

SUBDIVISION AGREEMENT

DATED:

BETWEEN:

**OWNER(S) OF LANDS BEING
SUBDIVIDED**

- AND -

**THE CORPORATION OF THE CITY OF
CAMBRIDGE**

CITY OF CAMBRIDGE SUBDIVISION AGREEMENT

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THIS SUBDIVISION AGREEMENT entered into this ___ Day of _____, XXXX

BETWEEN:

XXXX (DEVELOPER)
(the "Owner")

- and -

THE CORPORATION OF THE CITY OF CAMBRIDGE
(the "City")

WHEREAS the Owner is the Owner of the lands described in Schedule "A" attached and shown on Schedule "B" attached hereto and has applied to the Region of Waterloo for approval of a plan of subdivision thereon; and to the City for a Letter of Release;

AND WHEREAS the City, in order to maintain an adequate standard of construction, requires the Owner to perform certain works, install certain services, pay certain sums of money, dedicate and improve certain lands for public purposes and make certain financial arrangements; and otherwise perform in accordance with the provisions herein contains in the attached schedules;

NOW THEREFORE IN CONSIDERATION OF the mutual covenants herein contained, the consent by the City to the Owner's plan pursuant to the Planning Act, and the provision of other good and valuable consideration (the receipt and adequacy of which is acknowledged) the Parties herein covenant and agree as follows:

PART 1: DEFINITIONS

This section sets out definitions to be applied to the following terms used in this Agreement:

- 1.01.1 **“Acceptance for Maintenance Certificate”** means certification issued by the City that the City Works have been constructed in accordance with the approved engineering drawings and subject to City standards, all other requirements of the City’s Engineering Design Standards and Development Manual have been addressed, and that the Maintenance Period has been initiated.
- 1.01.2 **“Act”** means the Planning Act, R.S.O. 1990, C.P.13.
- 1.01.3 **“Agreement”** means this Agreement and the expressions “herein”, “hereof”, and “hereunder”, have a corresponding meaning of “in the Agreement”, “of this Agreement”, and “under this Agreement”, respectively.
- 1.01.4 **“Assumption”** means the assumption of any City Works, Regional Works or Utility Works by the relevant Government Authority, including the City.
- 1.01.5 **“Base Park”** means the design and construction of parkland on a suitable location and land by the Owner including the proper grading, drainage, site servicing, fencing, quality soil, tree plantings, turf coverage, signage, trails, pedestrian connections and all related appurtenances thereto .
- 1.01.6 **“Building Division”** means the division or department within the City responsible for the issuance of building permits
- 1.01.7 **“City”** means The Corporation of the City of Cambridge and applicable authorized representative(s).
- 1.01.8 **“City Clerk”** means the Clerk of the City or their authorized representative.
- 1.01.9 **“City Works”** means works to be constructed by the Owner within a City right-of-way or other land to be conveyed to the City through this Agreement, as identified within the approved drawings and reports referenced in Schedule "C" of this Agreement.
- 1.01.10 **“Community Mailboxes (“CMBs”** means mailboxes supplied and installed in accordance with the City and Canada Post standards and specifications.
- 1.01.11 **“Composite Utility Plan”** means a plan which identifies hydroelectric, telephone, high speed broadband fibre and other telecommunication services, natural gas, television cable services, landscaping and underground facilities.
- 1.01.12 **“Energy Company”** means GrandBridge Energy Inc., or any other producer or distributor of energy;
- 1.01.13 **“Engineer”** means a Professional Engineer engaged by the Owner for the purpose of carrying out the terms of this Agreement.
- 1.01.14 **“Engineering Division”** means the division or department within the City responsible for development engineering.
- 1.01.15 **“Fire Department”** means the fire department for the City.
- 1.01.16 **“Final Acceptance Certificate”** means certification issued by the City that the applicable Works have completed their Maintenance Period(s), and that all identified deficiencies have been rectified to the satisfaction of the City.
- 1.01.17 **“Final Approval”** means approval of the final M-Plan by the Region of Waterloo.

- 1.01.18 “**General Contractor**” means the general contractor hired by the Owner to construct the Works and/or to oversee construction of the by other sub-contractors.
- 1.01.19 “**Lands**” means the lands legally described in Schedule "A" of this Agreement, which are subject to this Agreement.
- 1.01.20 “**Maintenance Period**” means the minimum period of time over which the Owner shall be required to maintain any City Works, Regional Works, Utility Works and/or Parkland, as outlined in Clause 4.16 of this Agreement.
- 1.01.21 “**Ministry**” means the Ministry of the Environment, Conservation and Parks, of the Government of Ontario.
- 1.01.22 “**Operations Division**” means the division or department within the City responsible for road maintenance and operation and maintenance of the water distribution and wastewater collection systems.
- 1.01.23 “**Owner**” in addition to its accepted meaning, shall mean and include an individual, an association, a partnership, or an incorporated company.
- 1.01.24 “**Parkland**” means land to be conveyed to the City by the Owner for park purposes, in accordance with Subsection 2.04 of this Agreement.
- 1.01.25 “**Parties**” means the Owner and the City, and “**Party**” means either one of the two Parties.
- 1.01.26 “**Planning Division**” means the division or department within the City responsible for development planning.
- 1.01.27 “**Regional Works**” means works constructed within a Regional right-of-way or other land to be conveyed to the Region through this Agreement, as identified within the approved drawings and reports referenced in Schedule "C" of this Agreement.
- 1.01.28 “**Site Works**” means works to be constructed by the Owner other than the City Works, Regional Works or Utility Works, as identified within the approved drawings and reports referenced in Schedule "C" of this Agreement.
- 1.01.29 “**Utility Works**” means works identified within the Composite Utility Plan to be constructed by the Owner.
- 1.01.30 “**Works**” means the City Works, Regional Works, Site Works and Utility Works.

PART 2: ADMINISTRATION

2.01 Subject Lands

2.01.1 The Lands affected by this Agreement are more particularly described in Schedule “A” attached hereto.

2.02 Transfers to City

2.02.1 The Owner shall convey the lands described in Schedule “D” of this Agreement to the City in fee simple free and clear from all encumbrances immediately following plan registration.

2.02.2 The Owner shall convey the easements described in Schedule “D” of this Agreement to the City and/or Energy Company immediately following registration.

2.02.3 The Owner covenants and agrees to remove all stones, stumps, fallen trees and debris from land conveyed to the City and lands subject to easements conveyed to the City.

2.02.4 The Owner covenants and agrees that land or easements conveyed to the City will not be used for disposal of debris obtained from the development of the Lands, and the Owner further covenants and agrees to restrain all others from depositing debris, and refuse on lands or easements conveyed to the City and to remove any such debris or refuse so deposited immediately when so directed by the City at the Owners sole cost and expense.

2.02.5 The parties agree that, in the event that required lands and easements as required pursuant to this Agreement have not been properly conveyed, the City, in addition to any other remedies available to it, may expropriate such lands and easements, and the costs of such expropriates shall be at the expense of the Owner.

2.03 Parkland

2.03.1 The Owner shall convey the lands described in Schedule “D” of this Agreement to the City in fee simple, free and clear from all encumbrances, for park purposes or pay to the City the sum of money set out in Schedule “H” of this Agreement in lieu of the conveyance of lands for park purposes or such other public purposes.

2.03.2 Where lands are conveyed to the City for park purposes, such lands shall be improved to a Base Park condition, to the satisfaction of the City,

2.04 Model Homes

2.04.1 The Owner covenants and agrees that Building Permits for model homes may be obtained subject to the following requirements:

- a) The number of model homes does not exceed 8 units or 10% of the dwelling units draft approved in any phase of a plan of subdivision or condominium whichever is the lesser, prior to issuance of Final Approval.
- b) Every model home shall comply with the provisions of the City’s Zoning By-law, as amended, and an Ontario Land Surveyor shall provide the City with a building location survey confirming the model home location.
- c) A Lot Grading and Servicing Plan for the development of the model home must be submitted and accepted by the City’s Engineering Division.
- d) The City’s Fire Department must be satisfied that adequate access and water supply is available to meet firefighting needs.

- e) The Owner shall ensure an unobstructed emergency access route to the model home(s) is maintained at all times during construction of model homes with a minimum width of six (6) metres, constructed of granular material and have sufficient compaction to provide access for emergency vehicles, to the satisfaction of the City.
- f) The Owner must acknowledge in writing that permanent underground hydro servicing will not be available until the electrical distribution system for the plan of subdivision has been fully installed, inspected and energized. Any temporary hydro servicing required by the Owner shall be arranged directly between the Owner and Energy Company.
- g) The Owner must acknowledge in writing that no building or structure erected as a model home(s) will be occupied, except for the sole purpose of an office to promote the sale of dwelling units, until all requirements set out in Section 2.05 of this Agreement have been addressed to the satisfaction of the City's Building Division.
- h) Applicable Development Charges must be paid prior to the issuance of a Building Permit for a model home.

2.05 Occupancy

2.05.1 The Owner covenants and agrees not to occupy or allow occupancy of any building or structure or part thereof until the following requirements are addressed:

- a) All monies due to the City in respect of the building have been paid.
- b) The building is substantially complete and in compliance with the Ontario building Code.
- c) Lot grading and drainage, in accordance with the approved Lot Grading Plan, is substantially complete and in compliance with the Ontario Building Code.
- d) Acceptance for Maintenance Certificate for the Underground and Base Road Works, Stormwater Management Works, and the Streetlight network has been issued by the City's Engineering Division.
- e) Municipal servicing for the Lot is complete and connected thereto, including any water meter required by the City has been paid for and installed.
- f) Written confirmation from an Energy Company certifying that all electrical plant has been fully installed, inspected and energized.
- g) Natural gas servicing (if applicable) and hydro servicing for the Lot are installed and connected.
- h) A numerical sign identifying the municipal address has been affixed to the subject building and permanent street name signs are erected.

2.05.2 The City may draw upon any financial security the Owner has provided to the City under this Agreement to reimburse the City for costs incurred if, in the opinion of the City, a building or structure or part thereof is occupied contrary to Clause 2.05.1.

2.05.3 In the event that a building, structure or part thereof is occupied contrary to Clause 2.05.1, and the City has notified the occupant that such occupancy is unauthorized, then in addition to all other remedies available to the City, the City may terminate all municipal services to the subject building or structure.

2.05.4 In the event that a building, structure or part thereof is occupied contrary to Clause 2.05.1, the City is entitled to obtain an order from a court of competent jurisdiction prohibiting the occupancy of any building or unit until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the City and shall be responsible to reimburse the City's costs in relation to obtaining the court order.

2.06 Notice to Owner

2.06.1 If any notice is required to be given to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by email transmission to the addresses below. Such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, three (3) business days after it was delivered to the post office.

XXXX

XXXX

2.06.2 If any notice is required to be given to the City with respect to this Agreement, such notice shall be mailed, delivered or sent by email transmission to the addresses below. Such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, three (3) business days after it was delivered to the post office.

City Clerk,
 The Corporation of the City of Cambridge
 50 Dickson Street
 P.O. Box 669
 Cambridge, ON N1R 5W8
 Tel: (519) 623-1340
 Email: clerks@cambridge.ca

Chief Planner, Community Development Department
 The Corporation of the City of Cambridge
 50 Dickson Street
 P.O. Box 669
 Cambridge, ON N1R 5W8
 Tel: (519) 623-1340
 Email: planning@cambridge.ca

And to:

City Solicitor
 The Corporation of the City of Cambridge
 50 Dickson Street
 P.O. Box 669
 Cambridge, ON N1R 5W8
 Tel: (519) 740-4683
 Email: legalservices@cambridge.ca

2.07 Warning Clauses

2.07.1 The Owner agrees to insert or require the insertion of the warning clauses identified in Schedule "I" of this Agreement into all Agreements of Purchase and Sale.

2.08 Covenants

2.08.1 The Owner agrees that all agreements of sale on any lot or lots within the plan shall contain the following restrictions and the same shall be incorporated in all deeds with the expressed intent that they shall be covenants running with the land for the benefit of the lands in the subdivision as a building scheme.

- a) No rear lot drain and/or swale may be clogged, filled, altered, removed, or in any way obstructed.
- b) No building shall be erected except in accordance with a Lot Grading and Servicing Plan approved by the City which plan shall show sufficient detail to prove that the lot drainage satisfactorily conforms to the drainage scheme of the subdivision. Any changes to the approved Overall Grading and Drainage Plan shall require further approval from the City.
- c) The purchaser acknowledges it will provide for and maintain the grading and drainage and will not alter the grading and drainage on the land in any way that will adversely affect the drainage pattern established by the Overall Grading and Drainage Plan approved by the City.
- d) The purchaser acknowledges that all drainage requirements for the lot or lots herein are the responsibility of the purchaser and successors in title from time to time and not of the City, and no claim shall be made against the City.

2.09 Final Approval of Plan

2.09.1 The Owner shall present the final M-Plan to the City, Planning Division for examination before such plans are presented to the Region of Waterloo for approval, and before the City's issuance of a Letter of Release, the Owner shall present same to the City, Planning Division again for re-examination, before registration, if any change is made thereafter.

2.10 Registration of Agreement

2.10.1 The Owner agrees that this Agreement shall be registered by the City prior to the Plan of Subdivision and before registration of any other documents affecting the said lands, at the sole cost of the Owner.

2.11 Sales Trailer/Office

2.11.1 Subject to the provisions of the City's Zoning By-law, a temporary sales trailer or sales office may be provided on the Lands for the period during which the construction of any buildings is taking place, subject to approval by the City, Planning Division of site and landscaping plans for the sales trailer or sales office.

2.11.2 The City may, at its sole discretion, require the removal or relocation of any temporary sales trailer or sales office if the City has deemed that building or structure as no longer necessary or appropriate for the development of the Lands.

PART 3: REQUIREMENTS FOR CONSTRUCTION

3.01 Approval of Plans

3.01.1 The Owner covenants and agrees:

- a) That the City has approved the plans, drawings and reports which are described in Schedule “E” of this Agreement and that original copies have been filed with the City.
- b) To construct and locate all buildings, structures, Works and facilities required under this Agreement in accordance with the approved plans, drawings and reports described in Schedule “E”.

3.02 Minor Adjustments to the Agreements and Plans

3.02.1 Minor adjustments and variances to the provisions of this Agreement or to the approved plans, drawings and reports described in Schedule “E”, may only be granted upon written application by the Owner and agreed to in writing by the City, Planning Division.

3.03 Required Approvals

3.03.1 The Owner shall not commence construction of any part of the Works or any building or structure until it has provided the City with written clearances with respect to the proposed construction from such legislative, quasi-legislative or regulatory bodies and authorities as are, in the sole and unfettered opinion of the City, required or desirable in connection with the construction including, but not restricted to, and without limiting the generality of the foregoing, the following:

- a) the City;
- b) the Region of Waterloo;
- c) Grand River Conservation Authority;
- d) any Energy Company;
- e) Province of Ontario Ministry of the Environment, Conservation and Parks;
- f) Province of Ontario Ministry of Natural Resources;
- g) Province of Ontario Ministry of Transportation;
- h) Applicable public utilities corporations or commissions; and,
- i) Generally, such other legislative, quasi-legislative, regulatory or judicial authorities having jurisdiction, including but not limited to Railways.

3.04 Works to be Constructed by the Owner

3.04.1 The Owner covenants and agrees to construct to the satisfaction of the City and at no expense to the City, the Works identified in the approved drawings and reports referenced in Schedule “E” of this Agreement, which will be completed on the Lands and/or on lands to be conveyed to the City. Such Works will be constructed in accordance with the approved plans, drawings, reports, and the City’s Engineering Standards and Development Manual.

3.05 Timing and Phasing of Construction of Works

3.05.1 The Works shall be constructed and Lands developed in accordance with the construction phasing and timing schedule described in Schedule “G” of this Agreement. Failure to complete the works specified in the approved plans, drawings and reports described in Schedule “E” in accordance with the timing specified in Schedule “G”.

3.05.2 The Owner shall secure Building Permits required for the initial phase of development on the lands within eighteen (18) months of execution of this Agreement and shall, in the unfettered opinion of the City acting reasonably, have substantially commenced construction of the Works and City Works within twenty four (24) months of such execution, failing which, at the sole and unfettered option of the City, all approvals theretofore given by the City with respect to the Development shall lapse and be of no further force or effect and the Owner shall forthwith restore the Land, as nearly as possible, to its original condition to the satisfaction of the City;

3.05.3 If the Works required to be constructed by this Agreement have not been completed within three (3) years of the execution of this Agreement, the City, in addition to exercising its power to complete the Works under this Agreement, may require the Owner to enter into a further and additional agreement including the posting of additional securities.

3.06 Utilities

3.06.1 The Owner covenants and agrees to contact the appropriate entities regarding public utility requirements for the Lands, including but not limited to electricity, telecommunications, and natural gas to ensure they have been satisfactorily arranged, that servicing installation for the same will be provided underground without any expense, cost or obligation on the part of the City and that all requisite easements have been or will be granted to such entities.

3.06.2 The Owner covenants and agrees to prepare a Composite Utility Plan, to the satisfaction of the City's Engineering Division, prior to the installation of such public utility plant.

3.06.3 The Owner further agrees that if there are any conflicts with existing utilities or easements, the Owner shall be responsible for all such relocations and associated costs.

3.07 Canada Post

3.07.1 The Owner shall be responsible for the supply and installation of Community Mail Boxes and associated concrete pads within the Plan of Subdivision to the satisfaction of the City and Canada Post in accordance with the City and Canada Post standards and specifications.

3.07.2 The Owner further agrees to determine the location of all CMBs in cooperation with Canada Post and the City and to indicate the location of all CMB's on the engineering design drawings and maps or information boards in the sales office.

3.07.3 The Owner covenants and agrees to provide the City with evidence of satisfactory arrangements, financial and otherwise, that have been made with Canada Post for the installation of CMBs as required by Canada Post and as shown on the approved Plans.

3.07.4 The Owner further covenants and agrees to provide notice to prospective purchasers of the locations of CMBs and that mail delivery will be provided via CMBs.

3.08 Approval of Contracts

3.08.1 In the event the City is contributing growth or non-growth funding for any part of the services being installed, a Credit for Service Agreement, executed in compliance with the Credit for Service Agreement Policy, will be required between the Owner and the City. Procurement and contract award shall be as per the Credit for Service Agreement policy.

3.08.2 If there are no City funding contributions for any of the Works, the Owner may make such arrangements for the construction as they see fit.

3.09 Indemnification

3.09.1 The Owner acknowledges and agrees that any work completed under this Agreement is entirely and solely at their own risk and without liability or responsibility of the City.

3.09.2 Without limiting the foregoing, the Owner specifically agrees to release, indemnify, defend and completely save harmless the City, its Councillors, officers, employees, legal counsel, agents and contractors from and against any and all suits, judgments, claims, demands, expenses, actions or other proceedings of any kind (including, but not limited to proceedings of a criminal, administrative or quasi criminal nature), causes of action, duties, assessments, fees, penalties, liabilities, losses and costs (including, but not limited to, legal fees on a substantial indemnity basis) and any claim for lien made pursuant to the *Construction Act* (Ontario) and for any and all liability for:

- a) damages to any property, including property other than the Lands;
- b) any direct, indirect, special or consequential damages; and
- c) any injury to any person (including death), however caused;

which in any manner arise out of or are in any manner related to this Agreement, the development of the Lands and/or completion of the Works.

3.10 Insurance

3.10.1 In order to protect, indemnify and save harmless the City, the Owner shall insure its undertaking, business and equipment in accordance with the minimum requirements outlined below throughout the term of this Agreement from the date of commencement of the Works until Assumption of the Works. It is the responsibility of the Owner and its Insurance Broker to review all potential operations and exposures to determine if the coverage and limits noted below are sufficient to address all insurance related exposures presented by the specifications of the Works. The Owner shall provide to the City, on or prior to the execution of this Agreement, a Certificate of Insurance evidencing a general liability insurance policy, with all applicable coverage extensions and endorsements, in the amount of \$5,000,000.00, per occurrence, in a form satisfactory to the City, indemnifying the City from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Owner. The policy shall contain a cross-liability clause, with a severability of interests provision, naming the City as an additional insured. This Certificate shall state that coverage will not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail to the City. This policy shall be maintained in full force and effect until the date that all Works have been completed.

- a) **General Liability Insurance:** Coverage shall consist of a comprehensive policy of public liability and property damage insurance, with all available coverage extensions/endorsements, in an amount of not less than \$5,000,000 per occurrence. Such insurance shall name the City as an additional insured with a cross liability endorsement and severability of interests provision. The policy SIR/deductible shall not exceed \$100,000 per claim and if the policy has an aggregate limit, the amount of the aggregate shall be double the required per occurrence limit. The policy shall cover any loss during the policy period and must contain a "Product & Completed Operations" clause.

- b) **Owned and Non-Owned Automobile Liability Insurance:** The Owner shall maintain liability insurance on all Owned, Non-Owned and Leased Automobiles used in the performance of the Pre-Servicing Works to a limit of \$2,000,000 per occurrence. Where any of the Owner’s work under this Agreement involves the transportation of an explosive substance, snow removal or road construction, hazardous waste, material from a site or will involve the use of one or more automobiles or nay combination of automobiles and towed vehicles having in any case a combined aggregate weight of ten (10) tonnes or more before loading, a limit of \$5,000,000 per occurrence shall be required.
- c) **Blasting:** Should blasting be required, it shall be the responsibility of the Owner to first notify the City in order that blasting operations may be carried out to the specifications of and with the approval of the City. Prior to any blasting being permitted, a certificate of liability insurance shall be supplied by the person or firm engaged by the Owner to carry out the blasting in the amount of not less than Five Million (\$5,000,000.00) Dollars, in respect of each occurrence for claims, on an occurrence basis, and shall name the City and the Commission as additional insureds. The policy shall be maintained in force until all blasting work is completed. Coverage shall include explosion, collapse and underground (XCU) coverage shall be added by endorsement and same shall be noted on the certificate of insurance.
- d) **Other Required Policies:**
 - i) Contractual liability;
 - ii) Pollution from “Hostile Fires”;
 - iii) Professional Errors and Omissions Liability Insurance in the amount of not less than \$2,000,000 per claim and in the annual aggregate amount of \$4,000,000.

3.10.2 All claims and claims handling correspondence must be reported to the City. The Owner shall make contact with any claimant within 48 hours of receipt of a notice of claim and shall initiate an investigation of the claim immediately upon notice.

3.11 Fire Fighting

3.11.1 The Owner covenants and agrees:

- a) A maximum of six dwellings in a row along a street are permitted to be under construction at any given time, with the seventh lot required as a firebreak lot. The Owner shall confirm the size and location of firebreak lots with the City prior to construction. No construction will commence on a firebreak lot until written approval is provided by the City’s Fire Department.

3.12 Tree Management Plan

3.12.1 Any required tree protection measures, as identified in the approved Tree Management Plan, shall be installed and inspected by the Forestry Division prior to commencement of any site alteration activities or construction of any Works, building, structures or parts thereof. All tree protection measures shall remain in place until authorized for removal by the Forestry Division.

3.12.2 The Owner shall pay compensation for trees removed to the City’s Tree Planting Reserve Fund, as outlined in Schedule “H” of this Agreement.

PART 4: CONSTRUCTION & MAINTENANCE OF WORKS

4.01 Requirements to Commence Construction Activities

4.01.1 The Owner covenants and agrees not to undertake any site alteration, vegetation removal, or construction activities until the following requirements are addressed, to the satisfaction of the City:

- a) This Agreement has been executed and registered, or the Owner has entered into a separate Agreement with the City related to specific construction or site alteration activities;
- b) Approval of all engineering plans and drawings by the Engineering Division. Revisions to any of these plans and drawings must be approved in writing by the Owner's Engineer and the City's Engineering Division;
- c) All required Environmental Compliance Approvals have been obtained and provided to the City, Engineering Division, prior to construction of sewers, watermains, sanitary pumping stations and/or stormwater management facilities;
- d) Copies of approvals from all other agencies has been provided to the City, Engineering Division, including but not limited to, Grand River Conservation Authority, Region of Waterloo, Ministry of Transportation, Railway Authority, as applicable;
- e) An Access Permit(s), in accordance with the City's Corridor Management By-law, as amended, have been issued by the City or other applicable road authority;
- f) A Tree Management Plan has been submitted to and approved by the Forestry Division and all tree protection measures required by the Tree Management Plan have been installed and inspected by the Forestry Division;
- g) An Erosion and Sediment Control Plan, in accordance with the City's Engineering Standards and Development Manual, has been submitted and approved by the Engineering Division and any required sediment and erosion control features, as identified in the approved Erosion and Sediment Control Plan have been installed and inspected by the Engineering Division;
- h) The Owner shall provide written notice to the Engineering Division a minimum of two (2) weeks prior to the commencement of site alteration, construction or vegetation removal activity and shall hold a pre-construction meeting with the Engineering Division at least seven (7) days prior to commencing construction activity, and;
- i) All other requirements of the City's Engineering Standards and Development Manual have been addressed to the City's satisfaction.

4.02 Building Construction

4.02.1 The Owner shall pay all applicable development charges, in accordance with the City's Development Charge By-law, as amended, prior to the issuance of any Building Permits.

4.02.2 The Owner covenants and agrees not to commence construction of any building, structure or part thereof until the following requirements are addressed to the satisfaction of the City:

- a) Final Approval has been issued by the Region or the Owner has entered into a separate Agreement with the City related to specific building construction requirements;

- b) The Owner has provided evidence that servicing capacity is available to accommodate the particular building or phase of development, to the satisfaction of the City's Engineering Division;
- c) The Final Composite Utility Plan for the applicable phase or stage of the subdivision development has been duly signed by all utility representatives and consultants and approved by the City's Engineering Division;
- d) An Acceptance for Maintenance Certificate for the Underground and Base Road Works for the applicable phase or stage of the subdivision development has been issued by the City's Engineering Division;
- e) A firebreak plan has been submitted and approved by the City's, Fire Department;
- f) The requirements for Architectural Control, as outlined in sub-section 3.05 of this Agreement, have been addressed to the satisfaction of the City's Planning Division;
- g) A copy of each builder's purchase and sale agreement for the applicable phase or stage of the subdivision development is provided to the City Planning Division to confirm applicable warning clauses;
- h) All necessary building permits are obtained in accordance with the Building Code Act.

4.02.3 In the event that the Owner commences construction of a building, structure or part thereof, in contravention of the requirements outlined in this Agreement, the City is entitled to obtain an order from a court of competent jurisdiction requiring the ceasing of construction until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the City and shall be responsible to reimburse the City's costs in relation to obtaining the court order.

4.02.4 The Owner further covenants that if his/her or any person claiming title through him/her or under his/her or their authority applies for and obtains such permits his/her will at all times maintain the roads in reasonable and adequate fashion until such time as they are completed and accepted and will provide that all manholes, catch basins and any other protrusion constructed on or in the roadway are kept at grade with the surface of the road so that, in the opinion of the City no harm will come to snow plows or other equipment that may be used on the roadway by the City.

4.02.5 The Owner agrees that all applications for Building Permits shall be accompanied by a Lot Grading and Servicing Plan showing how the lot or parcel of land is to be serviced, drained and graded.

4.02.6 The Owner agrees that construction of buildings, structures or parts thereof on required firebreak lots will not commence until written approval is issued by the City's Fire Department.

4.03 Construction Activities

4.03.1 The Owner covenants and agrees to adhere to the following requirements during any site alteration, vegetation removal, and/or construction activities:

- a) The Owner shall not use any City sidewalks, roads, boulevards, parks or any City lands for material storage or construction purposes;

- b) The Owner shall be responsible, at the end of every working day, for all mud and debris that is tracked onto the City road allowance from vehicles and/or construction equipment entering or leaving the construction site and dust generated during construction. The Owner shall, upon verbal and/or written request by the City, Operations Division, immediately proceed with clean-up operations at their expense. Should the Owner fail to clean-up within twenty-four hours as directed, the City may have the cleaning completed at the Owner's sole expense;
- c) Hours of construction shall be in accordance with the City's Engineering Standards and Development Manual;
- d) All trucks and heavy equipment must comply with all regulations of the Highway Traffic Act with respect to the covering and securing of loads;
- e) Throughout the duration of construction, the Lands shall be maintained in a safe and orderly condition and construction debris shall be removed on a regular basis; and,
- f) The functioning of the surrounding area, including pedestrian and vehicular movement, shall be maintained at all times during construction.

4.04 Municipal Services

- 4.04.1 Final Approval of the Plan or any phase thereof shall be subject to the Owner entering into an Agreement for Servicing with the Region for the allocation of sanitary sewer and water supply capacity to the Lands.
- 4.04.2 Final Approval of the Plan or any phase thereof shall be subject to the Owner entering into an Agreement with the Region for the design, construction, installation and commissioning of water and sanitary services, including any appurtenances thereto.
- 4.04.3 The Owner agrees it shall be solely responsible for the design, construction and completion in a good workmanlike manner (or pay for the completion of) the Works in accordance with the approved plans, drawings, reports, Environmental Compliance Approvals and the City's Engineering Standards and Development Manual and to the satisfaction of the City.
- 4.04.4 If at any time during the development of the subdivision, the City is of the opinion that modification of the Works or additional Works, as conditions may require or are necessary to adequately provide any of the Works required pursuant to this Agreement, the Owner shall design, construct and complete such additional Works at the Owner's sole cost and expense, upon receiving written notice from the City, providing it is reasonable and practical to do so.
- 4.04.5 Prior to the issuance of the Acceptance for Maintenance Certificate the City may connect or authorize connection to the water distribution system, sanitary collection system, or stormwater collection system constructed by the Owner, but such connection shall not constitute acceptance of any system by the City and the Owner shall continue to maintain the systems until Final Acceptance.
- 4.04.6 All cutting or connecting to the existing municipal water distribution system or the opening and closing of existing water valves and hydrants shall be made and performed by City forces at the expense of the Owner.

4.05 Roads and Active Transportation

- 4.05.1 The road allowances included within the Plan shall be named to the satisfaction of the City, Planning Division.

- 4.05.2 Public highways and associated structures, daylighting triangles, street trees and boulevard landscaping, signage, pavement markings, etc. shall be designed in accordance with the City's Engineering Standards and Development Manual and constructed in accordance with the approved plans, drawings and reports referenced in Schedule "E" of this Agreement, to the satisfaction of the City, Engineering Division in its sole discretion.
- 4.05.3 The Owner shall design all active transportation component, including but not limited to, sidewalks, pedestrian walkways, multi-use trails, pedestrian refuge islands and crossovers, separated bicycle lanes, supporting cycling facilities, signage, pavement markings, and all related appurtenances thereto, in accordance with the City's Engineering Standards and Development Manual and shall construct these at the locations and to the standards as prescribed in the approved plans, drawings and reports referenced in Schedule "E" of this Agreement, to the satisfaction of the City, Engineering Division in its sole discretion.
- 4.05.4 The Owner shall show, on any plan depicting the Subdivision that is displayed to prospective purchasers, the location of all Community Mail Boxes and all sidewalks, pedestrian walkways, cycling facilities and multi-use trails to be constructed.
- 4.05.5 The Owner shall be responsible for the design, supply and installation of a complete streetlight system, including but not limited to all poles, luminaries, wiring, controls and appurtenances thereto in accordance with the City's Engineering Design Standards and Development Manual.
- 4.05.6 All electrical supply for the streetlight system shall be in accordance with the requirements of Energy Company and satisfy the Electrical Safety Authority. The entire streetlight system shall be supplied by unmetered supply connections.
- 4.06 Grading**
- 4.06.1 Without limiting the generality of anything in this Agreement, the Owner covenants and agrees:
- a) To construct all drainage works and grade or cause to be graded the said Lands in the manner shown upon the approved Overall Grading and Drainage plan so that all surface drainage, including water from adjacent lands originally flowing through, into or over the area of the proposed subdivision is directed to a storm sewer system or other sufficient approved outlet.
 - b) To receive prior written approval of the City, Engineering Division for any change to the approved Overall Grading and Drainage Plan.
 - c) To 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 Overall Grading and Drainage Plan.
 - d) To maintain during the construction and development of the subdivision, the drainage works, grades and levels of all lands and not fill, cut or encumber any land so as to interfere with proper drainage.

- e) That as the subdivision develops, if it becomes apparent to the City, Grand River Conservation Authority, Ministry of Environment Conservation and Parks, or the Ministry of Natural Resources that further work is necessary with respect to grading and/or drainage or with respect to the works contemplated in the clauses of this Agreement related to grading and drainage of the Lands, the Owner shall, at their 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 grading and or drainage works shall be at the sole discretion of the City.
- f) That if at any time or at times fails to carry out the obligation to grade and drain the Land as required hereunder, the City may enter upon the Lands and complete such work as necessary to correct the same and the City shall be entitled to draw upon the posted security pursuant to this Agreement, in whole or in part. In addition to any other rights or remedies the City may have, the City may also add the costs and/or expenses to the tax roll of the Lands should there be insufficient security whereupon such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears.
- g) To prepare individual Lot Grading Plans for each lot or block created through the Plan of Subdivision, in accordance with the City's Engineering Standards and Development Manual. Each Lot Grading Plan shall be prepared by a Registered Professional Engineer (P.Eng.) or an Ontario Land Surveyor (OLS) and certified by the Engineer of Record for the subdivision development prior to submitting to the City for review. The Engineer of Record shall ensure the submitted Lot Grading Plan conforms with the grading criteria of the City's Engineering Standards and Development Manual and the approved Overall Grading and Drainage Plan of the subdivision development and that the location of the proposed building(s) as shown on the Lot Grading Plan accurately reflects the proposed building(s) shown on the Building Permit application drawings.
- h) To submit to the City with every application for a Building Permit, a Lot Grading Plan certified by the Engineer of Record for City review and approval. The Owner shall insure that the elevation of the foundation wall and underside of footing has been constructed in accordance with the Lot Grading Plan prior to commencing construction of the remaining portion of the building.
- i) That an "As-Recorded" Lot Grading Plan shall be prepared by a Registered Professional Engineer (P.Eng.) or an Ontario Land Surveyor (OLS), after final lot grading has been completed (preferably prior to sod/seed) and shall be provided to the Engineer of Record of the subdivision development, prior to submitting to the City for review to confirm that the Lot has been graded in conformance with the approved Lot Grading Plan.
- j) To grade all easements, lot lines, boulevards and any other lands necessary to install hydro and other underground utilities to grades shown on the approved plans, to the satisfaction of the City and applicable utility, prior to the installation of such services and to provide the necessary filed survey information required for the installation of such services.
- k) To include in the Letter of Credit as required under this Agreement, a deposit per lot as set out in the City's Rates and Fees By-law, to ensure that the Final Lot Grading Certificate referred to in Section 14(k) of this Agreement is provided by the Owner

4.07 Dust and Weed Control

- 4.07.1 During the entire construction of the subdivision and until issuance of the Final Acceptance Certificate of all Works, the Owner shall be responsible for all dust control measures in accordance with the City’s Engineering Standards and Development Manual for the prevention of dust nuisance or hazard to the public.
- 4.07.2 The Owner acknowledges and agrees that all Lots or Blocks to be left vacant for longer than six months shall be graded, seeded, and maintained to the satisfaction of the City.
- 4.07.3 Until the subdivision is fully developed the Owner shall undertake sufficient actions to ensure the effective control of all types of vegetation on undeveloped land, including boulevards, within the subdivision and on any of the Owner’s abutting lands. All costs of such works shall be paid for by the Owner. If vegetation is not controlled in accordance with the requirements of the City’s by-laws or to the satisfaction of the City, the City may perform such vegetation control activities as deemed necessary by the City in its sole discretion.
- 4.07.4 The City shall be entitled to draw upon the security posted by the Owner pursuant to this Agreement, in whole or in part for the costs or expenses for such dust and vegetation control works completed by the City. In addition to any other rights or remedies the City may have, the City may also add the costs and/or expenses to the tax roll of the Lands should there be insufficient security, whereupon such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears.

4.08 Topsoil

- 4.08.1 The Owner agrees that the stripping of topsoil shall be limited to only the impacted areas for construction purposes of the development and that such topsoil shall be stockpiled during grading operations in accordance with City’s Engineering Standards and Development Manual. As building construction is completed the stockpiled topsoil shall be placed around each building and on all land not covered by buildings, driveways or pavement to the minimum depths required in accordance with the City’s Engineering Standards and Development Manual.

4.09 Sodding

- 4.09.1 The Owner covenants and agrees that it shall be responsible for:
 - a) Sodding the entirety of each lot upon completion of building construction, except for the driveway, walkway, patio and landscaped areas’
 - b) Grading and sodding the boulevard portions of streets and all drainage swales on public or private property;

4.10 Entry & Inspection by City

- 4.10.1 The Owner agrees that the City may, by its officers, employees, agents, contractors or any other authorized person, enter upon the Lands or any parts thereof as well as any building(s) erected thereon and inspect the construction and installation of Works. Such entry and inspection shall not be deemed or construed as acceptance of the Works or any parts thereof by the City, nor relieve the Owners Engineer from undertaking their own inspection of the Works.
- 4.10.2 The City reserves the right to have inspectors or consultants employed to review all plans and specifications and observe the construction and installation of the Works at any time. The Owner hereby agrees to pay all accounts of the City in connection with such inspectors/consultants.

4.10.3 The parties hereto agree that in no event shall the City be required to conduct inspections or recommend acceptance of any part of the Works during winter conditions (December 1st to March 31st) or outside of the growing season (June 1st to September 30th) for trees and planting material.

4.11 Heritage & Archaeological Resources

4.11.1 The Owner covenants and agrees to immediately notify the Ministry of Tourism, Culture and Sport should archaeological remains be found on the Lands during construction activities. The Owner covenants and agrees to immediately notify the Ministry of Tourism, Culture and Sport if human remains are encountered during construction.

4.11.2 The Owner covenants and agrees to implement any measures recommended by the Archaeological Assessment, to the satisfaction of the City and the Ministry of Tourism, Culture and Sport. Should previously unknown or unassessed archaeological resources be uncovered during development, they may be a new archaeological site and therefore subject to the *Ontario Heritage Act*. The proponent or person discovering the archaeological resources must cease alteration of the Lands immediately and engage a licensed consultant archaeologist to undertake archaeological fieldwork.

4.12 Environmental Condition

4.12.1 The Owner agrees that if, during construction of any infrastructure or buildings within the Subdivision, contaminated lands are discovered, the Owner shall carry out, at its expense, the necessary measures to identify and deal with the contaminate, in accordance with applicable laws.

4.13 Incomplete or Faulty Work

4.13.1 If, in the opinion of the City, the Owner:

- a) Is not performing or causing to be performed the Works required in connection with this Agreement within the time schedule set out in Schedule "G" of this Agreement, or
- b) Is improperly performing the work, or
- c) Has neglected or abandoned such Works before completion, or unreasonably delayed the same so that the conditions of this Agreement are being violated, or carelessly executed, or being carried out in bad faith, or
- d) Has neglected or refused to renew or again perform such Works as may be rejected by the City as defective or unsuitable or
- e) Has in any other manner in the opinion of the City defaulted in performance of the terms and conditions of this Agreement,

4.13.2 Then, in any such case the City shall notify the Owner in writing of such default or neglect and if rectification has not been commenced within seven (7) business days after such notice, then the City shall have full authority and power to immediately purchase such materials, tools, and machinery and to employ such workmen as in their opinion shall be required for the proper completion of the said Works at the cost and expense of the Owner.

4.13.3 In cases of emergency, in the sole opinion of the City, employees or agents of the City may enter upon the Lands for the purpose of making emergency repairs to any of the Works without notice.

- 4.13.4 The cost of such work shall be calculated by the City, whose decision shall be final. It is understood and agreed that such costs shall include a management fee of Twenty (20%) percent of the labour and material value of such work for the dislocation and inconvenience caused to the City as a result of such emergency or default on the part of the Owner.
- 4.13.5 The City shall be entitled to draw upon the financial security posted by the Owner pursuant to this Agreement, in whole or in part for the cost of such Works. In addition to any other rights or remedies the City may have, the City may also add the costs and/or expenses to the tax roll of the Lands should there be insufficient security, such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears.
- 4.13.6 It is further understood and agreed between the parties hereto that such entry upon the Lands shall be as an agent for the Owner and shall not be deemed, for any purposes whatsoever, as an acceptance or assumption of the said Works by the City or assumption of any liability in connection therewith or release of the Owner from any obligation under this Agreement.

4.14 Damages or Changes to Existing Infrastructure

- 4.14.1 The Owner shall indemnify the City and repair any damage caused to any existing infrastructure, services, drainage or utility plant, to its former state, to the satisfaction of the City and/or utility, as a result of the subdivision development. All costs of such indemnifications and repairs shall be paid by the Owner.
- 4.14.2 The Owner shall be responsible for the coordination and expense of relocating or upgrading any existing infrastructure, services or utility plant which may become necessary because of the subdivision development.
- 4.14.3 All access roads must be maintained by the Owner in a state of good repair, to the satisfaction of the City, at all times during the construction of the subdivision development, including but not limited to mud tracking and dust control as further described herein.
- 4.14.4 For the purpose of minimizing or eliminating danger, damage or inconvenience, the City reserves the right to limit or prohibit the use of any existing access, roadway or haul route by the Owner.
- 4.14.5 No roadway outside the limits of the Plan shall be closed without the prior written consent by the City's Engineering Division, in accordance with the City's Corridor Management By-law.
- 4.14.6 If the Owner fails to complete any of the required repairs, relocation or upgrades to existing infrastructure, services, or utility plant in accordance with the requirements of the City, the City may complete such repairs, relocations or upgrades as deemed necessary at the sole discretion of the City. The City shall be entitled to draw upon the security posted by the Owner pursuant to this Agreement, in whole or in part. In addition to any other rights or remedies the City may have, the City may also add the costs and/or expenses to the tax roll of the Lands should there be insufficient security, whereupon such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears.

4.15 Completion of Works

- 4.15.1 Following construction completion of Works and inspection by the Owner's Consulting Engineer, the Owner may submit a written request to the City's Engineering Division to initiate a mandatory onsite inspection by the City. Inspections during winter conditions (December 1st to March 31st) shall be at the sole discretion of the City. Tree and planting material inspections are to be carried out during the growing season (June 1st to September 30th).
- 4.15.2 The Owner shall rectify any deficiencies identified through the City's inspection within two (2) months of the mandatory onsite inspection and coordinate a follow-up inspection with the City.
- 4.15.3 Following rectification of all deficiencies identified through the City's inspection, to the satisfaction of the City, and subject to the submission and acceptance of supporting documentation, in accordance with the City's Engineering Standards and Development Manual, the Owner may submit a written request to the City's Engineering Division for an Acceptance for Maintenance Certificate.
- 4.15.4 The parties agree that Acceptance for Maintenance Certificates shall be issued on a milestone basis, in accordance with the City's Engineering Standards and Development Manual.

4.16 Maintenance of Works

- 4.16.1 The date identified on an Acceptance for Maintenance Certificate shall initiate the minimum Maintenance Period for the following Works, in accordance with the City's Engineering Standards and Development Manual:
- a) Two (2) years for any underground works (to base asphalt);
 - b) One (1) year after 90% build-out for any stormwater management works;
 - c) Two (2) years for any surface works;
 - d) One (1) year for any surface asphalt;
 - e) Two (2) years for any park and open space works;
 - f) One (1) year after first occupancy for pumping stations; and
 - g) One (1) year for lot grading.
- 4.16.2 The City reserves the right to extend the Maintenance Period on individual works for up to one (1) year should major repairs be required to address deficiencies during the Maintenance Period.
- 4.16.3 During the applicable Maintenance Periods, the Owner shall be responsible for the inspection, operation, maintenance and repair of all Works, including the creation and retention of records, in accordance with the Minimum Maintenance Standards (O.Reg. 239/02) and City's Engineering Standards and Development Manual and shall continue to provide such inspection, operation, maintenance and repair for the same Works until issuance of a Final Acceptance Certificate for the same Works.

- 4.16.4 If during the respective Maintenance Periods the Owner fails to carry out such inspection, operation, maintenance, or repair work within five (5) days of notification by the City, the City may complete such inspections, operations, maintenance, and repair work, as deemed necessary, at the sole discretion of the City. The City shall be entitled to draw upon the security posted by the Owner pursuant to this Agreement, in whole or in part. In addition to any other rights or remedies the City may have, the City may also add the costs and/or expenses to the tax roll of the Lands should there be insufficient security, whereupon such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears.

4.17 Final Acceptance

- 4.17.1 Following completion of the Maintenance Period for the applicable Works and inspection by the Owners Consulting Engineer, the Owner may submit a written request to the City's Engineering Division to initiate a final inspection by the City. Inspections during winter conditions (December 1st to March 31st) shall be at the sole discretion of the City. Tree and planting material inspections are to be carried out during the growing season (June 1st to September 30th).
- 4.17.2 The Owner shall rectify any deficiencies identified through the City's inspection within two (2) months of the final onsite inspection and coordinate a follow-up inspection with the City.
- 4.17.3 Following rectification of all deficiencies identified through the City's inspection, to the satisfaction of the City, and subject to the submission and acceptance of supporting documentation, in accordance with the City's Engineering Standards and Development Manual, the Owner may submit a written request to the City's Engineering Division for a Final Acceptance Certificate.
- 4.17.4 The parties hereto agree that Final Acceptance Certificates shall be issued on a milestone basis, in accordance with the City's Engineering Standards and Development Manual.
- 4.17.5 Upon issuance of a Final Acceptance Certificate for the applicable Works, the responsibility for inspection, operation, maintenance and repair of the applicable Works shall be transferred to the City, and the Owner may then submit a written request for the maintenance securities of the applicable Works to be released.

4.18 Assumption

- 4.18.1 The City shall not assume or be deemed to have assumed any of the Works until all applicable Final Acceptance Certificates have been issued by the City and the City has passed an Assumption By-law.
- 4.18.2 No action by the City, by way of inspection, operation, maintenance, repair, use of, or connection to the Works, winter maintenance, streetlight operation, park and open space maintenance, or any other use or action by the City shall be construed as assumption of the Works, nor shall any such City action relieve the Owner in any way of their obligations pursuant to this Agreement, nor shall any ownership vest with the City from any such City action until an Assumption By-law is passed.
- 4.18.3 The Owner covenants and agrees that upon an Assumption By-law being passed the ownership of the Works assumed pursuant to the by-law shall vest in the City and the Owner shall have no claim or right thereto other than those accruing to it as an owner of land abutting a public highway where the Works have been installed.

- 4.18.4 The parties hereto agree that assumption shall be considered when:
- a) 90% build-out of all units within the phase or stage of the Plan have occupancy;
 - b) All applicable Final Acceptance Certificates have been issued by the City;
 - c) All other terms, conditions, requirements and obligations of this Agreement have been cleared by the City;
 - d) A statutory declaration from the Owner confirming all accounts are paid in connection with the supply, installation and maintenance of the Works and that there are no outstanding debts, claims or liens with respect to the Works;
 - e) Any other additional assurances as may be required by the City

4.19 Construction Act

4.19.1 The Owner agrees that it will hold back from its payment to any person or company which may provide services or materials, such amounts as required under the Construction Act, R.S.O. 1990, c. C.30, as amended, and will indemnify the City against all claims, actions or demands for construction liens or otherwise in connection with the Works and all costs in connection therewith, and upon demand of the City shall take such steps to immediately discharge any liens.

4.19.2 The Owner hereby agrees that the filing of any liens pursuant to the Construction Act, R.S.O. 1990 c. C30 with respect to the Lands described in the Plan of Subdivision shall constitute a default by the Owner of the terms of this Agreement and shall entitle the City to draw on any or all of the securities, and to utilize said draw to make payment into Court of the amount of any liens together with costs.

4.20 Winter Maintenance

4.20.1 The Owner covenants and agrees to provide all winter maintenance activities of all roads of the Subject Lands in accordance with the requirements of the Minimum Maintenance Standards (O.Reg. 239/02) and associated City By-laws, including the creation and retention of records, until Final Acceptance of the Underground and Base Road Works. At that time, winter maintenance activities of roads with Final Acceptance will be completed by municipal forces, provided that the roads are in suitable condition for winter maintenance by City forces, as determined by the City's Operations Division.

4.20.2 Winter maintenance of boulevard sidewalks in front of occupied dwellings is the responsibility of the homeowner. The Owner shall be responsible for the winter maintenance of all other sidewalks, pedestrian walkways, park paths, multi-use trails, and recreational trails of the active transportation network in accordance with the Minimum Maintenance Standards (O.Reg. 239/02) and associated City By-laws until Final Acceptance of these assets has been issued by the City.

4.20.3 The Owner agrees that any winter maintenance activities performed by the City shall not be deemed in any way as acceptance or assumption of the Works by the City, nor shall in any way relieve the Owner of its obligations in respect of this Agreement. The Owner further acknowledges that the City, while performing winter maintenance activities, may damage or cause damage to the Works and/or property of the Owner. The Owner hereby waives all claims against the City that may arise therefrom and covenants that it will make no claim against the City for such damage, provided that the winter maintenance activities are carried out without negligence or willful misconduct by the City.

4.20.4 The Owner further agrees that neither the City nor its councillors, directors, officers, employees, agents, consultants, contractors, assigns and any others for whom the City is at law responsible shall be liable to any extent for any personal injury or death of, or loss or damage to any property belonging to any person in, on or about the roads, sidewalks and active transportation network within the subdivision Lands covered by this Agreement arising from a winter weather event.

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PART 5: FINANCIAL REQUIREMENTS

5.01 Taxes & Local Improvement Charges, etc.

5.01.1 Nothing herein contained shall in any way limit or prevent assessment of the Lands for local improvements subsequently undertaken and assessed upon the Lands abutting on the works in accordance with the Local Improvement Charges Regulation 586/06 and shall be paid by the Owner from time to time in the manner provided.

5.01.2 Prior to execution of this Agreement, the Owner covenants and agrees to:

- a) Commute and pay all charges with respect to existing local improvements assessed or completed, but not yet assessed against any part of the Lands; and,
- b) Commute and pay all property taxes on the Lands.
- c) To pay all property taxes 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 of subdivision, following which the individual owners of all Lots and Blocks in the Plan shall be responsible for paying all property taxes on the separate Lots and Blocks in the Plan.

5.02 Development Charges

5.02.1 The Owner shall pay the Infrastructure Services component of all applicable development charges for all lots and blocks on which single detached dwellings and semi-detached dwellings will be constructed, prior to execution of this Agreement.

5.02.2 The Owner shall pay the General Services component of all applicable development charges prior to the issuance of any Building Permits.

5.02.3 The Owner shall pay any applicable development charges payable to the Region or any School Board.

5.02.4 Provisions 5.02.1 and 5.02.2 may be waived or adjusted at the sole discretion of the City, if the Owner has entered into an Agreement with the City under the Development Charges By-law, which defers the timing to pay the applicable development charges.

5.03 Fees Payable to City

5.03.1 The Owner covenants and agrees to pay to the City the fees described in Schedule "H" of this Agreement, prior to execution this Agreement.

5.04 Funding of Certain Works

5.04.1 In the event the City is contributing growth or non-growth funding for any part of the City Works being installed, a Credit for Service Agreement, executed in compliance with the Credit for Service Agreement Policy, will be required between the Owner and the City. Procurement and contract award will be as per the Credit for Service Agreement.

5.05 Financial Security

5.05.1 The Owner covenants and agrees:

- a) To provide to the City prior to execution of this Agreement an irrevocable and unconditional letter(s) of credit, from a financial institution acceptable to the City Treasurer or other security deemed satisfactory at the sole discretion of the City Treasurer for the performance of this Agreement and all Works and obligations arising r in the amount set out in Schedule "H", as determined in accordance with the City's Engineering Standards and Development Manual;

- b) To file the letter(s) of credit in the form set out in Schedule "I" of this Agreement, and to keep said letter(s) of credit in full force and effect and pay all premiums as the said letter(s) of credit become due or until such time as the City reduces or returns the letter(s) of credit in accordance with the terms of this Agreement;
- c) That irrespective of the manner in which the amount of security was calculated, that the irrevocable and unconditional letter(s) of credit has been deposited to secure all obligations of the Owner and the security may be used by the City to complete any aspect of the Works, or to fulfill any other obligation under this Agreement, irrespective of the manner in which the original value was calculated or the obligation described;
- d) That, for greater clarity, the City shall retain an appropriate amount of financial security at all times to ensue the completion of all outstanding Works or obligations required of the Owner arising out of this Agreement;
- e) That at the City's discretion, one (1) year after the deposit of security and on every anniversary thereof while security is held by the City, or more frequently if the City deems necessary, the City may undertake a review of the sufficiency of the security held. To facilitate this review the Owner shall have the Engineer provide the City with the following information within ten (10) days of written request by the City:
 - i. a description of the work completed to date and a calculation of the cost; and
 - ii. a description of the work remaining to be completed and a calculation of the estimated cost

In the event the City determines that the security it holds is insufficient to ensure the performance of all Works and obligations required by this Agreement, the Owner shall, within ten (10) days of written notice from the City, increase the security by the amount the City deem necessary, acting reasonably. That pursuant to the *Municipal Act, 2001*, in the event the Owner fails to perform any Works or obligations required under this Agreement, such Works or obligations may be performed and/or completed by the City at the Owner's expense. Upon failure of the Owner to complete the Works in accordance with the Construction Timing Schedule described in Schedule "G" of this Agreement, or to undertake any other obligation of the Owner under this Agreement, the City may provide 30 days written notice to require remedy. If the deficiency or obligation is not performed within the 30-day notice period, the City and/or its authorized agents may enter in and upon the Lands without providing notice and perform and/or complete the Works at the Owner's expense. In the event that the City and/or its authorized agents perform or complete any or all of the Works or obligations, the City may draw on the aforementioned letter of credit or other satisfactory security in such amount(s) as may be required to pay for the cost incurred by the City and/or its authorized agents to perform and/or complete the Works or obligations, including the cost of removing or defending any construction liens, certificates of action, or defending or removing any actions or judgements affecting the City or Lands or Works either dedicated to the City or which are intended to become the property of the City pursuant to this Agreement. In addition, or in the alternative, the City may add the full cost or any part of the cost incurred by the City or its authorized agents to perform or complete the Works to the tax roll of the Lands such amount shall be conclusively deemed to be tax arrears and may be collected in the same manner as tax arrears;

- f) That if 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 Owner have not be completed as required under this Agreement, and where the Owner 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;
- g) That upon the transfer of Ownership of the Lands, the City will not return any letter of credit or other satisfactory security required under this Agreement until the new Owner files with the City a substitute letter of credit or other satisfactory security in the required amounts;
- h) That the Owner may submit a request to the City, Engineering Division for a reduction to the value of the letter(s) of credit or other financial security once the City has issued an Acceptance for Maintenance Certificate for the said Works and all other requirements of the City's Engineering Standards and Development Manual have been addressed. The letter(s) of credit or other security may be reduced to a minimum value equivalent to ten percent (10%) of the Works for which the Acceptance for Maintenance Certificate has been issued. The remaining 10% value shall remain in place until the City has issued a Final Acceptance Certificate for the said Works;
- i) That the Owner may submit a request to the City, Engineering Division to release the remaining 10% value of letter(s) of credit or other financial security once the City has issued a Final Acceptance Certificate for the said Works and all other requirements of the City's Engineering Standards and Development Manual have been addressed. The City will retain a minimum amount of \$25,000 in securities until an Assumption by-law for the subdivision is passed;
- j) That the City is under no obligation to cancel or reduce any of the financial securities if the Owner is in default, in whole or in part, of any provision, requirement or obligation of the Owner of this Agreement, including the conveyance of any lands or easements required by the City pursuant to this Agreement;

[SIGNATURE PAGE FOLLOWS]

IT IS DECLARED AND AGREED that this Agreement and the covenants, provisions and conditions herein contained shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the parties hereto.

And that this Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original. All such counterparts shall together constitute but one and the same Agreement. Counterparts may be executed either in original, electronic PDF, or other electronic medium that the parties agree to, and the parties hereto shall adopt any signatures received by e-mail as original signatures of the parties.

The parties consent and agree to the use of electronic signatures pursuant to the Electronic Commerce Act, 2000 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.

IN WITNESS WHEREOF the parties have executed this Agreement by virtue of affixing the signatures of their respective proper officers and agents duly authorized in that behalf.

Owner:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation

THE CORPORATION OF THE CITY OF CAMBRIDGE

Per: _____
MAYOR

Per: _____
CITY CLERK

We have authority to bind the Corporation

SCHEDULE "A" Legal Description of the Lands

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SCHEDULE "B"

Map of the Lands

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SCHEDULE "C"

Draft M-Plan for Subdivision

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SCHEDULE "D" Transfers

Lands to be conveyed to the City:

a) Buffers

Blocks X, X, X

b) 0.3m Reserves

Block X

c) Stormwater Management Pond

Block X

d) Channel Block

Block X

e) Street Widening

Block X (Dedicated upon M-Plan registration)

f) Rail Grade Separation Block

Block X

h) Parks/Open Space/Trails

All of Block X on Registered Plan 58M-_____

i) Stormwater Management Facility

All of Block X on Registered Plan 58M-_____

Lands to be conveyed to the Region of Waterloo

a) Street Widening

Block X (Dedicated upon M-Plan registration)

Easements to the City of Cambridge

a) Rear Yard Catch Basin Easements

None

b) Maintenance Easements

None

Easements to be conveyed to the City

a) Stormwater Sewer, Overland Flow and Access Easements

Easement for stormwater sewer and overland flow route and access over Part of Blocks X and X, on Plan 58-M, designated as Parts X, X and X on Plan 58-R, City of Cambridge (Survey Name No. and Author)

b) Access Easements

Easement for Access over Part of Block X, on Plan 58-M, designated as Part X, on Plan 58-R, City of Cambridge (Survey Name No. and Author)

Existing Temporary Storm Sewer Easement to Be Established as Public Highway

None

Existing Temporary External 0.3m Reserves to Be Established as Public Highway

None

Utility Easements to Grand Bridge Energy Inc.

Part 1 - = 8.0x16.0m Utility Easement on Registered Plan 58R-_____ for Grand Bridge Energy Inc. on Block x.

Easements to the Region of Waterloo

None

Easement to X

Easement from City of Cambridge for Sanitary Sewer over Part of Blocks 10, 3 and 13 on Plan 20M____, designated as parts 7, 8, 9, 10 and 11 on Plan 20R - _____, City of Cambridge (Survey Name No. and Author)

External to Plan

Application to Register Restrictive Covenants _____ in favour of the City of Cambridge restricting any future transfer or charge of Blocks X on Plan 58M-_____

SCHEDULE "E" List of Approved Drawings and Reports

Drawing/Report Name	Prepared by	Date and Revision Number

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**SCHEDULE F
CONSTRUCTION COST ESTIMATE**

Item (Items below are to be refined based on planned works and can be subdivided by Roads)	Quantity	Unit	Rate	Total
SANITARY SEWERS				
200 mm Diameter Pipe		m		\$0.00
250 mm Diameter Pipe		m		\$0.00
300 mm Diameter Pipe		m		\$0.00
1200 mm Diameter MH		each		\$0.00
1500 mm Diameter MH		each		\$0.00
Sanitary Services		each		\$0.00
Sanitary Sewer Total				\$0.00
STORM SEWERS				
300 mm Diameter Pipe		m		\$0.00
375 mm Diameter Pipe		m		\$0.00
450 mm Diameter Pipe		m		\$0.00
600 mm Diameter Pipe		m		\$0.00
1200 mm Diameter MH		Ea.		\$0.00
1500 mm Diameter DCBMH		Ea.		\$0.00
OGS		Ea.		\$0.00
Headwall		Ea.		\$0.00
Single CB and Lead		Ea.		\$0.00
Double CB and Lead		Ea.		\$0.00
Storm Sewer Total				\$0.00
STORMWATER MANAGEMENT FACILITIES				
300 mm Diameter Pipe		m		\$0.00
375 mm Diameter Pipe		m		\$0.00
600 mm Diameter Pipe		m		\$0.00
825 mm Diameter Pipe		m		\$0.00
900 mm Diameter Pipe		m		\$0.00
1200 mm Diameter MH		Ea.		\$0.00
1800 mm Diameter MH		Ea.		\$0.00
2400 mm Diameter MH		Ea.		\$0.00
OGS		Ea.		\$0.00
Precast Concrete Headwall		Ea.		\$0.00
Liner		m ²		\$0.00
Asphalt Access Road		m ²		\$0.00
Maintenance Access Gate		Ea.		\$0.00
Place 150mm Topsoil (Seeded Areas)		m ²		\$0.00
Hydroseed		m ²		\$0.00
SWM facility maintenance until Final Acceptance		LS		\$0.00
Final Sediment Removal		LS		\$0.00
Stormwater Management Facilities Total				\$0.00
WATERMAIN				
150 mm Diameter Watermain		m		\$0.00
200 mm Diameter Watermain		m		\$0.00
300 mm Diameter Watermain		m		\$0.00
150 mm Diameter Valve and Box		Ea.		\$0.00
200 mm Diameter Valve and Box		Ea.		\$0.00

**SCHEDULE F
CONSTRUCTION COST ESTIMATE**

Item (Items below are to be refined based on planned works and can be subdivided by Roads)	Quantity	Unit	Rate	Total
300 mm Diameter Valve and Box		Ea.		\$0.00
Hydrant		Ea.		\$0.00
25 mm services		Ea.		\$0.00
Connect to Ex. 150mm Watermain		Ea.		\$0.00
Watermain Total				\$0.00
 ROADS				
Fine Grading		m ²		\$0.00
375mm Granular B		t		\$0.00
150mm Granular A		t		\$0.00
100mm HL8 Base Asphalt		t		\$0.00
40mm HL3 Surface Asphalt		t		\$0.00
Adjust CB and MH structures prior to surface		each		\$0.00
Adjust Valve boxes prior to surface		each		\$0.00
Roads Total				\$0.00
 CURBS & GUTTERS, SIDEWALKS, DRIVEWAY RAMPS AND BOULEVARDS				
Curb and gutter		m		\$0.00
1.8m, 125mm thick Sidewalk		m ²		\$0.00
3.0m Multit-use Trail		m ²		\$0.00
Driveway Ramps		each		\$0.00
Topsoil in Boulevards		m ²		\$0.00
Sod in Boulevards		m ²		\$0.00
C&G, Sidewalk, Driveway Ramps and Blvd Total				\$0.00
 STREET LIGHTS				
Street Light Poles		Ea		\$0.00
Street light Total				\$0.00
 EROSION AND SEDIMENT CONTROL				
Light duty silt fence		Ea		\$0.00
Heavy duty silt fence		Ea		\$0.00
Clearing and grubbing		Ea		\$0.00
Mud Mats		Ea		\$0.00
Erosion and Sediment Control Total				\$0.00
 FENCING AND RETAINING WALLS				
Black vinyl chain link fence		m		\$0.00
Retaining wall		m ²		\$0.00
Fencing and Retaining Walls Total				\$0.00
 LANDSCAPING				
Street Trees		Ea.		\$0.00
SWM Facility Plantings		Ea.		\$0.00
Trail/Park Plantings		Ea.		\$0.00
Buffer Plantings		Ea.		\$0.00
Landscaping Total				\$0.00

**SCHEDULE F
CONSTRUCTION COST ESTIMATE**

Item (Items below are to be refined based on planned works and can be subdivided by Roads)	Quantity	Unit	Rate	Total
TREE MANAGEMENT				
To implement tree management recommendations outline in the Tree Management Plan approved by the City's Forestry Division		LS		\$0.00
Tree Management Total				\$0.00
STREET SIGNS, INTERPRETIVE SIGNAGE, PAVEMENT MARKINGS				
10cm Yellow Solid Line		m		\$0.00
10cm White Solid Line		m		\$0.00
10cm Broken White Line		m		\$0.00
45cm Broken White Line		m		\$0.00
45cm Solid White Line		m		\$0.00
Shark Teeth		Ea.		\$0.00
Bicycle Symbol		Ea.		\$0.00
Bicycle Symbol with Diamond		Ea.		\$0.00
Elephant Feet		Ea.		\$0.00
Railway Crossing Ahead		Ea.		\$0.00
60cm wide Crosswalk Line		m		\$0.00
1.25m wide Green Bicycle Lanes		m		\$0.00
White Bicycle Symbols and Arrows		Ea.		\$0.00
Ra-102		Ea.		\$0.00
Rb-70		Ea.		\$0.00
Ra-5R		Ea.		\$0.00
Ra-5t		Ea.		\$0.00
Wc-27R		Ea.		\$0.00
Wa-39		Ea.		\$0.00
Wa-23t (100m)		Ea.		\$0.00
Rb-25		Ea.		\$0.00
Wa-33L		Ea.		\$0.00
Ra-121		Ea.		\$0.00
Wa-33LR		Ea.		\$0.00
TC-15		Ea.		\$0.00
Ra-1		Ea.		\$0.00
Ra-6		Ea.		\$0.00
Wa-74		Ea.		\$0.00
Wa-22		Ea.		\$0.00
Wc-4		Ea.		\$0.00
Wc-16		Ea.		\$0.00
Wc-7s		Ea.		\$0.00
Rb-84A		Ea.		\$0.00
Rb-84t		Ea.		\$0.00
Rb-85t		Ea.		\$0.00
Rb-51		Ea.		\$0.00
Street signs, Interpretative Signage and Pavement Markings Total				\$0.00

SCHEDULE "G" Construction Phasing & Timing

Construction Milestone	Completion Date
1) Installation of tree protection measures, and erosion & sediment control measures	Prior to commencement of any Works or any other construction or site alteration activities
2) Construction of Street XX – storm sewers, watermain, sanitary sewers and primary roadworks (base asphalt, base concrete curb)	September 2023 <u>or</u> Fall 2023 <u>or</u> Q3 2023
3) Substantial Completion of Street XX – secondary roadworks, streetscape improvements, and pedestrian/cycling facilities	
4) Street lighting on Street XX	
5) Parkland – Base Park Works	
6) Parkland – Enhanced Park Works	

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**SCHEDULE H
FINANCIAL REQUIREMENTS**

FINANCIAL SECURITIES TO BE PROVIDED TO CITY

The Owner Agrees to provide the following financial security to the City prior to the execution of this Agreement:

Item	Quantity	Unit	Rate	Total
1 Sanitary Sewers				\$0.00
2 Storm Sewers				\$0.00
3 Stormwater Management Facilities				\$0.00
4 Watermains				\$0.00
5 Roads				\$0.00
6 C&G, Sidewalk, Driveway Ramps and Boulevards				\$0.00
7 Street Lights				\$0.00
8 Erosion & Sediment Controls				\$0.00
9 Fencing and Retaining Walls				\$0.00
10 Landscaping				\$0.00
11 Tree Management				\$0.00
Street signs, Interpretative Signage and Pavement				
12 Markings				\$0.00
13 Financial Lot Grading Guarantee		each	\$1,000.00	\$0.00
14 Water Service Valve Box Certifications		each	\$200.00	\$0.00
15 OLS SIB Certification		LS	\$10,000.00	\$0.00
Engineering and Inspection				
16 (by Consultant) (6% of Items 1 to 12)				\$0.00
17 Contingency (9% of Items 1 to 12)				\$0.00
TOTAL SECURITIES				\$0.00

FEES PAYABLE TO CITY

The Owner Agrees to provide payment of the following financial requirements to the City prior to the execution of this Agreement:

Item	Quantity	Unit	Rate	Total
18 Street Lights Energy Costs		each		\$0.00
19 Development Charges		each		\$0.00
20 Engineering Fees (4.5% of Items 1 to 12)				\$0.00
21 Third Party Street Light Design Review	1	LS	\$5,000.00	\$5,000.00
22 Cash-in-lieu for Deficient Street Trees		each	\$700.00	\$0.00
23 Parkland Dedication		hectare		\$0.00
TOTAL PAYABLE				\$5,000.00

SCHEDULE "I"

Form of Letter of Credit

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SCHEDULE "J"

Site-Specific Conditions

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**SCHEDULE "K" Engineering Standards and Development
Engineering Manual**

Please refer to the City's Engineering Design Standards and Development Manual (www.cambridge.ca/developmentmanual) which is not attached directly to this agreement due to size limitation.

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