



June 10, 2015

City of Owen Sound
808 2nd Avenue East
Owen Sound, Ontario
N4K 2H4

Attention: Pamela Coulter

Dear Ms. Coulter:

**Re: City of Owen Sound and Andpet Realty Limited
East Ridge Plan of Subdivision
Plan No. 16M-44
Our File No.: 16-0023-028**

With respect to the above matter we enclose fully executed Subdivision Agreement for your records.

Yours truly,

Andréa M. Dedrick

AMD:
Encl.
cc: Doug Grace

Andréa M. Dedrick, B.A.(Hons.), LL.B.
adedrick@owensoundlawyers.com

SUBDIVISION AGREEMENT
between
THE CITY OF OWEN SOUND
- and -
ANDPET REALTY LIMITED
for development of
EAST RIDGE BUSINESS PARK



Community Services Department
Operations Department

Date: 24 June 2014
Planning File No: 42T-10501
Engineering File No: SB0014

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<u>Schedule 'L'</u>	Acquisition of Municipal Lands

THIS AGREEMENT made in quadruplicate

BETWEEN:

ANDPET REALTY LIMITED,

hereinafter called the "Developer" of the FIRST PART

- and -

THE CORPORATION OF THE CITY OF OWEN SOUND,

hereinafter called the "City" of the SECOND PART

- and -

RBC ROYAL BANK,

hereinafter called the "Mortgagee" of the THIRD PART

SUBDIVISION AGREEMENT

WHEREAS the Developer is the owner of the lands described in Schedule 'A' (hereinafter called the "Lands") 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 warrants that he/she is the registered owner of the lands and has applied for approval of a plan of subdivision (hereinafter called the "Plan") referenced and described in Schedule "B" to this agreement;

AND WHEREAS the Developer represents that the Mortgagee(s) is (are) the only mortgagee(s) of the Lands;

AND WHEREAS the City requires the Developer to construct and install certain roadways, sewers, watermains, landscaping, conservation works and any other requirements as provided for in this Agreement (hereinafter referred to as the "Works" or "Services"), and to make financial arrangements with the City for the installation and construction of the required Works or Services before final approval of the Plan;

AND WHEREAS the Developer is required to dedicate for public purposes certain portions of the Lands and/or make cash payments to the City in lieu of dedicating such land;

AND WHEREAS the Developer is required to meet all conditions of draft approval of the Plan, which are attached hereto as Schedule 'J', prior to final approval and registration of the Plan;

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 Ten Dollars (\$10.00) 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:

I. ORDER OF PROCEDURE

- a) Prior to signing this Agreement, the Developer shall:
 - 1) Deposit with the City an amount as set by by-law and revised from time to time to cover the initial legal and administrative costs of the City respecting development of the Subdivision;
 - 2) Prepare and submit to the City any studies or approvals required;
 - 3) Deposit with the City, securities and insurance as outlined in this Agreement;
 - 4) Pay in full outstanding taxes, local improvement charges, and other charges identified in Schedule 'G';
 - 5) Agree with the City on the parcel(s) of land to be deeded to the City as

- parkland and for other purposes, and/or the amount of cash to be given to the City in lieu of parkland in accordance with Schedule 'T';
- 6) Prepare all servicing plans in accordance with the engineering standards of the City, and obtain approval from the City's Manager of Engineering Services of the same.
- b) Prior to the sale of a lot or block and/or the issuance of building permits, the Developer shall:
 - 1) Obtain final approval from the City for the registered plan of subdivision.
 - 2) Comply with all the requirements of Clause 37 of this Agreement;
 - 3) Comply with all the requirements of Clause 38 of this Agreement;
 - 4) Comply with all the requirements of Clause 52 of this Agreement;
 - 5) Obtain the Certificate of Substantial Performance and Acceptance of underground services from the City and have constructed sufficient roadway to the standards acceptable to the Manager of Engineering Services.

2. PLAN OF SUBDIVISION DRAWINGS

The drawings comprising the Plan of Subdivision are available for viewing at the City Hall located at 808 2nd Avenue East, Owen Sound, Ontario during normal business hours.

3. ATTACHED 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' City's Engineering Standards and Approved Construction Plan Drawings
- Schedule 'D' List and Timing of Works to be Constructed
- Schedule 'E' Itemized Estimate of Cost of Construction of Each Part of the Works
- Schedule 'F' Lots Unsuitable for Building Purposes, Covenant Respecting Slopes, Lots Subject to Agency Approval
- Schedule 'G' Taxes in Arrears, Local Improvement Charges, and other Charges
- Schedule 'H' Easements to be Granted to the City
- Schedule 'I' Lands to be Deeded to City Inclusive of Parks Dedication or Cash-in-lieu Thereof
- Schedule 'J' Conditions of Draft Approval of the Plan of Subdivision
- Schedule 'K' Sample Letter of Credit
- Schedule 'L' Acquisition of Municipal Lands

4. CITY'S LEGAL, ADMINISTRATIVE AND ENGINEERING COSTS

The Developer shall pay to the City prior to or at the time of execution of this Agreement such fees as set out in Schedule 'G' to cover the City's expenses related to inspections and approvals by the City and any legal and administrative costs related to the development of the Subdivision.

5. 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" unless specifically stated otherwise.

6. DEVELOPER'S CONSULTING ENGINEER

- a) The Developer shall retain the services of a Professional Engineer or firm of Professional Engineers with a Certificate of Authorization registered with the Professional Engineers of Ontario (hereinafter called the "Consulting Engineer"), satisfactory to the City's Manager of Engineering Services, who shall:
 - 1) Prepare designs, plans and specifications;
 - 2) Prepare and furnish all required drawings including "as constructed" drawings in printed and digital form as may be required by the City's Manager of Engineering Services;
 - 3) Submit to the City for approval as Schedule 'E', an estimate of the costs of the Works, which said estimate, when approved by the City shall become the basis for the required securities;
 - 4) Prepare the necessary contracts;
 - 5) Obtain the necessary approvals from the City, the Ministry of the Environment, the Ministry of Natural Resources, Grey Sauble Conservation, and other utilities, authorities or governmental agencies as required by law;

- 6) Provide field layout, contract administration, and full time supervision of construction inspection throughout construction;
- 7) Maintain all records of construction and, upon completion, advise the City's Manager of Engineering Services of all construction changes and prepare final "as constructed" drawings and provide the same to the City's Manager of Engineering Services in a printed and digital format (DWG or DXF) satisfactory to the City;
- 8) Act as the Developer's representative in all matters pertaining to the construction of the works or services
- 9) Provide co-ordination and scheduling to comply with the timing provisions of this Agreement and the requirements of the City for all Works specified in this Agreement;
- 10) Where applicable, provide to the City for approval a certificate from the consulting engineer with respect to each lot or building block for which a building permit application is made, certifying that the proposed construction is in conformity with the overall grading plan (not required where the Developer is not constructing the buildings on the lot, in which case the responsibility rests with the lot owner's consulting engineer);
- 11) Where applicable, provide to the City for approval a certificate of final grade elevation from the consulting engineer with respect to each lot or building block for which a building permit has been issued, indicating that the property has been developed in conformity with the overall grading plan (not required where the Developer is not constructing the buildings on the lot, in which case the responsibility rests with the lot owner's consulting engineer);
- 12) Furnish to the City a Certificate of Substantial Performance and upon completion of the Works a Certificate of Final Completion that all works were completed in conformance with the design and to the applicable standards and specifications.

7. DEVELOPER'S CONTRACTOR(S)

The Services shall be installed by Contractor(s) retained by the Developer and approved in writing by the City's Manager of Engineering Services unless specifically noted otherwise in this Agreement subject to the policies of the City as revised from time to time.

8. SECURITIES

- a) Prior to signing this Agreement, the Developer shall deposit with the Clerk of the City, to cover the faithful performance of this Agreement for the installation of the Services and the payment and provision of all obligations arising hereunder, a cash deposit and/or an irrevocable letter of credit from a chartered bank, issued in accordance with the requirements of the City's Director of Financial Services and generally in accordance with the sample letter of credit attached hereto as Schedule 'K', in the amount of one hundred percent (100%) of the estimated costs of the off-site Works and 60% of the estimated cost for on-site work as set out in Schedule 'E'.
- b) If the Developer fails to perform any of his/her obligations pursuant to this Agreement, the City may deduct the cost thereof from the deposited securities, and may use any deposit on-hand, or may call upon the surety of any letter of credit to provide from the same the funds necessary to perform all Works hereunder, or to pay, at the option of the City, the cost of any works, materials, or other charges related to the Works, including the cost of removing or defending any construction liens, certificates of action, or defending or removing any actions or judgments affecting the City or lands or services either dedicated to the City or which are intended to become the property of the City pursuant to this Agreement.
- c) Where the surety indicates to the City that the letter of credit will not be renewed for any further period, and where any Works or other obligations of the Developer have not been completed as required by this Agreement before securities can be released for such Works or obligations, and where the Developer has not provided to the City any other security acceptable to the City, the City shall have the right to call upon the letter of credit to such extent as the City deems necessary to maintain such security until completion of the Works or obligations in accordance with the terms of this Agreement.
- d) Notwithstanding that any securities on hand have been designated herein to ensure the completion or repair of specified work, where the Developer has failed to

complete or repair any Works in accordance with this Agreement, or where the security on hand is insufficient to secure the completion or repair of said work, the City may retain sufficient security at all times to ensure the completion or repair thereof.

9. DISCHARGE OF SECURITIES

- a) The City shall retain at all times sufficient security in the form of cash or letter of credit to finance the completion of the Works described in Schedule "E", maintenance of the Works as provided for in Clause 18 of this Agreement, and completion of grading and drainage works as provided for in Clause 42 of this Agreement, subject to the provisions of Clause 8 c) of this Agreement.

No security shall be returned until the Developer has conveyed to the City in a manner acceptable to the City Clerk all lands and easements required by this Agreement.

- b) Upon the issuance of the Certificate of Substantial Performance for the services and works, all securities will be released except the cash or letter of credit required for the maintenance period which shall be held until the end of the Maintenance Period as provided for in Clause 18 hereof.

- c) The Developer covenants and agrees to grade all lots, blocks and other parts of the approved subdivision in accordance with the approved Master Grading and Drainage (surface water management) Plan. The City shall hold a portion of the security for the subdivision through the maintenance period for the purposes of ensuring site grading is completed according to the approved Master Grading and Drainage Plan. Where there are lots or blocks for which a building permit has not been issued and where the Developer requires return of the full security at the end of the maintenance period, the Developer shall grade all lots to ensure proper drainage in accordance with the requirements of the Consulting Engineer. Such undeveloped lots shall be graded to a maintainable condition so as to allow the removal of weeds. When the maintenance period has been completed, and upon receipt of written confirmation from the Developer's consulting Engineer that site grading for developed lots has been substantially completed in accordance with the Master Grading and Drainage Plan, the Manager of Engineering Service may authorize release of the security where the Developer has met all other requirements of this agreement.

- d) The City will not agree to any cancellation or reduction of the required securities if the Developer is in default in any way of any provision, requirement or obligation of the Developer under this Agreement, including conveyance of any lands or easements required by this Agreement to the City.

10. APPROVAL OF PLANS FOR THE REQUISITE WORKS

- a) The Developer and his/her Consulting Engineer shall have the plans and specifications for the Works approved by the City, and the other authorities as required.
- b) The engineering plans prepared in accordance with the City's Engineering Standards for the Subdivision and approved by the City's Manager of Engineering Services are listed on Schedule 'B' (hereinafter called the "approved construction plan drawings").
- c) No changes to the approved construction plan drawings shall be made unless prior approval is first obtained from the City's Manager of Engineering Services.

11. REQUIRED SERVICES

- a) Sanitary and Storm Sewers

The Developer shall construct all sanitary sewers and storm sewers and appurtenances thereto in accordance with the Certificate of Approval (Sanitary and Storm Sewage) as issued by the Ministry of the Environment and in accordance with the approved construction plan drawings and standards for the sanitary and storm sewers set out in Schedule 'C'.

Connections to storm and sanitary sewers shall be in accordance with the City's standards and specifications.

b) Water System, Watermains, Hydrants, and Connections

The Developer shall construct all watermains and appurtenances thereto in accordance with the Certificate of Approval (Water) as issued by the Ministry of the Environment and in accordance with the approved construction plan drawings and standards for the water system set out in Schedule 'C'.

Connections to the watermains shall be in accordance with the City's standards and specifications.

c) Electrical Distribution System and Street Lights

The Developer shall either arrange with Hydro One Networks Inc. to design and install the electrical distribution system, appurtenances thereto and street lighting electrical supply, or have its Consultant design and its Contractor install in a good and workmanlike manner the electrical distribution system, appurtenances thereto and street lighting electrical supply, all in accordance with the approved construction plan drawings and any standards set out in Schedule 'C'. Street lighting base, poles and fixtures shall be in accordance with City requirements.

d) Streets, Curbs and Gutters, and Boulevards

The Developer shall construct all roadways, curbs and gutters and appurtenances thereto in accordance with the approved construction plan drawings and standards for roadways and curbs and gutters set out in Schedule 'C'.

The Developer shall finish all boulevards with topsoil, seed and/or sod and other plantings (trees) in accordance with the standards set out in Schedule 'C'.

e) Sidewalks

The Developer shall construct all public sidewalks in accordance with the approved construction plan drawings and standards for sidewalks set out in Schedule 'C'.

f) Construction And Fencing of Public Walkways

The Developer shall construct and fence all public walkways with 1.5m high galvanized chain link fence in accordance with the approved construction plan drawings, or other standard described by City policy as may be amended from time to time, as set out in Schedule "C".

g) Street Signage

The Developer shall install street signage in accordance with the approved construction plan drawings and standards for street signage set out in Schedule 'C'.

h) Grading and Drainage

The Developer shall construct all drainage works and grade the Lands in accordance with the approved construction plan drawings and standards for grading and drainage set out in Schedule 'C'.

i) Development of Lands for Public Parks

1) The Developer agrees to prepare a grading and drainage plan to be approved by the City's Manager of Engineering Services for any lands to be conveyed to the City for parks purposes; the Developer shall grade any lands to be conveyed to the City for parks purposes in accordance with the approved grading plan.

2) The Developer shall finish all lands to be conveyed to the City for parks purposes with topsoil, seed and/or sod in accordance with the standards set out in Schedule 'C'.

3) All lands to be conveyed to the City for parks purposes shall be identified in accordance with the standards set out in Schedule 'C'.

j) Trees of Significance

The Developer, where required by the City, shall prepare a tree inventory and identify trees of significance which are to be retained in accordance with the standards set out in Schedule 'C'.

k) Additional Works

If, from time to time during the development of the Subdivision, the City is of the opinion that additional works are necessary to provide adequately any of any services required by the Subdivision, the Developer shall construct, install or perform such additional works as may be requested by the City.

12. PHASING OF SERVICING

Phasing of servicing shall only be permitted by the City in accordance with a schedule of services provided by the Developer for consideration by the City's Manager of Engineering Services, and where phasing is approved by the City it shall be set out in Schedule "D" to this agreement in accordance with the requirements of the Manager of Engineering Services.

13. TIMING OF WORKS TO BE CONSTRUCTED

a) Following registration of the Plan, the Developer shall construct all requisite Works in accordance with Schedule 'D' in order to provide services to the lots and building blocks within the Plan. This schedule sets out the works in general terms only and shall not be construed as covering all items in detail.

b) It is understood and agreed that should the Developer fail to construct the Services as stipulated by such dates as provided in Schedule 'D', the City may draw against the security to the extent necessary to ensure compliance with this agreement, and no certificate issued by the City under this agreement shall be issued to the Developer until such time as all requirements of this agreement have been satisfied.

14. NOTIFICATION OF COMMENCEMENT OF CONSTRUCTION OF THE WORKS

a) The Developer shall not commence the construction of any of the Works until the Developer has provided four business days written notice to the City's Manager of Engineering Services of his/her intention to commence work.

b) It is the intent of this Agreement that work be performed expeditiously and continuously, that all underground and all above-ground services be installed in accordance with Schedule 'D', unless extended by the City.

c) Should, for any reason, there be a cessation or interruption of construction, the Developer shall provide five business days written notification to the City's Manager of Engineering Services before work is resumed.

15. SCHEDULING OF CONSTRUCTION OF THE WORKS

a) Prior to the start of construction of the Works, the Developer shall supply to the City's Manager of Engineering Services for approval, a Schedule of Works setting out the order in which the various Works within the Plan will be built.

b) The City may amend this schedule and the Developer must construct, install or perform the work as the City may direct from time to time.

16. PROGRESS OF CONSTRUCTION OF THE WORKS

a) The Developer shall install all Works in accordance with the Schedule of Works provided for in Clause 14 hereof or as directed by the City, and if he/she fails to do so, or 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 City, then, upon the City giving seven (7) days written notice by prepaid registered mail to the Developer, the City may without further notice enter upon the Lands and proceed to supply all materials and to do all the necessary works in connection with the installation of the required 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 the cost of engineering to the Developer who shall forthwith pay the same upon demand. If the Developer fails to pay the City within thirty (30) days of the date of billing, the money owing may be deducted from the deposited securities.

b) In the event that the City must enter upon the Lands and have the Works completed or repaired due to situations as outlined in Clause 15 a) hereof, all original plans and specifications prepared by the Developer's Consulting Engineer shall be provided to the City in printed and digital format.

It is understood and agreed between the parties hereto that such entry upon the Lands by the City shall be as agent for the Developer and shall not be deemed for any purpose whatsoever, as an acceptance or assumption of the Works by the City. The City, in addition to all other remedies it may have, may refuse to issue building permits until such Works are completely installed in accordance with the requirements of the City.

- c) It is agreed that a copy of Clause 15 shall be delivered by the Developer to each and every builder obtaining a building permit for any lot or building block in the Plan.

17. INSPECTION AND ACCEPTANCE OF THE WORKS

- a) Subject to Clause 20 hereof, when all the Services have been completed, the Consulting Engineer shall furnish the City with a certificate that all works were completed in conformance with the design and to the applicable standards and specifications.

Upon receipt of said certificate, the City shall make an inspection of the Works. When the City is satisfied that work is substantially complete and in conformance with the applicable standards and specifications, the City shall issue a Certificate of Substantial Performance. The Certificate may contain a list of minor deficiencies which have to be corrected by the Developer, but which are not considered of sufficient importance to delay the issuance of the Certificate of Substantial Performance.

- b) Notwithstanding Clause 17 a) hereof, the City will issue a separate Certificate of Substantial Performance and Acceptance for the underground services subsequent to the execution of this agreement by all parties. The Developer shall supply to the City a video inspection record of the sanitary sewer service and a leak and appurtenance integrity report for the installed water service not more than 30 days prior to the expiration of the maintenance period for the underground services.
- c) The Maintenance Period as provided for in Clause 18 hereof will commence when the Certificate of Substantial Performance and Acceptance is issued by the City. If the City, at its sole discretion, issues a separate Certificate of Substantial Performance for individual services the Manager of Engineering Services may specify a maintenance period for each of the said underground and above-ground services.

18. STATUTORY DECLARATION OF ACCOUNTS PAID

The Developer agrees that upon applying for a partial or full discharge of securities, a Certificate of Substantial Performance, or a Certificate of Final Completion he/she shall supply the City with a Statutory Declaration that all accounts for work and materials for the 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 for the Subdivision.

19. MAINTENANCE OF WORKS

- a) The Developer will be responsible for the repair and maintenance of all Services for a period of two (2) years from the date of issuance of the Certificate of Substantial Performance for the Services to which the same relates, which period of time shall be called the "Maintenance Period".
- b) If, during the Maintenance Period, the Developer fails to carry out maintenance work within twenty-four (24) hours after receipt of a request from the City, the City may, without further notice, undertake such maintenance work and the total cost of such maintenance work shall be borne by the Developer. If the Developer fails to pay for such work within thirty (30) days of the date of billing, then the money owing may be deducted from the deposited securities.
- c) During the Maintenance Period, ten percent (10%) of the estimated cost of the Works in cash or letter of credit shall be retained by the City. Towards the end of the Maintenance Period, the Developer shall make a written request to the City for a final inspection to be made. The City at its sole discretion shall determine whether the works are acceptable and whether a Certificate of Final Completion shall be issued upon inspection by the City and any other agency. The Maintenance Period shall be automatically extended without change to this agreement where the Manager of Engineering Services believes the serving is not complete and said

Maintenance Period shall continue to be in effect, and the maintenance security retained, until a Certificate of Final Completion is issued.

20. FINAL ACCEPTANCE OF WORKS

- a) On receipt of the Developer's request for a final inspection as provided for in Clause 18 hereof, the City will inspect the Works, and if the City is satisfied and provided that the Developer has otherwise complied with this Agreement including Clause 19 b) hereof, the City will issue a Certificate of Final Acceptance, at which time the remaining cash deposit or letter of credit will be discharged by the City in accordance with Clause 8 hereof.
- b) The Consulting Engineer shall provide to the City's Engineering Services Division a complete set of signed "As Constructed" project drawings on a mylar medium and digital copies of the "As Constructed" project drawings in AutoCAD Civil 3D and PDF file formats prior to issuance of a Certificate of Final Acceptance by the City.

The AutoCAD drawings are to be submitted via eTransmit command so that the drawings can be reproduced for City use.

21. ASSUMPTION OF SERVICES

The City shall not assume or be deemed to have assumed any Services until a Certificate of Final Completion is requested by the Developer, a minimum 20% of the developable area (excluding the area identified as Block 1) contains occupied structures and the City has approved by by-law the issuance of a Certificate of Final Completion..

22. USE OF WORKS BY CITY

The Developer agrees that the Works may be used prior to acceptance by the City, or other authorized persons for the purpose for which such Works are designed, and such use shall not be deemed an acceptance of the Works by the City, nor shall such use in any way relieve the Developer of his/her obligations in respect of the Works so used.

23. WINTER ROAD MAINTENANCE

- a) Prior to assumption of the roads Works by the City as provided for in Clause 20, the Developer shall be responsible for all winter road maintenance within the Subdivision.

All manholes, catch basins, and valve boxes shall be adjusted to base course asphalt grade prior to commencement of maintenance activities.

- b) In the event that proper vehicular access or snow removal is not provided by the Developer as required by this Agreement, the City, through its servants, contractors, or agents, may provide access and remove snow without notice to the Developer. Such removal of snow shall be only carried out at times deemed necessary by the City's Manager of Engineering Services. All costs of such work shall be paid by the Developer within thirty (30) days of the date of billing or otherwise may be deducted from the deposited securities.
- c) The Developer agrees that any work done by the City pursuant to this Agreement before the roads are assumed by the City shall not be deemed in any way to be an acceptance by the City of the roads upon which such work is done. The Developer acknowledges that the City, while providing access by removing snow, 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 City that he/she might have arising therefrom and covenants that he/she will make no claim against the City for such interference or damage, providing the work is carried out in a normal and reasonable manner.
- d) Representation may be made by the Developer to the City requesting that the City consider entering into a separate agreement with the Developer to undertake the winter road maintenance within the Subdivision prior to assumption of the roads by the City.

24. EMERGENCY REPAIRS

- a) Employees or agents of the City may enter onto the Lands at any time or from time to time for the purpose of making emergency repairs to any of the Works.
- b) Such entry and repairing shall not be deemed an acceptance of any of the Works by the City, or an assumption by the City of any liability in connection therewith or

release of the Developer from any obligations under this Agreement.

- c) All costs of such work shall be paid by the Developer within thirty (30) days of the date of billing or otherwise may be deducted from the deposited securities.

25. DEVELOPER'S LIABILITIES

- a) The Owner, its assigns and successors in title, agree that they shall indemnify and save harmless the City of and from all actions, causes of action, suits, claims, demands, losses, costs, charges and expenses of every nature and kind whatsoever by whomsoever made, brought or prosecuted, including legal fees, which the City may incur, be put to or have to pay, which may arise either directly or indirectly by reason of any activity of the Owner, its employees, servants, agents, contractors, subcontractors in executing the Work under this Agreement; by reason of installation of any Works required under this Agreement; by the failure of the Owner to complete the installation of the Work required under this Agreement; because of or on account of the ownership, construction, use, existence, or maintenance of the property described in this Agreement; by the exercise of the Owner's powers under this Agreement; or by reason of the neglect of the Owner or its employees, servants, agents, contractors, subcontractors or others for whom the Owner is responsible at law in exercising its said powers.
- b) Without limiting the generality of the foregoing, the Owner and its assigns and successors in title agree to indemnify and save harmless the City for any issues related to the alteration of any grade or existing level construction, the maintenance or repair of any street within the subdivision, or by reason of the failure, neglect or omission of the Owner to do anything agreed to be done pursuant to this Agreement or by reason of any act or omission of the Owner, including failure of the Owner to comply with the *Construction Lien Act, R.S.O. 1990 C. 30*. This provision shall apply even after the subdivision has been assumed if the act or omission of the Owner took place prior to assumption.

26. INSURANCE

- a) The insurance, with a financially sound and reputable insurance company, shall cover the ownership of the property described in this Agreement and include construction, installation, repair or maintenance of all Works and services. It shall include, but not be limited to:
 - 1) Commercial Liability Insurance Commercial general liability insurance applying to all operations of the Owner which shall include coverage for bodily injury or death, broad form property damage, products and completed operations liability, owner's & contractor's protective liability, blanket contractual liability, contingent employer's liability, non-owned automobile liability and shall include cross liability and severability of interest clauses. This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and underpinning, or from any other activity or Work that may be done in connection with the development of the subdivision. Such policy shall be written with limits of not less than TEN MILLION DOLLARS (\$10,000,000.00) exclusive of interest or costs, per occurrence and shall include the City and its consulting engineers as additional insured's;
 - 2) Automobile Liability Insurance Automobile liability insurance with an inclusive limit of liability of FIVE MILLION DOLLARS (\$5,000,000.00) on forms meeting statutory requirements covering all licensed vehicles used in any manner in connection with the development of the Subdivision including legal liability for Damage to Non-Owned Automobiles coverage and/or Cargo insurance. The policy must provide coverage for bodily injury or death or property damage arising out of the ownership, use or operation of all owned and/or leased automobiles;
 - 3) Environmental Pollution Liability Environmental pollution liability with the following: General Aggregate: \$5,000,000.00, Per Occurrence: \$5,000,000.00 and Deductible: \$100,000.00.
- b) The Owner shall also provide the City with satisfactory evidence of insurance coverage from the Owner's contractors that mirrors the requirements set out in

paragraph above prior to commencing performance of any of the Works or services and shall continue to do so until 24 months following assumption of the Work. The Owner shall supply the City with a Completed Certificate of Insurance in a form acceptable to the City.

- c) The Owner covenants and agrees that the Insurance provisions and requirements contained herein, shall apply to all existing and proposed development and in all previous phases of the subdivision, which shall take effect upon the renewal date of any existing insurance policies that apply to said previous phases.
- d) The issuance of such a policy of insurance shall not be construed as relieving the Owner from the responsibility for other or later claims or claims in excess of the limits of the policy, if any, for which it may be held responsible.
- e) The Developer shall insure against all damages or claims for damage with an insurance company satisfactory to the City. Such insurance policy shall be issued in the joint names of the Developer, and the City, and the form and content shall be subject to the approval of the City. The policy shall remain in the custody of the City during the life of this Agreement. The minimum limits of such policy shall be \$5,000,000.00 all inclusive, but the City shall have the right to set higher amounts, as may be set out in Schedule 'D'.
- f) The insurance policy as required by Clause 26 e) of this Agreement shall be in effect for the period of this Agreement including the Maintenance Period. The issuance of such insurance policy shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, for which he/she may be held responsible. The Developer shall furnish to the City a copy of the required insurance policy described in this section upon request by the City and shall maintain the said insurance pursuant to the requirements of this agreement.

27. PRIVATE UTILITY INSTALLATION AND COSTS

- a) The Developer shall deal directly with all private utility companies (respecting gas, telephone, cable TV). The Developer or his/her Consulting Engineer shall obtain all approvals and permits and pay all fees and charges directly to private utility companies, or as otherwise provided for in this Agreement.
- b) The Developer shall endeavour to coordinate the timing of installation of private services with the timing for installation of the Works required by this Agreement.

28. BLASTING

- a) Any blasting carried out by the Developer or his/her contractors shall be under the supervision of the Consulting Engineer, or other consulting engineer approved by the City who has experience with blasting operations and procedures.
- b) If required by the City or Grey Sauble Conservation, a geo-technical study shall be conducted at the Developer's sole expense prior to any blasting, such study to be approved by the City and GSC, and all blasting shall be carried out in accordance with any directives of the approved geo-technical study.
- c) Before any blasting is proceeded with by the Developer, the Developer shall:
 - 1) conduct a pre-blast survey of adjacent and surrounding structures;
 - 2) discuss the procedure, location, and extent of such blasting with the City's Manager of Engineering Services;
 - 3) obtain from the City's Manager of Engineering Services written permission for carrying out the blasting operation;
 - 4) show proof of insurance for all damage or claims for damage resulting from the blasting operation; the issuance of such an insurance policy shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, for which he/she may be held responsible;
 - 5) obtain any necessary blasting permit from the City as may be required by City policy or by-law.

29. ACCESS ROADS

- a) All access roads must be maintained by the Developer in good repair acceptable to the City's Manager of Engineering Services during the time of construction of the Works or any buildings on lots or building blocks in the Plan, and no roadway outside the limits of the Subdivision may be closed without the written consent of

the City's Manager of Engineering Services or his/her delegate. For the purpose of obtaining such consent, the Developer shall advise the City's Manager of Engineering Services of the date and time he/she wishes to close the roadway.

- b) The Developer agrees that all roads leading to the Lands and to be used for access during the construction of the Works and buildings in the Plan shall be kept in good and usable condition throughout the period of construction, and if damaged due to development of the Subdivision, the Developer agrees to restore the same immediately in accordance with Clause 29 hereof.
- c) All trucks making delivery to or taking materials from the Lands shall be adequately covered and not unreasonably loaded so as not to scatter refuse, rubbish or debris on any access roads.
- d) The provisions of the City's by-law to regulate and control the tracking and depositing of mud and other debris on City streets and highways shall apply to the development of the Subdivision. Debris or mud deposited on any street by traffic from the Lands shall be removed immediately by the Developer. If not so removed, in addition to remedies provided for in the said by-law, the deposited material may be removed by the City at the Developer's sole expense; all costs of such works shall be paid by the Developer within thirty (30) days of the date of billing or otherwise may be deducted from the deposited securities.

30. DAMAGES OR CHANGES TO EXISTING PLANT

- a) The Developer shall repair any damage caused to any existing road, structure or plant located on or under any road allowance, as a result of the development of the Subdivision. All costs of such repairs shall be paid by the Developer. If not repaired in accordance with the requirements of the City's Manager of Engineering Services, the City may complete such repairs as are deemed necessary by the City's Manager of Engineering Services at their sole discretion. If the Developer fails to pay for repairs completed by the City within thirty (30) days of the date of billing, the costs may be deducted from the deposited securities.
- b) The Developer shall pay for any costs involved in the relocation of existing services, such as hydrants, utility poles, or other services or plant, which may become necessary because of the development of the Subdivision. If the Developer fails to pay for such works completed by the City within thirty (30) days of the date of billing, the costs may be deducted from the deposited securities.

31. DUST CONTROL

- a) During all construction in the Subdivision, the Developer shall apply approved dust retardants in sufficient quantities or undertake any other actions approved by the City's Manager of Engineering Services to prevent any dust problem to traffic or nearby properties. All costs of such works shall be paid by the Developer.
- b) If dust is not controlled in accordance with the requirements of the City's Manager of Engineering Services, the City may apply such retardants as are deemed necessary by the City's Manager of Engineering Services at his/her sole discretion.
- c) If the Developer fails to pay for such works completed by the City within thirty (30) days of the date of billing, the costs may be deducted from the deposited securities.

32. GRADING AND DRAINAGE OF THE LANDS

- a) All roads, lots and blocks within the Plan, and all lands abutting the Plan shall be graded to drain in accordance with the overall grading and drainage plan referred to on Schedule 'C'.
- b) Until the roads laid out according to the Plan have been assumed by the City, the Developer shall provide adequate drainage of the surface water from the Lands. The Developer shall lay out such roads and grade the same together with the lands surrounding the same in such a manner that no damage or harm shall result by reason of the drainage therefrom to persons or property outside or within the Lands.
- c) If the Developer at any time or times fails to carry out his/her obligations to grade and drain the Lands as required hereunder, the City may enter onto the Lands and complete such works as are necessary to correct the same. If the Developer fails to pay for the work completed by the City within thirty (30) days of the date of billing, the costs may be deducted from the deposited securities, or otherwise collected from

the Developer.

- d) The Developer, at his/her sole cost and expense including all registration costs and applicable taxes if any, shall grant and convey to the City, free and clear of any and all encumbrances, easements affecting the Lands as may be necessary or required in the sole opinion of the City to provide for any drainage work that may be required to furnish an outlet for storm water or natural water courses draining on or from any part of the Lands. All such easements shall be shown on the approved final engineering drawings and are set out in Schedule 'H'.
- e) The Developer agrees that if the drainage work required to drain the Lands results in drainage through lands other than his/her Lands, all such work shall be carried out by means of a storm drain and appurtenances of sufficient size for the drainage requirements of the area and the same shall be subject to the prior approval of the City. The Developer shall, at his/her sole cost and expense including all registration costs and applicable taxes if any, obtain from land owners adjoining the Lands all necessary easements and lands required by the City to properly facilitate drainage of the Lands and the contributing areas. The easements, land, servicing requirements, and the documentation thereof shall be subject to the prior approval of the City.
- f) If, as the Plan develops, it becomes apparent to the City, Grey Sauble Conservation, the Ministry of the Environment, or the Ministry of Natural Resources that further work is necessary with respect to grading and drainage or with respect to the works contemplated in any part of this Clause, either upon the Lands or beyond the boundaries thereof, the Developer shall, at his/her sole cost and expense forthwith provide the same upon receipt of a written notice from the City identifying sufficient particulars thereof. The necessity of such drainage work shall be at the sole discretion of the City.

33. EROSION AND SEDIMENT CONTROL WORKS

- a) The Developer shall install and maintain at his/her sole expense all necessary erosion control works and structures (ie. sediment traps, silt fence, check dams, etc.) shown on the approved construction plan drawings, and any additional erosion control works required by the City's Manager of Engineering Services from time to time necessary to minimize erosion on and off the subject lands.
- b) Should the Developer default in constructing or maintaining any required erosion control works and structures, the City at its sole option may enter the lands and carry out the required erosion control works with the costs being charged to the Developer. If the Developer fails to pay for such works within thirty (30) days of the date of billing, the costs may be deducted from the deposited securities.

34. LANDS FOR MUNICIPAL PURPOSES

- a) The Developer agrees to grant in fee simple to the City, lands for municipal purposes other than roads, which shall be mutually agreed upon by the Owner and the City, and/or to make a cash payment in lieu thereof as provided by the Planning Act, and also to convey to the City in fee simple any reserves required by the Minister, all as detailed in Schedule 'I'. Any cash payment required hereunder shall be deposited with the City at the time of execution of this Agreement.
- b) Deeds for lands to be conveyed to the City pursuant to this Agreement shall be delivered to the City Clerk at the time of execution of this Agreement and are subject to approval of the City Solicitor, and will be registered in the County Registry Office, the costs of which shall be paid by the Developer.
- c) All transactions respecting conveyance of lands to the City pursuant to this Agreement shall be free and clear from all encumbrances. Discharges of any encumbrances to the lands being conveyed to the City shall be delivered to the City Clerk within sixty (60) days of registration of the Plan, failing which the City may, at its option, require the Developer to stop all work hereunder pending delivery of the said documents. The City shall not issue any release of any lot or block as provided for in Clause 40 hereof nor release any securities deposited hereunder until such discharges are provided to the City and registered. All discharges are subject to the approval of the City Solicitor, and will be registered in the County Registry Office, the costs of which shall be paid by the Developer.

35. EASEMENTS FOR MUNICIPAL PURPOSES

- a) The Developer, at his/her sole cost and expense including all registration costs and applicable taxes if any, shall grant and convey to the City free and clear of all encumbrances, easements as may be required for the installation and supply of services to the Subdivision. Easements required by the City are set out in Schedule 'H'.
- b) Easements required by the City shall be provided to the City Clerk within sixty (60) days of registration of the Plan. The City shall not issue any release of any lot or block as provided for in Clause 40 hereof nor release any securities deposited hereunder until such easements have been conveyed to the City. Required easements shall be shown on reference plans registered in the County Registry Office, and documentation shall be in a form acceptable to the City Solicitor.
- c) If at any time, and from time to time during the development of the Subdivision, the City is of the opinion that additional easements are necessary to provide or protect adequately any of the public services required in the Subdivision, the Developer shall provide such additional easements at the request of the City.

36. CONSTRUCTION REFUSE

- a) All construction refuse and debris from the Subdivision must be disposed of in an orderly and sanitary fashion in a dumping area provided by the Developer off the Lands and approved by the City. The City is not responsible for the removal or disposal of refuse and debris. The Developer agrees to deliver a copy of this Clause to each and every builder obtaining a building permit for any lot or building block in the Plan.
- b) The Developer shall, at all times, keep the streets and boulevards in the Subdivision clear and free of all materials and obstructions which might interfere with the installation of hydro, telephone, gas or other utilities, movement of traffic, or present any public safety hazard.
- c) The Developer shall immediately remove all mud and debris from any street, easement and road allowance within the Subdivision as and when directed by the City.

37. REPLACEMENT OF SURVEY BARS

After completion of the Works, the Developer agrees to supply a statement from an Ontario Land Surveyor, to be approved by the City, that after the completion of the Works, he/she has found or replaced all survey monuments and iron bars as shown on the registered Plan.

38. REQUIREMENTS FOR BUILDING PERMITS

- a) The approval of the Plan by the City or the acceptance by the City 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 building blocks in the Plan.
- b) No building permit will be issued by the City for any lot or block within the subdivision until:
 - 1) The underground services (water, sanitary and storm sewers) have been installed, and the water distribution system, sanitary sewer and the storm sewer systems have been tested and a Certificate of Substantial Performance has been issued by the City for these Works;
 - 2) The Developer has filed with the City's Manager of Engineering Services a certificate from the Electrical Safety Authority certifying the hydro services to each lot or building block;
 - 3) The roads consisting of the grading and full depth of Granular "B" sub-base and Granular "A" have been constructed, provided the City reserves the right to require at this stage first layer of asphalt, curbs and gutters, and sidewalks;
 - 4) Approval of the City has been obtained for the construction of any buildings to be erected on lots or blocks listed in Schedule 'F';
 - 5) A certificate approved by the City's Manager of Engineering Services has been provided by a Consulting Engineer to verify that the drainage plan for the lot or block on which the building is to be erected is in conformity with the overall grading and drainage plan referred to in Schedule 'C';
 - 6) The applicable development charge for the lot or block on which the building is to be erected, as provided for in Clause 41 d) of this Agreement,

has been paid and all other requirements and provisions of the City have been met to the satisfaction of the City.

- 7) The subdivision plan described in Schedule "B" and this agreement have been registered on title against the lands.
- 8) The City's Fire Department have confirmed the adequacy of the water supply for firefighting purposes.
- 9) All fees taxes and levies have been paid and all other provisions and requirements of this agreement have been met.

39. RESTRICTIVE COVENANTS

- a) The Developer will include in each deed for each lot or block in the Plan, a restrictive covenant requiring that before any building is erected or occupied on the lot or block, the provisions of Clause 43 of this Agreement respecting grading and drainage shall be met.
- b) A copy of Clause 38 a) and Clause 43 of this Agreement shall be delivered by the Developer to each and every builder or any prospective purchaser of a lot or block in the Plan.

40. LOTS UNSUITABLE FOR BUILDING

- a) Any lot or building block which will require special attention or additional approvals in order to be serviced or developed is listed on Schedule 'F'.
- b) For any lot or building block which can not be developed due to a physical impediment and which is listed on Schedule 'F', a Consulting Engineer shall submit a proposal in writing to the City's Manager of Engineering Services outlining the measures to be taken to correct the problems relating to the lot or building block; the proposal must be approved by the City's Manager of Engineering Services prior to a building permit being issued.
- c) Where staging of services pursuant to Clause 11 of this Agreement is being employed, lots which are to be serviced in future stages pursuant to an amending or new Subdivision Agreement are set out in Schedule 'F'. No lot release pursuant to Clause 40 of this Agreement shall be issued or building permit issued for these lots or building blocks until the necessary agreement has been fully executed and requirements thereunder met by the Developer.

41. RELEASE OF LANDS

- a) The Developer, when not in default of this Agreement, shall be entitled to either a Certificate of Compliance or an effective release in a form for registration in the County Registry Office for each lot or block designated by the Developer and the return of the grading security for that lot or block. A Certificate of Compliance or release shall not be issued for any specific lot or block until:
 - 1) Clause 38 hereof has been complied with (when the Developer will be building on the lot or block);
 - 2) Clauses 38 and 39 have been complied with (when some other person or corporation is building on the lot or block);
 - 3) A lot or block identified in Schedule 'F' as unsuitable for building purposes has had the conditions for such lot or building block being listed in Schedule 'F' addressed to the satisfaction of the City's Manager of Engineering Services and Grey Sauble Conservation;
 - 4) All easements, discharge of encumbrances, and any other conveyances required by this Agreement have been provided to the satisfaction of the City Clerk.
 - 5) The lot or block grading has been certified as conforming to either the approved site plan or the approved overall grading plan for the subdivision by a licensed professional.
 - 6) Each lot or block has been developed as per the approved site plan or rough-graded to conform to the approved overall grading plan for the subdivision with a minimum of 100mm of topsoil placed, a ground cover of sod or hydro seed has been placed and any boulevard trees required under the Agreement have been placed.
- b) Every Certificate of Compliance or release issued pursuant to Clause 41a) of this Agreement shall operate as a discharge of all levies hereunder by the City in respect

only to each lot or block described in the Certificate of Compliance or release with the exception of responsibility for grading and drainage as outlined in Clause 43 hereof, payment of applicable development charges provided for in Clause 42d) hereof, and slope concerns provided for in Clause 47 hereof, if applicable.

- c) A Certificate of Compliance or release issued by the City shall constitute a release on behalf of the City.
- d) The Developer will ensure that each lot or block in the development complies with Clause 41a).v and 41a).vi prior to the completion of the maintenance period for the constructed works and will apply to have all remaining lots and blocks released from the Subdivision Agreement. Failure to comply with this clause will result in the City contracting to have the rough grading, ground cover, tree planting and lot certification completed at the Developer's expense by deducting the cost from the grading security retained under this Agreement.

42. DEVELOPMENT CHARGES, TAXES, LOCAL IMPROVEMENTS, AND OTHER CHARGES

a) Taxes

The Developer agrees to pay for all arrears of taxes outstanding against the Lands before or at the time of execution of this Agreement, as set out on Schedule 'G'.

The Developer further undertakes and agrees to pay all taxes levied on the Lands on the basis and in accordance with assessment roll entries until such time as the Lands have been assessed and entered on the collector's roll according to the registered Plan, following which the individual owners of all the lots and blocks in the Plan shall be responsible for paying all taxes levied on the separate lots and blocks in the Plan.

b) Local Improvement Charges

The Developer agrees to commute and pay all charges, including the City's share, made with respect to the Local Improvement Act which are assessed against the Lands before or at the time of execution of this Agreement, as set out in Schedule 'G'.

c) Other Charges

The Developer agrees to pay any other charges set out on Schedule 'G' to the City prior to or at the time of execution of this Agreement.

d) Development Charges (Lot Levies)

The Developer agrees for himself/herself and all successors in title that at the time of application for a building permit for each lot or building block in the Subdivision, the City shall have the right to charge and the applicant for the building permit shall pay a development charge (lot levy) to the City in accordance with City policy in effect at the time of application for the building permit.

43. GRADING AND DRAINAGE - RESPONSIBILITY OF DEVELOPER AND FUTURE OWNERS

- a) The drainage of surface waters on the lots and blocks in the Plan after the release provided for in Clause 41 hereof has been issued by the City, is the sole responsibility of the Developer and subsequent owners of the lots and blocks, and the Developer and subsequent owners are to provide and maintain grading and drainage of the lots and blocks in the Plan in accordance with the grading and drainage plan approved by the City's Manager of Engineering Services and referred to in Schedule 'C'.
- b) Prior to the issuance of a building permit for any lot or building block in the Plan, a certificate shall be provided to the City for approval by a consulting engineer to verify that the drainage plan for the lot or block on which the dwelling is to be erected is in accordance with the overall grading and drainage plan referred to in Schedule 'C'.
- c) After completion of the structures and final grading on a lot or building block in the Plan, a consulting engineer shall provide a certificate to the City for approval certifying that the grading on the subject lot or block has been completed in accordance with the approved grading and drainage plan.

d) Drainage easements that are assigned to the City are subject to the following:

The OWNER grants to the CITY OF OWEN SOUND, an easement and rights:

- 1) To enter, construct, reconstruct, maintain, inspect, alter and repair storm water services including storm sewer pipe, catch basins and swales and all appurtenances thereto, on and under those lands in the City of Owen Sound, County of Grey listed on "Schedule H" of this agreement.
- 2) For the servants, agents, contractors and workers of the City of Owen Sound to enter with machinery, material, vehicles and equipment necessary for the use of the easement.
- 3) The City of Owen Sound covenants to fill in all excavations and as far as practicable restore the surface to the same condition as prior to the commencement of construction or of any subsequent work thereto.
- 4) The Owner covenants to keep the lands clear of all brush, trees, structures and other obstructions as may be necessary for the easement, and, without limiting the generality of the foregoing, the Owner covenants not to use, or allow to be used, motor vehicles on the said easement.
- 5) This easement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

44. **PLEDGE OF TITLE TO LANDS**

- a) The Developer hereby charges and pledges as security for levy payments and service charges, all his/her rights, title and interest in the parts of the Lands shown as numbered and/or lettered lots and/or blocks on the Plan and agrees that this Agreement may be registered against the Lands and it is agreed that such payments and costs shall be a lien against the Lands.
- b) The Developer, when not in default of this agreement, shall be entitled to an effective release from pledge of Title to Lands, as per Section 43, Subsection a), above, in a form of registration in the County Registry Office, for each lot or block designated by the Developer. Such release shall not be issued for any specific lot or block, until such release of lands, in accordance with Section 40, has been issued by the Clerk of the City of Owen Sound, on behalf of the City.

45. **SIGNS RESPECTING MAINTENANCE OF LANDS AND ASSUMPTION OF ROADS BY MUNICIPALITY**

- a) Signs at least 1.2 metres by 2.4 metres shall be provided and erected by the Developer at each entrance to the Subdivision and the signs shall read as follows:

***ROADS NOT ASSUMED BY THE CITY OF OWEN SOUND
USE AT YOUR OWN RISK***

***ALL UNDEVELOPED LANDS WITHIN THIS SUBDIVISION ARE
PRIVATE PROPERTY MAINTAINED BY THE DEVELOPER.***

***ANY QUESTIONS OR CONCERNS REGARDING
MAINTENANCE OF UNDEVELOPED LANDS ARE TO BE
DIRECTED TO:***

***ANDPET REALTY LIMITED
1545 16th STREET EAST
OWEN SOUND, ONTARIO
(519) 376-9002***

The lettering shall be upper case, 15 cm high, properly spaced and black in colour on a white background sign.

- b) These signs shall be installed prior to the commencement of construction of the Works and, subject to Clause 20 hereof, the "Assumption of Roads" portion shall be removed after the issuance of the Certificate of Substantial Performance and adoption of applicable by-law, or otherwise when the City assumes the roads.

46. **COVENANTS**

- a) The Developer hereby covenants and agrees with the City at his/her sole cost and expense in the manner and within the time limited by this Agreement to comply in full with all of the terms and conditions set forth in Schedule 'J' including any amendments or revisions hereinafter made to the satisfaction of the City, and where applicable, any other governmental agencies.
- b) The Developer hereby covenants and agrees to execute all deeds, contracts, agreements or assurances, whether under seal or otherwise, as may be necessary or appropriate and reasonably required by the City in the circumstances in order to give effect to all provisions of this Agreement.
- c) The Developer covenants and agrees to comply with all relevant building, zoning and other by-laws of the City including the Building Code of the Province of Ontario in connection with the implementation of all of the provisions of this Agreement including the construction of the Works herein required to be made as well as in connection with the issuance of building permits for lots or building blocks on the Plan and further covenants and agrees to pay all requisite fees and costs required by the City in that regard pursuant to said by-laws and The Building Code.
- d) The Developer covenants and agrees to provide all reasonable assistance including documents, information, data and other information necessary to enable the City to apply on behalf of the Developer to the Ontario Municipal Board, the Minister, or any other relevant government authority or official in order to obtain all necessary amendments to the Official Plan and/or Zoning By-law in force with respect to the Lands necessary to implement the provisions of this Agreement. While it is recognized by the Developer that the City will take all reasonable steps as are necessary to make all applications to the aforementioned authorities as are necessary to implement the provisions of this Agreement, the Developer recognizes that this does not bind the City to obtain such approvals where required.
- e) The Developer covenants and agrees not to call into question, directly or indirectly, or to oppose any proceedings whatsoever whether in law or in equity or before any administrative tribunal, governmental authority or board or court, the right of the City to enter into this Agreement and to enforce or rely on or perform each and every term, covenant, proviso, agreement and condition contained herein, and the Developer further covenants and agrees that the provisions of this Clause may be pleaded by the City as an estoppel against the Developer or his/her successors and assigns in any such proceedings.

47. **COVENANT RESPECTING SLOPES**

- a) The lots and/or building blocks so identified on Schedule 'F' to this Agreement shall be subject to the following covenant:
The Developer acknowledges and agrees that:
 - 1) a portion of the lot may be susceptible to erosion or slope subsidence;
 - 2) no activity which would promote slope subsidence shall be carried out beyond the stable slope line; without limiting the generality of the foregoing, this would include placement of buildings or structures beyond the stable slope line which would promote slope subsidence, removal of trees from beyond the stable slope line unless necessary in accordance with proper tree management, or placement of any debris or redirection of any water to areas beyond the stable slope line;
 - 3) that the City, and Grey Sauble Conservation shall not be held responsible for the repair of any slope which has subsided, or any rehabilitation of lands adjoining any such slopes which have been affected by such subsidence, and the Developer hereby releases the City, and Grey Sauble Conservation from any claims owing therefrom.
- b) The Developer agrees to include in each deed for each lot or block so identified in Schedule 'F' to this Agreement the covenant set out in Clause 46 a) hereof respecting slopes.

- c) A copy of the covenant set out in Clause 46 a) shall be delivered by the Developer to each and every prospective purchaser of a lot or block so identified in Schedule 'F' to this Agreement.

48. WORKERS' COMPENSATION BOARD CERTIFICATION

The Developer agrees to furnish to the City proof of certification by the Workers' Compensation Board prior to commencement of the construction of the services, and supply a letter of clearance from the Workers' Compensation Board upon completion of construction of the services.

49. ENVIRONMENTAL CLEARANCE

The Owner covenants and agrees that if during construction of any infrastructure or buildings within the subdivision, contaminated lands are discovered, before proceeding with the Work, the Owner shall undertake at his/her/its sole expense, the necessary measures to identify and deal with the contaminant, all in accordance with the Environmental Protection Act, as amended, Regulations to that Act, the Canadian Standards applicable to Environmental Site Assessments, the applicable Ministry Of Environment Guidelines and Criteria, or other applicable guidelines, laws or by-laws, and shall provide written confirmation from the regulatory authority of compliance with this paragraph.

50. LEGAL NOTICE TO THE DEVELOPER, AND THE CITY

- a) Any notice required to be given to the Developer hereunder may be given by registered mail addressed to the Developer at his/her principal place of business, or according to the address of the Developer as shown in the last revised assessment roll in the possession of the City Clerk, and shall be effective as of the date of the deposit thereof in the Post Office.
- b) Any notice required to be given to the City hereunder shall be given to the City by registered mail to:

The Clerk of the Corporation of the City of Owen Sound,
808 2nd Avenue East,
Owen Sound, Ontario.
N4K 2H4

51. MORTGAGEE BECOMING OWNER

In consideration of the sum of \$10.00, receipt whereof is acknowledged by the Mortgagee, the Mortgagee hereby agrees that in the event of him/her becoming owner of the lands under his/her mortgage by way of foreclosure, purchase or otherwise, either beneficially or in trust, then the mortgage shall be deemed to be postponed to this Agreement and the Mortgagee shall be subject to the terms of this Agreement as though he/she had executed this Agreement in the capacity of Developer, and if the lands described herein are sold by the Mortgagee by power of sale contained in the said mortgage, the same shall be subject to the terms of this Agreement.

52. ASSIGNMENT OR TRANSFER OF MORTGAGE

The Mortgagee agrees that in the event of him/her assigning or transferring the mortgage on the lands under the Mortgage, 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.

53. ONTARIO HERITAGE ACT

Should previously undocumented archaeological resources be discovered, they may be a new archaeological site and therefore subject to Section 48 (1) of the Ontario Heritage Act. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48 (1) of the Ontario Heritage Act.

54. THE CEMETERIES ACT

The Cemeteries Act, R.S.O. 1990 c. C.4 and the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 (when proclaimed in force) require that any person discovering human remains must notify the police or coroner and the Registrar of Cemeteries at the Ministry of Consumer Services.

55. VOIDING OF THIS AGREEMENT

- a) In the event the developer has not proceeded with work required by this agreement within 3 months from the date of execution, the City at its sole discretion may declare the agreement to be null and void and all the Developer shall be required to apply for a new agreement prior to proceeding with any work on the subject lands.
- b) In the event that the Plan is not registered within ninety (90) days from the date of the signing of this Agreement, the City, at its sole option, may declare:
 - i) this Agreement to be null and void, and
 - ii) the conditions of draft approval of the Plan not to be satisfied.

56. REGISTRATION OF THIS AGREEMENT

- a) The Developer consents to the registration of this Agreement by the City upon the title to the Lands.
- b) The Developer hereby agrees that upon registration of the Plan, notice of registration of the Plan shall be given by him/her to the Clerk of the City within twenty-four (24) hours of such registration, and that until the City has registered this Agreement upon the title to the Lands, no lots or blocks in the Plan shall be conveyed or mortgaged until this Agreement has been registered upon the title to the Lands.

57. FINALIZATION OF THIS AGREEMENT

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

58. REIMBURSEMENT OF COSTS

- a) The Developer acknowledges that the City will use its best efforts to collect a reasonable proportion of the costs of the Developer for the Services, from any abutting landowner using or accessing any of the Services for which the Developer paid, and the City shall reimburse the Developer to the maximum of the amount so collected, but such collection shall be at the sole option and discretion of the City. The City shall not be liable to the Developer for any payments that the City is or will be unable to collect.
- b) The Developer acknowledges that the City will use its best efforts to collect inflation costs based on the Construction Price Index from the time of construction to the time the Services are used or accessed.
- c) The Developer agrees that the maximum amount recoverable from future development abutting the road allowance described above shall be the total actual cost of designing and constructing the Services payable by the Developer and adjusted for inflation based on the Construction Price Index from the time of construction to the time the Services are used or accessed.

59. MAINTENANCE OF PLANTINGS

Plantings are to be maintained in a healthy, vigorous growing condition for a period of five (5) years post planting, with any mortality rates exceeding 10% over this period to be replaced in an ongoing restoration work.

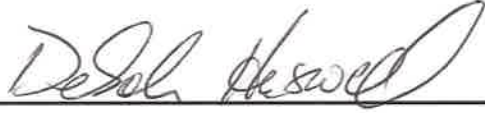
THIS AGREEMENT shall be binding upon and inure to the benefits of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

It is agreed and understood that Schedules 'A' through 'L' inclusive, affixed hereto, form part of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

SIGNED, SEALED AND DELIVERED this 7th day of July, 2014 A.D.

THE CORPORATION OF THE CITY OF OWEN SOUND



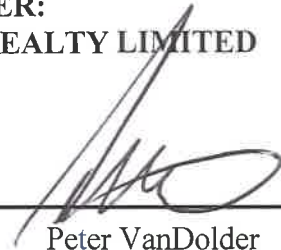
Deborah A. Haswell, Mayor



Kristen Van Alphen, City Clerk

We have authority to bind the Corporation

**DEVELOPER:
ANDPET REALTY LIMITED**



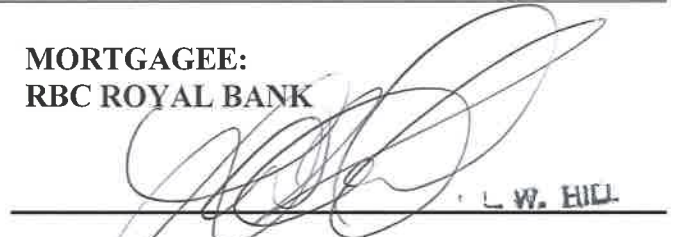
Peter VanDolder

Authorized Signing Officer

Authorized Signing Officer

I/We have the authority to bind the Corporation.

**MORTGAGEE:
RBC ROYAL BANK**



L. W. HILL

Authorized Signing Officer



Amanda Hammel

Authorized Signing Officer

I/We have the authority to bind the Corporation.

SCHEDULE 'A' TO THE SUBDIVISION AGREEMENT

Description of Lands being Subdivided

The subject lands are described as:

Blocks 1 - 9, inclusive, 17th Street East, 18th Street East, 27th Avenue East on 16M44; Owen Sound

SCHEDULE 'B' TO THE SUBDIVISION AGREEMENT

Plan of Subdivision

The plan of subdivision shall be the following plans and reports:

Schedule of Plans

<u>Drawing Number</u>	<u>Drawing Name</u>	<u>Revision Date</u>
16M-	Draft Plan of Subdivision	
S-1380-1	General Plan	28 May 2014
S-1380-2	Conceptual Surface Water Management and Grading Plan	28 May 2014
S-1380-3	Plan & Profile – Future 18 th Street East, Sta. 2+000 to 2+240	28 May 2014
S-1380-4	Plan & Profile – 27 th Avenue East, Sta. 3+000 to 3+240	28 May 2014
S-1380-5	Plan & Profile – 17 th Street East, Sta. 4+000 to 4+200	28 May 2014
S-1380-6	Plan & Profile – 18 th Street East Sta. 2+240 to 2+440	28 May 2014
S-1380-7	Plan & Profile – 28 th Avenue East Sta. 5+000 to 5+240	28 May 2014
S-1380-8	Details	28 May 2014
S-1380-TR-1	Tree Retention Plan	28 May 2014

Reports

Surface Water Management Report, Andpet Commercial Park; dated January, 2011
prepared for Andpet Realty Limited by Gamsby and Mannerow Limited

The drawings are available for viewing at the City Hall located at 808 2nd Avenue East, Owen Sound, Ontario during normal business hours.

SCHEDULE 'C' TO THE SUBDIVISION AGREEMENT

City's Engineering Standards and Approved Construction Plan Drawings

City of Owen Sound Engineering Standards:

1. General

The Developer shall save harmless the City Engineering Services Division, its agents and employees from and against all claims, demands, losses, costs, damages, actions, suits and proceedings arising out of or attributable to any act or omission in connection with the development and servicing of the plan of subdivision subject to this agreement, and without limiting the generality of the foregoing including design, review of plans and specifications and acceptance of the servicing, inspections and final acceptance of the servicing, inspections and final acceptance of the completed servicing Works arising out of or attributable to the development of this plan of Subdivision.

2. Engineering Studies:

The Developer and Consulting Engineer shall undertake sufficient engineering studies, including drainage and soil investigations, to ensure that the proposed municipal works and services are compatible with existing site and servicing constraints and can be carried out in a manner which would satisfy all City standards and conform with good engineering practice.

3. OPSS & OPSD:

The applicable Ontario Provincial Standard Specifications and Drawings shall apply to all work, subject to the direction of the City's Engineering Services Division.

4. Field Revisions:

The City's Manager of Engineering Services reserves the right to order field revisions at the sole expense of the Developer.

5. Testing:

The City's Manager of Engineering Services reserves the right to call for qualitative and quantitative tests to verify conformance to specifications and drawings, at the expense of the Developer.

6. Vehicle Wash-down:

The City's Manager of Engineering Services reserves the right to require the Developer to provide on-site a vehicle wash-down station.

7. Sanitary & Storm Service Laterals:

The Developer shall provide one 100 mm diameter sanitary sewer service lateral and one 150 mm diameter storm sewer service lateral, to be provided mainly to the centreline of each building block (or proposed dwellings within a building block), to a point 2 meters beyond the limit of the road allowance.

Construction of all service laterals shall conform to the City of Owen Sound Subdivision Design Standards.

8. Catchbasin Maintenance:

Once installed (such catchbasins are complete with 0.6 sump and goss traps) the Developer shall ensure all cleanouts in all catch basins are monitored and cleaned as necessary until the City assumes the Works.

9. Safety Grates:

The Developer shall provide safety grates at inflow and outflow of all culverts to be constructed.

10. Roadways:

All roads shall be minimum 50 mm HL-4 and 40 mm HL-3 depths of asphalt pavement on 300 mm of granular "B" and 150 mm of granular "A", and designed to suit the soil conditions to the satisfaction of the City's Manager of Engineering Services.

11. Curbs and Gutters:

All curbs and gutters shall be constructed with 30 MPa concrete and shall be constructed as per OPSD 600.040 or be a semi-mountable curb constructed as per OPSD 600.060.

12. Boulevards:

All boulevards and other areas to be landscaped shall be finished with minimum 100 mm of topsoil on which is placed nursery sod, and is watered as necessary to provide for proper root growth.

Trees to be planted on the boulevards shall be deciduous trees indigenous to this region, minimum 2.5" calliper, and shall be quality nursery stock and conform with the City of Owen Sound Native Species Tree Selection Guide for Boulevards.

13. Sidewalks:

All sidewalks shall be 1.5 meters in width constructed of concrete minimum 125 mm thickness on 125 mm of compacted granular 'A', and designed to suit the soil conditions to the satisfaction of the City's Manager of Engineering Services as per OPSD 310-010.

14. Walkways:

Walkways intended for pedestrian use only shall be constructed of:

- 50 mm HL-3 asphalt
- 100 mm granular 'A'
- 200 mm granular 'B'

Walkways intended to function as emergency vehicle access shall be constructed of:

- 40 mm HL-3 asphalt
- 50 mm HL-4 asphalt
- 150 mm granular 'A'
- 300 mm granular 'B'

In place of asphalt, approved turfstone or other hard surface material acceptable to the City's Manager of Engineering Services may be used.

Fencing of walkways shall be 1.5 metre high galvanized chain link fence.

15. Trees of Significance:

- a) Where required by the City, the Developer shall prepare a tree inventory in accordance with the City's Tree Planting Policy and identify trees of significance to be retained, such plans to be approved by the City's Manager of Engineering Services.
- b) No development or site alterations may occur within 25 metres of the existing Butternut trees identified on drawing S-1380-TR-1.
- c) Respecting trees of significance, the City's Manager of Engineering Services:
 - i) may require hand digging of adjacent service trenches;
 - ii) shall approve all cut and fill operations within the drip line;
 - iii) may require the opinion of a qualified arborist to assess the impact of proposed works.

16. Parks:

Lands to be conveyed to the City for parks purposes shall have minimum 100 mm of topsoil and shall be seeded or sodded in accordance with the approved grading and drainage plan.

17. Signage:

The following street signage shall be installed:

- 1) stop signs
- 2) street name signs
- 3) no exit signs
- 4) dead end checker board signs

All street and traffic signs shall be approved by the City's Manager of Engineering Services prior to their installation, and shall be supplied and erected by the City at the Developer's expense at locations specified by the City's Manager of Engineering Services.

18. Erosion and Sediment Control:

- a) During building activities on construction sites, there are many areas of concern to the City that are related to erosion and sediment control. These include but are not limited to:
 - i) mud tracking from construction sites onto adjacent municipal streets;
 - ii) silt and debris being washed into the existing sewer system;
 - iii) silt and debris being carried into receiving natural watercourses by rain and surface run-off flows and through the sewer system; and
 - iv) wind blown dust during dry months.
- b) An Erosion Control Plan must be prepared and submitted by the Developer to the City and the same accepted by the City's Manager of Engineering Services, for reference during development of the project, to which site specifications must reference. The plan shall include an acceptable maintenance schedule and starting and completion dates.
- c) The following erosion control measures are to be implemented during the construction phases of the project:
 - i) All silt fencing is to be installed prior to the commencement of any grading, excavating or demolition.
 - ii) Erosion control fencing is to be installed around the base of all stockpiles.
 - iii) Erosion protection is to be provided around all storm and sanitary maintenance holes and catch basins.
 - iv) Additional erosion control measures may be required as site development progresses. The contractor is to provide all additional erosion control structures.
 - v) All erosion control structures are to remain in place until all disturbed ground surfaces have been rehabilitated either by paving or by restoration of the vegetative ground cover.
 - vi) No alternative methods of erosion protection shall be permitted unless approved by the design consultant and the City's Manager of Engineering Services.
 - vii) The Developer is responsible to ensure that municipal roadways and sidewalks are cleaned of all sediments from vehicular tracking etc. to and from the site at the end of each work day.
- d) To minimize erosion problems, the Developer shall schedule construction such that:
 - i) all activities on the site are to be conducted in a logical sequence to minimize the area of bare soil exposed at one time;
 - ii) soil stockpiles shall be located away from watercourses and stabilized against erosion as soon as possible; soil stockpiles remaining longer than 30 days should be stabilized by mulching, vegetative cover, tarps or other means, whereas soil stockpiles intended to remain for less than 30 days can be controlled by filter fence barriers around the pile or acceptable equivalent;
 - iii) construction vehicles leave the site at a designated point(s) provided with a rock or gravel mat to minimize the amount of mud tracking off-site; a temporary vehicle wash down facility may be required for truck wheels;
 - iv) where work is suspended, temporary drainage and erosion control works should be undertaken to minimize erosion, to include steel plates placed over catch basins, sediment traps and silt fences, and sediment storage areas, to ensure sediment and debris do not enter the municipal sewer system or nearby creek or flood adjacent properties;
 - v) all temporary and permanent detention works and facilities be constructed prior to installation of any services on the site or commencement of earth moving operations;
 - vi) all disturbed areas be properly stabilized as soon as possible, and if areas are to remain disturbed through the winter, such areas shall be seeded, covered with mulch or covered with sod as determined by the City's Manager of Engineering Services.
- e) During any construction period within an urban construction site, the following "good housekeeping" practices shall be undertaken regardless of the soil erodibility and any other erosion and sediment control measures undertaken:

- i) all catchbasins shall be provided with sumps which shall be inspected and cleaned frequently;
- ii) at the downstream end of the site, the last manhole on the storm sewer shall have a sump which will retain any large debris, which can be cleaned out and filled in with concrete at the end of the project;
- iii) small weirs shall be built into the pipes at manholes on the site that are near the outlet for the site drainage, to provide impounding within the minor system and encourage settlement of the sediment being transported; care shall be taken when removing the weirs that the sediment is not washed into the municipal system;
- iv) once the catchbasins have been installed and connected to the minor system, the basins in rear yards, ditches and low activity areas, shall be buffered using straw bales on the upstream side (for street catchbasins and high activity areas, the straw bales will not provide adequate protection);
- v) all concentrated or channelized discharges of water off-site must be treated by appropriate erosion and silt migration control measures when such water passes through disturbed areas;
- vi) a site supervisor must be designated by the Developer to ensure the approved Erosion and Control Plan measures are implemented in a timely and effective manner, who shall conduct inspections of the site on a regular basis and after significant storm events to ensure the components of the Erosion Control Plan are functioning properly, and who shall maintain a work log to record dates and a description of the work activities and site inspections.
- vii) Erosion control structures are to be monitored regularly and any damage to structures repaired immediately. Sediments are to be removed on a regular basis and prior to accumulations reaching a maximum of ½ the height of the fence.
- viii) Additional sediment and erosion control measures may be required at the discretion of the Manager of Engineering Services or agent of Grey Sauble Conservation

19. Temporary Construction Fencing:

The Developer shall install temporary construction fencing on the Lands in accordance with sound construction practise and in accordance with the requirements of the City's Manager of Engineering Services, from the time of commencement of construction of the Works to the time of completion of construction of the Works.

20. Water:

- a) The Developer shall ensure the Consulting Engineer retained is experienced in the design of waterworks distribution systems and their installations.
- b) The Developer agrees to relocate, support or modify at his/her own expense any existing utility service facilities as may be necessary by reason of the work as required by the Plan.
- c) The Developer acknowledges and agrees that water servicing for the subdivision shall be the responsibility of the Developer in accordance with the latest issue of the regulations and specifications of the City. The Developer is further responsible for City charges for field inspection, testing and connection of the water distribution systems arising out of or attributable to the development of the Plan.
- d) The Developer acknowledges and agrees that the proposed development must be serviced from the municipal water distribution system.
- e) The Developer shall supply and install at his/her own expense the required individual water service laterals and appurtenances from the watermain to the property line within the Plan.
- f) The Developer acknowledges and agrees that in order to provide proper and reliable water distribution systems within the Plan, reasonable looping of these systems shall be provided to the satisfaction of the City.
- g) The Developer acknowledges and agrees that written approval from the City for materials required, shall be obtained prior to commencing with the installation of the water distribution system.

- h) The Developer acknowledges and agrees that no connections to the municipal water system will be permitted prior to issuance of a Certificate of Substantial Performance by the City.

21. Street Lighting

- a) The Developer shall install the street lighting system in accordance with City specifications and as approved by the Manager of Engineering Services. This includes base preparation, pole base, if applicable, pole and luminaire design. All electrical supply for street lighting systems shall be in accordance with the requirements of Hydro One Networks Inc. as set out in the following section.
- b) The entire street lighting system shall be supplied by a single metered supply connection to Hydro One Networks Inc. Multiple meters and supply connections shall not be permitted unless authorized by the City.

22. Electrical:

- a) The Developer shall arrange with Hydro-One Networks Inc.(Hydro One) to install in a good and workmanlike manner underground wiring for electrical distribution including street lighting. The design and work relating to the installation shall be carried out by the Developer or Hydro-One as required. Prior to the execution of this Agreement, the Developer will pay to Hydro-One, or as it directs, the sum or sums of money set out on Schedule 'G' hereto.
- b) The Developer will be responsible for the following:
 - i) The routes for cable trenches must be cleared of all obstacles and rough graded to within 150 mm of final grade before any trenching for electrical supply will be commenced, and must provide the location of survey markers defining the boundaries of the building blocks as may be required by Hydro-One.
 - ii) Unimpeded access for Hydro-One's equipment must be made available to the Lands.
 - iii) The Developer shall co-ordinate as far as is possible within his/her jurisdiction the layout and installation of the other services and utilities, such as telephone, cable TV, and gas, to permit Hydro-One's underground electrical facilities to be installed in the most economical and efficient manner.
 - iv) All trenching for joint-use Electric/Bell/T.V. underground installation shall be the responsibility of the Developer, to the utility's specifications. This will include line and grade for all excavations, sand bedding, backfill, restoration, and 4 weeks advance notice.
- c) The Developer acknowledges that Hydro-One's installation will not normally commence until all other servicing and grading is completed to the property lines of the building blocks, and if temporary electrical service is required for building purposes, this will either be supplied from the underground installation or from temporary overhead, and the cost of the temporary overhead will be chargeable completely to the Developer, or such person requesting the temporary service.
- d) The design for all of the electrical services shall be based on the premise that electrical service will be required for all of the building blocks shown on the Plan.

If for any reason the building blocks shown on the Plan are to be changed in dimension or location, the costs associated in accommodating these changes will be wholly chargeable to the Developer.
- e) The Developer agrees that in order to provide proper and reliable electrical distribution within this development reasonable looping shall be provided to the satisfaction of Hydro-One.
- f) The Developer acknowledges that he/she is aware of and agrees to comply with Section 26-014 "Liquid Filled Equipment, Outdoors" of the Ontario Hydro Safety Code, 20th edition. Briefly, this code requires a 6 metre separation between dielectric liquid-filled equipment and any combustible-surfaces or materials on a building or any door or window, or any ventilation inlet or outlet. If the Developer does not adhere to this rule, Hydro-One has the right to rectify this situation at the total cost of the Developer.

23. Lot and Hazard Line Demarcation

The rear lot corners of any lands abutting ravines, City owned property or the Hazard Zone boundary are to be marked with pressure treated posts as detailed on City of Owen Sound Standard Drawing OSS-801.

24. Approved Construction Plan Drawings, and Stormwater Management Report:

Approved Construction Plan Drawings and Stormwater Management Report as prepared by the Consulting Engineer in accordance with the City's Engineering Standards and approved by the City's Manager of Engineering Services to form part of this Agreement are listed on Schedule 'B'. Revisions to any of these drawings, stormwater management report or specifications must be approved and initialled by authorized representatives of the Developer, Grey Sauble Conservation (in cases involving the Stormwater Management Report) and the City.

SCHEDULE 'D' TO THE SUBDIVISION AGREEMENT

List and Timing of Works to be Constructed

Pursuant to Clause 12 b) of this Agreement, the sum of money to be paid to the City as predetermined liquidated damages is \$ 1 for each and every day the services are behind schedule.

Pursuant to Clause 20 of this Agreement, the number of lots required to be built upon and occupied prior to the City assuming responsibility for the services shall be 20% of the lots or 2 lots.

Pursuant to Clause 25 a) of this Agreement, the minimum limits of the insurance policy required by the City shall be \$5,000,000.00.

The following is a list of the Works to be constructed for the Subdivision and the timing of such construction:

Construction Schedule

<u>Description of Works</u>	<u>Completion Date</u>	
	<u>On Site</u>	<u>Off Site</u>
1. Underground Services (Sanitary Sewer, Potable Water, Storm Sewer)*	Complete	Complete
2. Underground Utilities (Electrical Distribution, Cable TV, Telephone, Gas) and Street Lighting**	Subject to Site Plan Approval	N/A
3. Base Asphalt, Curbs, Rough Grading, Stormwater Management Works***	Subject to Site Plan Approval	N/A
4. Sidewalks and Driveway Approaches	Subject to Site Plan Approval	N/A
5. Landscaping	Subject to Site Plan Approval	N/A

Individual grading of lots and building blocks is to be completed at time of construction and completion of all structures on the lot or block. Notwithstanding the foregoing, the City reserves the right to direct that the Developer or owner of any lot or block to complete finished grading of the said lot or block at any time prior to completion of a structure on the lot or block, and if the City does so direct, the Developer or owner shall carry out said work within a reasonable time thereafter, failing which the provisions of Clause 32 c) of this Agreement shall apply.

Notes:

- * Individual services are proposed to be installed at the time of the individual site development.
- ** Hydro One Networks has indicated a preference to extend their utility upon application for a “service layout” at the time of actual site development so that actual loads may be determined. Other utilities and street lighting could follow this approach.
- *** The Developer shall remain responsible for the provision of surface course asphalt and for the completion of all conditions of this Agreement to the satisfaction of the City prior to final release of securities.

SCHEDULE 'E' TO THE SUBDIVISION AGREEMENT

Itemized Estimate of Cost of Construction of Each Part of the Works

- A. On-Site Works (Undertaken and paid by Developer) and Off-Site Works (Undertaken by the Developer and cost sharing between the Developer and the City)

The costs of these works including grading and drainage is 100% the responsibility of the Developer are not itemized herein, and such works are part of the development agreement executed between the Developer and the City for this development, which includes both on-site and off-site works.

Construction Estimated Costs

ITEM #	DESCRIPTION	COST SHARING		
		CITY	DEVELOPER	TOTAL
A	Off-Site Works	N/A	N/A	N/A
B	On-Site Works	0		
1.0	Road Construction		140,705	140,705
	Granular 'A' - 2315 tonnes @ \$20/t = \$46,300			
	HL3 - 716 tonnes @ \$80/t = \$57,280			
	HL4 - 495 tonnes @ \$75/t = \$37,125			
2.0	Fire Hydrants - 5 @ \$3,000 ea		* See Note	* See Note
3.0	Street Lighting			
	12 units @ \$5,000 = \$60,000		60,000	60,000
	Electrical connection L.S. = \$2,500		2,500	2,500
	Subtotal Estimated Construction Costs		203,205	203,205
	Contingency (10%)		20,321	20,321
	Engineering (8%)		16,256	16,256
	HST (13%)		31,172	31,172
	Total Estimated Construction Costs (incl. HST)		270,954	270,954
	Total Estimated Costs On-Site	0	\$ 270,954	\$ 270,954
	Total (A+B) Costs - All Work (incl. HST)	0		\$ 270,954

*Fire Hydrants to be installed as a component of Site Plan Approval

Total Required Security (Developer Share):

The amount of this security is to guarantee performance and payment for the following works:

- Commencement:**

<u>Off Site:</u>	100% of Developer's share	\$ N/A
<u>On Site:</u>		
-	60% of Developer's share (\$270,954 x 60% = \$162,572)	\$ 162,572
-	Maintenance Security for installed underground services	\$ 0
	Security Required on Commencement	\$ 162,572
- Completion of Off-Site:**

	Required Securities to be Held	\$ 0
--	---------------------------------------	-------------
- Completion of On-Site:**

	10% for 2 Year Maintenance Period (((\$270,954 - \$0) * 10%)	\$ 27,095
	Required Security to be Held	\$ 27,095
- Total Securities Required to be Held Prior to Issuing Building Permits** \$ 27,095
(as per 1, 2 and 3 above: \$0 + \$0 + \$27,095)

Conclusion – Securities Retained by the City:

The original security of \$ 162,572 required upon execution of this Agreement is in excess of the required \$ 27,095. The Maintenance Period shall commence following the issuance of a Certificate of Substantial Performance as approved by the City, at which time, a reduction can be requested of \$135,477 and at the same time building permits may be issued.

SCHEDULE 'F' TO THE SUBDIVISION AGREEMENT

**Lots Unsuitable for Building Purposes
Covenant Respecting Slopes
Lots Subject to Agency Approval**

LOTS UNSUITABLE FOR BUILDING PURPOSES:

The following lots and/or blocks are deemed unsuitable for building purposes until certain improvements are completed or conditions are met as set out in Clause 40 of this Agreement to make such lots and/or blocks suitable for building purposes:

- 1) Lots and/or Building Blocks which require special engineering to be approved by the City's Manager of Engineering Services and a Zoning By-law Amendment prior to development being permitted:

Block 3

- 2) Lots and/or Building Blocks which require an amending or additional Subdivision Agreement to be executed prior to development being permitted:

NIL

COVENANT RESPECTING SLOPES:

The lots and/or building blocks subject to the covenant respecting slopes as set out in Clause 46 of this Agreement applies are as follows:

NIL

LOTS SUBJECT TO GREY SAUBLE CONSERVATION APPROVAL:

The lots and/or building blocks subject to Grey Sauble Conservation approval are as follows:

Blocks 1 through 6 inclusive

LOTS SUBJECT TO MINISTRY OF TRANSPORTATION (MTO) APPROVAL:

The lots and/or building blocks subject to Ministry of Transportation approval as per MTO letter dated 11 October 2011 are as follows:

Blocks 1 through 6 inclusive

SCHEDULE 'G' TO THE SUBDIVISION AGREEMENT

**Taxes in Arrears, Local Improvement Charges,
And Other Charges**

The following monies are to be deposited with the City prior to or at the time of execution of this Agreement.

a) Taxes in Arrears: \$ NIL

There are no taxes in arrears for the lands subject to the subdivision development.

b) Local Improvement Charges: \$ NIL

There are no Local Improvement charges assessed or outstanding for the lands subject to the subdivision development.

c) Cash-in-lieu of Parkland Dedication: (\$ _____ * 2%) = \$ **NIL**

d) Electrical:

i) Underground Electrical Distribution:

The Developer shall be required to pay to Hydro One Networks Inc. the full cost of the installation of all underground plant and service laterals by Hydro One.

All such costs and deposits shall be paid directly to Hydro One Networks Inc. and proof of such payment must be provided to the City's Manager of Engineering Services should this be required prior to issuance of any building permits.

ii) Street Lighting:

The costs of installing street lighting to City standards as designed by the Developer's Consultant and approved by the Manager of Engineering Services based on full underground electrical distribution shall be paid for by the Developer.

Where illumination is required to be provided on internal subdivision streets, 100% of these costs shall be paid by the Developer.

The entire street lighting system shall be supplied by a single metered supply connection to Hydro One Networks Inc. Multiple meters and supplies shall not be permitted unless authorized by the City.

The costs for new street lighting required for this subdivision by this Agreement shall be paid for by the Developer.

e) Relocation of Utility Plants:

The Developer shall pay full costs of the relocation of any public or private utility plants necessary as a result of the development of the subdivision.

All such costs and deposits shall be paid directly to the utility and proof of such payment must be provided to the City's Manager of Engineering Services should this be required prior to commencing of the servicing Works as per this agreement

f) Other Charges:

i) Pursuant to Clause 3 a) of this Agreement, the administrative fee to cover the initial legal and administrative expenses is \$500, and is non-refundable. The lump-sum inspection / engineering fee for the proposed development is \$ 5,425 for the review and inspection of the Works, based on 4% of the total cost of the Works valued less than \$100,000 and 2% of the total cost of the Works valued greater than \$100,000, and is non-refundable. The total cost the Developers share of the works excludes Engineering and HST.

ii) Development Charges (lot levies) or other applicable charges shall be paid by the

applicant at the time of application for a building permit in accordance with the City's development charges By-law(s) in effect at that time; refer to Clause 41 d) of this Agreement.

- iii) Demolition permits and Building permits shall be paid by the applicant at the time of application.

SUMMARY OF CASH CHARGES

1. Taxes in Arrears	\$ Nil
2. Local Improvement Charges	\$ Nil
3. Cash-in-lieu of Parkland	\$ Nil
4. Administration Fee	\$ 500
5. Inspection / Engineering Fee (Eng. Services Division): 4% of \$100,000 + (\$ 240,026 - \$100,000) @ 2%	\$ 6,801
6. Capital Contribution	\$ Nil
Total Cash Charges	\$ 7,301
Security (Letter of Credit) (All due at time of Agreement Execution)	\$ 162,572

SCHEDULE 'H' TO THE SUBDIVISION AGREEMENT

Easements to be Granted to the City

The Developer, at his/her sole cost and expense including all registration costs and applicable taxes if any, shall grant and convey to the City free and clear of all encumbrances, easements as may be required for the installation of the Services.

Easements required by the City shall be provided to the City Clerk within sixty (60) days of execution of this Agreement. The City shall not issue any release as provided for in Clause 38 hereof nor release any securities deposited hereunder until such easements have been conveyed to the City. Required easements shall be shown on reference plans registered in the County Registry Office, and documentation shall be in a form acceptable to the City Solicitor.

The following easements are to be defined on reference plans registered in the Grey County registry office and conveyed to the City in accordance with the requirements of the City Solicitor:

- None Required -

If at any time the City is of the opinion that additional easements are necessary to provide any of the required Services, the Developer shall provide such additional easements at the request of the City to the approval of the City Engineer.

SCHEDULE 'T' TO THE SUBDIVISION AGREEMENT

Lands to be Deeded to City Inclusive of Parks Dedication or Cash-in-lieu thereof

Deeds and discharges of any encumbrances for lands to be conveyed to the City pursuant to this Agreement shall be delivered to the City Clerk at the time of execution of this Agreement and are subject to approval of the City Solicitor, and will be registered in the County Registry Office, the costs of which shall be paid by the Developer.

The following lands are to be conveyed to the City in accordance with the requirements of the City Solicitor:

	Internal Road Allowances	1.64 ha
Block 7	Hazard lands	2.97 ha
	Park lands	0.73 ha
Block 8	(0.3m reserve)	0.01 ha
Block 9	Hwy. 26 Road Widening	<u>0.11 ha</u>
	TOTAL	5.46 ha

SCHEDULE 'J' TO THE SUBDIVISION AGREEMENT

Conditions of Draft Approval of the Plan of Subdivision

The following is a consolidated list of conditions of draft plan of subdivision approval adopted by City Council.

Throughout this Subdivision Agreement, the lot and block numbers have been modified from those indicated in this schedule to reflect final lot and block numbers appearing on the M-Plan and R-Plan to be registered upon final approval of the Council of the City of Owen Sound.

THAT City Council hereby issues draft plan approval of 42T-10501 for lands described as Part of Park Lot 10, Range 6, East of Garafraxa Road, Geographic Township of Sydenham, City of Owen Sound subject to the following draft conditions:

1. That this approval applies to the draft plan drawing number S-1380,DP-1, prepared by Gamsby and Mannerow Limited last revised September 29, 2010, which shows the following;

<i>Lot/Block</i>	<i>Proposed Use</i>	<i>Area</i>
Block 1	Industrial Block (Existing VanDolder building)	1.5 ha
Block 2	Industrial Block	2.2 ha
Block 3	Industrial Block	0.4 ha
Block 4	Industrial Block	1.6 ha
Block 5	Industrial Block	1.9 ha
Block 6	Industrial Block	1.9 ha
Block 7	Hazard & Park Lands (to be conveyed to the City)	3.70 ha
Block 8	0.3 m reserve (to be conveyed to the MTO)	0.01 ha
	Road Allowance(s)	1.64 ha
TOTAL		14.85 ha

2. That the road allowances included in this draft plan be shown and dedicated as public highways;
3. That any road widening(s) required to allow construction of the proposed 16th Street East improvements approved by the MTO be deeded to the City of Owen Sound;
4. That pedestrian access links be provided to the satisfaction of the Community Services Department (Planning Division) and the Operations Department (Engineering Services Division);
5. That the street(s) shall be named to the satisfaction of the City of Owen Sound;
6. That the owner convey 5% of the land included in the plan to the City of Owen Sound for park or other public recreational purposes or the City may require cash-in-lieu of all or a portion of the conveyance;
7. That prior to final approval of the Plan that the lots conform with the minimum lot area and frontage requirements of the Zoning Bylaw in effect;
8. That prior to final approval of the Plan, the owner shall ensure there are no taxes in arrears with the City of Owen Sound;
9. That the required subdivision agreement include wording acceptable to Grey Sauble Conservation to implement the surface water management plan, tree preservation plan, and individual lot requirements;
10. That prior to final approval, a lot grading, drainage and storm water management report be prepared by a professional engineer licensed in the Province of Ontario in accordance with applicable zoning to the satisfaction of the City's Operations Department (Engineering Services Division), the Ministry of Transportation, the County of Grey and Grey Sauble Conservation and that the plan be included in the subdivision agreement;
11. That the owner agrees in writing to satisfy all the requirements, financial and otherwise, of the City of Owen Sound concerning the cash contribution, provision of roads and service corridors, installation of services, installation of traffic control devices and

drainage;

12. That the subdivision agreement between the owner and the City of Owen Sound contain a provision that this subdivision shall not be developed except in accordance with the approved plan;
13. That such easements as may be required for utility, drainage or snow storage purposes shall be granted to the appropriate authority;
14. That the subdivision agreement between the owner and the City of Owen Sound provide for the installation of a piped water supply system subject to the approval of the Ministry of the Environment and, furthermore, shall provide for the City to assume ownership and operation of the system;
15. That prior to final approval of the Plan, the owner demonstrate to the satisfaction of the Ministry of the Environment and the City's Operations Department (Engineering Services) that there is an adequate supply of potable water to service this development;
16. That prior to final approval of the Plan, the owner demonstrate to the satisfaction of the Ministry of the Environment and the City's Operations Department (Engineering Services) that there is adequate sanitary sewer capacity to service this development;
17. That prior to any development on Block 3, the owner obtain approval from Fisheries and Oceans Canada and any necessary permit from Grey Sauble Conservation, to the satisfaction of the Director of Community Services, for authorization to re-route the seep across Block 3 and that Block 3 will be un-suitable for grading or building permit until DFO/GSCA approval is received;
18. That the subdivision agreement between the owner and the City of Owen Sound contain the following provisions with wording acceptable to the Operations Department, wherein the owner agrees:
 - a) before commencing any grading or construction on any lot, to have prepared a detailed report, drawings and site plans acceptable to both the City of Owen Sound and Grey Sauble Conservation which will show the location of all buildings and structures to be erected on the site, all final grades and vegetation, the means whereby storm drainage will be accommodated, and the means whereby erosion and silt transport will be contained and minimized, both during and after the construction period;
 - b) to provide for the construction of roads and services and, furthermore, shall provide for the City to assume ownership and operation of the roads and services;
 - c) to erect snow fencing or other suitable barriers prior to initiating any grading or construction on the site to prevent the unauthorized dumping of fill and to keep these barriers in place until all grading and construction on abutting lots and roadways has been completed to the satisfaction of both the City of Owen Sound and Grey Sauble Conservation;
 - d) to develop a tree preservation plan in accordance with the City of Owen Sound Residential Tree Preservation Policy;
 - e) to provide demarcation of the rear lot line as well as the hazard line in a manner acceptable to the City;
 - f) to restriction of tilling in hazard lands and restricting type of fencing in hazard area;
19. That the subdivision agreement between the owner and the City of Owen Sound be registered against the lands to which it applies once the plan of subdivision has been registered.
20. That prior to final approval of the Plan, the City is to be advised in writing by Grey Sauble Conservation that Conditions 9, 10, 17 and the following conditions have been satisfied
 - a) That demarcation be established along the lot lines adjacent to hazard area(s). This demarcation should be included on the draft plan and included as a schedule to the

subdivision agreement.

- b) That a comprehensive stormwater management concept plan be prepared to the satisfaction of Grey Sauble Conservation and the City of Owen Sound. This plan will establish stormwater targets for each Block and be implemented through wording in the subdivision agreement to the satisfaction of Grey Sauble Conservation and the City of Owen Sound.
 - c) That the requirement for the acquisition of permits from Grey Sauble Conservation for any and all development and site alterations on lands within the regulated area and such wording be implemented through the subdivision agreement in to the satisfaction of Grey Sauble Conservation.
21. That prior to final approval of the Plan, the City is to be advised in writing by the County of Grey that the following conditions have been satisfied:
- a) Prior to the initiation of any site grading or servicing and prior to the registration of the Plan, submit for the approval of the County of Grey a detailed engineering and drainage report which describes the stormwater drainage system.
 - b) A detailed tree inventory and a final tree retention plan be submitted to the satisfaction of the County of Grey in order to address the County's Forest Management By-law.
22. That prior to final approval of the Plan, the City is to be advised in writing by the Ministry of Transportation that conditions outlined in their correspondence dated March 8, 2010 have been satisfied.
23. That prior to final approval of the Plan, the City is to be advised in writing the Ministry of Environment that conditions have been satisfied.

SCHEDULE 'K' TO THE SUBDIVISION AGREEMENT

Sample Letter of Credit

Clerk of The Corporation of the City of Owen Sound
808 2nd Avenue East
Owen Sound, Ontario

In consideration of the agreement between The Corporation of the City of Owen Sound and *(Name of Owner)* which is dated the _____ day of _____, 20____, we hereby authorize you to draw on the *(Name and Address of Bank)* up to an aggregate amount of \$_____ available by draft at sight for 100% of invoice value of credit, with guarantee as follows:

As requested by our customer *(Name of Owner)*, we the *(Name of Bank)* hereby establish and give an Irrevocable Letter of Credit in your favour in the total amount of \$_____, which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you, which demand we shall honour without question as to rights between you and our said customer, provided however, that you are to deliver to the *(Name of Bank)* at such time as a written demand for payment is made by you upon us, a statement signed by you confirming that the monies drawn by you are pursuant to our customer's agreement with The Corporation of the City of Owen Sound.

The amount of this Letter of Credit may be reduced from time to time as advised in writing from time to time by you to us.

This Letter of Credit shall remain in full force and effect for a period of _____ months and will expire on _____, 20____, provided however, that unless notice of expiry is given by registered mail to the Clerk of The Corporation of the City of Owen Sound by us no later than 30 days prior to the expiry date, the Letter of Credit shall be deemed to be renewed from year to year on the same terms and conditions.

In the event that we refuse to renew the Letter of Credit at the aforementioned date of expiry, prior to such date the City shall have the right to draw such amount of money as it shall in its absolute discretion deem necessary.

Letter to be Dated, Signed and Sealed

*Note: THE CITY WILL ACCEPT LETTERS OF CREDIT
ONLY FROM CHARTERED BANKS.*

The Letter of Credit must be irrevocable.

The Letter of Credit must be written so as to be honoured by the Surety without question or without just cause having to be proven by the City to the Bank.

Automatic renewal provisions with 30 day notice of expiry must be included in the Letter of Credit.

SCHEDULE 'L' TO THE SUBDIVISION AGREEMENT

Acquisition of Municipal Lands

IN THE MATTER OF THE LAND TITLES ACT

AND IN THE MATTER OF A PLAN OF SUBDIVISION
AFFECTING PART OF LOT

IN THE

IN THE COUNTY OF GREY

PREPARED BY ONTARIO LAND SURVEYOR

TO: THE LAND REGISTRAR FOR THE LAND TITLES DIVISION OF

I, Kristen Van Alphen, Clerk of the Corporation of the City of Owen Sound, hereby certify that Andpet Realty Limited, the registered owner of Andpet Industrial Park, being the lands laid out by a Plan of Subdivision prepared by Neil C. Milne, an Ontario Land Surveyor, has not executed and is not under any obligation to execute any transfer of land or transfer of easement or any agreement affecting the title to the said lands in favour of the Corporation of the City of Owen Sound which has not been registered at the date hereof, except the following:

<u>Transfers and Agreements</u>	<u>Lots and Blocks</u>
1. Easement for Grading and Drainage Purposes for 20 years	- None Required -
2. Postponement of Interest re:	
3. Transfer of Easement for General Municipal Purposes	- None Required -
4. Postponement of Interest re:	
5. Transfer of Land (0.3 m reserves)	0.01 ha
6. Transfer of Land for Road Purposes	1.75 ha
7. Partial Discharge re:	
8. Covenants in Favour of the _____ , Section 119	
9. Partial Discharge re:	

AND as to the lots and blocks mentioned above, I HEREBY REQUEST you to issue an order or make an entry under Section 23 of the Land Titles Act inhibiting any dealing with those lots and blocks until the instruments mentioned above have been registered.