, the _____ of _____ has, by Bylaw _____, registered in the said registry office as Instrument No. _____, provided that this Partial Release shall be executed by the Clerk and sealed with its seal.

DATED this _____ day of _____, 20____

Clerk

SCHEDULE "L" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

CONDITIONS OF DRAFT APPROVAL

The Conditions of Draft Approval for File No. 40T20005 for the Corporation of the County of Huron as attached hereto:

**CONDITIONS OF DRAFT APPROVAL FOR
PLAN OF SUBDIVISION**

File: 40T 20005

Subdivider: Larry Otten Contracting Inc.
Lower Tier: Town of Goderich
Subject Lands: Part of Lots 8 & 9, Plan 452, and Part of South Street (closed),
in the Town of Goderich

Date of Draft Approval: March 24, 2021

WHEREAS the application for subdivision 40T20005 has been circulated according to the Delegation Orders of the Minister of Municipal Affairs and the County of Huron's Procedures Manual;

AND WHEREAS the application affects an area designated for residential development in the Town of Goderich Official Plan;

AND WHEREAS any issues raised during the circulation of the application are addressed by the following conditions to draft approval;

NOW, THEREFORE the Council of the Corporation of Huron hereby issues draft approval to file 40T 20005 which pertains to Part of Lots 8 & 9, Plan 452, and Part of South Street (closed), in the Town of Goderich, and the following conditions shall apply.

The County of Huron's conditions and amendments to final approval for registration of this subdivision (File 40T20005) are as follows (the following conditions must be met prior to final approval):

Draft Conditions:

Description

1. That this approval applies to the draft plan prepared by MTE Ontario Land Surveyors, certified by Peter G. Moreton, OLS, dated October 30, 2020, the subdivision showing five lots for single detached dwellings and three lots for semi-detached dwellings for a total of five single detached and six semi-detached units; on an area of 0.656 hectares.

Zoning

2. That the Town advise that appropriate zoning is in effect for this proposed subdivision.

Servicing

3. That the owner agrees in writing to satisfy all requirements, financial and otherwise, of the Town of Goderich concerning the provision of roads, installation of services, drainage, and water and sewage capacity.
4. The developer shall provide telecommunications utilities (phone, television, internet) services to the site in accordance with the terms of the subdivision agreement with the Town.
5. The owner agrees to provide the necessary easements and/or agreements required for the provision of gas services for this project, in a form satisfactory to Enbridge Gas Inc.
6. That such easements as may be required for utilities, including telephone, television cable, internet, gas and hydro or stormwater/drainage purposes shall be granted gratuitously to the appropriate authorities.

Parkland and Landscaping

7. The owner agrees to provide payment-in-lieu of parkland dedication as per Section 51.1 of the Planning Act to the satisfaction of the Town.
8. The owner agrees to provide or preserve a minimum of two (2) trees per lot to the satisfaction of the Town, and to make reasonable efforts to preserve trees shown as to

be preserved in accordance with the Tree Preservation Sketch prepared by MTE Ontario Land Surveyors.

Stormwater Management and Grading

9. That before commencing any grading or construction, to have prepared a detailed report, drawing and site plans acceptable to the Town of Goderich which will show:
 - a) A final Stormwater Management Plan (SWM) to be prepared by a qualified engineering consultant for the subject lands to address the pre- and post-development runoff volumes/flows; and
 - b) A lot grading and drainage plan be prepared by a qualified engineering consultant for the overall subdivision drainage scheme.

Agreement

10. That the owner/developer enters into a subdivision agreement with the Town of Goderich to satisfy all servicing, financial and other requirements and that the agreement shall be registered against the lands to which it applies.
11. A copy of the subdivision agreement between the owner/developer and the Town of Goderich Huron shall be provided to the County of Huron Planning and Development Department prior to final approval of this subdivision.

Fees

12. Arrangements shall be made, satisfactory to both the Town of Goderich and the County of Huron, for reimbursement of any legal and/or engineering fees and disbursements incurred by them in connection with the review or approval of this plan of subdivision.

Lapsing

13. The proponent has three (3) years from the date of draft approval of this plan of subdivision to obtain final approval from the County. If final approval is not obtained before three (3) years from the date of draft approval, an extension to draft approval may be considered by the County. It is the applicant's responsibility to request this extension and if an extension is not obtained, then draft approval shall lapse.

Clearances

14. That the County be advised in writing by appropriate agencies how the foregoing conditions have been satisfied (see below for addresses of agencies).

NOTES TO DRAFT APPROVAL

1. It is the applicant's responsibility to fulfill the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the County of Huron, Planning and Development Department, quoting the County file number.
2. An application for final approval of the Plan of Subdivision must be submitted to the County of Huron with copies of the required clearance letters. Be advised the County of Huron requires a minimum of two weeks to review an application for final approval of a Plan of Subdivision.
3. A copy of the final M-Plan is required by the County of Huron and the Municipality of Bluewater.
4. It is the responsibility of the Developer to provide the approval body with the required information and fees to extend this draft approval. Should this information and fees not be received prior to the lapsing date, the Draft Plan Approval will lapse. There is no authority to revise the approval after the lapsing date. A new subdivision application under Section 51 of the Planning Act will be required.
5. An updated review of the plan and revisions to the Conditions of Approval may be necessary if an extension is to be granted.
6. A copy of the development agreement is required by the County of Huron.
7. Clearances are required from the following:

Town of Goderich
 57 West Street
 Goderich, ON, N7A 2K5
 Condition # 2, 3, 4, 6, 7, 8, 9, 10, 12

County of Huron Planning & Development Department
57 Napier Street,
Goderich, Ontario, N7A 1W2
Condition # 11

Enbridge Gas Inc. (Operating as Union Gas)
ENBRIDGE GAS INC.
50 Keil Dr N,
Chatham ON N7M 5M1
Condition #5

SCHEDULE "M" OF AGREEMENT

Note: It is understood and agreed that this Schedule forms part of the Town's Agreement.

SPECIAL PROVISIONS

The following special provisions apply to this Agreement:

1. Parkland

Prior to the signing of this Agreement the Owner agrees to the Town the sum of \$5,500.00 as cash in lieu of Parkland.

2. Tree Preservation

The owner agrees to provide or preserve a minimum of two (2) trees per lot to the satisfaction of the Town, and to make reasonable efforts to preserve trees shown as to be preserved in accordance with the Tree Preservation Sketch prepared by MTE Ontario Land Surveyors.