

Properties

PIN	58733 - 0032 LT
Description	PT PARKLT 12 ON LT 6 CON 12 PL 67 INNISFIL, PT 1 PL 51R27260; BARRIE
Address	90 MAPLEVIEW DRIVE WEST BARRIE
PIN	58733 - 0976 LT
Description	PT CENTRE RD PLAN 67 AS PT 3 51R18640 (CLOSED BY SC663004); BARRIE
Address	MAPLEVIEW DRIVE WEST BARRIE
PIN	58733 - 0003 LT
Description	PT PARKLT 13 ON LT 6 CON 12, 14 ON LT 6 CON 12, 15 ON LT 6 CON 12 PL 67 INNISFIL; PT CENTRE RD PL 67 INNISFIL (CLOSED BY RO1050168) PTS 2 & 7, 51R18640; CITY OF BARRIE
Address	120 MAPLEVIEW DRIVE WEST BARRIE

Consideration

Consideration	\$2.00
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Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name	THE CORPORATION OF THE CITY OF BARRIE
Address for Service	Legal Services - 9th Floor 70 Collier St. P.O. Box 400 Barrie, ON L4M 4T5

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation Christopher Packham, Legal Counsel.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

The land registrar is authorized to delete the notice on the consent of the following party(ies) THE CORPORATION OF THE CITY OF BARRIE.

Schedule: See Schedules

Signed By

Christopher Randall Packham	70 Collier Street PO Box 400 Barrie L4M 4T5	acting for Applicant(s)	Signed	2023 10 02
Tel	705-739-4220			
Fax	705-739-4278			

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

THE CORPORATION OF THE CITY OF BARRIE	70 Collier Street PO Box 400 Barrie L4M 4T5	2023 10 03
Tel	705-739-4220	
Fax	705-739-4278	

Fees/Taxes/Payment

Statutory Registration Fee	\$69.00
Total Paid	\$69.00

File Number

Applicant Client File Number : D11-024/21

THE CORPORATION OF THE CITY OF BARRIE

SITE PLAN DEVELOPMENT AGREEMENT

THIS AGREEMENT made in triplicate on this 29 day of September, 2023,

BETWEEN:

THE CORPORATION OF THE CITY OF BARRIE

(the "Municipality")

AND

TFH MM PROPERTIES INC.

(the "Owner")

(Collectively referred to as the "Parties")

WHEREAS:

- A) The Owner is the registered owner of the lands as described in Schedule "B" to this Agreement, (the "Lands");
- B) By an application received **November 8, 2021**, the Owner applied to the Municipality for Site Plan Approval in respect of its development of the land described in Schedule "B";
- C) The Municipality issued conditions of approval on **June 6, 2023**, for the Owner's application ("Certificate of Preliminary Approval") including a requirement that the Owner enter into an agreement as permitted by subs. 41(7) of the *Planning Act*, R.S.O. 1990 c. P.13 (the "*Planning Act*");
- D) The Municipality is executing this Agreement in order to secure the provision of certain facilities, works and matters referred to in subs. 41(7) and (8) of the *Planning Act* relating to the development and to confirm the provision of the plans and drawings approved for the development as provided in subs. 41(4) of the *Planning Act*;
- E) Subsection 41(10) of the *Planning Act* permits the registration of this Agreement against the lands to which it applies in order to secure the obligations of the Owner to develop the Lands in accordance with the condition of Site Plan Approval granted by the Municipality;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION OF THE mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

PART I

BASIS OF AGREEMENT

1. SUBJECT LANDS

This Agreement applies to the Lands, which lands are described in Schedule "B" to this Agreement.

2. SCOPE OF AGREEMENT

This Agreement shall define the obligations and duties of the Owner with respect to the Lands and, without limiting the generality of the foregoing, shall include the installation, construction, repair and maintenance of certain Works stipulated in this Agreement, and payments required to be made to the Municipality and to such other persons or entities, and such other matters as may be more specifically set out.

3. SCHEDULES

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

SCHEDULE "A"	THE DEFINITIONS: being a schedule of definitions for the purposes of administration of this Agreement.
SCHEDULE "B"	LANDS AFFECTED BY THIS AGREEMENT: being a description of the Lands affected by this Agreement.
SCHEDULE "C"	APPROVED PLANS, DRAWINGS, REPORTS AND STUDIES: being a schedule listing the required Approved Plans, drawings, reports and studies referred to in Part II of this Agreement and filed at the offices of the Municipality.
SCHEDULE "D"	LAND INTERESTS TO BE CONVEYED: being a schedule listing of land or interest in land to be conveyed, dedicated or transferred to the Municipality.
SCHEDULE "E"	DEVELOPMENT SERVICES (PLANNING & APPROVALS) TERMS AND CONDITIONS: being a schedule listing any <i>Planning Act</i> considerations and detailing the conditions of design, construction, and installation of all Works as approved by the Municipality.
SCHEDULE "F"	WORKS AND SERVICES: being a schedule setting out works to be constructed and installed in association with the development of the Lands approved under this Agreement.
SCHEDULE "G"	SPECIAL TERMS AND CONDITIONS: being a schedule which outlines requirements in relation to specific works and special terms and conditions to which the Owner agrees in executing this Agreement and will carry out or comply with to the Municipality's satisfaction.
SCHEDULE "H"	PARKS, LANDSCAPING AND ENVIRONMENTAL CONDITIONS: being a schedule listing conditions regarding parks, landscaping and environmental considerations.
SCHEDULE "I"	CONDOMINIUMS: being a schedule setting special conditions governing condominiums
SCHEDULE "J"	FINANCIAL TERMS AND CONDITIONS: being a schedule of financial obligations of the Owner with respect to fees, deposit, and security.
SCHEDULE "K"	INSURANCE AND INDEMNIFICATION: being a schedule governing the Owner's agreement to acquire insurance and indemnify and save harmless the Municipality from claims and liabilities.
SCHEDULE "L"	ENFORCEMENT: being a Schedule establishing the grounds and means of enforcing this Agreement by the Municipality as against the Owner.
SCHEDULE "M"	REDUCTION OR RELEASE OF SECURITY: being a schedule detailing the Owner's ability to release and reduce parts of the Security.
SCHEDULE "N"	ISSUED CERTIFICATE OF PRELIMINARY APPROVAL: being a schedule containing the Certificate of Preliminary Approval and the conditions contained therein issued by the Municipality's Development Services (Planning & Approvals) Department.
SCHEDULE "O"	CRANE SWING AND TIE-BACK ENCROACHMENT: being a schedule containing the specific details, requirements and/or conditions related to crane swing and tie-back encroachment terms and conditions with respect to the development of the Lands under this Agreement.

PART II
GENERAL TERMS AND CONDITIONS

1. LAND CONVEYANCES

The Owner shall convey lands, listed in Schedule "D", required by the Municipality for road widenings, daylighting triangles, open space, and/or environmental protection purposes free and clear of any encumbrances, at the Owner's expense.

2. RIGHT-OF-WAY ACTIVITY PERMIT

The Owner shall obtain a Right-of-Way Activity Permit pursuant to the Municipality's current Right-of-Way Activity By-law for any works undertaken on the Municipality's road allowance(s). The Owner shall provide a cash deposit or other security in an amount and in a form satisfactory to the Municipality to guarantee the performance of the Owner's obligations pursuant to the Right of Way Activity Permit and to indemnify the Municipality for any costs incurred by it as a result of any work undertaken on the road allowance(s) or with respect to the Lands that has an adverse impact on the road allowance(s). The deposit is a pre-estimate only and the Municipality reserves the right to be completely indemnified for any costs or damages incurred by the Municipality as a result of any work undertaken on the Municipality's road allowance(s) or which has had an adverse impact thereon.

3. SITE ALTERATION PERMIT

The Owner shall obtain a Site Alteration Permit if required, as per the Municipality's current Site Alteration By-law. In that regard, the Owner's Engineer will be responsible for the preparation of Site Alteration Plan that will detail the means by which erosion and siltation, and their effects, will be mitigated during and after the construction period. The installation of appropriate sediment and erosion control measures must be in place before commencing any works on the Lands. In this regard, the Owner will also be required to stabilize all inactive areas of the Lands beyond the immediate area of the proposed development. Until all works are completed and any guaranteed maintenance period has expired, it will be the responsibility of the Owner, through its Professional Consultant, to undertake routine inspections of all erosion and sediment control structures to ensure that they are in place and operating in accordance with the Site Alteration Plan. Such inspections shall be carried out on a minimum weekly basis, or after each storm event. The Professional Consultant will be responsible for filing reports on a weekly basis with the Municipality of all inspections made and remedial works undertaken. The Owner acknowledges and agrees that review and approval of the Site Alteration Plan will be coordinated with the review and approval of the Tree Preservation Plan, where applicable.

4. ACKNOWLEDGEMENT RE: PRIVATE WATER SYSTEM

The Owner acknowledges and agrees that the water distribution system and fire protection systems within the limits of the Lands are privately owned and to be maintained by the Owner in accordance with all applicable fire code and insurance requirements.

5. DESIGNATED BARRIER FREE PARKING AND ACCESS COMPLIANCE

The Owner shall comply with the Municipality's current by-laws to ensure adequate provision is made for barrier free parking on the Lands and that suitable access from the parking spaces to the building(s) located on the site has been provided to the satisfaction of the Municipality.

6. NOISE STUDY

If required by the Municipality prior to or following registration of this Agreement, the Owner shall retain a qualified acoustical noise consultant acceptable to the Municipality to prepare a noise impact study and report in connection with the proposed development on the Lands which shall include post-development data and projections regarding noise impact on adjacent and surrounding areas taking into account present and projected future use. Such study may be subject to external peer review. The noise impact study shall include recommendations and requirements to ensure appropriate noise abatement features are incorporated into the development sufficient to meet or exceed applicable MECP guidelines and the requirements of the Municipality's current Noise By-Law. If required by the Municipality, either prior to or following occupancy of any buildings constructed on the Lands, the Professional Consultant shall deliver to the Municipality a certificate confirming that the design and construction of the buildings including all mitigation measures, as built, satisfy the requirements of applicable MECP guidelines. The Owner shall be responsible for payment of all costs in connection with the noise impact study and report including any peer review that may be required by the Municipality, acting reasonably. In addition, the Owner shall comply with and complete any mitigation measures reasonably required by the Municipality based on the recommendations within or arising from the noise impact study and report or peer review. All costs in connection with the noise impact study, report and peer review, if required, and any mitigation measures arising therefrom shall be the responsibility of the Owner and carried out at its cost.

7. SNOW STORAGE AND REMOVAL

The Owner shall make the required arrangements to provide for regular removal of snow from the Lands developed pursuant to this Agreement or provide sufficient snow storage areas on the Lands. The Owner agrees that parking spaces and landscaping areas will not be used for the stockpiling of snow. The Owner further agrees that snow storage shall not be permitted so as to adversely affect planted landscaping areas or adjacent lands and shall not adversely affect the operation of the Drainage Plan for the Lands or drainage on adjacent lands.

8. ACCESS FACILITIES, FIRE ROUTES AND HYDRANTS

The Owner covenants and agrees:

- a) Not to foul the highways leading to the Lands and to provide on all construction accesses leading to the Lands an interim granular surface to prevent mud or dust from fouling the road.
- b) Not to permit any approach ramps and driveways across the untraveled portion of any road allowance owned by the Municipality unless such approach ramps are paved to the Municipality's specifications.
- c) Not to block or impede any designated fire access routes, to provide fire access route signs and to locate and install such number of privately maintained fire hydrants together with appropriately sized watermain as are required by the Municipality and to satisfy any other requirements of the Municipality for fire safety and prevention purposes, all at the Owner's expense.

9. TRAFFIC IMPACT ASSESSMENT

If required by the Municipality, prior to registration of this Agreement, the Owner shall have prepared a traffic impact assessment to the satisfaction of the Municipality the findings and recommendations of which shall be implemented as part of the site plan approval of which this Agreement forms a part. Such assessment may be subject to external peer review and any recommendations made therein shall be implemented as part of this Agreement all at the cost of the Owner.

The Owner shall retain a professional engineer or firm of professional engineers as the Owner's consulting Engineer(s), to be approved in writing by the Municipality for the purpose of implementing any recommendations arising from the traffic impact assessment. The consulting Engineer(s) shall file with the Municipality a schedule of work and a timetable of completion, in writing. The schedule shall include design and construction supervision. The Owner shall retain the consulting Engineer(s) until the work is completed and the consulting Engineer(s) shall certify such completion to the Municipality prior to the Owner giving notice of the completion of the building pursuant to s. 7 of the Building Code Act.

10. GENERAL PROVISIONS

The Owner covenants and agrees as follows:

- a) To provide an environmental clearance certified by a professional engineering consultant or equivalent to the Municipality that all lands to be conveyed to the Municipality under this Agreement are environmentally suitable for their proposed use in accordance with any applicable guidelines from the MECP.
- b) To provide each plan as referred to in Schedule "C" to this Agreement, at the time of execution of this Agreement, by way of an electronic digital copy of each plan acceptable to the Municipality.
- c) To file with the Municipality, following completion of construction of any Drainage Works and/or Services, a complete set of Record Drawings for the Drainage Works and/or Services, including one complete set of Record Drawings on mylar drawing paper.
- d) That no trailer or other vehicle bearing advertising information or identification related to a business use on the Lands shall be located, kept or maintained in any yard adjacent to a street.
- e) To provide, during all hours of construction, competent on-site supervision of all work required to be done on all public and private lands and building construction to be undertaken on the Lands.
- f) That no signage, satellite dishes, antennae or associated equipment rooms will be permitted on the roof without the written consent of the Municipality and that all permitted roof-top equipment shall be screened as specified in the Approved Plans.
- g) The Owner shall pay all costs associated with the relocation of Drainage Works and Services as may be required as part of the development approval for the Lands. Without limiting the generality of the foregoing, the Owner shall make all necessary arrangements and to be solely responsible for the costs of removing and relocating any existing Drainage Works and/or Services requiring relocation in the course of, or in connection with, the construction, installation or provision of the Drainage Works and Services required under this Agreement.
- h) Where reasonably required, to erect solid hoarding surrounding the construction on the Lands

and to maintain same until final completion of construction as determined by the Chief Building Official.

- i) To submit an Inventory/Assessment by a qualified Consultant (or Arborist, as applicable) of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and details to be approved and coordinated with the application for a Site Alteration Permit, and or Grading Plan submissions, all to the satisfaction of the Municipality.
- j) To ensure that the landscape plans are amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual all to the satisfaction of the Municipality.
- k) To be responsible for any water service charges arising out of, or attributable to the development of the site plan including tapping fee and water meter payment.
- l) That all sign locations be identified on the Approved Plans and be in compliance with the Municipality's current Sign By-law.
- m) To be responsible for preparation and posting of any and all private street/driveway signs in accordance with the current Municipality standards.
- n) The Owner shall ensure that private streets/driveways are named and units be numbered as required by the Municipality.
- o) The Owner shall ensure that Private Street signs will display the street name and include the word "Private" below the street name for clarity.
- p) The Parties acknowledge and agree that the cost for the installation and maintenance of a street name sign for a private street shall be the responsibility of the Owner.

11. PRIOR DEVELOPMENT AGREEMENT

INTENTIONALLY DELETED.

12. PRIOR SUBDIVISION AGREEMENT

INTENTIONALLY DELETED.

13. FIRE ROUTE AGREEMENT

If required, the Owner shall enter into a Fire Route Agreement with the City of Barrie Fire and Emergency Department for designation of fire routes within the site.

14. ENCROACHING INFRASTRUCTURE

The Owner acknowledges and agrees that in consideration of its traffic control measures, signage, landscaping, pedestrian linkages, structural overhang and all other encroachments (the "Encroaching Infrastructure") being permitted to encroach onto the Municipality's property, the Owner shall:

- a) Install the Encroaching Infrastructure in accordance with the Approved Plans;
- b) Be responsible for maintaining the Encroaching Infrastructure in a good and reasonable state of repair;
- c) Alter or remove the Encroaching Infrastructure and all debris from the Municipality's property upon receiving thirty (30) days' notice in writing from Barrie, and before the date specified in the notice, without being entitled to any compensation whatsoever for such alteration or removal. In the event of the Owner's failure to do so, Barrie may complete such work and the reasonable costs of doing so shall be paid by the Owner;
- d) Indemnify, defend and save harmless the Municipality from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, legal fees, costs and expenses of whatsoever kind or nature arising out of or connected with the permission granted to the Owner and/or the exercise by the Owner of such permission and/or the maintenance of the Encroaching Infrastructure or anything relating thereto;
- e) Maintain the insurance outlined in Schedule "K" regarding Insurance and Indemnification with respect to the Encroaching Infrastructure;
- f) Enter into additional Encroachment Agreements with respect to the Encroachment Infrastructure, as may be required by the Municipality.

15. GENERAL ACKNOWLEDGMENT RE CONDITIONS OF APPROVAL

The Owner acknowledges that the conditions of approval which include the foregoing special conditions have been specifically imposed by the Municipality as part of the requirements for Site Plan Approval for development of the Lands. The Owner has agreed to comply with all of the requirements of the conditions of approval as a condition precedent to the Site Plan Approval for its proposed development by the

Municipality and the issuance of any permits for construction on the Lands. In the event of conflict between the provisions of this section and any other section of this Agreement, this section shall prevail.

16. APPROVED PLANS FOR DEVELOPMENT

The Municipality has given its approval for the development to be carried out on and with respect to the Lands as shown and illustrated on the Approved Plans listed in Schedule "C" which are incorporated by reference into and form an integral part of this Agreement.

17. CONSTRUCTION IN ACCORDANCE WITH APPROVED PLANS

The Owner covenants and agrees to construct all buildings, structures, Works, Services and related facilities required under this Agreement strictly in accordance with the Approved Plans.

The Owner acknowledges that the Municipality's review and approval of the submitted plans and drawings is on the basis of a proposal for the construction of a 21,984 square metre warehouse with ancillary office. The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the Approved Plans and no construction shall take place contrary to the Approved Plans without the prior written approval of the Municipality, except such changes as may be required by the Municipality in order that Approved Plans shall comply with all relevant provisions of the building or zoning or other by-law or laws of the Municipality, and all regulations or laws of any other governmental body.

Discrepancies discovered between the Approved Plans and the as constructed buildings, structures, Works, Services and facilities, whether intentional or not, shall be resolved and/or corrected by the Owner, at the sole cost and expense of the Owner, to the satisfaction of the Municipality.

18. CONFORMITY WITH AGREEMENT

The Owner covenants and agrees that no work shall be undertaken or performed on the Lands except in accordance with the terms of this Agreement (including the schedules attached herein), the Site Plan Approval granted by the Municipality (including the Certificate of Preliminary Approval attached hereto) and all other plans and specifications submitted to and accepted by the Municipality as part of its Site Plan Approval and by such other agencies or approval authorities as may be applicable, it being understood that this restriction shall not extend to those features shown on approved plans that are for illustration purposes only and are not subject to municipal approval and control under Section 41 of the *Planning Act*.

19. ISSUANCE OF BUILDING PERMITS

The Owner covenants and agrees that neither it nor any person under its authority shall be entitled to the issuance of one or more building permits to construct any buildings or structures contemplated under this Agreement until it has been fully executed and registered on title to the Lands.

If a building permit is not issued within **three (3)** years from the date of registration of this Agreement, the Certificate of Preliminary Approval shall become null and void, in which case the Owner/Applicant may be required to submit a new application for site plan approval.

20. CONSTRUCTION ACT

The Owner covenants and agrees that it will hold back in its payments to any contractor who may construct municipal services, facilities or works on municipal or publicly owned lands or within lands subject to municipal easements, such amounts as may be required under the provisions of the *Construction Act*. The Owner agrees to indemnify and save completely harmless the Municipality from and against all claims, demands, actions, causes of action and costs resulting from any construction being performed by the Owner, its agents and assigns pursuant to the provisions of this Agreement, and, on demand by the Municipality, the Owner will take such steps as may be necessary to immediately discharge all liens.

21. PROFESSIONAL CONSULTANTS

The Owner covenants and agrees to retain such Professional Consultants as are reasonably required by the Municipality to prepare all plans, drawings, sketches, elevations, details and renderings submitted for approval and to certify all work to be carried out in accordance with the Approved Plans. Without limiting the generality of the foregoing, the Owner shall retain the services of the following:

- a) An Engineer to prepare the design of grading, site and external servicing plans, municipal service connection designs, and storm water management reports that are to be submitted to the Municipality for approval. The Owner's Engineer shall inspect and certify to the Municipality that all Drainage Works and Services have been constructed in accordance with the approved engineering drawings and reports prior to submitting any request for the reduction of any Security held in connection with the construction of Drainage Works and Services approved in accordance with this Agreement. The certificate, or certificates, shall be in a format acceptable to the Municipality.
- b) A Landscape Architect acceptable to the Municipality for landscape design, construction, site inspection and project control to ensure compliance with this Agreement and the approved Landscape Plans. Where required, the Owner shall retain an arborist to ensure compliance with the approved Tree Preservation Plan. The Owner's Landscape Architect shall inspect and

certify to the Municipality that all Landscaping has been completed in accordance with the Landscape Plans and maintained as required, including maintenance required in accordance with a Tree Preservation Plan, prior to submitting any request for the reduction of any Security held in connection with all Landscaping constructed, installed or maintained pursuant to this Agreement.

For greater certainty, the Municipality may, upon prequalification of such as confirmed in writing by the Municipality, accept the use of other qualified professionals for certain components of the design, inspection and certification processes required pursuant to this Agreement.

PART III

ADMINISTRATION

22. NOTICE

- a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, electronically mailed, delivered or sent by a confirmed facsimile transmission to:

TFH MM PROPERTIES INC.
111 Creditstone Road
Concord, ON
L4K 1N3

Attn: Galli Tiberini
Tel: 905-669-4133
Email: gtiberini@arggroup.com

or such other address of which the Owner has notified the Municipality, in writing, and any such notice mailed, electronically mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

- b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall include reference to the Municipality's file number and/or approval reference appearing on the cover page of this Agreement and shall be mailed, electronically mailed, delivered or sent by facsimile transmission to:

CITY OF BARRIE
City Hall - 70 Collier Street
P.O. Box 400
Barrie, ON
L4M 4T5

Attn: City Clerk
Tel: (705) 739-4220
Fax: (705) 739-4237
Email: ServiceBarrie@barrie.ca

or such other address of which the Municipality has notified the Owner, in writing, and any such notice mailed, electronically mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

23. REGISTRATION OF AGREEMENT

The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement.

24. POSTPONEMENT AND SUBORDINATION

The Owner covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or other encumbrancers as may be deemed necessary by the Municipality and its solicitor to postpone and subordinate their interest in the Lands to the interest of the Municipality to the extent that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands concurrent with the registration hereof.

25. REMOVAL/DISCHARGE OF AGREEMENT FROM TITLE

The Owner acknowledges and agrees that it may request in writing to have this Agreement removed/discharged from title to the Lands at its sole expense. The request must be provided in writing to the Municipality and the Municipality must confirm that all terms and conditions as set out in this Agreement have been complied with to date to the full satisfaction of the Municipality, which may include but not be limited to, the payment of all property taxes (current and owing), including but not limited to any penalties and/or interest and/or other charges added to the tax roll, any and all securities and/or other deposits must also be confirmed by the Municipality. The Owner further acknowledges and agrees that should the Municipality be agreeable to the removal/discharge of this Agreement from title to the Lands, all legal fees, registration and any other associated costs are to be paid by the Owner for which a legal retainer may be requested. The Owner further acknowledges and agrees that the Municipality may determine that it is not necessary nor in its best interest to remove/discharge this Agreement from title, at the time the request has been made by the Owner, in which case any legal retainer funds provided to the Municipality will be returned to the Owner less any out of pocket expenses incurred by the Municipality. The Parties agree that the option to remove/discharge this Agreement from title to the Lands is solely upon the Municipality.

26. OTHER APPLICABLE AGENCIES

The Owner shall satisfy the Municipality that all other required approvals from other applicable agencies and authorities having jurisdiction have been obtained prior to registration of this Agreement or as development of the Lands proceeds, as necessary but registration shall not be conclusive evidence that the Municipality has been so satisfied. In the event that the Owner fails to provide evidence of any such approvals when reasonably requested to do so by the Municipality, the Owner shall be deemed to be in default of this Agreement until such time as the approvals required have been provided and the Municipality shall be entitled to have recourse to the remedies contained in Schedule "L" to this Agreement until such time and the default has been cured.

27. OTHER APPLICABLE LAWS

Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws, regulations, notices or other policies or laws and/or regulations established by any other governmental body that may have jurisdiction over the Lands.

28. INTERPRETATION OF AGREEMENT

- a) The part numbers and headings, subheadings 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.
- b) This Agreement shall be construed with all changes in number and gender as may be required by the context.
- c) Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words "at the expense of the Owner" unless the context otherwise requires, including the payment of any applicable taxes (including HST).
- d) References herein to any statute, regulation or by-law or any provision thereof include such statute or provision thereof as amended, replaced, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- e) All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
- f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
- g) The Owner and the Municipality agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of this Agreement shall remain valid and not terminate thereby.

29. COMPLIANCE

Any action taken by the Municipality or on its behalf, pursuant to this Agreement, shall be in addition to and without prejudice to any security or other guarantee given on behalf of the Owner for the performance of its Agreements and upon default on the part of the Owner hereunder, the Municipality shall, in addition to any other remedy available to it, be at liberty to use all of the applicable provisions of the *Municipal Act*.

30. SUCCESSORS & ASSIGNS

It is hereby agreed by and between the parties that this Agreement shall be enforceable by and against the parties, their heirs, executors, administrators, successors and assigns and that this Agreement and all the covenants by the Owners contained shall run with the Lands.

N:\CAO\CAO\LEGAL\DEV AND PLAN\11-SITE PLAN CONTROL\11-024-2021 - 90 MAPLEVIEW DR. W. (TIBER PROPERTIES)\AGREEMENT\2023-SEPT 15 - EXECUTION COPY SITE PLAN AGRMT.DOCX
CITY OF BARRIE and TFB MM PROPERTIES INC.

31. NO FETTERING OF DISCRETION

Notwithstanding any other provisions of this Agreement, the Parties agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the Municipal Council which authorized the execution of this Agreement or any of its successor Councils in the exercise of any of Council's discretionary powers, duties or authorities. The Owner hereby acknowledges that it will not obtain any advantageous planning or other consideration or treatment by virtue of it having entered into this Agreement or by virtue of the existence of this Agreement.

32. ENTIRE AGREEMENT

This Agreement and the schedules and any other documents referred to in this Agreement and on file at the Municipality's office constitute the entire agreement between the parties.

33. WAIVER

The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights at law to enforce this Agreement.

34. EXTENSION OF TIME

Time shall always be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Municipality, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

35. FORCE MAJEURE

- a) "Force Majeure" means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that that party proves:
 - (i) that such impediment is beyond its reasonable control;
 - (ii) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
 - (iii) that the effects of the impediment could not reasonably have been avoided or overcome by the affected party.
- b) In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (i) and (ii) under paragraph (a) of this Clause:
 - (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilization;
 - (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;
 - (iii) currency and trade restriction, embargo, sanction;
 - (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalization;
 - (v) plague, epidemic, natural disaster or extreme natural event;
 - (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy;
- c) A party successfully invoking this Clause shall be granted an extension of time for all time limits affected by the Force Majeure event, the onus of proof resting on the Owner, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes performance by the affected party. Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party.

36. NO CHALLENGE TO AGREEMENT

The parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the party's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision in s.41 of the *Planning Act* interpreted to the

SCHEDULE "A"

DEFINITIONS

In this Agreement unless the context otherwise requires, the following terms will have the following meanings:

- a) **"Agreement"** means this Agreement including all schedules attached hereto and includes the Approved Plans.
- b) **"Approved Plans"** means all of the plans, drawings, sketches, elevations, details and renderings submitted to and approved by the Municipality for development of the Lands;
- c) **"Architect"** means a professional architect duly qualified and a member in good standing of the Ontario Association of Architects;
- d) **"Drainage Plan"** means a storm water management and drainage plan prepared by an Engineer to address storm water management and drainage requirements set out in this Agreement for the proposed development;
- e) **"Drainage Works"** means all storm-water management facilities including, without limitation, grading, all drainage swales, ditches and ponds internal and external to the Lands to be constructed by the Owner pursuant to this Agreement, including the extension, improvement, enlargement or upgrading of existing facilities all in accordance with the Drainage Plan;
- f) **"Engineer"** means a professional engineer duly qualified, licensed and in good standing with the Professional Engineers Association of Ontario and who holds a Certificate of Authorization for municipal engineering applications;
- g) **"External Services"** includes water mains, storm and sanitary sewers, lateral extensions and connections, street lighting and hydro that are external to the Lands;
- h) **"Internal Services"** means services including watermains, storm and sanitary sewers, lateral connections, catch basins and hydro located within the Lands;
- i) **"Lands"** means those lands described in Schedule "B" to this Agreement and includes all easement rights and obligations granted in connection therewith;
- j) **"Landscape Architect"** means a professional landscape architect duly qualified and a member in good standing of the Ontario Association of Landscape Architects;
- k) **"Landscape Plans"** means all landscape and planting plans and any Tree Preservation Plan prepared for and related to the development as approved by the Municipality;
- l) **"Landscaping"** means all landscaping and design features shown on the Approved Plans and includes all planting required as illustrated thereon including the replanting and replacement of trees, shrubs and vegetation as determined in accordance with the Landscape Plans and the Tree Preservation Plan;
- m) **"Owner"** where used in this Agreement means the registered owner of the Lands against which this Agreement has been registered from time to time and the terms of this Agreement shall be binding only on the registered owner of the Lands for the purposes of enforcement of the terms of this Agreement as at the date of such enforcement unless specifically stated otherwise herein;
- n) **"Professional Consultant"** means an Architect, Engineer, Landscape Architect acceptable to the Municipality, acting reasonably;
- o) **"Record Drawings"** means the approved site drawings updated by the Professional Consultant to include all changes and notes made during the course of construction and showing the "as built" structures, Services, Works and Landscaping constructed, installed or planted in accordance with the requirements of this Agreement;
- p) **"Security"** means all forms of security including cash, letters of credit, and such other forms as may be approved by the Municipality, to be provided by the Owner pursuant to the requirements of this Agreement and includes any other security provided under related agreements and approvals entered into or given with respect to the proposed development;
- q) **"Services"** includes Internal Services and External Services as well as hydro, gas, telephone and cable systems to be constructed by the Owner pursuant to this Agreement or through a separate agreement with suppliers of such services or as are necessary to provide adequate services to the development on the Lands, including the extension, improvement, enlargement or upgrading of existing Services;
- r) **"Site Alteration Plan"** means a control plan prepared in accordance with the site alteration standard as identified in Schedule "C", Code for the Design and Maintenance of Erosion and Sediment Control Measures;
- s) **"Site Plan Approval"** means the approval granted by the Municipality for development of the Lands in accordance with Section 41 of the *Planning Act*;

- t) **“Tree Preservation Plan”** means the plan approved by the Municipality for preservation of trees on the Lands or within the vicinity of the proposed development on the Lands in accordance with the requirements of the Municipality's tree preservation by-law.

SCHEDULE "B"
LANDS AFFECTED BY THIS AGREEMENT

The Owner is the registered owner of lands herein described below and which Lands are affected by this Agreement:

PT PARKLT 12 ON LT 6 CON 12 PL 67 INNISFIL, PT 1 PL 51R27260; BARRIE; BEING ALL OF PIN 58733-0032 (LT)

PT CENTRE RD PLAN 67, PT 3, 51R18640 (CLOSED BY SC663004); BARRIE; BEING ALL OF PIN 58733-0976 (LT)

PT PARKLT 13 ON LT 6 CON 12, 14 ON LT 6 CON 12, 15 ON LT 6 CON 12 PL 67 INNISFIL; PT CENTRE RD PL 67 INNISFIL (CLOSED BY RO1050168) PTS 2 & 7, 51R18640 CITY OF BARRIE, BEING ALL OF PIN: 58733-0003 (LT)

SCHEDULE "C"

APPROVED PLANS, DRAWINGS, REPORTS AND STUDIES

Drawing/Plan Name	<u>Designer/Architect</u>	<u>Plan No.</u>	<u>Date/Rev.</u>
a) Site and Key Plans & OBC Zoning By-law	Nestico Architect Inc.	SP1	October 4, 2022/Rev.22
b) Truck Tacking Path and Profile Diagram	Nestico Architect Inc.	SP2	October 4, 2022/Rev.13
c) Site Elevation & Section	Nestico Architect Inc.	SP3	October 4, 2022/Rev.13
d) Truck Tracking Path and Profile Diagram (Exiting)	Nestico Architect Inc.	SP4	October 4, 2022/Rev.4
e) Truck Tracking Path and Profile Diagram (Entering)	Nestico Architect Inc.	SP5	October 4, 2022/Rev.4
f) Part Site Plan and Details	Nestico Architect Inc.	SP6	October 4, 2022/Rev.2
g) Building Elevations	Nestico Architect Inc.	A2.0	October 4, 2022/Rev.16
h) Part Building Elevations	Nestico Architect Inc.	A2.1	October 4, 2022/Rev.11
i) Surface Materials and Landscape Plan	Landscape Planning Landscape Architects	L1A & L1B	February 2, 2023/Rev.6
j) Landscape Details	Landscape Planning Landscape Architects	LD-1 & LD-2	February 2, 2023/Rev.6
k) Tree Inventory, Preservation and Removals	MHBC Planning, Urban Design & Landscape Architecture	TP-1, TI-2 & TI-3	February 1, 2023/Rev.7
l) Site Plan and Details (Photometric)	Tristar Engineering	LE-1	September 1, 2022/Rev.3
m) Site Servicing Plan	Urban Ecosystems Limited	SP-1 & SP-2	October 3, 2022/Rev.5
n) Site Grading Plan	Urban Ecosystems Limited	GR-1 & GR-2	October 3, 2022/Rev.5
o) Notes and Details	Urban Ecosystems Limited	DET-1 & DET-2	October 3, 2022/Rev.4
p) Sanitary and Storm Design Sheets	Urban Ecosystems Limited	DES-1	October 3, 2022/Rev.1
q) Retaining Wall	Urban Ecosystems Limited	RW-1 - RW-6	October 3, 2022/Rev.4

SCHEDULE "D"
LAND INTERESTS TO BE CONVEYED

1. CONVEYANCE OF LAND AND/OR INTERESTS REQUIRED

The Owner shall convey the land interests to the Municipality as provided for in Section 2 of this Schedule "D" and in accordance with the requirements more particularly set out as follows:

a) EASEMENTS

If required, the Owner shall convey to the Municipality the easements, as more particularly set out in the list below, for the construction, maintenance and improvement of watercourses, ditches, land drainage works, storm water management, sanitary sewage facilities and other public utilities. The conveyance shall be completed concurrent with the registration of this Agreement and shall include the registration of any postponement agreements reasonably required by the Municipality to ensure the priority of its easement rights over that of any encumbrances registered on title to the Lands.

The Owner shall obtain written confirmation from all utility and service suppliers and providers that all public utility and service supply requirements for the Lands, including but not limited to telephone, telecommunications, cable television, hydro-electric power, gas and postal services have been satisfactorily arranged, that servicing infrastructure for same will be provided underground where possible, in locations satisfactory to the Municipality and without any expense, cost or obligation on the part of the Municipality and that all requisite easements have been or will be provided to such entities.

b) HIGHWAY WIDENING

If required, the Owner shall convey, in fee simple and free from encumbrances, any land which may be required by the Municipality, for the purpose of road widening and, if required, for the purpose of establishing a minimum 0.3 metre reserve across that portion of the frontage of Lands herein not required for an entrance or exit, in order to ensure proper ingress to and egress from the Lands in accordance with the Approved Plans all as more particularly set out in the list below. The conveyance shall be completed concurrent with the registration of this Agreement.

c) PARKLAND DEDICATION

If required, the Owner shall, pursuant to the requirements of the *Planning Act*, convey to the Municipality or, at the discretion of the Municipality, the Owner shall pay a contribution of cash-in-lieu of parkland dedication in an amount to be determined by application of the Municipality's Council approved policy in place for such contribution at the time of issuance of the building permit.

d) ENVIRONMENTALLY SENSITIVE LANDS

If required, the Owner shall convey, in fee simple and free from encumbrances, any land which may be required by the Municipality, for Environmentally Protected Land purpose as more particularly set out in the list below. The conveyance shall be completed concurrent to the registration of this Agreement.

e) PUBLIC TRANSIT RIGHT-OF-WAY

If required, The Owner shall convey, in fee simple and/or by way of easement and free from encumbrances, any land or interest in land that may be required by the Municipality for the purpose of establishing, extending or providing access to a public transit right-of-way in accordance with the approved Site Plan as more particularly described and set out in the list below.

2. LIST OF CONVEYANCES TO MUNICIPALITY:

a) HIGHWAY ROAD WIDENING AND/OR DAYLIGHTING TRIANGLES TO BE CONVEYED:

Part 1 to 4 inclusive on Plan 51R-43263, Being Part of PINs: 58733-0032 (LT), 58733-0976 (LT) and 58733-0003 (LT)

SCHEDULE "E"

DEVELOPMENT SERVICES (PLANNING & APPROVALS) **TERMS AND CONDITIONS**

1. COMPLETION OF PARKING AND LOADING FACILITIES

The Owner shall provide parking, loading and walkway areas as shown on the Approved Plans and finish all surfaces with asphalt, concrete or other surfacing material typically approved by the Municipality based on the Municipality's standard construction specifications. No parking or loading shall be permitted on any part of the Lands unless all areas for which parking and loading are permitted are finished with approved surface material in accordance with the Approved Plans. All parking and loading areas shall be constructed, finished and maintained to the Municipality's satisfaction. All barrier free parking spaces shall be so identified with appropriate signage to the satisfaction of the Municipality.

2. INTERNAL PRIVATE ROADS

INTENTIONALLY DELETED

3. ENTRANCE ACCESS AGREEMENTS

The Owner acknowledges that it is the owner of the adjacent lands described as PT PARKLT 13 ON LT 6 CON 12, 14 ON LT 6 CON 12, 15 ON LT 6 CON 12 PL 67 INNISFIL; PT CENTRE RD PL 67 INNISFIL (CLOSED BY RO1050168) PTS 2 & 7, 51R18640 CITY OF BARRIE, BEING ALL OF PIN: 58733-0003 (LT) and known municipally as 120 Mapleview Drive West (the "Adjacent Lands"). Should there be a change in ownership to the Lands or the Adjacent Lands prior to the registration of this Agreement, or at any time in the future, the Owner acknowledges and agrees to enter into an agreement for entrance access with the new owners, conditional on *Planning Act* approval, and shall diligently pursue an application to the Committee of Adjustment to obtain a consent for such an agreement. The Owner shall diligently pursue the conveyance of any easements required. The agreement and easements shall be to the satisfaction of the Municipality and its solicitor, and the Owner shall provide a registered copy of the entrance access agreement to the Municipality. If the Owner does not diligently pursue an application to the Committee of Adjustment or the conveyance of any required easements, the Owner appoints the Municipality as its agent to make and complete an application, at the cost of the Owner. The Owner acknowledges and agrees that this Agreement will be registered against title to the Adjacent Lands.

4. MUTUAL VEHICULAR ACCESS EASEMENT AND CONSTRUCTION

INTENTIONALLY DELETED

5. PHASING

INTENTIONALLY DELETED

6. GARBAGE CONTAINMENT AND REMOVAL

The Owner shall take reasonable measures to ensure that all garbage containment and removal requirements are implemented and maintained as required by this Agreement during and following the proposed development of the Lands. The Owner shall be subject to the remedies available under this Agreement for any failure to take such measures or to implement and maintain such requirements. Without limiting the foregoing, the Owner agrees as follows:

- a) To take reasonable measures to prevent any refuse, junk, debris or other material from being deposited on any lands including but not limited to adjacent or nearby school lands, parklands, environmental protection or open space land in the area, and that any such refuse, junk, debris, or other material will be removed from such lands at the expense of the Owner. If the Owner fails to remove the aforesaid material within a period of forty-eight (48) hours from the time of delivery of written notice to the Owner, the Municipality may enter the Lands and remove the said material and the Owner will be charged for all expenses incurred by the Municipality and the Owner further agrees that the Municipality may make such charge against any Security filed with the Municipality in accordance with Schedule "M" of this Agreement and in addition to any other remedies which it may have pursuant to Schedule "L" of this Agreement.
- b) That any garbage storage containment areas or containers permitted on the Lands shall be weather-tight and allow for the separate containment of recyclable materials to the satisfaction of the Municipality all in accordance with the Approved Plans. In the event that the Owner shall be in default of this provision, the Owner hereby constitutes the Municipality as the Owner's agent for removal of such receptacles subject to the same terms regarding notice and recourse to Security as set out in paragraph (a) above.
- c) The Owner shall indemnify the Municipality with respect to the removal of such receptacles on the same terms regarding notice and recourse to Security as set out in paragraph (a) above.

The Municipality shall be entitled to charge an administration fee with respect to such removal, such fee to be determined by the Municipality acting reasonably. The Owner shall reimburse the Municipality for its costs and pay such administration fee forthwith after being invoiced for same by the Municipality failing which the Owner consents to such amounts being added to the realty taxes exigible on the Lands and the provisions of Section 349 of the *Municipal Act, 2001* shall apply.

7. HYDROGEOLOGICAL STUDY AND WELL STUDY

a) GENERAL

Prior to the execution of this Agreement, the Owner shall have provided the Municipality with a hydrogeological study and well survey including but not limited to a survey of all water supply systems within three hundred (300) metres of the Lands, and/or the zone of influence, whichever distance is greater, and report on the possible impact the development will have on existing water supply systems. Such study may be subject to external peer review.

b) OWNER TO RETAIN ENGINEER

If required, the Owner shall retain the services of a professional hydrogeological engineer approved in writing by the Municipality to carry out the study and survey referred to above. If the Municipality determines, based on the study and survey and any other available supporting data, that the existing water supply systems should be altered, reduced or eliminated, the Owner shall provide for the interim and permanent restoration of the water supply systems to the satisfaction of the Municipality. The Owner shall retain the professional hydrogeological engineer until permanent restoration of the water supply is complete.

8. REMOVAL OF FUEL STORAGE TANKS/GREASE INTERCEPTORS

INTENTIONALLY DELETED

SCHEDULE "F"
WORKS AND SERVICES

1. LIGHTING FACILITIES

The Owner shall design, install and maintain light standards, fixtures and illumination devices to adequately illuminate the Lands, such devices to be designed, installed and maintained so as to minimize the spread of light onto other properties or onto public highways by using directional lighting wherever feasible.

Without limiting the generality of the foregoing, the Owner shall comply with the City of Barrie Standards and Urban Design manual with respect to all exterior lighting requirements including use of full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting.

2. MAINTENANCE OF DRAINAGE WORKS, INTERNAL SERVICES & LANDSCAPING

The Owner covenants and agrees that once all Drainage Works internal to the site, Internal Services and Landscaping required to be provided, constructed or installed by the Owner under the terms of this Agreement have been completed to the satisfaction of the Municipality, and in accordance with all Municipal specifications and in a good and workmanlike manner, such Drainage Works internal to the site, Internal Services and Landscaping shall be maintained in the approved condition until this Agreement is amended or otherwise released from title. In the event that any of the Drainage Works internal to the site, Internal Services and Landscaping are not being maintained to the satisfaction of the Municipality, or if the Owner is otherwise in default of this Agreement, the Municipality may, on written notice to the Owner, require the Owner to comply with the terms of this Agreement.

3. COMPLETION OF DRAINAGE WORKS AND SERVICES

The Owner covenants and agrees to complete the Drainage Works and Services as more particularly detailed, described and illustrated in the plans and drawings referred to in Schedule "C" and as more particularly dealt with below:

a) EXTENSION OF EXTERNAL SERVICES

- i) The Owner shall provide evidence satisfactory to the Municipality of the capacity and adequacy of all External Services required to service the Lands and the proposed development, failing which the Owner shall install, extend or improve the External Services to the Lands, at the Owner's own expense, satisfactory to the Municipality.
- ii) The Owner's Engineer shall provide the Municipality with a proposed schedule for the installation, extension and improvement of all External Services including a proposed completion date which shall be updated from time to time as work progresses with any material changes in the completion dates. The Owner shall retain the services of the Engineer until the installation, extension and improvement of the External Services is complete at which time the Engineer shall certify completion to the Municipality prior to the Owner giving notice of the completion of any of the buildings in the proposed development pursuant to s.7 of the *Building Code Act*.

b) DRAINAGE AND STORM WATER MANAGEMENT

- i) The Owner has prepared a Drainage Plan prior to execution of this Agreement and agrees to Implement the Drainage Plan. The Owner is responsible for all work carried out on the Lands, including restoration required to facilitate development of the Lands. In this regard, the Drainage Plan shall include conveyance and control systems, which shall be designed in accordance with the policies, criteria and past practice of the Municipality and the Ministry of the Environment, Conservation and Parks ("MECP"). Where appropriate, the Drainage Plan shall show stormwater management facilities dealing with quality and quantity requirements and include groundwater infiltration methods where rooftop storage is part of the design.
- ii) Erosion and Sediment Control. The Owner shall design, implement and monitor erosion and sediment control measures prior to and during construction of the proposed site in accordance with Erosion Control Plan and the requirements of current Site Alteration By-law.
- iii) Quality Control Structures. Where applicable, the Owner agrees to maintain any quality control structures on-site in accordance with the approved Operation & Maintenance Manual and the Environmental Compliance Approval issued by the MECP.
- iv) Owner's Indemnity for Drainage. The Owner indemnifies the Municipality for any liability for damages arising from drainage flowing from or onto any lands adjoining the Lands as a result of:
 - (1) the development of the Lands; and/or,
 - (2) implementation of the Drainage Plan; and/or
 - (3) the lack of maintenance of the on-site storm water management system; and/or,

(4) the construction, installation or maintenance of any Drainage Works, Landscaping, facilities or structures on or within the Lands.

c) EXTERNAL SERVICES, DRAINAGE WORKS AND MUNICIPAL FACILITY IMPROVEMENTS

INTENTIONALLY DELETED

d) ROAD URBANIZATION AND CONSTRUCTION

INTENTIONALLY DELETED

e) TURN LANE IMPROVEMENT AND CONSTRUCTION

INTENTIONALLY DELETED

SCHEDULE "G"
SPECIAL TERMS AND CONDITIONS

In addition to the General Provisions set out in Part II, Paragraph 10 of this Agreement, the Owner acknowledges and agrees that it shall perform and comply with the following special conditions and/or provisions:

1. CONFIRMATION OF SATISFIED CONDITIONS

The Owner shall, prior to the registration of this Agreement, provide written confirmation that all conditions of Alectra Utilities, the Lake Simcoe Region Conservation Authority, (LSRCA), the Development Services Department (Approvals - Parks Planning, Transportation Planning and Planning Sections), Waste Management and Environmental Sustainability Department, Fire and Emergency Services, and the Building Services Department have been completed to their satisfaction.

2. ALECTRA UTILITIES CORPORATION

The Owner shall comply with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document. In this regard, the Owner shall submit an application for hydro service, receive approval from and execute an Offer to Connect agreement with Alectra Utilities Corporation prior to the commencement of construction. In the case where a transformer is required, any revisions to the site plan that are required as a result of relocating an Alectra owned transformer and high voltage underground service may be subject to a Site Plan Amendment application.

3. BELL CANADA EASEMENTS

The Owner shall grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.

4. ENBRIDGE GAS

The Owner shall contact Enbridge Gas Inc.'s Customer Connections Department by emailing SalesArea50@Enbridge.com for service and meter installation details to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt.

5. IDENTIFYING LANDS FOR PROTECTION OF FUTURE RIGHT-OF-WAY/ROAD WIDENING REQUIREMENTS

NOT APPLICABLE

6. TIE-BACK / CRANE SWING ENCROACHMENTS

If the development of these Lands requires that the Owner requires Crane Swing and Tie-Back Encroachments over or under lands owned by the Municipality, the Owner shall be subject to the conditions and requirements set out in Schedule "O" attached to this Agreement, and the said condition and provisions shall also include, but not be limited to, any sketches, drawings, list of plans or other specific details required by the Municipality and listed in Schedule "C" attached to this Agreement.

The Municipality and the Owner acknowledge and agree that, in the event that this development requires tie-back and/or crane swing encroachments after registration of this Agreement, a separate Agreement will be entered into between the parties. The Agreement shall include all terms and conditions associated with the encroachment requirements, including but not limited to detailed plans and/or sketches as approved by the Municipality.

The Owner acknowledges and agrees that, at the Municipality's sole discretion, the Agreement may be registered on title to the Lands, free and clear of any encumbrances. The Owner further acknowledges and agrees that it shall be responsible for payment of all legal fees and costs associated with the preparation, execution and registration of the Agreement and that a legal retainer may be required.

7. LAKE SIMCOE REGION CONSERVATION AUTHORITY (LSRCA)

The Owner acknowledges and agrees as follows:

- (a) That prior to the execution of this Agreement, the following shall be prepared to the satisfaction of the LSRCA and the Municipality:
 - (i) A detailed storm water management report;
 - (ii) A detailed erosion control plan;

- (iii) A detailed grading plan;
 - (iv) A detailed geotechnical report;
 - (v) A detailed natural heritage evaluation/environmental impact assessment; and
 - (vi) A Hydrogeological Assessment.
- (b) That prior to the execution of this Agreement, the Owner shall pay all development fees to the LSRCA in accordance with the approved Fees Policy under the *Conservation Authorities Act*.
 - (c) That prior to the execution of this Agreement, the following shall be undertaken to the satisfaction of the LSRCA, in accordance with the Lake Simcoe Protection Plan:
 - (i) Water Balance; and
 - (ii) Compensatory measures, if required.
 - (d) That prior to the execution of this Agreement, the following shall be undertaken to the satisfaction of the LSRCA, in accordance with the Phosphorus Offsetting Policy:
 - (i) Phosphorus budget; and
 - (ii) Compensatory measures, if required.
 - (e) The Owner shall carry out, or cause to be carried out, the recommendations and requirements contained within the plans and reports as approved by the LSRCA and the Municipality.
 - (f) The Owner shall retain a qualified professional to certify in writing that the works were constructed in accordance with the plans and reports as approved by the LSRCA and the Municipality.
 - (g) The Owner shall ensure that proper erosion and sediment control measures will be in place in accordance with the approved Grading and Drainage Plan, and Erosion and Sediment Control Plan prior to any site alteration or grading.
 - (h) The Owner shall grant any easements required for storm water management purposes to the Municipality.
 - (i) The Owner shall obtain a permit from the LSRCA under Ontario Regulation 179/06.
 - (j) The Owner shall maintain all existing vegetation up until a minimum of thirty (30) days prior to any grading or construction on-site in accordance with 4.20b.-DP of the Lake Simcoe Protection Plan.
 - (k) The Owner shall indemnify and save harmless the LSRCA and the Municipality from all costs, losses, damages, judgments, claims, demands, suits, actions or complaints resulting from any increased flooding or erosion to property and people as a result of the approved storm water management scheme. The Owner shall obtain and maintain in full force and effect during the term of this Agreement general liability insurance with respect to the storm water management works and system.

8. OTHER SPECIAL CONDITIONS AS PROVIDED FOR IN THE APPROVED CONDITIONS

As may be required, the Owner shall ensure that the following conditions have been addressed to the satisfaction of the Municipality in accordance with the Preliminary Certificate of Approval a copy of which is attached to Schedule "N" to this Agreement:

Development Services – Transportation Planning:

- a. The Owner/Applicant will be required to submit a draft reference plan to reflect the required 2.5 metre road widening along the entire Maplevue Drive West frontage to be conveyed to the Municipality.
- b. That the Owner shall submit a detailed cost estimate for the removal and restoration works required to formally close the Maplevue Drive West driveway access to the Lands, and permanently configure the traffic signals into a three (3) legged intersection.
- c. That the Owner shall submit a Preliminary Removals and Restoration Plan, to the satisfaction of the Municipality, for the removal and replacement works required to formally close the Maplevue Drive West driveway access to the Lands, and permanently configure the traffic signals into a three (3) legged intersection.
- d. The Owner shall submit a Final Removals and Restoration Plan, to the satisfaction of the Municipality, for the removal and replacement works required to formally close the Maplevue Drive West driveway access to the Lands, and permanently configure the traffic signals into a three (3) legged intersection.
- e. That the Owner shall submit securities to the Municipality in the amount of 100% of the value of the total costs associated with the removal and restoration works required to close the Maplevue Drive West driveway access to the Lands, as well as the permanent reconfiguration

of the traffic signals into a three (3) legged intersection. In this regard, the securities shall be submitted to the Municipality prior to the registration of a Site Plan Agreement. The Owner/Applicant agrees that said securities will not be released by the Municipality until the removal and restoration works are completed to the satisfaction of the Municipality, in accordance with the Removals and Restoration Plan referenced in paragraph 8.c. above.

- f. The Owner shall undertake *Planning Act* applications (i.e. Consent) to secure approvals for the purpose of creating easements over the Lands, as required, for mutual access and private servicing should the Lands or adjacent lands, known municipally as 120 Maplevue Drive West, undergo a change in ownership. Alternatively, the Owner shall undertake *Planning Act* applications (i.e. Site Plan Control) to alter the site to obtain access from Maplevue Drive West.

Development Services - Planning:

That the Owner agrees to the dedication of, or cash-in-lieu payment of parkland in accordance with the *Planning Act*, if applicable, in a manner satisfactory to the Finance Department and Development Services Department.

Development Services – Parks Planning

- g. That the Owner provide a letter of clearance pertaining to the *Endangered Species Act* that demonstrates that the site is clear of any flora or fauna identified under the Act. The letter must be received prior to the commencement of any site works and as a condition of registration. In the event the site contains any endangered species, it is the responsibility of the Owner to contact both the City of Barrie and the Ministry of the Environment, Conservation and Parks and to take appropriate action.

Environmental Services/Risk Management Official

- h. The Owner shall be responsible for complying with and satisfying all applicable policy requirements as laid out in the City of Barrie's Drinking Water Protection Policy to the satisfaction of the Waste Management and Environmental Sustainability Department.
- i. The Owner acknowledges and agrees that permanent dewatering including but not limited to basement sump pumps and/or active foundation drainage that connects to the Municipality's infrastructure is prohibited (as per the City of Barrie's Drinking Water Protection Policy section 5.1 as amended).
- j. The Owner shall submit a Construction Spill Management Plan at the time of filing a building permit application with the Municipality.

9. SALEM/HEWITT'S CREEK SECONDARY PLAN LANDS

INTENTIONALLY DELETED

10. ADJACENT RAIL LINE AND OPERATIONS

INTENTIONALLY DELETED

11. BEST EFFORTS

INTENTIONALLY DELETED

SCHEDULE "H"
PARKS, LANDSCAPING AND ENVIRONMENTAL CONDITIONS

1. COMPLETION OF LANDSCAPING

The Owner covenants and agrees to complete all Landscaping, as more particularly detailed, described and illustrated in the plans and drawings referred to in Schedule "C" and as more particularly dealt with below:

- a) The Owner shall be responsible for retaining the services of a qualified Landscape Architect for the management and implementation of all landscape/streetscape related items, including but not limited to, construction/site supervision, reporting, fencing, boulevard planting, layout, planting, root barrier installation (sidewalks and driveways), boulevard inspections, resident complaints, liaison with Municipal Staff, inspections, Letter of Credit reductions and/or release, inspections at the start or end stages of the Guaranteed Maintenance Period. The Landscape Architect shall be required to maintain inspection logs of all field/site visits and inspections through to the end of the General Maintenance Period;
- b) The Owner covenants and agrees to complete Landscaping in accordance with the approved Landscape Plans referred to in Schedule "C";
- c) The Owner shall not remove, damage, or cause harm to any trees which have been identified by the Municipality to be preserved, without the prior written approval of the Development Services (Parks Planning) Department, and to the satisfaction of the Municipality; and
- d) The Owner shall replant any existing vegetation identified for preservation as illustrated in Landscape Plans referred to in Schedule "C" which has been removed or damaged. The composition of such replanting will be of a size, quantity and species-mix to the satisfaction of the Municipality, such that the measured net diameter total of removed or damaged trees are replanted with an equivalent net diameter total of trees as those which have been removed.

2. ENVIRONMENTAL

INTENTIONALLY DELETED

SCHEDULE "I"
CONDOMINIUMS

INTENTIONALLY DELETED

SCHEDULE "J"
FINANCIAL TERMS AND CONDITIONS

1. PROCESSING AND APPROVAL FEES

The Owner shall pay all reasonable costs as incurred by the Municipality for its solicitor (on a substantial indemnity basis), its administrative costs (as authorized pursuant to the Municipality's current Fees By-Law) and the costs for other staff, agents, officers or consultants for the preparation, registration, administration and enforcement of this Agreement. The Owner shall be responsible for the costs and performance of all the Owner's obligations unless specifically relieved from such responsibility by this Agreement. For the purposes of this Section, reasonable costs shall not include legal fees incurred by the Municipality in any dispute between the Municipality and the Owner as to the interpretation or application of this Agreement where it is determined that costs are to be paid by the Municipality.

2. SECURITY

- a) In order to guarantee compliance with all terms and conditions contained in this Agreement, the Owner covenants and agrees to provide or file with the Municipality upon execution of this Agreement, cash and/or a letter or letters of credit (the "Security") in the amount(s) determined by the Municipality, acting reasonably. The Security shall be in a form approved by the Municipality, and the Owner covenants and agrees that the Security shall be kept in good standing, maintained at a level satisfactory to the Municipality and in keeping with the provisions of this Agreement and maintained in full force and effect and that the Owner will pay all premiums as any part of the Security becomes due or until such time as the Municipality returns or releases the Security in accordance with provisions set out in Schedule "M" governing reduction or release of Security.
- b) The Owner acknowledges that the estimated costs of the External Services, Drainage Works and Landscaping are initially prepared and submitted by the Owner's Professional Consultants and reviewed by the Municipality. It is further agreed that the said estimates shall be reviewed and updated by the Municipality on or before each anniversary of the execution of this Agreement and prior to any reduction of Security. In the event the Municipality estimates that the costs of completion of the External Services, Drainage Works and/or Landscaping shall be greater than the Security held, the Owner shall, within thirty (30) days of demand, provide such additional cash or letter of credit or amended letter of credit in a manner acceptable to the Municipality for the required amount. In the event that the Owner fails to deliver to the Municipality the additional cash or letter of credit required, the Owner shall be deemed to be in default of this Agreement and the Municipality may, without additional notice, invoke the default provisions set out herein and may cash or otherwise call on such Security.
- c) The Owner hereby acknowledges and agrees that, should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, and the Owner fails to comply, within thirty (30) days of delivery of written notice, with a direction to carry out such work or matter, the Municipality may draw on the Security to the extent necessary and enter onto the Lands and complete all outstanding External Services, Drainage Works or Landscaping or such other matters to which the Security relates, and to pay all costs and expenses incurred thereby from the proceeds so drawn.
- d) The Municipality shall have reserved the right to draw on and use the proceeds from the Security held to complete any work or matter required to be done by the Owner pursuant to this Agreement. Notwithstanding Schedule "M" to this Agreement, in the event that the Municipality determines that any reduction in the Security will create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Owner pursuant to this Agreement, the Municipality will not be obligated to reduce the Security until such time as such work is satisfactorily completed or the Municipality has been satisfied that it has sufficient security to ensure that such work will be completed.
- e) Wherever in this Agreement a letter of credit is required to be filed with the Municipality, the Owner may deposit with the Municipality cash or certified cheque in an amount equal to the letter of credit and such deposit shall be held by the Municipality as Security in accordance with this Agreement, provided that no interest shall be payable on any such deposit.
- f) Upon the transfer of ownership of the Lands, the Municipality shall not be required to return any Security required to be provided under this Agreement until the new owner (transferee) provides the Municipality a substitute cash, letter of credit or such other security as may be permitted in the required amounts.
- g) Any Security held by the Municipality may be used to pay the cost of completing any of the obligations of the Owner notwithstanding that such obligations may not have been specifically accounted for in the calculation to the amount or value of security to be provided by the Owner.

3. EMERGENCY WORKS DEPOSIT

Upon execution of this Agreement, the Owner shall deposit with the Municipality cash in the amount of TWO THOUSAND DOLLARS (\$2,000.00) to be used at the discretion of the Municipality for such items as control of debris and dust, emergency works and any other item pertaining to the development of the Lands. The Owner shall maintain the deposit at no less than TWO THOUSAND DOLLARS (\$2,000.00) until occupancy approval and completion of the development of the Lands in accordance with the Approved Plans has been certified and Record Drawings for Drainage Works and Services have been delivered at which time the Municipality shall refund any remaining deposit to the Owner.

4. PAYMENT IN INSTALLMENTS – NON-PROFIT RENTAL HOUSING

INTENTIONALLY DELETED

5. PAYMENT IN INSTALLMENTS – RENTAL HOUSING

INTENTIONALLY DELETED

6. PAYMENT IN INSTALLMENTS - INSTITUTIONAL

INTENTIONALLY DELETED

SCHEDULE "K"
INSURANCE AND INDEMNIFICATION

1. INSURANCE

The owner agrees to insure the Municipality in accordance with the following provision:

- a) The Owner shall provide to the Municipality, on or prior to the execution of this Agreement, a general comprehensive liability insurance policy in the amount of \$5,000,000.00 (Five Million Dollars) in a form and with an insurer satisfactory to the Municipality, indemnifying the Municipality 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 naming the Municipality as an additional insured. The policy shall be maintained in full force and effect until the public works have been assumed by the Municipality. In the event that any renewal premium is not paid, the Municipality, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Owner agrees to pay the cost of such renewal or renewals within ten (10) days of the account therefore being rendered by the Municipality. In the event the Municipality is required to pay any premiums in order to keep the insurance in effect, the costs incurred by the Municipality shall be deemed to be taxes to which the provisions of s.349 of the *Municipal Act, 2001* apply. The issuance of such policy of insurance shall not be construed as relieving the Owner from any liability or responsibility for any claims in excess of the aforementioned policy limits.
- b) The Owner shall provide to the Municipality, on or prior to execution of this Agreement, purchase an Environmental Policy in the amount of \$5,000,000.00 (Five Million Dollars) to cover third party personal injury to or physical damage to tangible property including loss of use of tangible property, cleanup, or restoration of environmental impairment of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual release. The policy shall include bodily injury, including sickness, disease, shock, mental anguish, and mental injury. The policy is to be renewed until acceptance or assumption of the Works by the Municipality and a Certificate of Insurance evidencing renewal shall be filed with the Municipality. If the policy is to be cancelled or non-renewed for any reason, ninety (90) days' notice of said cancellation or non-renewal must be provided to the Municipality. The Municipality has the right to request that an Extended Reporting Endorsement be purchased by the contractor at the contractor's sole expense.

2. INDEMNIFICATION

The owner agrees to indemnify the Municipality in accordance with the following provision:

- a) The Owner indemnifies the Municipality from and against all suits and claims of any nature arising out of or connected with the carrying out of the Owner's obligations in this Agreement and the Owner's obligations under any Right of Way Activity Permit issued in connection with the development of the Lands by the Owner either before or after the execution of this Agreement. This indemnity includes damages caused to property owned by the Municipality. This indemnity does not extend to the negligence of the Municipality, its officers, employees, agents or contractors. Except for circumstances involving the negligence of the Municipality as stated, the Municipality has the right to withhold and/or use any portion of any Security provided to indemnify the Municipality for any legal fees the Municipality incurs to defend its interest against any suit or claim of any nature arising out of or connected with the carrying out of the Owner's obligations, or the entering into of this Agreement.

SCHEDULE "L"

ENFORCEMENT

1. OCCUPANCY

The Owner acknowledges that the Municipality is relying on the following covenants and rights regarding occupancy of any building or part thereof constructed pursuant to the approval given in accordance with this Agreement:

- a) The Owner covenants and agrees not to permit occupancy of any building or part thereof for which building permits have been issued until all Drainage Works required under this Agreement are completed in accordance with the requirements of the Ontario Building Code, the applicable zoning by-law and any other municipal by-laws existing as of the date hereof, and that the internal water distribution and sanitary sewer collection have been tested and approved and are operating in accordance with the conditions established by the Municipality.
- b) To ensure compliance with subsection (a) above, the Owner covenants and agrees that the Municipality may draw upon any Security the Owner has provided to the Municipality, if, in the opinion of the Municipality, a building or part thereof is occupied contrary to said provision to cover the costs of enforcement of the terms of this Agreement including the obtaining of any court order required to prohibit occupancy or remedy and default on the part of the Owner with respect to its obligations set out in this Agreement related to occupancy.
- c) In the event that a building or unit is occupied otherwise than in accordance with the provisions of subsection (a), the Owner covenants and agrees that the Municipality shall be 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 subsection (a) have been fully complied with, and the Owner shall be estopped from opposing such application on the part of the Municipality.

2. DEFAULT

If, in the opinion of the Municipality, the Owner:

- a) has not installed the Services, Drainage Works and/or Landscaping required according to plans or drawings referred to on Schedule "C" within the specified time; or,
- b) has improperly carried out the Services, Drainage Works and/or Landscaping required according to plans or drawings referred to on Schedule "C"; or,
- c) has neglected or abandoned the Services, Drainage Works and/or Landscaping before completion; or,
- d) has unreasonably delayed the installation of the Services, Drainage Works and/or Landscaping so that the conditions of this section are violated, or executed carelessly, or in bad faith; or,
- e) has neglected or refused to renew or again install the Services, Drainage Works and/or Landscaping as may have been rejected by the Municipality as defective or unsuitable; or,
- f) has defaulted in performing the terms of this Agreement, in any other manner,

then, the Municipality shall promptly notify the Owner in writing of such default. If the default is not remedied within seven (7) clear days of such notification, then the Municipality has authority to immediately purchase, lease, rent or otherwise obtain materials, tools and machinery, and to employ or contract with workers, as in its discretion are reasonably required for the completion of the Services, Drainage Works and/or Landscaping, all at the expense of the Owner. The cost of the work shall be calculated by the Municipality whose decision shall be final. The cost of the work shall include a management fee not exceeding TWENTY PERCENT (20%) of all labour, material and machine time charges incurred to complete the work.

3. ENFORCEMENT AND ENTRY BY MUNICIPALITY

The Owner acknowledges that the Municipality, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement in accordance with s.446 of the *Municipal Act, 2001*. The Municipality may, by its officers, employees or agents, enter on the Lands or any part thereof as well as any building(s) erected thereon to ensure that any Drainage Works, Services and Landscaping and External Services, if any, required to be provided, constructed or installed by the Owner comply with this Agreement.

4. TERMINATION OF AGREEMENT

If the proposed development governed by this Agreement is not commenced, as evidenced by issuance of a building permit, within three (3) years from the date of the execution of this Agreement, the Municipality may, at its sole option and on Thirty (30) days' notice to the Owner, declare this Agreement null and void and of no further force and effect. The refund of any fees, levies or other charges paid by the Owner pursuant to this Agreement shall be in the sole discretion of the Municipality, but under no circumstances will interest be paid on any refund.

SCHEDULE "M"
REDUCTION OR RELEASE OF SECURITY

As the work proceeds, the Owner shall have the privilege on application to the Municipality of obtaining reductions and/or releases of the securities held by the Municipality to secure performance of the Owners obligations pursuant to this Agreement in accordance with the requirements set out below.

Unless specifically waived in writing by the Municipality, the Owner shall supply the Municipality with the following documentation:

- a) letter of application for reduction/release
- b) consultant's certificate confirming that all External Services, Drainage Works and/or Landscaping have been completed in accordance with the Approved Plans
- c) as-constructed drawings as well as Record Drawings once all construction has been completed
- d) satisfactory evidence that no construction liens have been filed or registered
- e) workplace safety certificate
- f) statutory declaration as to accounts re: Drainage Works and External Services have been paid
- g) surveyor's certificate, where requested

Upon any application for reduction in any Security, the Owner's applicable Consultant shall provide an estimate of the cost to complete the Drainage Works. The estimate of cost will be reviewed by the Municipality and if the Municipality is satisfied and, provided the Owner is not in default of any of the requirements of this Agreement, the Municipality may recommend that the Security be reduced to an amount being the cost to complete the Drainage Works and/or Landscaping, plus the cost of completing deficiencies, plus 20% of the total estimated cost of the Drainage Works and or Landscaping as estimated or as revised by the Municipality, acting reasonably.

The remaining Security shall never be less than 100% of the estimated cost of the Drainage Works and/or Landscaping remaining to be installed or completed, calculated at current market cost at the date the Security is reduced, together with 10% of the original contract price adjusted to current market cost, to protect the Municipality from liability under subs. 17 (4) of the *Construction Act*. The Municipality will not reduce the Security more than 5 times.

The Security for the Drainage Works and/or Landscaping shall be reduced by no more than ninety percent (90%) of the original contract price. The Municipality shall retain the remaining ten percent (10%) of the original contract price or such greater amount as estimated by the Municipality as being what is reasonably required to maintain the Drainage Works and repair defects in the Drainage Works for two (2) years from the date of acceptance by the Municipality's Council, after which time any remaining Security shall be returned to the Owner, once any and all deficiencies have been reported by the applicable Professional Consultant and resolved to the satisfaction of the Municipality.

For inspections for the release of securities, and/or the endorsement of the start or end of the General Maintenance Period, the Owner agrees that for the purpose of vegetation health assessment, inspections must be completed by the Landscape Architect between the period of spring leaf flush and September 15th of any given year. The Municipality shall use its best efforts to ensure that the required follow up inspections are completed by October 1st of any given year for this purpose. Inspections that are completed outside of this defined window will not be accepted or considered valid. In addition, vegetation health assessments are only valid for the year in which they were performed, reviewed, and accepted by the Municipality. Deficient plantings requiring replacement at the end of the two (2) year warranty period, shall be subject to an extended warranty at the sole discretion of the Municipality.

SCHEDULE "N"

ISSUED CERTIFICATE OF PRELIMINARY APPROVAL

Refer to the attached 7 pages being the Certificate of Preliminary Approval issued by the Municipality's Development Services (Planning & Approvals) Department.

SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Section 41(13)(b) of *The Planning Act* allows Council to delegate by By-law Council's authority to approve site plans to an appointed officer of the Municipality.

Council By-law 99-312, as amended, has delegated Site Plan Approval authority to the Director of Development Services, Manager of Planning, Manager of Growth and Development and Manager of Strategic Initiatives, Policy, and Analysis. This authority permits the appointed officer(s) to recommend that the City Clerk prepare site plan agreements for execution and registration on title.

The appointed officer hereby grants Preliminary Approval to Site Plan Application File **D11-024-2021** for lands legally described as **Lots 13, 14, 15 and Part of Lots 16, 17 and Centre Street on Registered Plan 67 within Lot 6, Concession 12, Former Township of Innisfil**, known municipally as **90 Mapleview Drive West, Barrie**, on lands owned by **Tiber Properties Inc.** Registration of the development agreement for the above noted property to be prepared and completed in accordance with the following requirements:

This approval shall relate to the following plans as amended, if necessary:

	<u>Designer/Architect</u>	<u>Plan No.</u>	<u>Date/Rev.</u>
a) Site and Key Plans & OBC Zoning By-law	Nestico Architect Inc.	SP1	Oct 4, 2022/Rev.22
b) Truck Tacking Path and Profile Diagram	Nestico Architect Inc.	SP2	Oct 4, 2022/Rev.13
c) Site Elevation & Section	Nestico Architect Inc.	SP3	Oct 4, 2022/Rev.13
d) Truck Tracking Path and Profile Diagram (Exiting)	Nestico Architect Inc.	SP4	Oct 4, 2022/Rev.4
e) Truck Tracking Path and Profile Diagram (Entering)	Nestico Architect Inc.	SP5	Oct 4, 2022/Rev.4
f) Part Site Plan and Details	Nestico Architect Inc.	SP6	Oct 4, 2022/Rev.2
g) Building Elevations	Nestico Architect Inc.	A2.0	Oct 4, 2022/Rev.16
h) Part Building Elevations	Nestico Architect Inc.	A2.1	Oct 4, 2022/Rev.11
i) Surface Materials and Landscape Plan	Landscape Planning Landscape Architects	L1A & L1B	Feb 2, 2023/Rev.6
j) Landscape Details	Landscape Planning Landscape Architects	LD-1 & LD-2	Feb 2, 2023/Rev.6

k) Tree Inventory, Preservation and Removals	MHBC Planning, Urban Design & Landscape Architecture	TP-1, TI-2 & TI-3	Feb 1, 2023/Rev.7
l) Site Plan and Details (Photometric)	Tristar Engineering	LE-1	Sept 1, 2022/Rev.3
m) Site Servicing Plan	Urban Ecosystems Limited	SP-1 & SP-2	Oct 3, 2022/Rev.5
n) Site Grading Plan	Urban Ecosystems Limited	GR-1 & GR-2	Oct 3, 2022/Rev.5
o) Notes and Details	Urban Ecosystems Limited	DET-1 & DET-2	Oct 3, 2022/Rev.4
p) Sanitary and Storm Design Sheets	Urban Ecosystems Limited	DES-1	Oct 3, 2022/Rev.1
q) Retaining Wall	Urban Ecosystems Limited	RW-1 - RW-6	Oct 3, 2022/Rev.4

A conditional permit for footings and foundation(s) under Subsection 8(3) of the *Building Code Act*, may be considered on its individual merits prior to the registration of a development agreement provided that in addition to the requirements under the Ontario Building Code the Owner shall:

- agree in writing to satisfactorily address all conditions listed below;
- provide all required securities;
- provide all required administration fees, payment of costs associated with the preparation of a development agreement;
- provide a clearance letter or permit from the applicable conservation authority if required;
- comply with zoning by-law requirements;
- pay all applicable fees (i.e. building permit, cash in lieu of parkland, City of Barrie Act, development charges).

In addition to the above, pre-servicing of the site may be considered on its individual merits prior to the registration of a development agreement, provided that the Owner/Applicant enters into a Pre-Servicing Agreement with the City.

CONDITIONS

Prior to the appointed officer recommending that the City Clerk execute the Site Plan Agreement, the following requirements shall be satisfied and/or addressed:

Revisions

- A. That the site plan submission be amended to reflect the following:
- i) That the site plan drawings and reports/studies be amended as necessary to conform to the Waste Management and Environmental Sustainability Department's (Risk Management Official) technical requirements and current standards as identified in their comments, dated March 3, 2023, as attached.

Development Services - Approvals

- B. The Owner/Applicant will be required to provide the following drawings in accordance with the City of Barrie's Site Plan Application Manual and Urban Design Manual:
- i) Separate site servicing drawing and site grading drawing;
 - ii) Storm drainage catchment drawing (identify/accommodation any external drainage);
 - iii) Sediment and erosion control drawing;
 - iv) Signage and pavement marking drawing in accordance with the Ontario Traffic Manuals. This drawing shall be detailed for use by the paint marking and signage contractor and shall include a legend, details, dimensions and material specifications; and
 - v) Detail and general notes drawing.
- C. The Owner/Applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of water and sanitary servicing for the proposed development, all to an appropriate connection/outlet. Detailed water servicing requirements are available through Development Services (Approvals).
- D. The Owner/Applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of the storm servicing works including parking lot construction and grading, all to the satisfaction of Development Services (Approvals).
- E. The Owner/Applicant will be required to retain a licensed experienced civil consulting engineer to provide a detailed Stormwater Management Report. The consultant will also be required to obtain, if necessary, Ministry of Environment, Conservation, and Parks (previously Ministry of Environment and Climate Change) approvals for the implementation of any stormwater management works on-site, all to the satisfaction of Development Services (Approvals).
- F. Before any site alteration within the subject property, the Owner/Applicant or his agents will apply for a Site Alteration Permit, as described within By-law 2014-100. Prior to the commencement of any works within the site, all requirements, obligations, and control measures, as described within By-law 2014-100 will be in place and undertaken to the satisfaction of the City of Barrie. Furthermore, it will be the Owner/Applicant's responsibility, through his professional consultant to maintain the said work for the duration of the subject property.
- G. The water distribution system within the limits of this site plan is privately owned and shall be maintained by the Owner/Applicant, and any hydrant installed on-site shall be deemed privately owned. All hydrants have to be maintained as per fire code/insurance requirements.
- H. The Owner/Applicant will be responsible for obtaining a Right-of-Way Activity Permit prior to the commencement of work on the municipal right-of-way.
- I. That the drawings be revised as necessary to reflect the Digital Data Control Requirements. That the drawings be processed in digital format using UTM (Zone 17) NAD83 datum (76 adjustments).

Development Services – Transportation Planning

- J. That an Electrical Site Plan be submitted, and the Owner/Applicant agrees and understands that all site lighting shall be arranged to deflect light away from adjoining properties and adjoining streets, and which will require full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting. Shielded shall mean that 100% of the lumens emitted from the light fixture are projected below an imaginary horizontal plane passing through the highest point on the fixture from which light is emitted; all to the satisfaction of the Department Services Department.

- K. The Owner/Applicant shall agree in the Site Plan Agreement to convey a 2.5 metre road widening along the entire Maplevue Drive West frontage to the City of Barrie, free and clear of all encumbrances. In this regard, the Owner/Applicant shall prepare and submit a draft reference plan, which reflects the required road widening, to the City for review and approval prior to the registration of a Site Plan Agreement.
- L. That the Owner/Applicant shall submit a detailed cost estimate for the removal and restoration works required to formally close the Maplevue Drive West driveway access to the subject property, and permanently configure the traffic signals into a three (3) legged intersection.
- M. That the Owner/Applicant shall submit a Preliminary Removals and Restoration Plan, to the satisfaction of the City, for the removal and replacement works required to formally close the Maplevue Drive West driveway access to the subject property, and permanently configure the traffic signals into a three (3) legged intersection.
- N. That the Applicant/Owner shall agree that the following condition shall be included in the Site Plan Agreement for the proposed development of the subject property:
 - i) The Owner shall submit a Final Removals and Restoration Plan, to the satisfaction of the City, for the removal and replacement works required to formally close the Maplevue Drive West driveway access to the subject property, and permanently configure the traffic signals into a three (3) legged intersection.
- O. That the Owner/Applicant shall submit securities to the City in the amount of 100% of the value of the total costs associated with the removal and restoration works required to close the Maplevue Drive West driveway access to the subject property, as well as the permanent reconfiguration of the traffic signals into a three (3) legged intersection. In this regard, the securities shall be submitted to the City prior to the registration of a Site Plan Agreement. The Owner/Applicant agrees that said securities will not be released by the City until the removal and restoration works are completed to the satisfaction of the City, in accordance with the Removals and Restoration Plan identified in Condition 'M'.
- P. That the Owner/Applicant shall agree that the following condition shall be included in the Site Plan Agreement for the proposed development of the subject property:
 - i) The Owner shall undertake *Planning Act* applications (i.e. Consent) to secure approvals for the purpose of creating easements over the subject lands, as required, for mutual access and private servicing should the subject property or adjacent lands, known municipally as 120 Maplevue Drive West, undergo a change in ownership. Alternatively, the Owner shall undertake *Planning Act* applications (i.e. Site Plan Control) to alter the site to obtain access from Maplevue Drive West.

Alectra Utilities Corporation

- Q. That the Owner/Applicant shall comply with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document. In this regard, the Owner shall submit an application for hydro service, receive approval from and execute an Offer to Connect agreement with Alectra Utilities Corporation prior to the commencement of construction. In the case where a transformer is required, any revisions to the site plan that are required as a result of relocating an Alectra owned transformer and high voltage underground service, may be subject to a Site Plan Amendment application.

Bell Canada

- R. The Owner/Applicant shall agree to grant Bell Canada, any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner/Applicant shall be responsible for the relocation of such facilities or easements.

Development Services – Parks Planning

- S. The Owner/Applicant will be required to retain a qualified Landscape Architect (and Arborist as applicable) to provide the design, inspection and certification of all landscape works, all to the satisfaction of Park Planning.
- T. That the Owner/Applicant submit an Inventory/Assessment by a qualified consultant (or Arborist as applicable), of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and details to be approved and coordinated with the application for a Site Alteration Permit, and or Grading Plan submissions, all to the satisfaction of Parks Planning.
- U. That the landscape plans be amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual, all to the satisfaction of Parks Planning.
- V. That the Owner/Applicant provide a letter of clearance pertaining to the Endangered Species Act that demonstrates that the site is clear of any flora or fauna identified under the Act. The letter must be received prior to the commencement of any site works and as a condition of registration. In the event the site contains any endangered species, it is the responsibility of the Owner/Applicant to contact both the City of Barrie and the Ministry of the Environment, Conservation and Parks and to take appropriate action.

Financial

- W. That the Owner/Applicant pay the required cash deposits, securities and administration fees associated with site plan development for the following:
 - i) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for appropriate works (such as drainage, servicing, grading and landscaping) within the boundaries of the site plan, equal to 50% of the value of those works (to a maximum of \$500,000 and a minimum of \$10,000.00) to the satisfaction of the Development Services Department;
 - ii) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for municipal works (such as roads and servicing) outside of the site plan boundary, equal to 100% of the value of works to the satisfaction of the Development Services Department;
 - iii) Proof of the Owner's general comprehensive liability insurance policy in the amount of \$5,000,000.00 naming the City of Barrie as an additional insured;
 - iv) Proof of the Owner's comprehensive environmental insurance policy in the amount of \$5,000,000.00 naming the City of Barrie as an additional insured;
 - v) Administration fees for the review and inspection of site servicing and landscaping works equal to 5% of the estimated cost of site servicing (minimum \$1,000.00) and 5% for landscaping (minimum \$500.00) plus applicable taxes;
 - vi) Any water service charges arising out of, or attributable to the development of the site plan including tapping fee and water meter payment;
 - vii) Cash deposit for road clean up associated with the site construction (\$2,000.00 refundable deposit made payable to the City of Barrie); and
 - viii) A retainer in the amount of \$4,000.00 payable to Legal Services Department, City of Barrie, for legal and administration fees associated with the preparation and registration of the site plan agreement (additional fees may be required).

Waste Management and Environmental Sustainability Department (Risk Management Official)

- X. That the Owner/Applicant shall agree that the following condition shall be included in the Site Plan Agreement for the proposed development on the subject lands:
- i) The Owner shall submit a Construction Spill Management Plan at the time of filing a building permit application with the City of Barrie.

Building Services

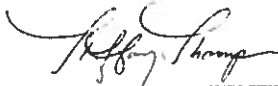
- Y. That the fire access route conforms to the Ontario Building Code and that the Owner/Applicant enters into a fire route agreement, if required.

Development Services - Planning

- Z. That the private streets/driveways be named and units be numbered to the satisfaction of the City, if and as required.
- AA. That the Owner/Applicant be responsible for the preparation and posting of any and all private street/driveway signs in accordance with current City standards. In this regard, the Owner/Applicant shall ensure that private street signs will display the street name and include the word 'Private' below the street name for clarity and that all costs associated with the installation and maintenance of private street name signs shall be the responsibility of the Owner.
- BB. That the Owner/Applicant agrees that the construction of the building(s) shall be in conformance with the approved, registered site plans as it relates to the building design, construction materials and quality.
- CC. That all sign locations be identified on the plans and details be provided and be in compliance with the City of Barrie Sign By-law 2018-029.
- DD. That the Owner/Agent ensure that all plans are consistent throughout.
- EE. That the plans conform to all provisions of the City's Comprehensive Zoning By-law or approval by the Committee of Adjustment for any variances be granted.
- FF. That the Owner/Applicant agrees to the dedication of, or cash-in-lieu payment of parkland in accordance with the *Planning Act*, if applicable, in a manner satisfactory to the Finance Department and the Development Services Department.
- GG. That the Owner/Applicant be responsible for obtaining the necessary approvals from any other applicable agency, if and as may be required.
- HH. That the Owner/Applicant agrees and understands that all garbage and recycling containers are to be kept inside the building(s) in an appropriate garbage room or externally within an enclosure (fully enclosed with roof and roll up door) constructed of materials similar to that of the main building and screened from public view, otherwise the City shall act as the Owner's agent and will have the containers removed at the Owner's expense.
- II. That all roof top mechanical devices be identified on the plans and shall be screened from public view by way of roof top location or by way of a parapet building extension to the satisfaction of the Development Services Department.
- JJ. That prior to the registration of the Site Plan Agreement, the Owner/Applicant shall provide written confirmation that all conditions of Alectra Utilities, Lake Simcoe Region Conservation Authority (LSRCA), Development Services Department (Approvals, Parks Planning, Transportation Planning and Planning Sections), Waste Management and Environmental Sustainability Department, Fire and

Emergency Services, and the Building Services Department have been completed to their satisfaction.

- KK. All final plans must be identified on the Site Plan Application Release form with signatures by the respective Departments and Agencies to confirm acceptance of all final plans. One (1) full size print package of all final plans, stamped and signed by the associated professional consultant, and digital copies (high quality PDF without security settings and AutoCAD versions) are to be provided to Development Services (Planning) prior to registration of the Site Plan Agreement. The Final Plan package forms a Schedule in the Site Plan Agreement
- LL. The Site Plan Control Requirements shall remain in effect for a period of two (2) years from the date referenced below following which a subsequent application may be required. Any subsequent submissions or applications may result in new and/or amending conditions/requirements.
- MM. That if a building permit is not issued within three (3) years of this approval, this Preliminary Approval shall become null and void.



Tiffany Thompson, MCIP, RPP
Manager of Growth and Development

June 6, 2023

Date

SCHEDULE "O"

CRANE SWING AND/OR TIE-BACK ENCROACHMENT AGREEMENT

NOT APPLICABLE