

SITE PLAN AGREEMENT - [DEVELOPMENT PROPONENT]

[MUNICIPAL ADDRESS]

This AGREEMENT made on the [DATE] day of [MONTH], [YEAR].

BETWEEN: **[NAME OF REGISTERED PROPERTY OWNER]**,
A company incorporated under the laws of the Province of Ontario

Hereinafter called the "Developer"

OF THE FIRST PART

AND: **THE CORPORATION OF THE CITY OF ORILLIA**

Hereinafter called the "City"

OF THE SECOND PART

WHEREAS the lands affected by this Agreement are the lands described in Schedule "A" hereto annexed, and are also shown on a Site Plan attached hereto as Schedule "B" (the "Site Plan"), which lands are referred to herein as the "said lands";

AND WHEREAS the Developer proposes to [BRIEF DESCRIPTION OF PROJECT] (the "Project") upon the said lands in accordance with the Site Plan attached;

AND WHEREAS the Developer is required to enter into this Agreement with the City as a condition of Site Plan Approval;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and for the good and valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the parties hereto to each of the other parties hereto, (the receipt of which is hereby acknowledged), the parties hereto covenant and agree with one another as follows:

PART – 1
THE LANDS, PLANS AND REPRESENTATIONS

1. **SCOPE OF AGREEMENT**

1.1. Description of Lands – The lands affected by this Agreement are the lands described in Schedule "A" hereto annexed.

1.2. Conformity with Agreement – The Developer covenants and agrees that no work shall be performed on the said lands except in conformity with:

- (a) The provisions of this Agreement, including the schedules hereinafter referred to and attached hereto;
- (b) The Site Plan;
- (c) All plans and specifications submitted to and accepted by the City as being within their design criteria, including those plans and specifications referenced in Schedule "G" hereto (the "Approved Plans");

(d) All plans submitted to and accepted by OPDC;

Required?
Y [] N []

(e) All plans submitted to and accepted by the Ministry of Transportation (Ontario) ("MTO");

Required?
Y [] N []

(f) All applicable Municipal By-laws including any applicable Site Plan Control By-laws; and

(g) All applicable Provincial and Federal Legislation.

1.3. Reliance upon Representations – The Developer acknowledges that:

- (a) It has made representations to the City that it will complete all municipal and other works required herein in accordance with the Site Plan and Approved Plans filed and accepted by the City and others, and;
 - (b) The City has entered into this Agreement in reliance upon these representations.
- 1.4. Schedules Attached – The following schedules are attached to, and form part of, this Agreement:
- Schedule “A” – Description of Lands
 - Schedule “B” – Site Plan
 - Schedule “C” – Cash Deposits, Development Charges and Security
 - Schedule “D” – Work Cost Estimates
 - Schedule “E” – Approved Plans
- 1.5. Any Plans attached to this Agreement or incorporated by reference shall also be provided to the City digitally in a format compatible with AutoCAD.

2. DEVELOPMENT CHANGES

- 2.1. There shall be no changes in the Schedules attached hereto, or to any plan accepted by the City, or others, unless such proposed changes have been submitted to, and accepted by, the City.
- 2.2. The Developer acknowledges that if any approvals required under this Agreement are obtained subsequent to the execution of this Agreement the City may require the Developer to enter into an amended Agreement to incorporate any conditions, changes or requirements relating to such approvals. No building permit will be issued until the Amending Agreement is registered on title to the said lands. This provision may not apply for a Demolition Permit.

PART – 2
SIGNING BY MUNICIPALITY – CONDITIONS PRECEDENT

3. CONDITIONS PRIOR TO THE EXECUTION OF THE AGREEMENT BY THE CITY

- 3.1. Prior to the execution of this Agreement by the City, the Developer shall:
 - (a) Land Ownership – be the registered owner in fee simple of the lands described in Schedule “A” against which there will be no encumbrances registered in priority to this Agreement;
 - (b) Taxes – have paid all municipal tax bills issued and outstanding on the said lands;

<ul style="list-style-type: none"> (c) <u>Deeds and Easements</u> – have delivered to the City, OPDC, Bell Canada, Rogers Communications and Union Gas, or obtained where required, all transfers/deeds, discharges and easements or other documents required by Schedule “D”; 	<p style="color: red; font-weight: bold;">Required? Y [] N []</p>
<ul style="list-style-type: none"> (d) <u>Postponement of Mortgage/Charge</u> – have filed with the City a Postponement of Mortgage/Charge document with respect to any Mortgages registered in priority to this Site Plan Agreement; 	<p style="color: red; font-weight: bold;">Required? Y [] N []</p>

- (e) Cash Deposits & Security – have paid to the City all cash and security required by Schedule “C” attached;
- (f) Construction/Engineering Plans & Specifications – have supplied to the Municipality those plans and specifications necessary to identify the construction/engineering aspects of the proposed development and have received, from the City, an acknowledgement of conformity with general design concepts of the City;

(g) OPDC – have supplied to the OPDC and received their approval of those plans necessary to identify the internal electrical distribution system, and power supply to the building. The electrical distribution system shall be constructed to the required City standards, including underground wiring, where applicable;

Required?
Y [] N []

(h) Liability Insurance Certificate – have filed with the City an insurance certificate confirming those coverages specifically set out in this Agreement;

(i) Consulting Engineer's Letter – have filed with the City a letter from the Developer's Consulting Engineer confirming the terms of their retainer, which letter shall be in accordance with the draft form provided by the City;

(j) Canada Post Confirmation – have arranged for Canada Post to write a letter to the City Clerk confirming the following:

- i) That they have been informed of the project, and have seen the development plans;
- ii) That satisfactory arrangements have been made with them for servicing the development without expense or obligation on the part of the City;
- iii) That they have approved of the location of the mailboxes.

Required?
Y [] N []

(k) Bell Canada, Rogers Communications, Union Gas – have arranged for Bell Canada, Rogers Communications and Union Gas to write a letter to the City Clerk confirming the following:

- i) That they have been informed of the project, and have seen the development plans,
- ii) That satisfactory arrangements have been made with them for servicing the development without expense or obligation on the part of the City;

Required?
Y [] N []

(l) Ministry of Transportation – have delivered to the City all Land Use Permits and other approvals as required from MTO.

Required?
Y [] N []

(m) Fire Department Approval – have filed a letter from the Fire Prevention Officer of the City confirming and approving of the proposed plans for fire protection, and specifying any hydrants, or other equipment or appurtenances required; and

PART – 3 INTERNAL SERVICES

4. INTERNAL SERVICES TO BE CONSTRUCTED BY DEVELOPER

4.1. The Developer will construct and install at its expense all required private internal services in accordance with the Approved Plans and to the standards, specifications and requirements of the City and all applicable government agencies, all as shown on the Site Plan(s) attached as Schedule "B" hereto and the Approved Plans referenced in Schedule "E" hereto (the "Internal Services"). The internal services to be constructed include the following:

- (a) Storm Water Management System – complete extension of existing storm sewers, catch basins and all appurtenances to point of outlet;
- (b) On-site lighting – all as shown on the Approved Plans submitted to, and accepted by the City being dark sky lighting;
- (c) Landscaping – including landscaped walkway as shown on the Landscape Plan referenced in Schedule "E";

4.2. All Internal Services to be constructed by the Developer shall be completed under the direction and supervision of a practicing professional

Engineer retained by the Developer, who will certify construction to the satisfaction of the City Engineer and the inspectors and the Ontario Electrical Safety Authority, as applicable.

- 4.3. The Developer agrees to maintain, repair and when necessary replace the Internal Services, including the landscape works, so that they will at all times be in good working order and in conformity with the terms of this Agreement. If, in the opinion of the Municipality, the Developer is not complying with the terms of this paragraph then either of the Municipalities, its servants, agents or subcontractors shall have the right to enter upon the said lands and carry out any work, at the expense of the Developer, necessary to maintain, repair or if necessary replace the said Internal Services. For greater certainty and without limiting the generality of the foregoing, the maintenance of the Storm Water Management System in good working order will require cleaning catch basins, stormceptor, pipelines and rehabilitation or replacement of any defective part of the system.
- 4.4. Without limiting the foregoing, the Developer agrees to maintain the existing Fire Route on the said lands.

PART – 4 BUILDING PERMITS

5. BUILDING PERMITS – CONDITIONS PRIOR TO ISSUANCE

- 5.1. Eligibility for Building Permits – the Developer further covenants and agrees that it, or any person claiming title through or from it, or under its or their authority, will not require or obtain, one or more Building Permits to construct buildings on the said lands until the following have been complied with:
 - (a) By-Laws, etc. – there is compliance with the City's building bylaw, its site plan control bylaw, and the provisions of this Agreement;
 - (b) Execution of Agreement – this Site Plan Agreement has been executed by the Municipality, and the Agreement has been registered against title to the said lands;
 - (c) Demolition Permit – notwithstanding the foregoing a Demolition Permit may be issued prior to Site Plan approval as determined by the Chief Building Official.
- 5.2. Development Charges – upon applying for a Building Permit and prior to the issuance thereof the Developer shall submit payment by certified cheque or bank draft of the appropriate development charges relating to the Project.
- 5.3. Documentation to Accompany Building Permit Application – on any application for a Building Permit, and prior to the issuance thereof, the owner, or their agent, shall submit the following to the City for the approval of the City Engineer and/or the Chief Building Official:
 - (a) Architectural and/or engineering Plans and Specifications with respect to the following aspects of this Project:
 - i) architectural plans,
 - ii) structural plans,
 - iii) mechanical/electrical plans,
 - iv) culverts or curb cuts,
 - v) exterior finish,
 - vi) traffic signs,
 - vii) a complete electrical distribution system including transformers,
 - viii) parking and internal traffic patterns,
 - ix) a plan showing existing and proposed final elevations and contours referring to a geodetic bench mark, showing area drainage, right-of-way drainage, finished first floor elevations,

x) on-site servicing layout for sanitary sewers, water and stormwater systems; and

xi) all dwelling units are required to have forced air heating systems with duct work sized to accommodate the future installation of central air conditioning at the owner's option and expense.

Required?
Y [] N []

(b) Elevation of Excavations and Bench Marks – prior to pouring any concrete for footings or foundation walls, the Developer and/or owner of the said lands shall engage the services of a registered professional engineer or an Ontario Land Surveyor:

i) to establish a solid bench mark in a convenient and protected location with the proposed elevation of the top of the foundation wall clearly marked thereon; and

ii) to confirm in writing with the Chief Building Official that the finished excavation for the proposed building is at an appropriate elevation which will permit the building to be constructed and graded in accordance with plans accepted by the City;

Required?
Y [] N []

(c) Certificate – Workplace Safety & Insurance Board – the prime contractor for construction of municipal services to file a certificate from the Workplace Safety & Insurance Board with the City that the contractor has paid all amounts owing under the Workplace Safety & Insurance Act.

Required?
Y [] N []

5.4. No Occupancy – The Developer covenants and agrees that there shall be no occupancy of any unit on the said lands unless the permanent on-site lighting has been installed in accordance with the Approved Plans or, in the alternative, temporary on-site lighting has been installed to standards accepted by the City, in proximity to the units to be occupied and the internal streets providing access thereto.

PART – 5 GENERAL PROVISIONS

6. CASH DEPOSITS, DEVELOPMENT CHARGES AND SECURITY

6.1. The Developer shall lodge with the City, those cash deposits, development charges and security more particularly described in Schedule "C", and at the dates specified therein.

7. EXPENSES TO BE PAID BY DEVELOPER

7.1. Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" unless the context otherwise requires.

7.2. The Developer specifically agrees to be responsible for any costs, expenses and obligations arising from any Permits or Approvals which the Developer is required to obtain in order to construct the Project.

7.3. The Developer shall pay such reasonable fees as may be invoiced to the City by their Solicitor in connection with all work to be performed as a result of the provisions of this Agreement.

7.4. All expenses for which demand for payment has been made by either of the City, shall bear interest at the rate of 12% per annum commencing 30 days after demand is made.

7.5. In the event that the expenses of the City exceeds the amount of the cash deposits or security set out in Schedule "C" attached, the Developer shall pay such excess charges within 30 days after demand by the City.

7.6. In the event that the City finds it is necessary to engage the services of an engineer, landscape architect or technical personnel not permanently employed by the City, to review the plans of the Developer and/or carry

out on-site inspections of the work performed, the City will advise the Developer accordingly of this need, and the costs of such outside engineers, landscape architects or other technical personnel so engaged shall be the responsibility of the Developer. The City may require a deposit for this purpose.

8. COMMUNITY MAILBOXES

8.1. Canada Post has directed that community mailboxes be located as shown on the Site Plan referenced in Schedule “B” of this Agreement. The Developer shall be responsible for ensuring that the community mailboxes are placed in the locations as set out on the Site Plan, and agrees to construct any related facilities, including concrete pads and drainage culverts required to permit the location of the community mailboxes.

Required?
Y [] N []

9. INSURANCE CERTIFICATE AND POLICY

9.1. Policy of Insurance - The Developer shall lodge with the City, on or prior to the execution of the Agreement, an insurance certificate with an Insurance Company satisfactory to the City, (which said approval shall not be unreasonably withheld or delayed), and insuring for the joint benefit of the Developer, the City and OPDC against any liability that may arise out of the construction or installation of any work to be performed pursuant to this Agreement.

9.2. Comprehensive General Liability - Such policy shall carry limits of liability in the amount to be specified by the Municipality, but in no event shall it be less than \$5,000,000.00 inclusive comprehensive general liability and such policy shall:

- (a) contain a cross-liability clause;
- (b) contain product/completed operation coverage;
- (c) not have an exclusion pertaining to blasting, provided that any blasting required to be done shall be done by an independent contractor duly qualified to do such work;
- (d) include the following names as insureds:
 - i) THE CORPORATION OF THE CITY OF ORILLIA
 - ii) ORILLIA POWER DISTRIBUTION CORPORATION
- (e) contain a provision that the insurance company agrees to notify the City 15 days prior to any cancellation or expiry of the said insurance policy.

Required?
Y [] N []

9.3. Certificate of Coverage – Any certificate of coverage filed with the City shall specifically contain confirmation that the coverage as specified in paragraphs (a), (b), (c), (d) and (e) above is in effect.

9.4. Confirmation of Premium Payment – The Developer shall, from time to time as required by the City, provide confirmation that all premiums on such policy or policies of insurance have been paid, and that the insurance is in full force and effect. The Developer shall file a copy of the policy with the City.

9.5. Claim in Excess of Policy Limits – The issuance of such Policy of Insurance shall not be construed as relieving the Developer from responsibility for other or larger claims, if any, and for which it may be held responsible.

10. REGISTRATION OF SITE PLAN AGREEMENT

10.1. The Developer consents to the registration of this Agreement by the City.

Required?
Y [] N []

- 10.2. The Developer further agrees to execute such further and other Instruments and Documents as may reasonably be required by the City for the purpose of giving priority of registration to this Agreement.

11. CONSTRUCTION, COMMENCEMENT AND COMPLETION

11.1. The Developer agrees to complete all Internal Services save and except the landscape walkway as shown on the Landscape Plan within 18 months from the date of the registration of this Agreement. The landscaped walkway shall be completed within 36 months from the date of the registration of this Agreement.

11.2. If the Internal Services to be constructed by the Developer under this Agreement, if any, are not completed and accepted by the City within the above time frames, the City may either:

- (a) give notice to the Developer to stop work on the said Services and to provide that no further work shall be done with respect to such services until an Amending Agreement, incorporating the Standards, Specifications and financial requirements of the City, in effect as of that date, is executed by all parties; or
- (b) give notice to the Developer to stop work on the Services and inform the Developer that the Municipality proposes to realize on its security and proceed with all or part of the construction in accordance with the provisions of the Approved Plans filed with the Municipality.

12. EMERGENCY SITUATION

12.1. If, as a result of any work undertaken or not completed by the Developer, its servants, or agents, there exists in the opinion of the City Engineer an emergency situation which requires immediate attention to avoid damage to private or public property, or services owned by the City, such work may be done immediately by the City Engineer at the expense of the Developer, but notice shall be given to the Developer at the earliest possible time. Securities held by the City may be applied toward the costs incurred by the City in the completion of such work.

13. ATTACHED SCHEDULES

13.1. It is agreed that everything included in this Agreement and the Schedules attached thereto, together with all engineering drawings, plans and undertakings filed by the Developer and accepted by the City, or by any Ministry of the Government shall be included in, and form part of, this Agreement.

13.2. The Plans incorporated by reference as Schedules in this Agreement are copies of the original plans filed and accepted by the City. Where uncertainty exists as to the content or accuracy of these exhibits, the reader should refer to the full scale drawings filed with the City.

14. GARBAGE COLLECTIONS/SNOW REMOVAL

14.1. The Developer covenants and agrees to enter into a contract with a garbage collection contractor for garbage collection upon the said lands which contract shall take into account access to the said lands and provide convenient on-site pick-up locations.

14.2. The said on-site locations shall be such as to keep out rodents, prevent paper from blowing about and shall be screened with fencing or landscaping. The locations shall be maintained as accessible and kept clear of snow and debris.

14.3. The Developer covenants and agrees that snow accumulated in snow storage areas shall be trucked off-site as required in order to ensure that snow does not encroach on property of the City, or adjacent lands or become a visual barrier to vehicles or a physical barrier impeding traffic

flows or emergency service vehicle movement on the said lands or adjacent lands.

15. LANDSCAPING, INSTALLATION AND MAINTENANCE

15.1. The Developer shall provide a Letter of Credit as a guarantee to be held by the City until such time as the landscape works are fully completed, inspected and approved, in the amount set out in Schedule "C" hereto.

15.2. The Developer may apply to the Director of Development Services for reductions of security held in relation to landscaping by supplying the information set out in Section 23. However, landscaping inspections conducted by the City related to the potential release or reduction of landscaping securities shall not occur prior to the first day of June of the year following the date of the completion of the planting. All works, including the date of planting/installation, are to be certified by a Landscape Architect.

16. INDEMNIFICATION FROM LIABILITY AND RELEASE

16.1. The Developer covenants and agrees with the Municipality, on behalf of itself, its successors and assigns, to indemnify and save harmless the Municipality, its servants and agents from and against any and all actions, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of any work performed by the Developer or on his behalf in connection with the carrying out of the provisions of this Agreement, or by reason of the Developer's failure to perform any of the works required hereunder.

16.2. The Developer further covenants and agrees to release and forever discharge the Municipality from and against all claims, demands, causes of actions, of every nature and type whatsoever that may arise as a result of the failure of the Municipality to carry out any of its obligations under this Agreement, or, as a result of the Municipality performing any municipal work on the said lands or the adjacent properties which may damage or interfere with the works of the Developer, or, as a result of the Municipality entering upon the said lands for the purpose of correcting any default of the Developer, provided that any personal injury or property damage was not caused as a result of negligence on the part of the City, its servants or agents.

17. MODIFICATION OF SERVICES

18. ESTOPPEL OF DEVELOPER

19. AGREEMENTS OF PURCHASE AND SALE

20. OUTDOOR AMENITY AREAS

21. APPLCIATION OF LETTER OF CREDIT AND SECURITY

22. DEFAULT – REALIZATION OF SECURITY OR DEPOSITS

- 22.1. Default
- 22.2. Exceeding Cost Estimates
- 22.3. Save Harmless
- 22.4. The Construction Lien Act, R.S.O. 1990
- 22.5. Notice to Developer
- 22.6. Other Remedies For Default

23. LETTERS OF CREDIT – SURPLUS FUNDS

24. APPLICATION FOR REDUCTION OF LETTERS OF CREDIT – DURING CONSTRUCTION

- 24.1. Letter of Application
- 24.2. Consultant's Certificate
- 24.3. Value of Work Not Completed

- 24.4. Construction Liens
- 24.5. Municipal Response
- 24.6. Amount of Reduction

25. APPLICATION FOR REDUCTION OF LETTERS OF CREDIT HELD BY CITY – ON COMPLETION OF MUNICIPAL/INTERNAL SERVICES

- 25.1. Letter of Application
- 25.2. Consultant's Certificate
- 25.3. Calculation of Lien Holdback
- 25.4. Maintenance Security
- 25.5. Workplace Safety & Insurance Certificate
- 25.6. Declaration as to Accounts
- 25.7. Construction Liens

26. NOTICES

27. TIME OF THE ESSENCE

28. INTERPRETATION

By the Developer on the _____ day of _____, _____

By the City on the _____ day of _____, _____

The Corporation of the City of Orillia

Per:

CITY OF ORILLIA – Site Plan Agreement – MASTER SAMPLE

SCHEDULE 'A'

TO AN AGREEMENT DATED [MONTH] [DATE], [YEAR]

LEGAL DESCRIPTION

Being the lands described as [LEGAL DESCRIPTION], City of Orillia, County of Simcoe, and known municipally as [MUNICIPAL ADDRESS].

SCHEDULE 'B'

TO AN AGREEMENT DATED [MONTH] [DATE], [YEAR]

APPROVED PLANS

Site Plan, Landscape Plan, Lighting Plan

The [DRAWING TYPE] drawing prepared by [FIRM], Drawing Number [NUMBER], Revision No. [NUMBER], dated [MONTH] [DATE], [YEAR], and stamped approved by the Director of Development Services on [MONTH] [DATE], [YEAR], is hereby incorporated by reference and forms a part of this Agreement.

Topographic Plan, Lot Grading Plan, Site Servicing Plan, and Storm Water Management Plan

The [DRAWING TYPE] prepared by [FIRM], Drawing Number [NUMBER], Revision No. [NUMBER], dated [MONTH] [DATE], [YEAR], and stamped "Reviewed" by the Manager of Development on [MONTH] [DATE], [YEAR], is hereby incorporated by reference and forms a part of this Agreement.

SCHEDULE 'C'

TO AN AGREEMENT DATED [MONTH] [DATE], [YEAR]

FEES AND DEVELOPMENT SECURITY

A) SITE SERVICE SECURITIES

<u>ITEM</u>	<u>ESTIMATED COST TO CONSTRUCT</u>	<u>SECURITIES REQUIRED</u>
i. Access and Parking Lot		
ii. Water Works		
iii. Sanitary Works		
iv. Storm Water Management Facility		
Subtotals:		
15 % Engineering & Contingency Allowance:		
13 % HST:		
Total Site Service Securities Required:		

B) LANDSCAPING AND OTHER SECURITIES

<u>ITEM</u>	<u>ESTIMATED COST TO CONSTRUCT</u>	<u>SECURITIES REQUIRED</u>
i. Landscaping		
ii. Line Painting		
iii. Sidewalks		
iv. Signage		
Subtotals:		
13 % HST:		
Total Landscaping Securities Required:		

C) LEGAL DEPOSITS

<u>ITEM</u>	<u>DEPOSITS REQUIRED</u>
i. Road Widening(s)	
ii. Easement(s)	
iii. _____	
Total Legal Deposits Required:	

D) TOTAL SECURITIES AND DEPOSITS

<u>ITEM</u>	<u>SECURITIES AND DEPOSITS REQUIRED</u>
i. Site Service Securities	<input type="text"/>
ii. Landscaping and Other Securities	<input type="text"/>
iii. Legal Deposits	<input type="text"/>
<i>Total Securities and Deposits Required:</i>	<input type="text"/>

D) INSPECTION / ADMINISTRATION FEES

<u>ITEM</u>	<u>FEES REQUIRED</u>
i. _____	<input type="text"/>
ii. _____	<input type="text"/>
iii. _____	<input type="text"/>
iv. _____	<input type="text"/>
v. _____	<input type="text"/>
<i>Total Fees Required:</i>	<input type="text"/>