

SUBDIVISION PRE-SERVICING AGREEMENT
FOR
Ferreira Subdivision Tower Drive Phase I

January 2016

BETWEEN:

A & J FERREIRA HOMES LIMITED

AND:

THE CORPORATION OF THE CITY OF NORTH BAY



Miller & Urso Surveying Inc.

1501 Seymour Street
North Bay, Ontario P1A 0C5
Telephone: (705) 474-1210
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**THE CORPORATION OF THE CITY OF NORTH BAY SUBDIVISION
PRE-SERVICING AGREEMENT**

THIS AGREEMENT MADE THIS _____ DAY OF _____ 2016.

BETWEEN:

A & J Ferreira Homes Limited
(Hereinafter called the "Owner")

Of the First Part

-and-

THE CORPORATION OF THE CITY OF NORTH BAY
(Hereinafter called the "City")

Of the Second Part

WHEREAS the land affected by this Agreement is shown on Schedule "A" and extending **3.1212 hectares**, more or less the "Lands";

AND WHEREAS the Owner warrants that he is the Owner of the above-described lands and that an application has been made to the City Council of North Bay (herein called the "Council") for the approval of a plan of subdivision, hereinafter referred to as the plan of said lands for the purpose of registering the same;

AND WHEREAS draft plan approval was given for the subdivision in **June 1, 2015** and the Owner wishes to proceed to pre-service the lands, prior to application for final plan approval or registration of the plan subdivision;

AND WHEREAS the words "City Engineer" where used in this Agreement shall mean the Engineer employed by the City or his or her Agent or any other Professional Engineer reasonably required and employed by the City;

AND WHEREAS the word "owners" where used in this Agreement, in addition to its accepted meaning, shall mean and include an individual, an association, a partnership, or an incorporated company or corporation and whenever the singular is used herein, it shall be construed as including the plural.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the payment of the sum of one dollar (\$1.00) of the lawful money of Canada, no paid by each of the parties hereto to the other (the receipt of which is hereby acknowledged) and other valuable considerations. The Owner hereby covenants, promises and agrees with the City as follows:

1. The Owner shall pay the Engineering review, administration fee and preparation and registration fee of this agreement and other documents of **\$ 5,250.00**
2. Prior to any work commencing, there will be a mandatory pre-construction meeting held at City Hall with all parties involved including the City, Owner or Owner's representative/agent, Owner's Engineer and the contractor performing the work. A detailed construction schedule must be provided to the City demonstrating all tasks and sequence of proposed works and in a time frame that is acceptable to the City.
3. As a result of works being proposed on Tower Drive within the City's ROW, the Owner will be required to enter into a Service Contract with the City of which the Owner will be required to provide sufficient security to ensure completion of the works. A Traffic Control Plan must also be submitted and approved by the City.
4. The Owner hereby indemnifies and saves the City harmless from any claim or demand howsoever arising in the performance of the work and in the event that the Owner fails to register the subdivision.
5. The Owner shall procure and maintain liability insurance in the amount of \$5,000,000.00 inclusive for any one occurrence. Such insurance shall include the City, its officers and agents as additional insured for all and any claims resulting from improper installation of any services or on any roadway prior to the City assuming such services or roadways. Copies of said policy shall be forwarded to the City and will not be cancelled until all services are complete and have been accepted by the City.
6. The Owner shall file and implement a storm water management erosion and sediment control plan acceptable to the City and the North Bay and Mattawa Conservation Authority.
7. Upon draft completion of the noted work by the Owner, to the satisfaction of the City Engineer and upon completion of all draft plan conditions, a recommendation for the approval of a subdivision agreement substantially in the form attached as Schedule "1" hereto and final plan of approval will be presented to Council based on the draft plan conditions, the said Schedule "1" and performance of the pre-servicing agreement. The City agrees to enter into a Subdivision Agreement in the draft form attached as Schedule "1" hereto

within such three (3) year period. The City reserves the right to make changes as necessary to the Subdivision Agreement prior to its registration.

8. Engineering design drawings as set out in Schedule "B" shall be completed and approved to the satisfaction of the City Engineer and that the required Ministry of the Environment approvals be received, prior to any construction. The Owner shall conduct video inspections of all underground services including laterals required to be constructed or installed hereby and shall provide a DVD format video record to the City a minimum two (2) weeks prior to any asphalt paving or installation of concrete curbs and gutters and prior to registering into a Subdivision Agreement. Video recording shall be done by third party at the owners expense.
9. At the time of registering the subdivision agreement, the Letters of Credit shall be sufficient to only cover any outstanding works as deemed suitable by the City Engineer.
10. The Owner shall engage a qualified Professional Engineer as the Consulting Engineer of the Owner to administer, inspect and certify all works completed under this agreement as well as prepare "as built" drawings of the municipal services and shall notify the City Engineer prior to starting construction. The City also reserves the right to perform their own level of inspection, in addition to the inspection provided by the Owner, and any recommendations requested by the City must be implemented by the Owner and at the Owners own cost.
11. The Owner agrees to provide such further flushing, inspection or maintenance of the works as may be required by the passage of time before the services are brought into use.
12. This pre-servicing agreement shall apply for a period of three (3) years from the Council approval and may be renewed, subject to Council approval of the renewal of the draft plan under the Planning Act.
13. The Owner or Builder acknowledges and agrees that in requesting building permits to permit the construction of model homes and prior to the execution of the subdivision agreement and registration of the plan of subdivision, the Owner or Builder agree to the conditions of the building permit(s) and to indemnify and save harmless the City from and against all loss, cost, charges, damages, expenses, claims, and demands whatsoever, to which the City may be put or which it may suffer or sustain or for which it may be liable by reason of anything done or omitted to be done in the construction of the model home(s) authorized by the building permit, and further:
 - 13.1.1 The Owner or Builder undertake and agree that no model home shall be constructed except wholly within a lot within the proposed plan of subdivision and each model home shall be sited in accordance with the

provisions of all applicable zoning by-laws and shall be constructed in accordance with the approved engineering plans and specifications.

13.1.2 The Owner or Builder undertake and agree that construction of the model homes shall meet requirements under the Ontario Building Code.

13.1.3 The Owner or Builder undertake and agree to satisfy all the conditions of the Fire Chief or any other applicable governmental authority prior to the issuance of a model home building permit.

13.1.4 The Owner or Builder undertake and agree that:

12.1.4.1. No occupancy of such model home(s) as a dwelling unit;

12.1.4.2. No plumbing fixtures within the model home(s) shall be used for any purpose until approved by the City Engineer; and

12.1.4.3. No sale or agreement to sell shall occur prior to the registration of the plan of subdivision.

13.1.5 The Owner or Builder acknowledge that the issuance of model home permits does not obligate the City to release any conditions of draft approval of the plan of subdivision herein nor does it constitute the City's approval of the engineering design plans and drawings and further that the Owner and the Builder are proceeding with the construction of model homes entirely at their own risk and shall be fully responsible for any modifications to or demolition of any model home which may become necessary as a result of final approval of the draft plan of subdivision or the engineering design of the subdivision or the lack of final approval thereof.

13.1.6 The Owner or Builder undertake, acknowledge and agree that the City, in its sole and only discretion, shall have the right to require the Owner or Builder to remove or modify, at their sole expense, all or any part of the model homes constructed pursuant to the building permit, within 30 days from the date of written notice by registered mail given by the City, failing which the City shall be at liberty to remove, modify or relocate the model homes at the expense of the Owner or the Builder and the City shall not be liable for any damages arising there from. In the event the City elects to relocate any model home from the Owner's or Builder's site, the Owner or Builder acknowledge and agree immediately upon such relocation vest with the City, free from encumbrances.

13.1.7 In order to secure the Builders' obligations herein, the Owner agrees that the City shall be entitled to draw upon any performance security filed by the Owner in the amount as required by Section 2 to the Model

Home Agreement and any other agreement that is related to the development of the lands herein, including but not limited to any performance security filed pursuant to the Subdivision Agreement.

13.1.8 In the event the City should perform any work the cost of which is to be paid by the Owner or the Builder pursuant to this undertaking, the City's costs of undertaking such work may be charged to the Letter of Credit as specified in Section 2 of the Model Home Agreement deposited with the City by the Owner or the Builder and further that such costs may be collected in like manner as municipal taxes.

13.1.9 The Owner and Builder undertake, acknowledge and agree that each is jointly and severally responsible for all obligations of this undertaking, acknowledgment and indemnity.

13.1.10 Prior to the issuance of each model home building permit, the Owner or Builder shall pay the applicable Building permit fee and development charge fee.

13.1.11 The Owner or Builder has requested and acknowledged that the dwellings will be constructed prior to the installation of a nearby fire hydrant. The Owner or Builder acknowledges that the fire department's response will be as for a rural area without a municipal water system. The Owner or Builder acknowledges that the model homes are being constructed completely at the Owner's or Builder's risk and that the owner hereby indemnify and saves the City harmless from any and all claims arising from the construction of the dwelling prior to the completion of a nearby fire hydrant.

13.1.12 The use of those lots with model homes shall be restricted to:

- a) Parking motor vehicles; and
- b) Model Display Home

13.1.13 No connections shall be made to sanitary sewers, storm sewers and watermains without the approval of the City Engineer.

13.1.14 Temporary hydro services maybe arranged with North Bay Hydro in compliance with their requirements.

13.1.15 The Owner shall be entitled to decorate and furnish the model homes for display and the public shall be permitted access thereto, for the purpose of inspecting, examining, and viewing the same.

13.1.16 The provisions of the Model Home Agreement shall prevail with respect to the lots until the registration of the plan of subdivision against the lands, after which the subdivision agreement shall supersede this Agreement.

13.1.17 Prior to the issuance of a building permit for the model home(s), individual site plans shall be provided and sealed by the Owner's Engineer verifying conforming with lot grading, parking areas, and entrance location to the satisfaction of the building department.

13.1.18 The Owner shall maintain a minimum six metre wide fire route access free and clear of all obstructions (including winter maintenance) from an open and maintained municipal road to each model home, unless the model homes(s) are within six (6) metres of an existing open and maintained municipal road.

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

IN WITNESS WHEREOF the Corporate Seal of the Owner is hereunto affixed under the hands of its proper signing officers in that behalf.

IN WITNESS WHEREOF the Owner has hereunto set his hand.

IN WITNESS WHEREOF the City has hereunto affixed its Corporate Seal under the hands of its proper signing officers authorized by By-law in that behalf.

SIGNED, SEALED AND DELIVERED
In the presence of

OWNER
A & J Ferreira Homes Limited

Antonio Ferreira - President
I have the authority to bind the
Corporation

Name: _____

Title: _____

I have the authority to bind the Corporation

SIGNED, SEALED AND ATTESTED

**THE CORPORATION OF
THE CITY OF NORTH BAY**

In the presence of

Mayor – Allan McDonald

In the presence of

City Clerk – Catherine Conrad

Authorized and approved by By-Law No. _____

ENACTED this _____ day of _____, A.D., 2016