

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2018-0093

**FOR THE CONSIDERATION OF
COUNCIL**

AUGUST 15, 2018

**SUBJECT: PRE-SERVICING (EARTHWORKS) AGREEMENT FOR DRAFT PLAN OF
SUBDIVISION 19T-13G02 WITHIN THE KESWICK BUSINESS PARK**

1. RECOMMENDATIONS:

- 1. That Council receive Report DS-2018-0093 prepared by the Development Engineering Division, Development Services Department dated August 15, 2018.**
- 2. That a By-Law be passed authorizing the Mayor and Clerk to enter into a Pre-Servicing Earthworks Agreement between Glenwoods Gateway Investments Inc. as the Owner and the Corporation of the Town of Georgina relating to Draft Plan of Subdivision 19T-13G02 commonly referred to as the Glenwoods Gateway property within the Keswick Business Park.**
- 3. That Council authorize the Director of Development Services to approve up to an additional 125,000 m³ of fill (for a total of 300,000 m³ of fill) imported to the Draft Plan of Subdivision 19T-13G02, subject to the submission and approval of engineering drawings and reports as required.**
- 4. That the draft agreement not be executed until the Owner submits an updated arborist report which reflects the Town's current Tree Preservation and Conservation Policy, and that the updated arborist report is reviewed and approved by the Town.**
- 5. That Council authorize Town staff to make minor revisions to the draft Pre-Servicing Earthworks Agreement included as Attachment 5 to Report No. DS-2018-0093 to address any Town or Town solicitor requirements.**

2. PURPOSE:

The purpose of this report is to bring forward the draft Pre-Servicing Earthworks Agreement for the Glenwoods Gateway Draft Plan of Subdivision within the Keswick Business Park.

3. INFORMATION:

OWNERS/APPLICANT: Glenwoods Gateway Investments Inc.
(Glenwoods Gateway Property) c/o Mr. John Gallucci

AGENT: SCS Consulting Group Ltd.

PROPERTY DESCRIPTION: Part Lots 6, 7 and 8, Concession 4 (NG) N/E corner of Woodbine Avenue and Glenwoods Avenue

ROLL NUMBERS: 104-990 / 105-305 / 105-350 / 105-450

4. BACKGROUND:

As indicated in Attachment 1 and Attachment 2, the Glenwoods Gateway property is located within the northern portion of the Keswick Business Park. As indicated in Attachment 3, the draft plan of subdivision consists of fourteen (14) industrial blocks, two (2) stormwater management ponds, a pumping station, and a greenlands block with associated buffers. Development of the individual blocks would proceed through subsequent applications for Site Plan Approval.

On February 27, 2012, Council entered into a site alteration agreement with the Owner which permitted the importing of 150,000 m³ of fill to the subject site as per Resolution No. C-2012-0075. The proposed fill area was to be located generally along the southern portion of the property fronting onto Glenwoods Avenue. The purpose of the fill was to raise the site for proper drainage. The soil imported to site was to be Ministry of Environment Table 2 quality. Table 2 indicates that the soil is suitable for conditions in which potable water is required. The site alteration agreement expired, and no fill was brought to site.

On May 11, 2016, By-law 2016-0037 (PL-5) was approved by the Town to rezone the Keswick Business Park lands. On June 3, 2016, the Town approved the draft plan of subdivision for Glenwoods Gateway.

On July 12, 2018, the Development Engineering division received a formal submission for the proposed earthworks for the draft plan of subdivision, including drawings and reports.

5. ANALYSIS:

The existing site contains active farming with some sparse hedgerows. The elevation of the land is lower than Woodbine Avenue and Glenwoods Avenue. The plan of subdivision is approximately 100 ha in size. In order to grade the land for proper drainage, approximately 175,000 m³ of soil will be required. 175,000 m³ of soil would raise the site on average 15 cm – 20 cm. The proposed site can facilitate

up to 300,000 m³ of fill, depending the elevation of each industrial block. Staff recommend that Council give the Director of Development Services the authority to approve up to an additional 125,000 m³ of fill (for a total of 300,000 m³ of fill), subject to approved drawings and reports as required.

As indicated in Attachment 4, the site generally drains in a northwest direction, with a relatively small area draining east towards the Maskinonge River. Generally, elevations at the north end of the site will be lowered, while the south and west sides will be raised.

A combination of sediment control fences, four (4) temporary stormwater management ponds, and temporary swales are proposed to prevent release of sediment to the neighbouring properties and nearby watercourse. The site will be accessed from Glenwoods Avenue only. A mud mat will be installed at the entrance of the site to reduce mud tracking onto the road. A road fouling security of \$50,000 will be taken to ensure the roads are cleaned as required. The imported soils will be tested as per Ontario Provincial Standards and Town standards, and the Owner will pay for all testing.

Typically, earthworks and pre-servicing are completed at the same time. In this case, a substantial amount of earthworks is required; therefore, earthworks are being considered in advance of pre-servicing the site. This report, and draft agreement, included as Attachment 5, are concerned with the earthworks only.

As fill will be placed on site in the locations of the existing hedge rows, tree compensation will be required. The most recent arborist report is dated January 2012. The Town revised the Tree Preservation and Conservation Policy in 2016. As part of the earthworks agreement, a revised arborist report will be required to be submitted by the Owner. The revised arborist report will be prepared to reflect the updated Town tree compensation policy. The arborist report will detail the tree compensation required for trees to be removed to complete the earthworks and for construction of the subdivision. No works will occur on site until the revised arborist report has been sufficiently reviewed and approved by the Town. The value of tree compensation will be determined in the approved arborist report and will be taken as part of a future development agreement.

The term of the draft agreement will be for two (2) years, with the option for Council to extend the agreement for one (1) more year. The Owner has been in consultation with York Region and Lake Simcoe Region Conservation Authority to obtain the necessary permits for the earthworks. The draft agreement has been reviewed by the Owner's consultant and the consultant's comments have been reflected in the draft agreement. The draft agreement will be reviewed by the Town solicitor.

The applicant does not have a source for the fill material at this time; however, the applicant has proceeded with the necessary application including the required engineering support in anticipation of the material becoming available.

6. RELATIONSHIP TO STRATEGIC PLAN:

This report and the development proposed herein addresses the following strategic goals:

GOAL 1: "Grow Our Economy" – SUSTAINABLE ECONOMIC GROWTH AND EMPLOYMENT

GOAL 2: "Promote a High Quality of Life" – HEALTHY, SAFE, SUSTAINABLE COMMUNITIES

7. FINANCIAL AND BUDGETARY IMPACT:

There are no expected financial impacts on the Town as a result of the proposed works.

8. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

Public consultation and notice is not required.

9. CONCLUSION:

The applicant is seeking to import 175,000 m³ of fill to the site prior to pre-servicing in order to raise the property's elevation. An additional 125,000 m³ of fill may be required, depending on the fill required for each site plan block. Staff recommend that Council delegate the authority to approve up to 125,000 m³ of additional fill (to a maximum of 300,000 m³) to the Director of Development Services, subject to the submission and approval of the required engineering drawings.

The necessary reports and drawings have been submitted and reviewed by the Development Services Department, with the exception of the revised arborist report. Subject to receiving external agency approvals and satisfying all terms and conditions, financial and otherwise attached in this report, it is staff's recommendation that a by-law be passed to authorize the Mayor and Clerk to enter into an Earthworks Agreement with the applicant on behalf of the Municipality.

Prepared by:



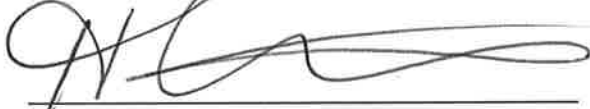
Owen Sanders, P.Eng
Development Engineering Supervisor

Submitted by:



Zaidun Alganabi, M.Eng, P. Eng.
Manager of Development Engineering

Recommended by:



Harold W. Lenters, M.Sc.PI, MCIP, RPP
Director of Development Services

Approved by:



Dave Reddon
Acting Chief Administrative Officer

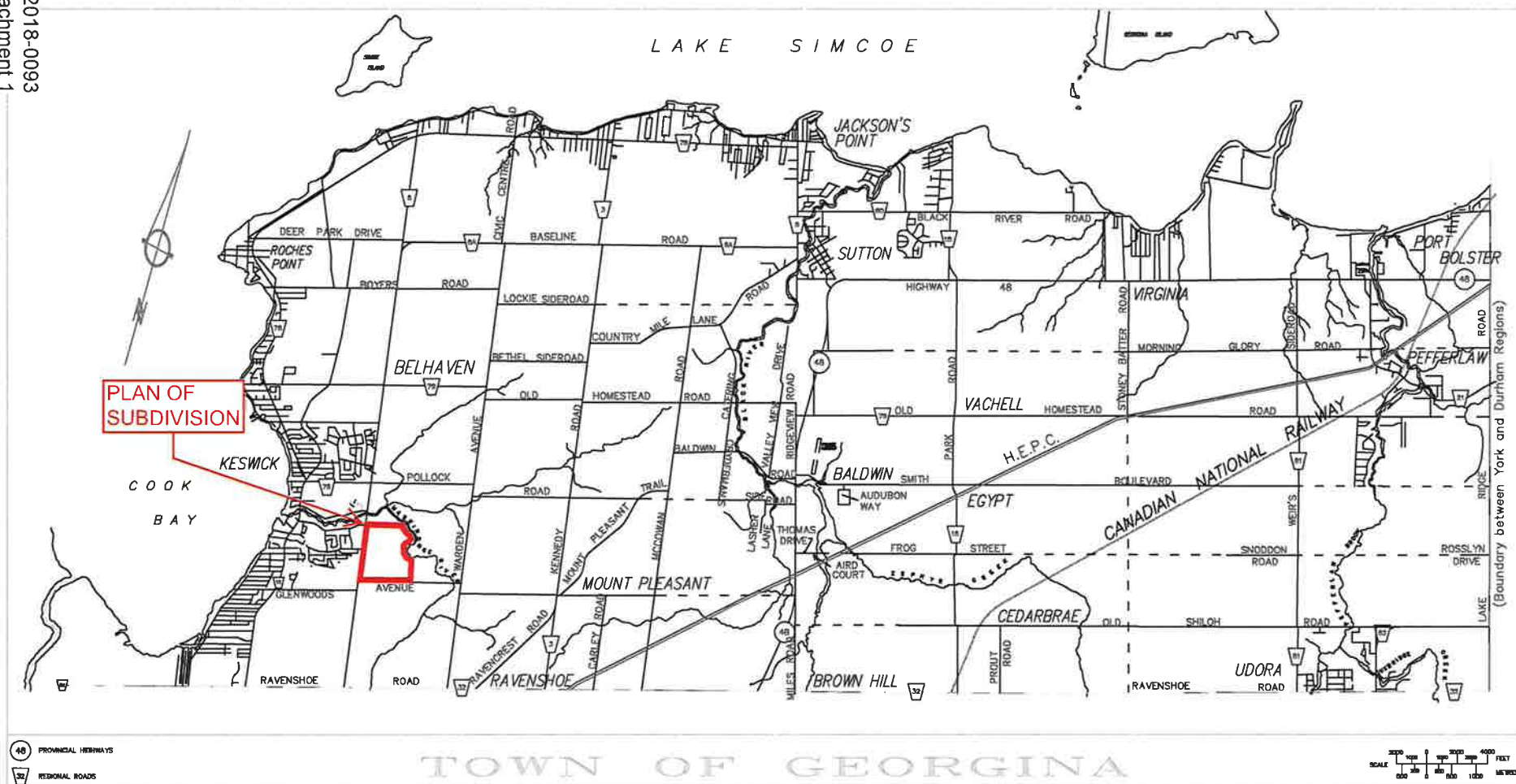
Attachment 1 – Location Map Within Georgina

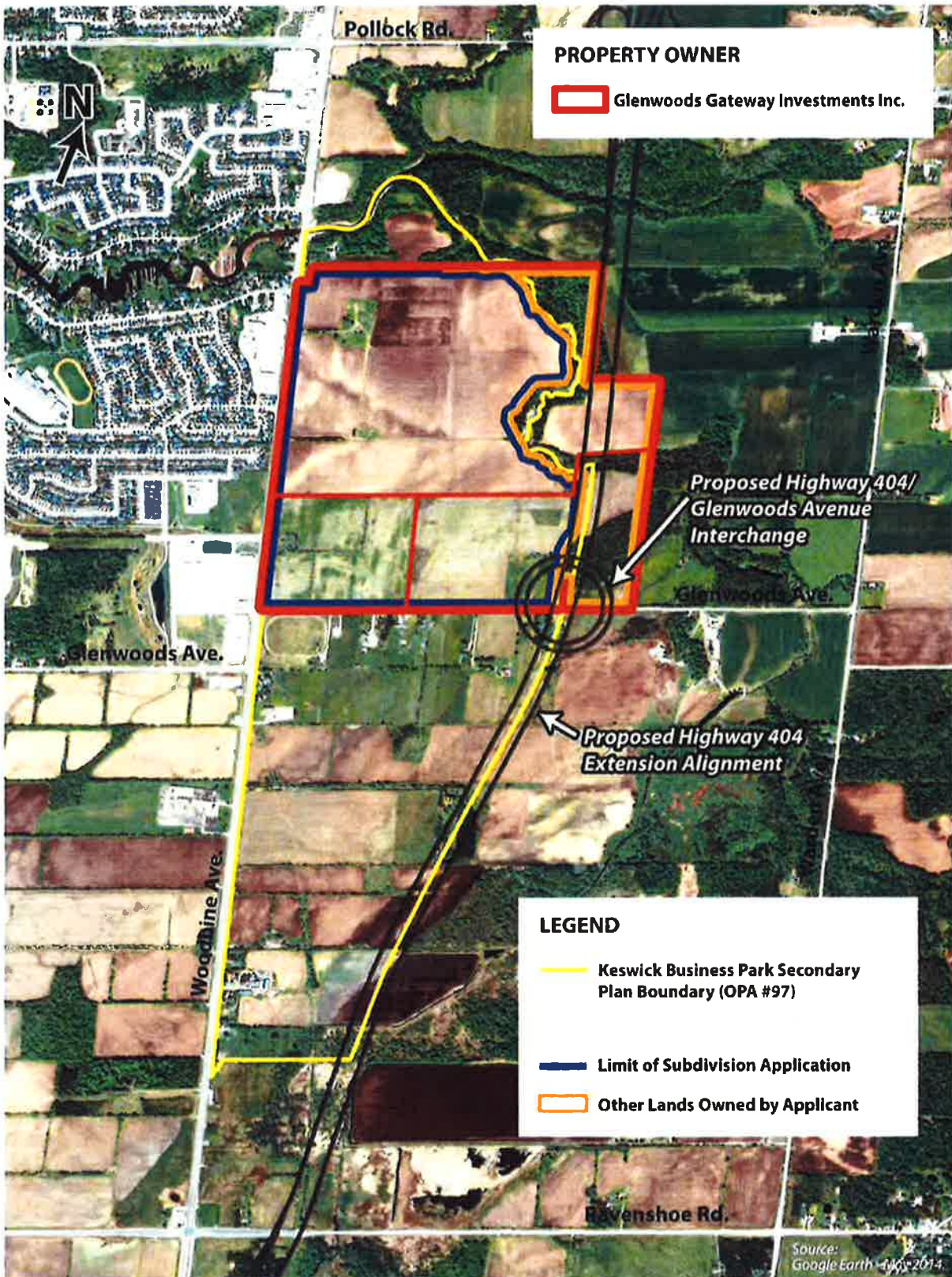
Attachment 2 – Keswick Business Park, Glenwoods Gateway Property, and Draft Plan of Subdivision Location

Attachment 3 – Approved Draft Plan of Subdivision

Attachment 4 – Fill Import Plan

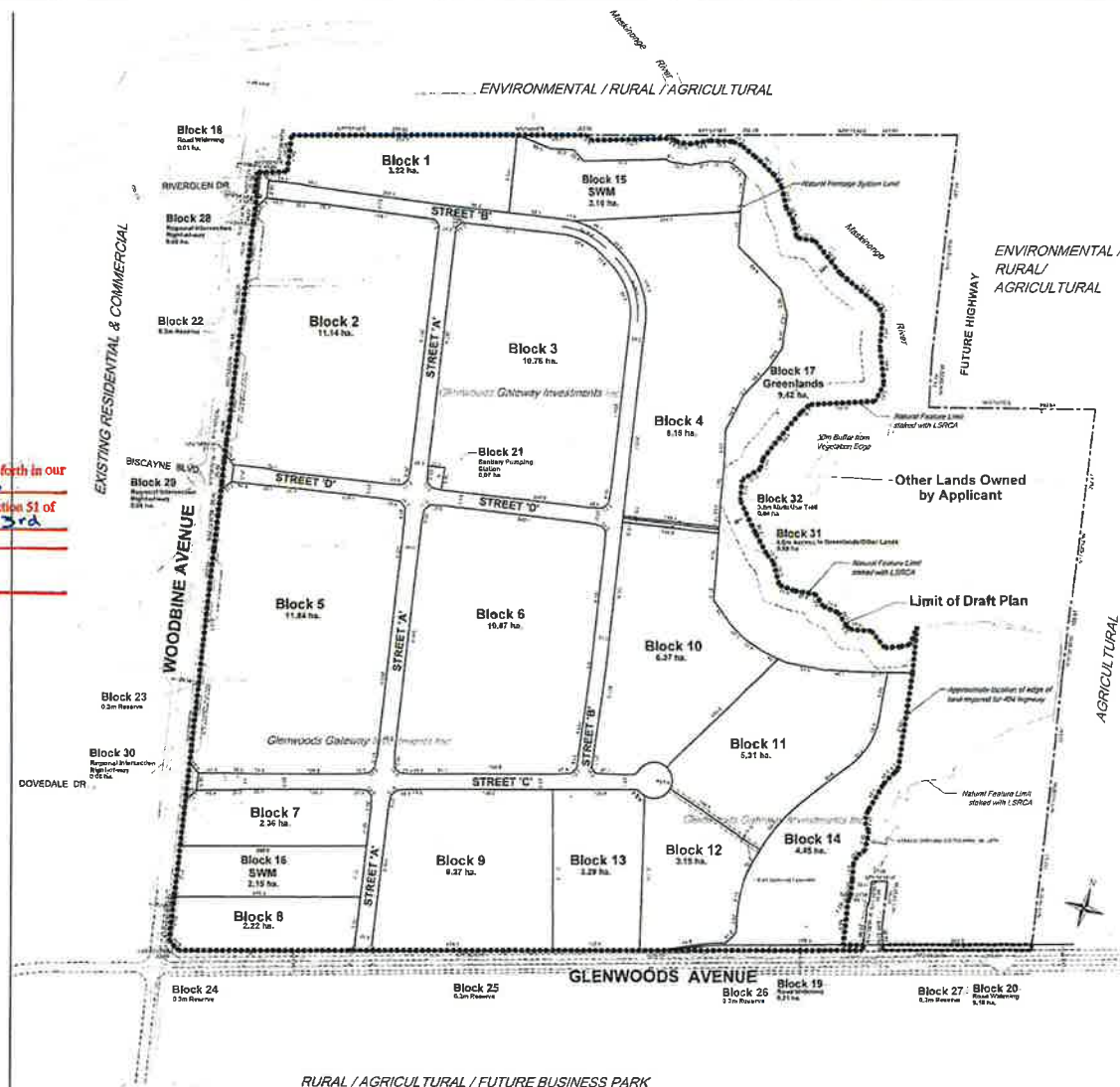
Attachment 5 – Draft Earthworks Agreement





Subject to the conditions, if any, set forth in our letter dated June 6, 2016
the draft Plan is approved under Section 51 of the Planning Act, R.S.O. 1990, this 3rd day of June, 2016

Harold W. Lenters, M.C.I.P., R.P.P.
Director of Planning and Building
Development Services



DRAFT PLAN OF SUBDIVISION 19T-13G02

Part of Lots 7 & 8, Conc. 4, 23965
Woodbine Ave., Part of W¹/₂ Lot 6, Conc. 4
(NG) Part 1, Reference Plan 65R-13672,
23675 Woodbine Ave., Part W¹/₂ Part E¹/₂
Lot 6 & Part Lot 7, Conc. 4 (NG)
2596 Glenwoods Ave.
Geographic Township of North Gwillimbury
TOWN OF GEORGINA
REGIONAL MUNICIPALITY OF YORK

KEY PLAN



SCHEDULE OF LAND USE

LOT/BLOCK	LAND USE	AREA (ha)
1-14	Industrial Lots	89.40
15-16	Storm Water Management Facility	5.25
17	Greenlands	9.42
19-20	Road Widening	0.40
21	Sanitary Pumping Station	0.07
22-27	0.3m Reserves	0.01
28-30	Regional Intersection Right-of-way	0.18
31	6.0m Access to Greenlands/Other Lands	0.09
32	3.0m Multi Use Trail	0.04
Streets A	26.0m R.O.W. - 1.066m	9.01
Street B-D	23.0m R.O.W. - 2.623m	
TOTAL		113.87

ADDITIONAL INFORMATION

AS REQUIRED UNDER SECTION 51(17) OF THE PLANNING ACT
CHAPTER P.13 (R.S.O. 1990)
(a) (b) (c) (d) (e) (f) (g) (h) (i) - As shown on the Draft Plan
(j) - As shown on the Draft and Key Plan
(k) - Land to be used in accordance with the Schedule of Land Use
(l) - Land to be sold and ready built
(m) - Full municipal services to be provided
NOTE: Contours relate to Canadian Geodetic Datum.

Contour interval is 1m with 5m interpolated.

OWNER'S AUTHORIZATION

I hereby authorize Maloro Glen Parsons Ltd. to prepare and submit
this Draft Plan of Subdivision to the Town of Georgina.

Site Original
October 9, 2013
OAS

SURVEYOR'S CERTIFICATE

I hereby certify that the boundaries of the lands to be
subdivided as shown on this Plan and their relationship
to the adjacent lands are accurately and correctly shown.

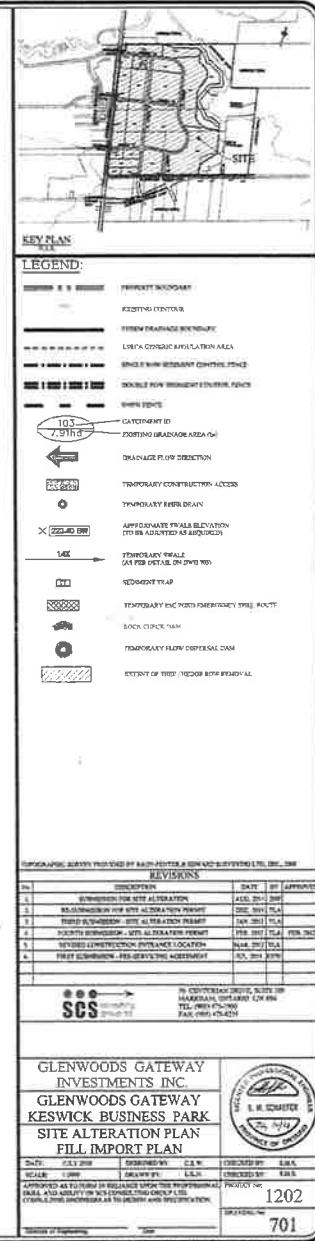
Site Original
October 9, 2013
OAS

Scale = 1:2500

Date: October 9, 2013
Project No: 14-2258

Prepared by:
MALORO GLEN PARSONS LTD.
140 Renfrew Drive, Suite 201
Markham, Ontario, L3R 0B3
Tel: (905) 513-0170 Fax: (905) 513-0177
www.mgp.ca





THE CORPORATION OF THE TOWN OF GEORGINA
GLENWOODS GATEWAY INVESTMENTS INC.
PLAN OF SUBDIVISION 19T-13G02
EARTHWORKS AGREEMENT
INDEX TO THE AGREEMENT

PART I DEFINITIONS AND SCOPE OF AGREEMENT

- 1.1 Definitions
- 1.2 Schedules
- 1.3 Scope of Agreement
- 1.4 Lands Affected
- 1.5 Earthworks
- 1.6 Requirements to Enter into a Development Agreement
- 1.7 Duties and Obligations

PART II ENGINEERING CONSULTANT

PART III FINANCIAL PAYMENTS AND SECURITY

- 3.1 Payments to Town
- 3.2 Peer Review Fees
- 3.3 Tax Arrears
- 3.4 Designated Charges and Imposed Rates
- 3.5 Lawful Levies and Rates
- 3.6 Development Charge
- 3.7 Securities for Internal Works and Road Fouling Deposit
- 3.8 Tree Cutting and Compensation
- 3.9 Security Maintenance
- 3.10 Release of Securities

PART IV LIABILITY INSURANCE AND INDEMNITY

- 4.1 Liability Insurance
- 4.2 Indemnification

PART V CONSTRUCTION OF PUBLIC WORKS

- 5.1 Design and Specifications
- 5.2 Working Hours
- 5.3 Earthworks Requirements
- 5.4 Access to the Development
- 5.5 Commencement of Construction
- 5.6 Inspections by Director of Operations and Engineering
- 5.7 Incomplete or Faulty Work
- 5.8 Acceptance of the Works
- 5.9 Maintenance and Repair of Public Works
- 5.10 Approval to Conduct Earthworks

PART VI FOULING OF ROADWAYS

PART VII CONSTRUCTION LIEN ACT

PART VIII GENERAL PROVISIONS

- 8.1 Inspections by Town Staff
- 8.2 Qualitative or Quantitative Tests
- 8.3 Approval

PART IX ADMINISTRATION

PART X TIME LIMIT FOR COMPLETION OF WORKS

PART XI ADDRESS OF TOWN, OWNER AND CONSULTING ENGINEER

PART XII INTERPRETATION

PART XIII GOVERNING LAW

PART XIV LIST OF SCHEDULES

- 13.1 Schedule 'A' - Description of the lands subject of this Agreement
- 13.2 Schedule 'B' - Certificate of the Owner's solicitor as to ownership of the lands
- 13.3 Schedules 'C' - Boundary description of the lands subject to this agreement
- 13.4 Schedule 'D' - The earthworks to be constructed by the Owner
- 13.5 Schedule 'E' - Summary of payments and securities

Agreement Drafted: July 23, 2018
Revised:

THIS AGREEMENT made in duplicate, this day of , 2018.

B E T W E E N:

GLENWOODS GATEWAY INVESTMENTS INC., a company
duly incorporated under the laws of the Province of Ontario,

hereinafter called "THE OWNER"
OF THE FIRST PART:

and --

THE CORPORATION OF THE TOWN OF GEORGINA.

hereinafter called "THE TOWN"
OF THE SECOND PART:

WHEREAS the Owner has made application, and the Council of the Town of Georgina passed Resolution No. C-2018-0375 on August 15, 2018, specifying the Conditions of Draft Plan Approval for Plan of Subdivision 19T-13G02 to be registered upon the lands described in Schedule "A" hereto (the "Land");

AND WHEREAS the Owner has not yet satisfied the conditions of draft plan approval and the plan of subdivision has not yet been registered;

AND WHEREAS the Owner proposes to proceed with the clearing and grubbing, topsoil stripping and rough grading of the roads and lots, hereinafter referred to as the "earthworks", prior to registration of the plan subdivision;

AND WHEREAS the Town agrees to permit said earthworks provided the Owner enters into this agreement which sets out the terms and conditions of the Town's approval;

NOW THEREFORE this agreement witnesseth that in consideration of the Town permitting the earthworks of the lands prior to registration of the plan of subdivision, the covenants hereinafter expressed and other good and valuable consideration, the parties hereto covenant and agree, one with the other, as follows:

PART I DEFINITIONS AND SCOPE OF AGREEMENT:

1.1 Definitions

In this Agreement:

- a) **"Agreement"** means the Earthworks Agreement and the schedules attached hereto;
- b) **"Consultant"** means the Owner(s) Consultant(s);
- c) **"Director"** means the Director of Development Services of the Town of Georgina or persons so designated to act on his behalf;
- d) **"Engineer"** means a Professional Engineer retained by the Owner in accordance with Part II;
- e) **"Lands"** means the lands and premises described in Schedule "A";
- f) **"Owner"** means the registered owner(s) of the Lands;
- g) **"Town"** means the Corporation of the Town of Georgina;
- h) **"Works"** means those matters subject to this agreement.

1.2 Schedules

The following schedules are attached hereto and form an integral part of this Agreement:

- a) Schedule 'A' - Description of the lands subject of this Agreement
- b) Schedules 'B' - Certificate of the Owner's solicitor as to ownership of the lands
- c) Schedule 'C' - Boundary description of the lands subject to this agreement
- d) Schedule 'D' - The earthworks to be constructed by the Owner
- e) Schedule 'E' - Summary of payments and securities

1.3 Scope of Agreement

The Owner agrees to construct and complete at its expense and in a good and workmanlike manner, all the Works as hereinafter set out in Schedule "D" - "Works to be Constructed". The Works shall be constructed in accordance with accepted engineering drawings to the satisfaction of the Director, and the Owner shall complete, perform or make payment for such other matters as may be provided for herein. The parties acknowledge and agree that this Agreement relates to the proposed Development on the Lands described in Schedule "A" attached hereto.

1.4 Lands Affected

The Lands affected by this work are to be solely within Lands are described in Schedule "A" attached hereto.

1.5 Earthworks

For the purposes of this agreement, "earthworks" means the clearing and grubbing, topsoil stripping and rough grading of the roads and lots and pre-loading of the lands within the plan of subdivision prior to registration of the Plan of Subdivision 19-T13G02 and entering into a Development Agreement. The volume of fill to be brought on site is to be no more than 175,000 m³. Additional fill volume of 125,000 m³, for a total amount of 300,000 m³, may be brought on site only with the written approval of the Director of Development Services upon receipt and approval of updated engineering drawings. The imported fill must be Table 2 or better as per "Soil, Ground Water and Sediment Standards, for Use under Part XV.1 of the Environmental Protection Act" dated April 15, 2011, as amended. **No installation of underground services or infrastructure will be permitted under this agreement.**

1.6 Requirement to Enter into Development Agreement

This Agreement does not relieve the Owner from entering into a Development Agreement with the Town prior to registration of the plan of subdivision.

1.7 Duties and Obligations

This agreement shall define the obligations and duties of the Owner with respect to completing the earthworks on the subject lands and without limiting the generality of the foregoing, shall include the installation, construction, repair and maintenance of the public works to be provided, the nature and specifications thereof and payments required to be made to the Town and such other matters more specifically set out herein.

PART II ENGINEER/CONSULTANT

The Owner agrees to retain a Professional Engineer as its Consultant. This said Engineer shall carry out all necessary work to supervise the design, layout, inspection and maintenance required for the construction of the Works herein referred to and to remedy any defects as required. Such Engineer or a successor thereto shall continue to be retained until the Works provided for in this agreement are completed and formally accepted by the Town.

PART III FINANCIAL PAYMENTS AND SECURITY

3.1 Payments to the Town

The Owner covenants and agrees to pay to the Town the amounts set out in Schedule "E" hereto. The Owner further acknowledges the Town's right and requirement to assess levies on all lots and blocks of this development.

The Owner agrees that in the event the proceeds received by the Town pursuant to Schedule "E" are not required, or likely to be required wholly, or in part, by reason of the Owner undertaking this development, such proceeds may then be expended for such other general or specific purposes that the Town shall, at its absolute discretion, determine.

3.2 Peer Review Fees

In the event that the Town requires the services of its Peer Review Consultants respecting the works contemplated herein this agreement, the Owner covenants and agrees to pay all requisite invoices within fifteen (15) days of submission by the Town to the Owner of any such invoices.

3.3 Tax Arrears

The Owner covenants and agrees to pay all arrears of taxes outstanding against the property herein described, prior to the execution of this Agreement by the Town.

3.4 Designated Charges and Imposed Rates

The Owner agrees to commute and pay forthwith, prior to the execution of this Agreement by the Town, designated charges and imposed rates now or to be assessed and levied upon the lands within the said plan, including but not limited to levies under the *Ontario Water Resources Act*, the *Public Utilities Act*, the *Municipal Drainage Act* and the *Municipal Act*.

3.5 Lawful Levies and Rates

The Owner further undertakes and agrees to pay all taxes levied, or to be levied, on the said lands on the basis and in accordance with the assessment and collector's roll entries until such time as the land herein being subdivided has been assessed and entered on the collector's roll according to the Registered Plan.

Notwithstanding the works to be constructed and installed by the Owner, the services to be performed and the payments to be made pursuant to this Agreement, the lands in the said development shall remain liable in common with all other assessable property in the Town to all lawful rates and levies of the Town.

Interest shall be payable by the Owner to the Town on all sums of money payable under this Agreement, which are not paid within thirty (30) days from the due date. The rate of interest payable shall be fifteen percent (15%) per annum.

3.6 Development Charges

The Owner acknowledges that a Development Charge shall be payable on each lot and/or block within the subject lands, prior to the issuance of a building permit for said lot and/or block. The Development Charge shall be calculated at the time of payment in accordance with all applicable by-laws passed pursuant to the *Development Charges Act, 1997*, and any amendments thereto.

3.7 Securities for Internal Works and Road Fouling Deposit

Prior to execution of this agreement, the Owner agrees to make a cash deposit or provide the Town, in form and content satisfactory to the Town solicitor, an Irrevocable Letter of Credit in the amount of fifty thousand dollars (\$50,000.00) to the Town which may be used by the Town to clean any streets leading to the development which have been fouled or to repair any damage to streets and appurtenances thereon leading to the development which has been caused by the operations of the Owner, his contractors, agents or workmen. This will also include overall site maintenance and site stabilization as may be deemed necessary by the Director.

3.8 Tree Cutting and Compensation

The Owner agrees to retain, a Certified Arborist, a competent Professional, skilled and experienced in the tree management/tree preservation. This said Arborist shall carry out all the necessary inspection and supervision, relating to tree management/tree preservation and maintain the works and services herein referred to and to remedy any defects as required. Such Arborist or a successor thereto shall continue to be retained until the work provided for in this agreement is completed and formally accepted by the Town.

Prior to execution of this agreement, the Owner agrees to submit an updated arborist report as per the Town's Tree Preservation and Conservation Policy dated July 13, 2016, or as amended, for the Town's review, comment, and approval. The arborist report is to include to the total value of trees being removed for the earthworks as outlined in this agreement, as well as the total value of trees to be removed for the plan of subdivision. The updated arborist report will also consider the length of time between the initial site visit to estimate the amount of growth expected.

The monetary value of tree compensation as outlined in the approved arborist report will not be taken as part of this agreement, but will be included as a condition in a future agreement.

In the event that all necessary tree cutting has not been completed by May 8, no additional tree cutting will take place until after the bird nesting season date of August 31 established in the conditions of draft plan approval unless otherwise approved by the Town.

Clearance from the Town or a representative thereof is required for the location of the protective fencing.

3.9 Security Maintenance

The Owner agrees that in the event that the Town draws upon any security pursuant to this agreement the Owner shall re-establish the total aggregate amount within ten (10) days of the date of the use of this agreement shall be considered to be in default.

3.10 Release of Securities

All securities provided pursuant to this agreement shall be released at the Owner's request subsequent to the execution of the future Development Agreement and the satisfaction of the security requirements of that agreement or upon confirmation from the Town that earthworks are complete and soils are stabilized, all to the satisfaction of the Director of Development Services.

PART IV LIABILITY INSURANCE AND INDEMNITY

4.1 Liability Insurance

Prior to execution of this Agreement by the Town, the Owner covenants and agrees to supply the Town:

- a) General Liability Insurance in the amount of Five Million Dollars (\$5,000,000.00) in a form satisfactory to the Town, Solicitor including but not limited to bodily injury including death, personal injury, property damage including loss of use thereof, non-owned automobile and contain a cross liability/severability of interest clause. The Town shall be named as an additional insured.
- b) The policies shall be endorsed to provide the Town with not less than thirty (30) days' written notice of cancellation.
- c) In the event that the Owner fails to maintain insurance as required the Town shall have the right to provide and maintain such insurance and the Owner must pay all costs to the Town within fourteen (14) days.
- d) Evidence of insurance must be satisfactory to the Town and shall be provided prior to the signing of the Agreement and shall remain in effect until such time as final acceptance of the Development pursuant a future development agreement.
- e) As determined by the Town, the Owner may be required to provide and maintain additional insurance coverage(s), which are related to this Agreement.

4.2 Indemnification

The Owner shall indemnify and save harmless the Town and its officers, employees, agents and elected and appointed officials from and against all claims, demands, losses, damages, costs (including reasonable legal costs), actions and other proceedings made, sustained, brought, prosecuted, or threatened to be brought or prosecuted in any manner based upon, occasioned by or attributable to an injury to or death of a person or damage to or loss of property, infringement of rights or any other loss or damages whatsoever, arising in relation to the project, including, without limitation, the construction and/or maintenance of all or any of the Works or the lack of maintenance of such Works by the Owner in accordance with this Agreement, from the date of commencement of any Works until final acceptance thereof by the Town.

PART V CONSTRUCTION OF PUBLIC WORKS

5.1 Design and Specifications

Notwithstanding any reviews, approvals, criticisms or modifications given by the Town or its consultants, neither the Town, the Director nor the Town's Consulting Engineer shall in any way be responsible for the design drawings or the plans and specifications and the Owner shall bear sole responsibility for the soundness of the engineering design and for ensuring that the works required to be done will function as intended and contemplated.

5.2 Working Hours

The working hours are to be solely from 7:00 AM to 8:00 PM Monday to Saturday.

5.3 Earthworks Requirements

The Owner agrees that the importation of any fill material to this site shall only be in accordance with all provisions of the By-law to Prohibit or Regulate the Removal of Topsoil, the Placing or Dumping of Fill Material and the Alteration of the Grade of Land being By-law No. 2011-0044 (REG-1), as amended and particularly Section 4 thereof.

It is further understood that pursuant to the development exemption within the by-law, the imposition of the Municipal Services Fee in Schedule 'A' to the by-law does not apply.

5.4 Access to the Development

The Owner covenants and agrees that access to the proposed development during the period of construction is restricted such that access shall be by way of GLENWOODS AVENUE.

5.5 Commencement of Construction

The Owner covenants and agrees to give to the Town seven (7) days' notice in writing of the date upon which construction shall commence of any Works.

5.6 Inspections by Director of Operations and Engineering

The Owner covenants and agrees that the Director may inspect the construction of works under any contract, but such inspection shall in no way relieve the Owner from his responsibility to inspect the said works itself.

If, at any time, the construction of public works is not, in the opinion of the Director, being carried out in accordance with good engineering practice, the Director may issue instructions to the Owner and/or to the Consulting Engineer to take such steps as the Director deems necessary to procure compliance with the provisions of this agreement. Such instructions may be written, or may be verbal, in which case the Director shall confirm them in writing within forty-eight (48) hours. In the event that neither the Owner nor the Owner's engineer is present at the site of the works to receive such verbal instruction, the Director may require the contractor or contractors or workmen to cease work forthwith and is hereby authorized to order such work to cease.

5.7 Incomplete or Faulty Work

In the event that the Director deems that the earthworks being carried out is not in accordance with the reviewed plans and specifications, or as per the approved construction schedule, he may order the contractor to stop further work and the Town may draw upon the securities posted pursuant to Section 3 of this agreement and secure the site if required for purposes of public safety with proceeds received from such security provided the Director gives seven (7) days notice in writing requiring the Owner to comply with the reviewed plans and specifications or to proceed with completion of the works.

5.8 Acceptance of the Works

Acceptance of the Works is subject to the provisions set forth in the future Development Agreement.

5.9 Maintenance and Repair of Public Works

The Owner covenants and agrees to maintain all the Works and services as provided for in this Agreement free from defects and to repair and rectify any defect which may occur when required by the Director. Satisfactory completion of the maintenance period shall be in accordance with the provisions of the future Development Agreement.

5.10 Approval to Conduct Earthworks

The Owner acknowledges and agrees that the Town's approval to conduct earthworks the lands is granted to accommodate and assist the Owner. Approval to conduct earthworks shall not be construed as final approval of the plan of subdivision and the Owner assumes all risks of conducting earthworks without final approval of the plan of subdivision.

PART VI FOULING OF ROADWAYS

The Owner covenants and agrees not to foul the roads and streets within the proposed plan of subdivision and those public highways leading to the lands described in Schedule "A" hereto and further agrees to provide the necessary persons and equipment to be available on a twenty-four (24) hour notice basis at all times to keep public highways, roads and streets leading to and within the development clean, and if, in the opinion of the Director, such roads do not meet with these requirements, then the work shall be done by the Town at the Owner's expense.

PART VII CONSTRUCTION LIEN ACT

Upon receiving notice or upon any liens being filed pursuant to the Construction Lien Act which may affect any portion of the subject lands in this agreement in which the Town may have an interest, this agreement shall be deemed to be defaulted by the Owner. Upon discovering such default, the Town may forthwith give the Owner notice in writing of the said

lien or claim and the Owner shall be allowed to cure or remedy such default by discharging or vacating the said lien to the satisfaction of the Town within ten (10) days of such notice.

If such default is not remedied or cured as above, the Town may, notwithstanding any other remedies it may have, draw upon any security or Letter of Credit which may be held pursuant to this agreement to secure its interests and may pay into Court any holdback and costs provided by the Construction Lien Act as may be necessary therefor.

The Owner shall provide a statutory declaration that it has paid all contractors, sub-contractors and consultants associated with the construction of public works and complied fully with the provisions of the *Construction Lien Act*.

PART VIII GENERAL PROVISIONS

8.1 Inspections by Town Staff

The Town, by its officers, staff, Peer Review consultants, servants and agents may enter on to the subject lands, or parts thereof, and any building(s) erected thereon, to ensure the proper compliance of any works required to be constructed by the Owner.

8.2 Qualitative/Quantitative Tests

The Director may require qualitative or quantitative tests made of all materials which have been or are proposed to be used in the construction of any works or services required by this agreement. All testing shall conform to the Ontario Provincial Standard Specifications and the Town's Development Design Criteria, as amended, and the costs of such tests shall be paid by the Owner within fourteen (14) days of the account being rendered by the Town.

8.3 Approval

The Owner agrees that no work shall be commenced without the written approval of the Director and it is understood that any approvals given prior to the registration of the plan shall not be binding upon the Town nor on the Director and any works undertaken by the Owner prior to the registration of the plan shall be at the sole risk of the Owner.

Any approvals given by the Town shall be subject to any and all approvals required by any other governmental authority.

Notwithstanding anything herein contained, the Town shall not be obligated under this agreement until the Town or the Owner has obtained any and all approvals required to be obtained from the Regional Municipality of York and the Lake Simcoe Region Conservation Authority and nothing herein shall relieve the Owner from obtaining all approvals and consents required by any other agencies having jurisdiction.

PART IX ADMINISTRATION

9.1 The Owner consents to the registration by the Town of this Agreement upon the title of the Lands, at the sole discretion of the Town.

9.2 The Owner shall obtain and register a discharge, consent or postponement of any mortgage or other encumbrance on the Lands, at its expense, with the intent that any prior encumbrancer will postpone any right or interest which it may have in the Lands, so that this Agreement shall take

effect as though executed and registered prior to the creation of such right or interest of such party. Any such discharge, consent or postponement shall be in form and substance satisfactory to the Town's Solicitor, and shall be provided prior to the execution of this Agreement by the Town.

9.2 The Owner shall pay all of the Town's costs with respect to the preparation, review, and registration of this Agreement and any other required documents, including but not limited to any applicable subsearch, execution search and registration fees.

9.3 It is declared and agreed that this Agreement and the covenants contained herein and the Schedules attached hereto shall ensure to the benefit of the Town and is binding upon the respective successors and assigns of the Owner.

9.4 Notwithstanding anything herein contained, the Town shall not be obligated under this Agreement until the Owner has obtained any and all approvals required to be obtained from the Regional Municipality of York and the Lake Simcoe Region Conservation Authority, and nothing herein shall relieve the Owner from obtaining all approvals required by any governmental authority.

PART X TIME LIMIT FOR COMPLETION OF WORKS

The Owner shall complete the construction and installation of all of the Works within two (2) year of the date of this Agreement. Council may extend the agreement by one (1) year.

PART XI ADDRESS OF THE TOWN, OWNER AND CONSULTING ENGINEER

All notices, demands or requests provided for or permitted to be given pursuant to this agreement shall be made in writing as follows:

10.1 Town

If made to the Town, it shall be addressed to:

The Corporation of the Town of Georgina
26557 Civic Centre Road
Keswick, Ontario L4P 3G1
Attention: John Espinosa, Town Clerk
Phone: (905) 476-4301 / Fax: (905) 476-1475

10.2 Owner

If made to the Owner, it shall be addressed to:

Glenwoods Gateway Investments Inc.
51 Constellation Court
Toronto, ON M9W 1K4
Phone: (905) 761-7086 / Fax: (905) 761-7201

10.3 Consultant

If made to the consultant, it shall be addressed to:

SCS Consulting Group Ltd.
30 Centurian Drive, Suite 100
Markham, ON L3R 8B8
Attention: Mr. Steve Schaefer, P.Eng.
Phone: (905) 475-1900 / Fax: (905) 475-8335

Or such other address of which the Owner and/or consulting engineer has notified the Director in writing. All notices, demands or requests shall be deemed to have been properly given if delivered personally or sent by prepaid mail. If notice is given by mail, the same shall be effective five (5) business days after being deposited with the postal office.

PART XII INTERPRETATION

11.1 This Agreement is to be read with all changes in gender or number as required by the context.

11.2 All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.

11.3 The part numbers and headings, sub-headings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

PART XIII GOVERNING LAW

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

SCHEDULE 'A'
DESCRIPTION OF THE LANDS SUBJECT OF THIS AGREEMENT

TO BE PROVIDED BY THE APPLICANT

DRAFT

SCHEDULE 'B'
CERTIFICATE OF THE OWNER'S SOLICITOR AS TO OWNERSHIP OF
THE LANDS

TO BE PROVIDED BY THE APPLICANT

SCHEDULE 'C'

BOUNDARY OF LAND SUBJECT OF THIS AGREEMENT

TO BE PROVIDED BY THE APPLICANT

SCHEDULE 'D'

EARTHWORKS TO BE CONSTRUCTED BY THE OWNER

Design and construction of the work described herein shall be in accordance with the reviewed engineering drawings as prepared by SCS Consulting Group Ltd., Consulting Engineers for the development. Such review shall be signified by the signature of the Director on the drawings.

1. GENERAL - EARTHWORKS

- a) Clearing, grubbing, topsoil stripping, rough grading of roads and lots, tree cutting and removal all in accordance with the Tree Preservation and Compensation Policy.
- b) Construction of a temporary construction access pad/mud mat on the construction entrance as shown of the approved plans.
- c) Construction of erosion and sediment controls and temporary stormwater management ponds, if required as per approved drawings.
- d) Importation of fill material for the purpose of pre-loading the lands and subsequent site grading.

SCHEDULE 'E'

SUMMARY OF PAYMENTS AND SECURITIES

PAYMENTS:

1. Prior to the execution of this Agreement by the Town, the Owner shall provide to the Town, payment of agreement preparation fee being \$6,956.00.

SECURITIES:

1. Prior to the execution of this Agreement by the Town, the Owner shall provide to the Town, in form and content satisfactory to the Town solicitor, an irrevocable Letter of Credit, or at the Owner's option, a cash deposit in the amount of \$50,000.00 to guarantee completion of works and as a road fouling deposit.
2. In the event that the Town draws upon any security required herein the Owner agrees to re-establish the total aggregate amount within ten (10) days of the date of the use or this agreement shall be considered to be in default.