

## **By-law Number 21-123**

### **The Corporation of the Township of Clearview**

**Being a By-law to authorize entering into a Pre-Servicing & Mowat Street Road Improvement Works Agreement with the Estates of Clearview ("the Owner"), MacPherson Builders Stayner Limited ("the Builder") and The Corporation of the Township of Clearview for lands legally described as Part of Lot 25 Con 1, formerly Nottawasaga, now Township of Clearview.**

(Pre-Servicing & Mowat Street Road Improvement Works Agreement –  
Estates of Clearview)

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**Whereas** the Municipality has given approval for a draft plan of subdivision known as the Estates of Clearview, File No. 2004-011-SD, for the subdivision development and servicing of the Lands in accordance with the Draft Plan Approval Conditions;

**And Whereas** the Owner is proceeding with development of Phase 2 of subdivision which is the focus of this Agreement;

**And Whereas** the purpose of the Pre-Servicing & Mowat Street Road Improvement Works Agreement is to provide for the installation of the Pre-Servicing Works for Phase 2 in advance of the execution of the Subdivision Agreement and in advance of the Municipality giving Final Approval for the registration of the plan of subdivision;

**And Whereas** the Municipality is authorized to enter into such agreements pursuant to Section 51(26) of the Planning Act R.S.O., 1990, c.P.13 as amended;

**Now Therefore** Council of the Corporation of the Township of Clearview hereby enacts as follows:

1. Upon confirmation from municipal staff that all submitted engineering Plans have been approved, signed and stamped as 'Accepted for Construction-Pre-Servicing Only' by the Township of Clearview peer-review engineering consultant (R.J. Burnside and Associates) to the satisfaction of the Municipality, the Mayor and Clerk are hereby authorized and directed to execute a Pre-Servicing & Mowat Street Road Improvement Works Agreement with the Estates of Clearview ("the Owner") and MacPherson Builders Stayner Limited ("the Builder"), in the form attached hereto as Schedule "A" and Schedule "A" forms part of this By-law.
2. This By-law shall come into force and take effect on the date of its passing.

**By-law Number 21-123 read a first, second and third time and finally passed this 17<sup>th</sup> day of December, 2021.**

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Doug Measures, Mayor

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Sasha Helmkey, Clerk

# **SUBDIVISION PRE-SERVICING & MOWAT STREET ROAD IMPROVEMENT WORKS AGREEMENT**

**The Estates of Clearview Inc., MacPherson Builders (Stayner)  
Limited and The Corporation of the Township of Clearview**

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**SUBDIVISION PRE-SERVICING AGREEMENT**

**THIS AGREEMENT** made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BETWEEN:

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**  
(hereinafter referred to as the "Municipality")

- And -

**THE ESTATES OF CLEARVIEW INC.**  
(hereafter "the Owner")

- And -

**MACPHERSON BUILDERS (STAYNER) LIMITED**  
(hereafter "the Builder")

**WHEREAS** the Owner warrants that it is the registered owner of Lands except for the lands on Plan 197 owned by the Municipality as set out in Schedule "A" description of the Lands;

**AND WHEREAS** the Municipality has given approval to draft plan of subdivision known as The Estates of Clearview, File No. 2004-011-SD (the "Draft Plan") for the subdivision, development and servicing of the Lands in accordance with the Conditions;

**AND WHEREAS** the Builder is responsible for and proceeding with the development of Phase 2 of the subdivision that received Draft Plan Approval for 995 residential units (combination of single, semi-detached, townhouse, multi-residential, and mixed commercial, institutional & residential blocks) as well as Pedestrian Path Blocks, Park Plan Block, SWM Pond Block, Road Widening Blocks, Reserve Blocks, and Road Dedication Blocks;

**AND WHEREAS** the purpose of this Agreement is to provide for the installation of the Pre-Servicing Works for Phase 2 on portions of the Lands presently registered in the names of the Owner and the Municipality, respectively, as more particularly set out in Schedule "A" to this Agreement, in advance of the execution of a Subdivision Agreement and in advance of the Municipality giving Final Approval for the registration of the plan of subdivision and to confirm the responsibility of the Owner for the Pre-Servicing Works and assumption of all risk associated with the Pre-Servicing Works by the Owner prior to the execution of the Subdivision Agreement and registration of the plan of subdivision.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration covenants hereinafter expressed and other good and valuable consideration, the Parties hereto covenant and agree one with the other as follows:

## **PART I**

### **DEFINITIONS AND BASIS OF AGREEMENT**

#### **1.1 Definitions**

In this Agreement, including the recitals, the following terms shall have the meanings set out below, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed:

"Accepted Plans" means all the studies, reports, designs, plans, drawings and specifications for the installation of the Pre-Servicing Works, the originals of which have been signed and stamped in red ink;

"Accepted for Construction-Pre-Servicing Only" by the Municipality and are described in Schedule "B". Where the subject matter or context of a particular section of this Agreement requires reference to an individual Accepted Plan, it may be referred to by its individual name (i.e. Overall Grading Plan, Storm Water Management Plan etc.);

"Agreement" means this agreement;

"Approval Authority" means the Township of Clearview;

"CBO" means the person holding the title of Chief Building Official for the Municipality or his designate;

"Conditions" means the conditions described in Schedule "D" imposed by the Approval Authority in accordance with the provisions of the Planning Act with respect to the approval of the Draft Plan;

"County" means the County of Simcoe;

"Default" means any default by the Owner in the performance of its obligations under this Agreement, including the failure of the Owner to design, install, repair and maintain the Pre-Servicing Works in accordance with all of the requirements of this Agreement and the failure of the Owner to make any payments to the Municipality required by this Agreement when due;

"General Manager" means the person holding the title of General Manager Transportation and Drainage for the Municipality or his designate;

"Draft Plan" means the draft approved plan as described in Schedule "D" and in the Conditions for the subdivision, development and servicing of the Lands;

"Engineers" has the meaning ascribed to it in Section 2.2;

“Final Approval” means the release by the Municipality of the final plan of subdivision to the Approval Authority for final approval for registration under the Planning Act;

“Government Authority” means any government authority or agency, including conservation authorities that are specifically referred to in the Conditions or have jurisdiction over the Lands or the design, installation or maintenance of any part of the Pre-Servicing Works;

“Highway” means land dedicated as a public highway by the Plan and includes a highway under the jurisdiction of the Municipality or the County;

“Install” shall also mean do, provide, construct, reinstall or reconstruct;

“Lands” shall mean the lands described in Schedule “A”;

“Lot” means a lot, block or unit shown on a Plan;

“Municipal Lands” means all lands owned by the Municipality, including public highways under the jurisdiction of the Municipality;

“Municipal Standards” means the current Municipally approved design criteria, design standards, specifications, maintenance standards and procedures for the design, installation and maintenance of the Works, a copy of which are on file in the Municipal Clerk’s Office and may be viewed during normal office hours;

“Notice” means any written letter, notice, demand, request, direction or instructions given and received in accordance with the provisions of Section 6.3;

“Owner” means the Estates of Clearview Inc. and shall also include MacPherson Builders (Stayner) Limited;

“Parties” mean the Owner and the Municipality;

“Plan” means the final plan of subdivision which the Owner proposes to register in accordance with the provisions of the Planning Act for the purpose of subdividing, developing and servicing the Lands;

“Planning Act” means the Planning Act, R.S.O. 1990, c. P.13, as amended or any successor statute;

“Pre-Servicing Certificate” has the meaning ascribed to it in Section 3.12:

“Pre-Servicing Works” means the Works shown on the Accepted Plans described in Schedule “B”;

“Public Works” means those Works which are to be owned, operated and maintained by the Municipality following Final Acceptance in accordance with the Subdivision Agreement;

"Security" has the meaning ascribed to it in Section 4.3;

"Subdivision Agreement" has the meaning ascribed to it in Section 2.1;

"Treasurer" means the person holding the title of treasurer for the Municipality or his/her designate;

"Utility Services" means all of the utility services for the Plan including electric, gas, telephone, cable television and telecommunication, and the Street Lighting Works or other lighting included in the Public Works;

"Works" means all of the works, services, facilities, landscaping, fencing, matters and things which are required by the Municipality, the utility corporations, including the Power Utilities and all Government Authorities to be designed, installed and done by the Owner for the subdivision, development and servicing of the Lands and includes the Pre-Servicing Works. Where the subject matter or context of a particular section of this Agreement requires reference to an individual component of the Works, it may be referred to by its individual name (i.e. the Grading and Drainage Works, the Storm Water Management Works etc.);

All other capitalized terms shall have the meanings ascribed to them in this Agreement.

## **1.2 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) Unless the context otherwise requires, in this Agreement words importing the singular include the plural and vice versa and words importing a gender include all genders.
- (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.
- (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, 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 Parties 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 the Agreement shall remain valid and not terminate thereby.
- (h) All references to parts, sections, clauses, paragraphs and schedules unless otherwise specified are references to parts, sections, clauses, paragraphs and schedules of this Agreement.
- (i) The Conditions, the Municipality Standards and the Accepted Plans are incorporated into and form part this Agreement and shall have the same force and effect as if the information shown on them were contained in the body of this Agreement.

### **1.3 Administration of Agreement**

This Agreement shall be administered on behalf of the Municipality by the General Manager, unless another official of the Municipality is specifically referred to in this Agreement. Where under the terms of this Agreement, decisions, approvals, Notices and certificates are to be made, given or issued by the Municipality, such decisions, approvals, Notices and certificates shall be made, given or issued by the General Manager or other official of the Municipality, in their sole and absolute discretion, acting reasonably.

### **1.4 Lands Affected**

This Agreement applies to Lands.

### **1.5 Joint Authors**

Each Party acknowledges and agrees that it has participated in the drafting of this Agreement and that no portion of this Agreement shall be interpreted less favorably to either Party because that Party or its legal counsel was primarily responsible for the drafting of that portion.

### **1.6 Recitals**

The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

### **1.7 Scope of Agreement**

This Agreement is an agreement within the meaning of and authorized by section 51(26) of the Planning Act. This Agreement shall define the obligations and duties of the Owner with respect to the subdivision, development and servicing of the Lands and, without limiting the generality of the foregoing, shall include the design, installation, repair and maintenance of the Pre-Servicing Works to be provided and payments required to be made to the Municipality and such other matters as may be more specifically set out herein.

The Owner hereby acknowledges that by entering into this Agreement, the Municipality is not allocating existing servicing capacity for water and sewer for the development of the Lands. It being understood and agreed that registration of the Plan is required to obtain allocation of existing servicing capacity.

## **PART II**

### **GENERAL SERVICING REQUIREMENTS**

#### **2.1 Subdivision Agreement**

The Owner agrees that prior to Final Approval of the Draft Plan, the Owner shall enter into a subdivision agreement with the Municipality, in a form satisfactory to the Municipality to satisfy all the Conditions and without limitation to satisfy all of the financial, legal, servicing, engineering, landscaping and other requirements of the Municipality for the subdivision, development and servicing of the Lands, (the "Subdivision Agreement"). The Parties agree that the Subdivision Agreement, when executed, shall supersede and replace this Agreement.

#### **2.2 Engineers**

Wherever, under the terms of this Agreement and the Subdivision Agreement, the Owner is required to design and install any Works the Owner shall retain competent engineers registered with the Professional Engineers of Ontario (the Engineer(s)) to carry out all the necessary engineering requirements for the subdivision, development and servicing of the Lands in accordance with this Agreement and the Subdivision Agreement.

The Engineers shall be retained at all times until all of the requirements of this Agreement and the Subdivision Agreement have been complied with to the satisfaction of the Municipality. In the event, for whatever reason, an Engineer ceases to provide the consulting services required by this Agreement to the Owner, the Owner shall immediately cease all operations which that Engineer was responsible for until the Owner retains a replacement Engineer approved by the Municipality, which approval shall not be unreasonably withheld.

The Owner shall provide an executed copy of this Agreement and a copy of the Municipality Standards to each of the Engineers and obtain and provide to the Municipality a written acknowledgement from each of the Engineers that they have received copies of these documents.

The Owner's agreements or contracts with the Engineers shall require the Engineers to provide the following consulting services to the satisfaction of the Municipality:

- (a) act as the Owner's technical representative in all matters pertaining to the design, installation and maintenance of the Works;
- (b) prepare all studies and reports required by the Municipality for the Works, design the Works in strict conformity to the Municipality Standards, and prepare, sign, and seal all required plans, drawings and specifications for the Works which shall include certificates from the Engineer to the effect

that all required plans, drawings and specifications are in conformity to the Overall Grading Plan;

- (c) when applicable, prepare all necessary tender documents and contracts for the installation of the Works;
- (d) obtain, in conjunction with the Municipality or its agents, the necessary approvals for the installation of the Works from any required Government Authority;
- (e) provide, to the satisfaction of the Municipality, full time resident field inspection at the subdivision site by an engineer or other qualified person, contract administration and certification of installation of the Works to the satisfaction of the Municipality. The Municipality may, where reasonably necessary, require, the Owner to provide an additional full time resident engineer or other qualified person at the subdivision site in furtherance of the Owner's obligation aforesaid;
- (f) obtain all records of construction of the Works, deposit with the Municipality signed and sealed "As Recorded" plans of all the Works, including lot grading and street lighting plans depicting the location of ducts, wires, power connection points to the Power Utility's system poles and pedestals and an electronic version of these same "As Recorded" plans all in accordance with the Municipality Standards, for the review and approval of the Municipality;
- (g) maintain on site an up-to-date red-lined "As Recorded" drawing set available for inspection and review by the Municipality during normal business hours or while the Contractor is on site;
- (h) provide to the Municipality, as and when required, executed copies of any or all contracts or subcontracts or both entered into by or on behalf of the Owner for the construction of any or all of the Works, together with any or all of the following contract documentation:
  - (i) certificates of the substantial performance given pursuant to the provisions of the Construction Lien Act; and
  - (ii) particulars of publication of the certificate of the substantial performance.
  - (iii) copies of final payment certificates or equivalent documentation of actual incurred costs.
- (i) certify to the Municipality that there are no lien claims relating to any of the completed Works as and when the Owner requests the Municipality to reduce the Security or accept or assume the Works; and
- (j) provide to the Municipality all of the other certificates required to be provided by this Agreement.

The Owner shall, within twenty (20) Business Days of receipt by the Owner of a Notice from the Municipality requiring it to do so, replace any Engineer with a replacement Engineer if the Municipality, in its sole and absolute discretion and acting reasonably, determines that the Engineer to be replaced is not providing the foregoing consulting services required by this section to the satisfaction of the Municipality.

### **2.3 Municipal Standards**

All Works are required to be designed, installed, provided and maintained pursuant to this Agreement and the Subdivision Agreement shall be designed, installed, provided and maintained in strict accordance with the Municipal Standards. By the execution of this Agreement the Owner acknowledges having received a copy of the Municipal Standards. All submissions to the Municipality shall be made in accordance with the Municipal Standards.

### **2.4 Changes to the Municipality Standards**

Despite anything contained in this Agreement, including the acceptance of the Accepted Plans, if the Municipality or any Government Authority changes or causes changes to any of the Municipal Standards for any of the Pre-Servicing Works which the Owner is required to install before the particular Pre-Servicing Works are installed the Owner shall, at its own expense, if required by Notice given by the Municipality redesign and install the particular Pre-Servicing Works referred to in the Notice in accordance with the new Municipal Standards.

### **2.5 Utilities**

Utility services (including services such as hydro-electric, gas, telephone, cable television, telecommunication, etc.) for the Plan of Subdivision shall be installed at no cost to the Municipality. The Owner covenants and agrees to enter into an agreement or agreements with such applicable utility companies, to provide utilities as required, to satisfy all requirements, including but not limited to the maintenance and repair of their facilities and equipment until the Assumption of the Plan of Subdivision by the Municipality.

It is the Owners responsibility to obtain written confirmation from the appropriate entities that all public utility requirements for the Lands have been met 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.

The Owner is responsible for informing the applicable utility providers of its intention to commence any construction on the Lands, prior to registration of the Plan of Subdivision. The Owner covenants and agrees to pay to the Municipality the maintenance and energy costs for all illumination within the Plan of Subdivision until and prior to the date of Assumption.

It is the Owner's responsibility to ensure that the restoration of the area disturbed by the installation of utilities is completed in a manner and condition satisfactory to the Municipality in its sole and unfettered discretion.

### **2.6 Highways**

The Owner shall:

- (a) install all the underground services, including all road crossings for the Utility Services, prior to installing the granular and stone bases for municipal services on all Highways and laying the base course of asphalt;
- (b) obtain the approval of the Municipality for the sub-base prior to placing the granular materials for all the Highways; and
- (c) obtain the approval of the Municipality for the granular and stone bases for municipal services on all Highways prior to laying the base course of asphalt.

## **2.7 Grading and Drainage**

The Owner shall:

- (a) be responsible for all grading and drainage of the Lands in accordance with the Overall Grading Plan in accordance with the Municipality Standards and accepted engineering practices;
- (b) correct or rectify any drainage problems by altering the grade of or by constructing catch basins, swales, retaining walls or other structures as may be necessary to correct or rectify such problems, if, in the opinion of the Municipality, such problems occur due to improper grading design or due to non-compliance with the Overall Grading Plan;
- (c) correct or rectify any grading deficiencies to the satisfaction of the Municipality within three (3) weeks, weather permitting, of being given Notice by the Municipality to do so;
- (d) not alter the grading or change the elevation or contour of the land shown on the accepted Overall Grading Plan except in accordance with amended grading and drainage plans accepted by the Municipality; and

## **2.8 Landscaping and Tree Preservation**

The Owner covenants and agrees to preserve and protect the existing trees as indicated on the approved Landscaping Plans and Accepted Plans. The Owner covenants and agrees to plant and install all landscaping in accordance with the approved Landscaping Plans and Accepted Plans.

## **2.9 Siltation and Erosion Control Works**

The Owner shall install the siltation and erosion control Works shown on the Accepted Plans to the satisfaction of the Municipality prior to the start of any construction activity on the Lands and these Works shall remain in place and be maintained by the Owner until all grading, construction activity of any kind, and landscape Works on the Lands are completed, the Municipality is satisfied that the parts of the Lands requiring the siltation and erosion control Works are fully vegetated and there is no reasonable expectation of future erosion on these lands

and the Municipality has advised the Owner by notice that these Works may be removed.

## **2.10 Accepted Plans**

The "Acceptance for Construction" of the Accepted Plans shall not absolve the Owner and the Engineers of the responsibility for errors in and or omissions from the Accepted Plans.

## **2.11 Mowat Street Road Improvement Works**

2.11.1 The Owner and the Municipality acknowledge that the Conditions of Approval for the development of Phase 2 require that the portion of Mowat Street adjacent to the western edge of the land being developed by the Owner, including the Phase 1 land now registered as Plan 51M-1173, is to be reconstructed (the "Mowat Street Road Improvement Works") as a condition of approval for the development of the land and that the Municipality had agreed with the Owner to defer the completion of the Mowat Street Road Improvement Works until the registration of Phase 2.

2.11.2 The Owner wishes to proceed with the pre-servicing work for Phase 2 and has requested that the Municipality provide some assurance that, upon registration of the Phase 2 plan of subdivision and completion of home construction on lots within Phase 2, the Municipality will not withhold occupancy permits for homes within Phase 2, notwithstanding that the Mowat Street Road Improvement Works have not been completed.

2.11.3 The Owner has assured the Municipality that it will proceed in a timely manner in cooperation with the Municipality to obtain all necessary design and construction approvals and will proceed with the construction and completion of the Mowat Street Road Improvement Works forthwith once all approvals have been obtained. The Owner agrees to provide security to the Municipality in the form of a Letter of Credit in the amount of Five Million Dollars (\$5,000,000.00) concurrent with the execution of this Agreement to secure the performance of the Owner's obligations to complete the Mowat Street Road Improvement Works including land acquisition costs and the cost to complete the construction to the satisfaction of the Municipality in a timely manner. The amount of the Letter of Credit shall be increased or reduced, as necessary, once the Owner has provided the Municipality with a detailed engineering design for the Mowat Street Road Improvement Works and an accurate estimate of the actual costs has been determined to the satisfaction of the Municipality. The Letter of Credit shall be in addition to any other security required by the Municipality for the development of Phase 2.

2.11.4 The Municipality shall be entitled to draw upon the Letter of Credit if, in the opinion of the Municipality acting reasonably, the Owner has not diligently pursued obtaining the required approvals or advanced the completion of the Mowat Street Road Improvement Works in a timely manner as Phase 2 progresses through the development stages. In this

regard, the Owner agrees to provide the Municipality with bi-monthly progress reports on the Owner's efforts to complete the detailed design work, obtain all required approvals and adherence to a construction schedule for the commencement and completion of construction to be agreed upon with the Municipality.

- 2.11.5 The Municipality shall provide the Owner with the actual costs of each of the land acquisitions that it has or will have completed as part of the Mowat Street Road Improvement Works project as soon as they are available and the Owner acknowledges that these land acquisition costs form part of the overall costs of the project for which the Owner is responsible subject to any reimbursement to which the Owner is entitled pursuant to the Development Charges Act.
- 2.11.6 In consideration of the Owner providing the Letter of Credit and agreeing to the terms contained in this Section, the Municipality agrees that it will not withhold occupancy permits for the occupancy of residential units completed within Phase 2 notwithstanding the Owner's failure or inability to obtain the required approvals and to complete the Mowat Street Road Improvement Works to the satisfaction of the Municipality.
- 2.11.7 The Owner acknowledges that, under no circumstances, will the Municipality consider or be required to proceed with the processing or approval for development of any subsequent phase of the Owner's lands until such time and the Mowat Street Road Improvement Works have been completed to the satisfaction of the Municipality, acting reasonably.
- 2.11.8 The Owner and the Municipality confirm that the terms set out in this Section will be carried forward to and included in the Phase 2 Subdivision Agreement.

### **PART III**

#### **PRE-SERVICING REQUIREMENTS**

##### **3.1 Installation of Pre-Servicing Works**

- (a) No Pre-servicing Works located on Ministry of Transportation Land (i.e., Highway 26 Right-of-Way) and within one hundred metres (100 m) of Ministry of Transportation Land as shown and noted on the Accepted Plans are permitted until approval for these Pre-servicing Works from the Ministry of Transportation has been received and accepted to satisfaction of the Municipality.
- (b) With the exception of the Pre-servicing Works identified in item (a) above, the Owner may commence the installation of subdivision Pre-Servicing Works shown on the Accepted Plans prior to execution of the Subdivision Agreement and the Owner acknowledges that by proceeding with the installation of the Pre-Servicing Works prior to execution of the Subdivision Agreement it is doing so entirely at its sole and absolute risk and further agrees to leave the Pre-Servicing Works and the Lands in a safe condition should active development of the Lands come to a termination for any

reason. All of the provisions of this Agreement shall apply to the design, installation and maintenance of the Pre-Servicing Works.

- (c) The Owner agrees that it may be required to modify, alter, relocate and reconstruct certain of the Pre-Servicing Works based on the final plans, drawings and specifications forming part of the accepted plans included in the Subdivision Agreement.
- (d) Construction of the road base shall not proceed until a composite utility plan and a revised road cross section have been accepted and approved by the Township.
- (e) The Owner shall, at its own expense, unless otherwise provided in this Agreement design, pay for, install and complete in a good and workmanlike manner and maintain and keep in a proper state of repair all of the Pre-Servicing Works in strict accordance with the Municipal Standards, the Accepted Plans and the requirements of this Agreement to the satisfaction of the Municipality and all Government Authorities.
- (f) The Owner shall not commence installation of the Pre-Servicing Works until:
  - (i) The Owner has obtained all the necessary approvals for the installation of the Pre-Servicing Works from all required Government Authorities;
  - (ii) The Owner has obtained a permit and/or approval from the Nottawasaga Valley Conservation Authority for Pre-Servicing Works;
  - (iii) The Owner has provided the Security, Workplace Safety Certificate and satisfactory evidence of the insurance requirements to the Municipality in accordance with Sections 2.1, 4.3, and 4.7 of this Agreement; and
  - (iv) The Municipality has given Notice to the Owner authorizing the Owner to commence installation of the Pre-Servicing Works and the Owner has given the Municipality five (5) business days' notice of the date upon which installation of the Pre-Servicing Works is scheduled to commence.
- (e) The Owner agrees that if installation of the Pre-Servicing Works has not been completed within two (2) years of the date of this Agreement, then the Municipality may by Notice require the Owner to fill any excavations and to restore to grade and to reinstate the Lands to a clean, safe and stable condition.
- (f) The Owner agrees that if the Pre-Servicing Works are installed and the development of the Lands does not proceed within three (3) years of the execution of this Agreement, the Owner must satisfy the Municipality that the Pre-Servicing Works are in an acceptable standard to the Municipality and that it is at the sole discretion of the Municipality whether to accept



any Pre-Servicing Works that are not in a condition satisfactory to the Municipality.

- (g) The Owner shall not connect the Pre-Servicing Works to the Municipal sanitary sewer system, water distribution system, storm drainage system or public highway system or conduct any works on Municipality Lands until Final Approval and/or the Municipality has provided written authorization for such connections and work.
- (h) The Owner agrees that despite any commissioning, inspection and testing procedures undertaken by the Owner for any of the Pre-Servicing Works, including the sanitary sewer system, water distribution system and storm water drainage system completed for the sole benefit of the Owner satisfying itself that the Pre-Servicing Works have been installed in accordance with the requirements of this Agreement, the Municipality at its sole discretion will require further commissioning, inspection and testing procedures prior to the Municipality issuing a Certificate of Preliminary Acceptance of the services pursuant to the Subdivision Agreement.
- (i) The Owner agrees that the Municipality is under no obligation whatsoever to complete all or any portion of the Pre-Servicing Works if the Owner is in Default and fails to complete them but that, notwithstanding the foregoing, the Municipality shall, at its sole and absolute discretion, be entitled to enter onto the Lands and complete all or any portion of the Pre-Servicing Works and take any action it deems necessary to safeguard and protect the property, health and safety of its residents all at the Owner's sole cost and expense.
- (j) The Owner acknowledges and agrees that the Municipality is entitled to withdraw its permission granted herein for the installation of the Pre-Servicing Works if it is determined, in the sole and absolute discretion of the Municipality, that such withdrawal is in the best interest of the Municipality. Upon Notice of such withdrawal of permission the Owner agrees to immediately cease any further installation or other work in respect to the Pre-Servicing Works. The Owner acknowledges that it shall have no claim against the Municipality if it exercises its right to withdraw permission under this Agreement and it specifically waives and disclaims its rights to make any claim in connection therewith.

### **3.2 Amendments to the Accepted Plans**

All the Pre-Servicing Works shall be installed and maintained in accordance with the Accepted Plans, except where the Municipality consents in writing to an amendment to the Accepted Plans.

In the event any Accepted Plan is subsequently amended such plans, when signed and stamped "Accepted for Construction-Pre-Servicing Only" by the Municipality, shall be deemed to be Accepted Plans within the meaning of this Agreement and all the provisions of this Agreement shall apply to them.

### **3.3 Existing Services**

The Owner shall repair any damage to any existing Municipality, County or provincial services, works or facilities, whether assumed by the Municipality or otherwise and whether within the Lands or external thereto, caused by the installation of the Pre-Servicing Works or otherwise caused by the development of the Lands. Without limiting the generality of the foregoing or limiting the liability of the Owner, should there be a breach of this provision; the Owner shall repair the existing municipal services upon being given Notice by the Municipality to do so. A failure by the Owner to repair or rectify such damage to existing municipal services constitutes a Default.

### **3.4 Limited Means of Access**

The Owner agrees that all construction traffic shall enter and leave the Lands using Mowat Street North to and from Highway 26 for installation of the Pre-Servicing Works pursuant to this Agreement. The Owner shall, when required by the Municipality, install barricades at the end of other Highways and private roads providing access to the Lands to prevent these Highways and private roads from being used for construction traffic. The Owner shall maintain these barricades in place until the Municipality instructs the Owner to remove them.

### **3.5 Inspection by Municipality**

- (a) The Municipality may inspect the installation of the Pre-Servicing Works and shall have the power to stop any work in the event that in its opinion the work is not being performed in accordance with the requirements of this Agreement or being performed a manner that may result in a completed installation or construction that would not be satisfactory to the Municipality.
- (b) The Owner agrees that the Municipality, its employees, agents and contractors or any other authorized persons may enter upon the Lands and inspect the construction under any contract, but such inspection shall in no way relieve the Owner from its responsibility to inspect the said construction itself. If the installation of the Pre-Servicing Works is not, in the opinion of the Municipality being carried out in accordance with the provisions of this Agreement or in accordance with accepted engineering or landscaping practices, the Municipality may issue instructions to the Owner and/or to the Engineers to take such steps as may be deemed necessary to procure compliance with the provisions of this Agreement. Such instructions may be given by Notice or may be verbal, in which case the Municipality shall confirm them by Notice within forty-eight (48) hours. In the event that neither the Owner nor the Engineers is present at the site of the Works to receive such verbal instructions, the Municipality may instruct the contractor(s) to cease work forthwith.

### **3.6 Additional Tests**

The Owner acknowledges and agrees that the Municipality may conduct or require the Owner to conduct, at the expense of the Owner, any tests that the Municipality considers necessary to satisfy itself as to the proper installation of the Pre-Servicing Works.

### **3.7 Municipality May Repair Works**

In the event that the Owner fails to keep any of the Pre-Servicing Works in a proper state of repair as required by this Agreement, the Municipality may upon five (5) Business Days' Notice, enter upon the Lands and make such repairs as are necessary at the Owner's expense. The Owner shall pay to the Municipality, within twenty (20) Business Days of receipt by the Owner of a Notice demanding payment, all costs of the work incurred in making the said repairs as determined by the Municipality.

### **3.8 Applicable Laws**

- (a) In installing and maintaining the Pre-Servicing Works, the Owner shall comply with all statutes, laws, by-laws, regulations, ordinances, orders and requirements of all Government Authorities having jurisdiction at any time or from time to time in force. Without limiting the foregoing, the Owner agrees to comply with, and cause to be complied with, the provisions of the Occupational Health and Safety Act, the Environmental Protection Act and the Ontario Water Resources Act and any regulations, policies and guidelines relating thereto, including all obligations of the constructor and employer under the Occupational Health and Safety Act and regulations as applicable, and any obligation to obtain any approval or permit required under the Environmental Protection Act or the Ontario Water Resources Act or any regulations, policies and guidelines relating thereto. The Owner further agrees to handle and dispose of all materials in accordance with the foregoing legislation.
- (b) The Owner shall do, cause to be done or refrain from doing any act or thing as directed by the Municipality if at any time the Municipality considers that any situation or condition is unsafe, damaging to the environment or contrary to the provisions of any applicable laws above. If the Owner fails to comply with such direction, the Municipality may take action to rectify the situation at the expense of the Owner and in this regard the Municipality also shall be entitled to draw upon the Security.
- (c) Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any Government Authority.

### **3.9 Damage and Debris**

The Owner covenants and agrees:

- (a) that all Municipal Lands that may be used by the Owner or parties employed by the Owner or others during the installation and maintenance of the Pre-Servicing Works, as well as all buildings and structures on the Lands, shall be kept in a good and usable repair and condition and if, in the sole opinion of the Municipality, such Municipal Lands and buildings and structures are damaged in any way by the Owner or parties employed by the Owner, such Municipal Lands and buildings and structures, will be repaired or restored immediately to the satisfaction of the Municipality.

- (b) not to foul any public highways outside the limits of the Lands, including tracking of mud or other materials thereon and further agrees to provide the necessary persons and equipment to be available on reasonable notice at all times to keep such highways clean and that all trucks making deliveries to or taking materials from the Lands shall be adequately covered and reasonably loaded so as not to scatter refuse, rubbish, or debris on the abutting highways and streets;
- (c) not to allow and to restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on the Lands, the Municipal Lands and private land.
- (d) to clear debris and garbage from the Lands if so requested by Notice given by the Municipality and that the Municipality shall have the authority to remove such debris and garbage at the cost of the Owner if the Owner fails to do so within forty-eight (48) hours of being advised to do so;
- (e) that, if in the opinion of the Municipality, the requirements of this Section 3.10 are not complied with, the Municipality will do the work as required by the Municipality at the Owner's expense. The Owner shall pay to the Municipality, within twenty (20) Business Days of receipt by the Owner of a Notice demanding payment, all costs of the work incurred by the Municipality as determined by the Municipality.

### **3.10 Pre-Servicing Certificate**

- (a) Prior to preparation of the Subdivision Agreement by the Municipality, the Engineers shall provide to the Municipality a certificate (the "Pre-Servicing Certificate"), for approval by the Municipality, describing the Pre-Servicing Works that have been completed, stating that the completed Pre-Servicing Works have been installed in strict accordance with the Municipal Standards, the Accepted Plans and the requirements of this Agreement, setting out the actual costs of installing the completed Pre-Servicing Works and setting out the current estimated costs, as of the date of the certificate, of installing the balance of the Works required for the development and servicing of the Lands.
- (b) The Owner acknowledges and agrees that the Municipality will use the approved Pre-Servicing Certificate as the basis for preparing Estimated Cost of the Works and Security Required for inclusion in the Subdivision Agreement and deciding, in its sole discretion, the amount of the Security the Owner is required to provide to the Municipality prior to the Municipality executing the Subdivision Agreement.
- (c) The Owner acknowledges and agrees that the Municipality will not approve the Pre-Servicing Certificate until such time as the Municipality has inspected the completed Pre-Servicing Works described in the Pre-Servicing Certificate and the Owner has rectified and repaired to the satisfaction of the Municipality all defects and deficiencies in these Works found by this inspection, unless otherwise agreed in writing with the Municipality.

- (d) The Owner acknowledges and agrees that the approval of Pre-Servicing Certificate by the Municipality does not constitute acceptance of the Pre-Servicing Works described therein by the Municipality and that a Certificate of Preliminary Acceptance issued pursuant to the Subdivision Agreement is required for the purposes of acceptance.

## **PART VI**

### **FINANCIAL ARRANGEMENTS AND INSURANCE**

#### **4.1 Fees and Deposits**

The Owner shall pay to the Municipality, upon execution of this Agreement, the payments, fees, charges and deposits as set out in Schedule "C".

#### **4.2 Disbursement and Expenses**

In addition to the fees referred to in Section 4.1, the Owner shall pay to the Municipality, within twenty (20) Business Days of receipt of a Notice demanding payment, the full amount of any additional costs, expenses and disbursements as may be or are incurred by the Municipality in connection with the preparation, administration and enforcement of this Agreement, including, without limiting the generality of the foregoing, the Municipality's legal costs and the costs of engineers or other consultants retained by the Municipality in connection with this Agreement (the "Agreement Costs"). Failure to pay such Agreement Costs shall constitute a Default and the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify the Default.

#### **4.3 Security**

- (a) In order to guarantee performance of this Agreement by the Owner, the Owner shall provide to the Municipality, upon execution of this Agreement, an irrevocable letter of credit in the amount of 110 % of value of works on municipal lands and site grading works as set out in Schedule "C" (the "Security"). The letter of credit shall be from an Ontario Branch of a Canadian Chartered Bank and in a form approved by the Treasurer. The Owner covenants and agrees that the letter of credit shall be kept in full force and effect and that it will pay all premiums on the letter(s) of credit as they become due until such time as the Municipality returns the letter of credit.
- (b) Wherever in this Agreement a letter of credit is required to be filed with the Municipality, the Owner may instead deposit cash or a certified cheque to be cashed, 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 Security.
- (c) The Owner acknowledges that upon the transfer of ownership of any of the Lands, the Municipality will not return any letter of credit or cash deposit required under this Agreement until the new Owner files a substitute letter

of credit or deposits cash or a certified cheque to be cashed in the required amounts with the Municipality.

#### **4.4 Owner in Default**

- (a) The Owner agrees that the Treasurer shall be entitled to draw upon and use all or a part of the Security to rectify any Default.
- (b) If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment, such failure constitutes a Default and the Treasurer shall be entitled to draw upon and use all or a part the Security to rectify the Default and make the payment, together with the interest thereon, to the Municipality.
- (c) If, in the sole and absolute opinion of the Municipality, the Owner is in Default, other than a Default referred to in Subsection 4.4(b), the Municipality, except in cases of emergencies, shall give Notice to the Owner of the Default and require the Owner to rectify the Default. If the Default is not rectified within Twenty (20) Business Days after receipt by the Owner of such Notice or within such time period as may be designated in the Notice by the Municipality, then
  - (i) the Municipality shall have full authority and power immediately to purchase such materials, tools and machinery and to employ such contractors or workmen as in the opinion of the Municipality are required for the proper rectification of the Default, to enter upon the Lands and to do all such work and things, including the installation of Works, as are necessary to rectify the Default to the satisfaction of the Municipality, at the cost and expense of the Owner. In cases of emergencies, such work may be done without prior Notice but the Owner shall be notified forthwith. The cost of such work will be calculated by the Municipality, whose decision shall be final. It is understood and agreed that such costs shall include a management fee of fifteen per cent (15%) of the cost of the labour, materials, tools, machinery, and applicable taxes; and
  - (ii) the Treasurer may, at any time draw on and use all or part of the Security to pay the cost, as calculated by the Municipality, of any works or things, including the installation of Works, done by the Municipality pursuant to the provisions of this section to rectify the Default.
- (d) The Owner agrees that any entry on the Lands and any work done by the Municipality pursuant to the provisions of this section shall not be a Preliminary Acceptance and/or Final Acceptance of the Works in accordance with the Subdivision Agreement by the Municipality and the acceptance of any liability in connection therewith nor a release of the Owner from any of its obligations under this Agreement.
- (e) Upon the execution of the Subdivision Agreement and the provision to the Municipality of the security required by the Subdivision Agreement, the

Municipality shall release the unused balance of the Security to the Owner or at the Owner's direction include the unused balance of the Security as part of the security required by the Subdivision Agreement.

#### **4.5 Default of Payment**

If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment and no Security is available or the Security is insufficient to make the payment, the Owner agrees that such payment, together with interest thereon, shall be added to the tax rolls for the Lands and collected in like manner as taxes in accordance with Section 446 of the Municipal Act, 2001.

#### **4.6 Interest on Payment Demands**

If the Owner fails to make any payment demanded by the Municipality pursuant to the provisions of this Agreement within twenty (20) Business Days from the date of receipt by the Owner of a Notice demanding payment such failure constitutes a Default and such payment shall then bear interest from the date of the Default at the same interest rate as the Municipality charges on tax arrears.

#### **4.7 General Liability Insurance Policy**

(a) Prior to the execution of this Agreement and commencing any work on the Lands, the Owner shall take out and keep in full force and effect until Final Acceptance of all of the Works, at its sole cost and expense, the following minimum insurance:

- (i) Commercial General Liability insurance applying to all operations of the Owner which shall include coverage for bodily injury liability, property damage liability, products and completed operations liability, contractor's protective liability, contractual liability, and non-owned automobile liability, contingent employers liability and employees as additionally insured.

This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and underpinning or from any other activity or work that may be done in connection with the development of the Plan.

This policy shall be written with limits of not less than FIVE MILLION DOLLARS (\$5,000,000) exclusive of interest or costs, per occurrence and shall include the Municipality as an additional insured;

This policy shall provide primary insurance coverage and not excess to any other insurance available to the Municipality; and

- (iii) Automobile Liability (Owned and/or Leased Vehicles) insurance with an inclusive limit of liability of not less than TWO MILLION DOLLARS (\$2,000,000) exclusive of interest or costs, per occurrence for loss or damage resulting from bodily injury to or death of one or more

persons and for loss or damage to property. This policy must cover all vehicles owned, leased or operated by or on behalf of the insured; and

- (iv) Adequate liability insurance coverage for all Works located on Municipally Owned Lands to the satisfaction of the Municipality. A copy of a Certificate of Insurance from the Owner's insurer satisfactory to the Municipality shall be provided to the Municipality prior to commencement of any Pre-Servicing Works.
- (b) These policies shall not be terminated, cancelled, or materially altered unless written notice, by registered mail, of such termination, cancellation, or material alteration is given by the insurers to the Municipality at least sixty (60) days before the effective date thereof.
- (c) The premiums on these policies must be paid initially for a period of one year and the policies shall be renewed for further one-year periods until all the Works required under this Agreement are installed and assumed by the Municipality. If required by the Municipality, the Owner shall prove to the satisfaction of the Municipality that all premiums on these policies have been paid and that all insurance is in full force and effect.
- (d) The Owner shall deliver with this Agreement (if not previously delivered) certified copies of these policies of insurance or a certificate of insurance setting out the essential terms and conditions of insurance, the form and content of which shall be satisfactory to the Municipality.
- (e) The Owner shall file a renewal certificate with the Municipality not later than one (1) month before the expiry date of any policy provided pursuant to this Agreement, until the Municipality has indicated in writing that the policy need not continue in force any longer. In the event that such renewal certificate is not received, the Municipality shall be entitled to either renew the policy at the expense of the Owner or to order that all work on the Lands cease until the policy is renewed.
- (f) These policies shall provide for cross-liability and severability of interest protecting the Municipality against claims by the Owner as it were separately insured and providing that the Municipality shall be insured notwithstanding any breach of any condition in the policy by any other insured.
- (g) In Sections 4.7, 4.8 and 4.9, the term policy or policies includes a policy or policies of insurance provided the Owner's contractors.

#### **4.8 No Relief**

The issuance of such policies of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which the Owner is or may be liable under this Agreement or at law.

#### **4.9 Notice of Cancellation**



If the Municipality receives notice from the insurer that it has cancelled or refused to renew the insurance, or that it intends to do so, or if the Municipality otherwise determines that the insurance has lapsed or is about to lapse without renewal or replacement, the Municipality may, on Notice to the Owner and at the sole cost and expense of the Owner, obtain insurance in accordance with this section. In such circumstances, the Municipality shall be entitled to obtain new insurance or add the necessary insurance coverage to the Municipality's blanket insurance. The Owner shall forthwith, upon receipt of Notice thereof from the Municipality, reimburse the Municipality for the cost of such insurance payable as noted above. In addition, the Municipality shall, at its sole discretion and option, be entitled to draw upon any Security posted under this Agreement to cover the costs of the insurance.

## **PART V**

### **BUILDING AND PLANNING**

#### **5.1 Model Homes**

The Municipality acknowledges that the Owner may wish to proceed with building permits for one or more model homes. The Owner agrees that the issuance of such building permits and the use of model homes may proceed only in compliance with zoning and in accordance with the terms of a Model Home Agreement to be executed by the Owner and provided to the Municipality.

## **PART VI**

### **ADMINISTRATION**

#### **6.1 Indemnity and Release**

The Owner shall indemnify and save completely harmless the Municipality and its elected officials, officers, agents, contractors and employees from and against all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with a Default, the design, installation or operation of any of the Pre-Servicing Works required under this Agreement, the maintenance and repair or lack of maintenance and repair of such Works by the Owner pursuant to the terms of this Agreement or any defect in workmanship or material until Final Approval.

The Owner hereby releases the Municipality and its elected officials, officers, agents, contractors and employees from all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with the installation of the Pre-Servicing Works.

#### **6.2 Transfer of Lands**

In the event the Owner transfers the Lands to a third party prior to execution of the Subdivision Agreement, the Owner shall prior to completing this transfer provide the Municipality with an agreement from the new owner in a form satisfactory to the Municipality in which the new owner agrees to be bound by the terms of this Agreement.

### 6.3 Notices

- (a) Any notice to be given by the Municipality to the Owner/the Builder with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered, emailed, or sent by facsimile transmission to or delivered to:

**To the Owner:**

**The Estates of Clearview Inc.  
16 Melanie Drive, Suite 101  
Brampton ON L6T 4K9  
Attention: Sean Ford  
Email: [SFord@dancor.ca](mailto:SFord@dancor.ca)  
Fax: 905-790-2292**

**To the Builder:**

**MacPherson Builders (Stayner) Limited  
5525 Eglinton Avenue West, Suite 128  
Etobicoke ON M9C 5K5  
Attention: Joseph Mirabella  
Email: [joseph@macphersonbuilders.com](mailto:joseph@macphersonbuilders.com)  
Fax: 905-882-8001**

- (b) Any notice to be given by the Owner to the Municipality with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered, emailed, or sent by facsimile transmission to or delivered to:

**The Corporation of the Township of Clearview  
Box 200  
217 Gideon Street  
Stayner, Ontario  
L0M 1S0  
Attn: Clerk  
Email: [shelmkay@clearview.ca](mailto:shelmkay@clearview.ca)  
Fax: 705-428-0288**

or such other address of which the Municipality has by Notice given the Owner and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.

- (c) Any Notice shall be deemed to have been given to and received by the party to which it is addressed;
- (i) if delivered, on the date of delivery;
  - (ii) if mailed or emailed, on the fifth day after mailing thereof; or

(iii) if faxed, on the date of faxing, as confirmed

#### **6.4 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.

#### **6.5 Extension of Time**

Time shall 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.

#### **6.6 Enforcement**

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 and recover any amounts or costs owing to it in accordance with Section 442 of the Municipal Act as amended from time to time or any successor thereto.

#### **6.7 Nullification of this Agreement**

If the Parties do not execute a Subdivision Agreement within three (3) years from the date of execution of this Agreement, the Municipality may, at its option and on twenty (20) Business Days' Notice to the Owner, declare this Agreement null and void and of no further effect. Any Security held at the time of nullification of this Agreement shall be returned forthwith to the Owner, less any amounts drawn by the Municipality from the Security to remedy any Defaults occurring before the nullification of this Agreement and drawn to pay any costs incurred by the Municipality to return the Lands to a safe and presentable condition. 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 the Owner acknowledges that under no circumstances will interest be paid on any refund.

#### **6.8 Governing Law**

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

#### **6.9 Registration of Agreement**

The Owner agrees that this Agreement may be registered upon the title to the Lands at the Owner's expense and the Owner agrees, at its own expense to obtain and register such documentation from its mortgagees or encumbrances as may

be deemed necessary by the Municipality to postpone and subordinate their interests in the Lands to the Municipality to the extent of this Agreement.

#### **6.10 Successors & Assigns**

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

#### **6.11 No Fettering of Discretion**

Despite any other provisions of this Agreement, the Parties hereto 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.

### **LIST OF SCHEDULES**

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

SCHEDULE "A" being a description of the Lands;

SCHEDULE "B" being a description of the Accepted Plans for the Pre-Servicing Works

SCHEDULE "C" being a list of Fees and Securities

SCHEDULE "D" being a description of the Draft Plan and Conditions

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement having affixed their respective seals under the hands of their proper officers duly authorized in that behalf as of the date above first written.

#### **SIGNED, SEALED AND DELIVERED**

Dated:

**The Estates of Clearview Inc.**

\_\_\_\_\_  
Danny Sanita, President  
I/We have authority to bind the Corporation

**MacPherson Builders (Stayner) Limited**

---

Russell Higgins, Authorized Signing Officer  
I/We have authority to bind the Corporation

**THE CORPORATION OF THE TOWNSHIP OF  
CLEARVIEW**

---

Doug Measures, Mayor

---

Sasha Helmkey, Clerk  
We have authority to bind the  
Corporation

**SCHEDULE "A"**

**This Schedule forms part of a Subdivision Pre-Servicing Agreement  
between**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

- And -

**THE ESTATES OF CLEARVIEW INC.**

- And -

**MACPHERSON BUILDERS (STAYNER) LIMITED**

**DESCRIPTION OF THE LANDS PRESENTLY OWNED BY THE ESTATES OF  
CLEARVIEW INC.:**

(Land Description to inserted by the Township of Clearview solicitor)

**SCHEDULE "B"**

**This Schedule forms part of a Subdivision Pre-Servicing Agreement  
between**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

- And -

**THE ESTATES OF CLEARVIEW INC.**

- And -

**MACPHERSON BUILDERS (STAYNER) LIMITED**

**ACCEPTED PLANS FOR THE PRE-SERVICING WORKS**

(List of Accepted Plans to be inserted upon confirmation from municipal staff that all submitted engineering Plans have been approved, signed and stamped as 'Accepted for Construction-Pre-Servicing Only' by the Township of Clearview peer-review engineering consultant (R.J. Burnside and Associates) to the satisfaction of the Municipality)





### Nottawasaga Station: Grand Trunk Road Watermain Security Estimate

**Notes:**

1) This estimate is based on the quoted costs for construction of the Watermain connection at Grand Trunk Road and Highway 26 for the purpose of Phase 2 securities.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ESTIMATED UNIT PRICE	TOTAL
<b>SCHEDULE A - GRAND TRUNK ROAD WATERMAIN CONNECTION</b>					
A1	Jack and bore 18m for 300mm dia. watermain crossing along HWY26, c/w spacers, plugs, grouting and 500mm dia. casing	1	LS	\$ 95,000.00	\$ 95,000.00
A2	300mm dia. w/m open cut c/w restoration (Hw26) (watermain not included in Jack and bore)	32	m	\$ 725.00	\$ 23,200.00
A3	Locate & connect to existing watermain, including restoration	1	ea.	\$ 5,000.00	\$ 5,000.00
A4	Mobilization / Demobilization	1	LS	\$ 10,000.00	\$ 10,000.00
A5	Field Office	1	LS	\$ 5,000.00	\$ 5,000.00
A6	Supply, Install & Maintain Construction & Traffic Control Signage	1	LS	\$ 20,000.00	\$ 20,000.00
A7	Construction Layout	1	LS	\$ 10,000.00	\$ 10,000.00
A8	Watermain Testing & Disinfection	1	LS	\$ 7,500.00	\$ 7,500.00
A9	Dewatering	1	LS	\$ 5,000.00	\$ 5,000.00
A10	Supply, Install & Maintain Erosion & Sediment Controls	1	LS	\$ 15,000.00	\$ 15,000.00
				<b>Subtotal</b>	<b>\$ 195,700.00</b>

**SUMMARY OF OPINION OF PROBABLE COSTS - GRAND TRUNK ROAD WATERMAIN**

SCHEDULE A - GRAND TRUNK ROAD WATERMAIN CONNECTION	\$ 195,700.00
<b>Sub Total Schedule A</b>	<b>\$ 195,700.00</b>
Construction Contingency Allowance (10%)	\$ 19,570.00
Insurance	\$ 10,000.00
<b>Total Estimated Capital Costs</b>	<b>\$ 225,270.00</b>

**Nottawasaga Station: Mowat Street  
 Security Estimate**

Notes:

1) This is a preliminary high level opinion of probable costs for the urbanization of Mowat Street and the Mowat Street / Hwy 26 intersection works to support securities.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ESTIMATED UNIT PRICE	TOTAL
<b>SCHEDULE A - MOWAT STREET IMPROVEMENTS</b>					
A1	Creek Realignment	140	lm	\$ 2,000.00	\$ 280,000.00
A2	Supply & Install Storm Sewers				
a)	375mm dia.	80.5	m	\$ 275.00	\$ 22,137.50
b)	450mm dia.	33.5	m	\$ 310.00	\$ 10,385.00
c)	750mm dia.	140	m	\$ 575.00	\$ 80,500.00
d)	825mm dia.	266	m	\$ 650.00	\$ 172,900.00
e)	900mm dia.	7	m	\$ 690.00	\$ 4,830.00
A3	Supply & Install Storm Sewer Structures c/w Frame & Grate				
a)	1200mm dia. Catchbasin Maintenance Hole (OPSD 701.010)	4	ea	\$ 5,500.00	\$ 22,000.00
b)	1500mm dia. Catchbasin Maintenance Hole (OPSD 701.020)	5	ea	\$ 10,000.00	\$ 50,000.00
c)	Catchbasin per OPSD 705.010 c/w Catchbasin Leads	9	ea	\$ 3,500.00	\$ 31,500.00
d)	Oil/Grif Separator	1	ea	\$ 80,000.00	\$ 80,000.00
e)	Storm Headwall	1	ea	\$ 18,000.00	\$ 18,000.00
A4	CCTV and Flushing of Storm Sewers	527	m	\$ 20.00	\$ 10,540.00
A5	Remove, Salvage and Replace Existing Street Signs & Mail Boxes	1	LS	\$ 5,000.00	\$ 5,000.00
A6	Remove and Dispose of Existing Culverts off site	9	ea	\$ 1,000.00	\$ 9,000.00
A7	Remove and Dispose of Existing Catchbasins off site	2	ea	\$ 1,500.00	\$ 3,000.00
A8	Adjust Sanitary Structures to Proposed Grade	6	ea	\$ 2,000.00	\$ 12,000.00
A9	Adjust Water Valves to Proposed Grade	1	LS	\$ 5,000.00	\$ 5,000.00
A10	Restore Existing Driveways to Existing Conditions	11	ea	\$ 2,500.00	\$ 27,500.00
A11	Roadway Urbanization				
a)	150mm Granular 'A' Base	5797	m <sup>2</sup>	\$ 10.00	\$ 57,970.00
b)	300mm Granular 'B' Road Sub-base	6324	m <sup>2</sup>	\$ 11.50	\$ 72,726.00
c)	50mm Hot Mix HL8 Base Course Asphalt	5270	m <sup>2</sup>	\$ 12.50	\$ 65,875.00
d)	40mm Hot Mix HL3 Surface Course Asphalt	5270	m <sup>2</sup>	\$ 12.50	\$ 65,875.00
e)	Supply & Install 100mm dia. Subdrain c/w connections	1240	m	\$ 25.00	\$ 31,000.00
f)	Supply & Place Concrete Curb & Gutter	1240	m	\$ 80.00	\$ 99,200.00
g)	Supply & Install 3.0m wide Concrete Sidewalk	1860	m <sup>2</sup>	\$ 85.00	\$ 158,100.00
h)	Preparation & Fine Grading of Subgrade	6956	m <sup>2</sup>	\$ 3.00	\$ 20,869.20
i)	Remove and Dispose of Existing Asphalt Offsite	4650	m <sup>2</sup>	\$ 8.00	\$ 37,200.00
j)	Excavation of Existing Road Structure	1	LS	\$ 30,000.00	\$ 30,000.00
A12	Supply & Install Streetlighting	13	ea	\$ 10,000.00	\$ 128,800.00
A13	Line Painting	1	LS	\$ 3,000.00	\$ 3,000.00
A14	Supple & Install Duct Banks	1	LS	\$ 10,000.00	\$ 10,000.00
A15	Utility Relocations Allowance	1	LS	\$ 100,000.00	\$ 100,000.00
A16	Fine Grading in Boulevard, Supply & Install Topsoil & Sod	0	m <sup>2</sup>	\$ 9.00	\$ -
A17	Supply & Install Field Office	1	LS	\$ 10,000.00	\$ 10,000.00
A18	Supply, Install & Maintain Construction & Traffic Control Signage	1	LS	\$ 20,000.00	\$ 20,000.00
A19	Mobilization / Demobilization	1	LS	\$ 10,000.00	\$ 10,000.00
A20	Dewatering	1	LS	\$ 10,000.00	\$ 10,000.00
A21	Supply, Install & Maintain Erosion & Sediment Controls	1	LS	\$ 15,000.00	\$ 15,000.00
A22	Construction Layout	1	LS	\$ 20,000.00	\$ 20,000.00
				<b>Subtotal</b>	<b>\$ 1,809,907.70</b>
<b>SCHEDULE B - MOWAT ST / HWY 26 / SUPERIOR INTERSECTION</b>					
B1	Intersection Improvements & Roadworks	1	LS	\$ 900,000.00	\$ 900,000.00
B2	Utility Relocations	1	LS	\$ 100,000.00	\$ 100,000.00
				<b>Subtotal</b>	<b>\$ 1,000,000.00</b>



**Nottawasaga Station: Mowat Street  
 Security Estimate**

Notes:

1) This is a preliminary high level opinion of probable costs for the urbanization of Mowat Street and the Mowat Street / Hwy 26 intersection works to support securities.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ESTIMATED UNIT PRICE	TOTAL
<b>SUMMARY OF OPINION OF PROBABLE COSTS - MOWAT STREET</b>					
	SCHEDULE A - MOWAT STREET IMPROVEMENTS				\$ 1,809,907.70
	SCHEDULE B - MOWAT ST / HWY 26 / SUPERIOR INTERSECTION				\$ 1,000,000.00
	<b>Sub Total Schedule A-B</b>				<b>\$ 2,809,907.70</b>
	Construction Contingency Allowance (30%)				\$ 842,972.31
	Insurance				\$ 25,000.00
	Land Acquisition Costs				\$ 728,565.72
	<b><u>Total Estimated Capital Costs</u></b>				<b><u>\$ 4,406,445.73</u></b>

## **SCHEDULE "D"**

**This Schedule forms part of a Subdivision Pre-Servicing Agreement  
between**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

- And -

**THE ESTATES OF CLEARVIEW INC.**

- And -

**MACPHERSON BUILDERS (STAYNER) LIMITED**

### **DESCRIPTION OF THE DRAFT PLAN AND CONDITIONS**

#### **1.1 Draft Plan of Subdivision**

The Draft Plan of Subdivision, Grand Clearview Estates, prepared by Mainline Planning Services Inc., revised July, 2010, Drawing No. SP1.

#### **1.2 Description of the Conditions**

The Draft Plan Conditions were approved by the Ontario Municipal Board Order dated August 16, 2010, with a Draft Plan Approval Extension last given by the Township of Clearview on July 16, 2018 for File No. 2004-011-SD.

(The Draft Plan and Conditions are on file with the Township Office and may be viewed during normal office hours.)