

This Agreement made in triplicate on the _____ day of _____, 2021.

B e t w e e n:

The Corporation of The Municipality of South Huron

(Hereinafter referred to as the "Municipality")

Of The First Part

– And –

Drayton Theatres Inc.

(Hereinafter referred to as the "Owner")

Of The Second Part

Whereas the Owner is entering into this agreement with the Municipality dealing with the facilities, works and matters hereinafter mentioned and the provision and maintenance thereof by the Owner and any and all subsequent owners to the satisfaction of and at no expense to the Municipality, as a condition to the approval pursuant to Section 41 of the Planning Act, as amended, of site plans and drawings for the addition of an "Actor's Residence" to the development upon the lands and premises of the Owner (the "development") more particularly described in the Schedule "A" attached hereto in the Municipality of South Huron, in the County of Huron (the "property").

Now Therefore Witnesseth that in consideration of the covenants and provisions herein and for other good and valuable consideration now paid by the Municipality to the Owner (the receipt and sufficiency of which the Owner hereby acknowledges), the Municipality and the Owner covenant, agree and provide with each other that the Owner shall do and perform, at no expense to the Municipality (unless otherwise expressly provided herein), the following matters and things:

1. Schedules Attached:

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

- Schedule "A" - Description of Lands
- Schedule "B" - Approved Plans
- Schedule "C" - Security to be provided

2. Stormwater Management:

The Owner shall undertake all work required to implement the Stormwater Management Plan referenced in the Approved Plans (Schedule "B").

All stormwater management works for this property must be constructed to the satisfaction of the Municipality, prior to the Chief Building Official issuing an occupancy permit for the building shown on the Approved Plans (Schedule "B"). The Owner agrees to maintain the property in such a manner that ensures compliance with the approved Stormwater Management Plan.

3. Site Servicing – Sewage System:

The Owner shall construct the required Sewage Pumping Station in accordance with the Approved Plans (Schedule "B") to the satisfaction of the Director of Infrastructure and Development. Without limiting the generality of the foregoing, the Sewage Pumping Station shall be designed and constructed to provide for electronic communication with what is known/identified as the "Dark Horse Winery Sewage Pumping Station" and the Huron County Playhouse sewage pumping station shall have priority pumping.

4. Parking:

- (a) A minimum of twelve (12) of the parking spaces established on the property will be designated as an accessible parking spaces, of which six (6) shall be Type "A" accessible parking spaces and six (6) shall be Type "B" accessible parking spaces as shown on the Approved Plans Schedule "B". Such accessible spaces

shall be clearly marked with pavement markings and vertical signage containing the international symbol of access. An accessible route shall be provided from the designated parking spaces to the barrier free entrance of the building. All facilities designed to have regard for accessibility shall incorporate the County of Huron’s Universal Design and Accessibility Guidelines for Site Plan Control.

- (b) The Owner shall provide, at its own expense, and at all times maintain on the lands, parking areas in accordance with the applicable Zoning By-law.

5. Lighting and Photometric Facilities:

All lighting of the site shall be oriented and its intensity controlled so as to prevent glare on adjacent roadways and adjacent properties to the satisfaction of the Municipality. Provide confirmation that lighting has been completed in accordance with the Approved Plans, which forms Schedule “B” herein.

6. Landscaping

The Owner shall landscape the site and thereafter maintain the same in general conformity with the Approved Plans attached hereto as Schedule “B, to the satisfaction of the Municipality of South Huron.

The Owner shall provide a landscape plan to the satisfaction of the Municipality of South Huron prior to implementation.

7. Screening

The refuse and recycling storage shown on Schedule “B” shall be visually screened within (1) year from the date of registration of this agreement.

8. Fire Route Designation:

The Owner shall identify the fire route. Such fire route shall be clearly marked showing street allowances and vehicular accesses for the approval of the Fire Chief. Signs specifying that parking is prohibited in the designated fire route shall be displayed. The fire route shall be set out on the Approved Plans, and the signs to be erected and maintained in accord with the Approved Plans

9. Fire Protection

A fire hydrant if required, shall be installed at the Owner’s expense in accordance with the approved site servicing brief as referenced in Schedule “B”

10. ‘As Constructed’ Premises:

The Owner shall provide for the Municipality’s records ‘as constructed’ drawings to the satisfaction of the Municipality for site services installed by the Owner. These drawings shall be submitted in a satisfactory form, digital and hard copy, prior to the release of security required by this agreement. The development shall be completed in accordance with the Approved Plans (Schedule “B”).

11. Inspection and Completion of Works:

Where the Owner is required to construct certain works to be assumed by the Municipality or carry out work within a public highway, walkway or easement, the Owner shall have his Professional Engineer provide a qualified inspector acceptable to the Municipality to carry out on-site inspection of the works. The Professional Engineer will also supervise the site work being complete and with certify completion. Upon completion of the work and prior to requesting the Municipality to assume the works, the Owner shall supply to the Municipality, in a form acceptable, a certificate of the Owner’s Professional Engineer substantially in the following form:

Certificate of Completion of Works

To: The Corporation of the Municipality of South Huron

For good and valuable consideration now paid by the Corporation of the Municipality of South Huron (hereinafter called the "MUNICIPALITY"), the receipt and sufficiency of which I/we hereby acknowledge, I/we hereby certify that the municipal services constructed pursuant to the Development Agreement between the Municipality and (Owner's Name) registered as No. _____ relating to municipal number Lot/Block No. _____ Plan No. _____ have been

- (a) inspected during construction in accordance with standard engineering practice; and
- (b) constructed in accordance with the plans and specifications approved by the Municipality.

Delivered under my/our hand and professional seal at South Huron, Ontario this _____ day of _____, 20____.

Registered Professional Engineer

The Owner acknowledges and agrees that the form of the Certificate of Completion of Works required under this paragraph may vary depending on the development's requirements.

12. Signage

Provide confirmation that sign and pavement markings has been installed in accordance with the Approved Plans (specifically the Signs and Pavement Markings Plan) (Schedule "B").

13. Subsurface Drainage:

The Owner shall notify the Municipality, in writing, in the event that any existing sewer or drain is encountered during the progress of construction. The Owner shall have its Engineer investigate the matter and shall comply with the recommendations of the Owner's Engineer, as approved by the Municipality, with respect to the sewer or drain encountered. Such recommendations may include connecting the existing sewer to a new sewer being constructed or into another existing sewer, at no expense to the Municipality. The Owner shall also ensure that there is no interruption of any subsurface drainage flow because of construction on the site which would have an adverse effect on neighbouring properties. Should such an interruption occur, the Owner shall carry out any necessary remedial work to correct the problem as requested by the Municipality and to the satisfaction of the Municipality at no expense to the Municipality.

14. Special Servicing Charges

Grand Bend Sewage Treatment Facility Cost Recovery By-law #59-2017 charges shall apply for the additional capacity required for the actor's residence.

15. Abandoned Private Drain Connections:

The Owner acknowledges that any abandoned existing private drain connections shown on the site plans or encountered during construction are to be excavated at the street line and sealed to the satisfaction of the Municipality.

16. Existing Private Drain Connections:

The Owner acknowledges that any existing private drain connections which are proposed for re-use are to be excavated at the street line and inspected and approved by the Municipality for such re-use.

17. Undertaking of Construction:

If no building permit is issued for the development within two (2) years of the date of the approval of the site plans and drawings pursuant to Section 41 of the Planning Act, (Ontario), as amended, or if a building permit is issued but, in the opinion of the Chief Building Official, the Owner does not seriously commence construction of the development within two (2) years from the date of the approval of the site plans and drawings pursuant to Section 41 of the Planning Act (Ontario), as amended, or if any building permit issued for this development is revoked at any time, the Municipality in its

sole discretion may revoke its approval of the plans and drawings and may terminate the agreement by giving notice in writing and by registering a notice that the approval is revoked and the agreement is terminated.

18. Work According to Plans:

As the Owner has entered into this agreement as a condition precedent to the approval by the Municipality of site plans and drawings dealing with the facilities, works and matters mentioned herein, the Owner shall submit from time to time one or more plans and drawings as may be required pertaining to any of these facilities, works and matters including but not restricted to any plans or drawings specifically mentioned herein. Such plans and drawings as and when approved by the Municipality, whether before or after the date upon which this agreement is entered into, shall be treated as forming part of this agreement (and the Approved Plans) in the same manner and to the same extent as if such plans and drawings had been approved and actually attached to this agreement at the time that it is entered into. In all matters not herein provided for, the Owner shall develop his land and shall use the same in accordance with the applicable Zoning By-Law of the Municipality, as amended. The provisions of this agreement and any approved site plan or drawing pertaining to a facility, work or matter shall be construed and applied as complementary to each other but in the event of any conflict, the plan or drawing receiving the last approval shall govern. Without restricting the generality of this clause, the Owner shall develop his lands and shall construct works and maintain them in perpetuity in accordance with the Approved Plans (Schedule "B").

19. Work at Owner's Risk:

All incidental matters including but not restricted to the removal and planting of trees; cutting, replacing and installing approaches; relocating utilities, pipes, poles, valves and equipment; resetting drains and manholes; and all other things required by this agreement or by the Municipality shall be carried out by the Owner at his own risk and expense. All work must be completed to the satisfaction of the Municipality and to the satisfaction of the owner of such utilities.

20. Completion of Work:

All work required under this agreement, including but not restricted to asphalt surfacing, fencing, establishment of landscaping and as constructed drawings, completion of services and any other work set out herein, shall be completed or delivered, as the case may be, within a period of nine (9) months from the date of substantial completion of construction of the development as determined by the Chief Building Official. All such work shall be performed to the satisfaction of the Chief Building Official of the Municipality.

21. Securities:

In order to ensure due performance of all work required under this agreement and to protect the Municipality in respect of its liability for holdback of costs under Section 17 of the Construction Act (Ontario), as amended, for any work on municipal property and private property that may have affect to neighbouring lands, the Owner shall deposit with the Municipality prior to the issuance of a building permit, an irrevocable Letter of Credit from a chartered bank, issued in form and content satisfactory to the Municipality's Solicitor, in the amount of One Hundred Percent (100%) of the total securities as set out in Schedule "C".

All Letters of Credit shall be for a minimum guaranteed period of one (1) year or such longer time as the Municipality may decide. All Letters of Credit shall contain the following clause: "It is a condition of the Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date thereof, unless at least thirty (30) days prior to the present or any future expiration date, we notify you in writing by registered mail that we elect not to consider this Letter of Credit to be renewable for any additional period." Unless each and every Letter of Credit is renewed as noted above, the Municipality shall have the absolute right to refuse to issue building permits and to prohibit occupancy, whether partially or fully completed, from the said date thirty (30) days prior to the expiration of that Letter of Credit.

i. Security Release

General securities outlined in Schedule "C" will be released upon the completion of all works, to the satisfaction of the Municipality of South Huron.

22. Development Charges:

The Owner shall pay all development charges applicable to the development in accordance with the By-laws of the Municipality of South Huron.

23. Municipality's Right to Enter:

The Municipality or any of its officers, servants or agents may, from time to time, at all reasonable times and upon producing proper identification, enter upon the Owner's lands and premises for the purposes of inspecting the facilities, works and matters to be provided and maintained under this agreement in accordance with the approved plans and for the purpose of providing or maintaining at the Owner's expense any facility, work or matter in default of the Owner providing or maintaining the same where such default has continued for fifteen (15) days or more. The Municipality, its officers, servants and agents shall not be liable to the Owner or any occupant of the lands and premises for any losses or damages of any kind whatsoever arising in any way from entry for such purposes. In the event of an emergency, the Municipality's right to enter under this provision shall not be limited to situations in which the default of the Owner has continued for more than fifteen (15) days.

24. Road Allowance Indemnity:

Except as otherwise expressly provided in this agreement, the right of the Owner to use and occupy any untravelled portions of road allowances shall, at all times, be at the will of the Municipality and the construction and maintenance of any and all curbs, pavements, plantings and other improvements or works thereon shall at all times be at the risk and expense of the Owner. The Owner shall indemnify and save harmless the Municipality and any of its officers, employees or servants from and against all actions, suits, claims, damages, demands, costs, including reasonable legal fees and disbursements, liabilities and any other claims which may be brought against or made upon the Municipality or any of its officers, employees or servants in consequence of the use and occupation of untraveled portions of road allowances by the Owner or the construction, maintenance or existence of curbs, pavements, plantings or other improvements of the Owner thereon. Any amounts owed by the Owner to the Municipality under this indemnity shall constitute a lien and charge upon the lands of the Owner and shall be collectible in like manner as municipal taxes. Without limiting the foregoing agreement to indemnify, the Municipality may, in case any such action, suit, claim or demand is brought or made against the Municipality or any of its officers, employees or servants, settle any such action, suit, claim or demand on such terms as the Municipality shall see fit, and the Owner shall thereupon forthwith pay to the Municipality the sum or sums so paid, together with such sum as shall represent the reasonable costs of the Municipality and its solicitor in defending or settling any such action, suit, claim or demand.

25. Insurance:

Prior to the parties executing the Agreement, the Owner shall supply the Municipality with a certified copy of a comprehensive general liability insurance policy with limits in an amount and in a form acceptable to the Municipality. The minimum limits of such policies shall be \$5,000,000 all inclusive, but the Municipality shall have the right to set higher amounts. Such policy or policies shall be issued with the Municipality being named as an additional insured. The said insurance policy shall indemnify the Municipality from any loss arising from any claims for damages, injury or otherwise in connection with the work done by or on behalf of the Owner. Such insurance policy shall provide coverage for a period of at least one (1) year and shall continue until all the work required by the Owner under this Agreement is completed and, where applicable, assumed by the Municipality. The said insurance policy must also include a provision confirming that the insurance policy shall not be cancelled or materially amended without providing the Municipality with fifteen (15) days' written notice of the insurer's intention to do so. The issuance of such a policy of insurance shall not be construed as relieving the Owner from responsibility for other or larger claims, if any, for which he may be held responsible.

26. General Indemnity:

The Owner shall indemnify and save harmless the Municipality and any of its officers, employees or servants from and against all actions, suits, claims, damages, demands, costs, including reasonable legal fees and disbursements, liabilities and any other claims which may be brought against or made upon the Municipality or any of its officers, employees or servants sustained or incurred by the Municipality or any of its officers, employees or servants as a result of the Municipality entering into this agreement with the Owner arising as a result of any work authorized or conducted by the Owner under this agreement. Any amounts owed by the Owner to the Municipality under this indemnity shall constitute a lien and charge upon the lands of the Owner and shall be collectible in like manner as municipal taxes. Without limiting the foregoing agreement to indemnify, the Municipality may, in case any such action, suit, claim or demand is brought or made against the Municipality or any of its officers, employees or servants, settle any such action, suit, claim or demand on such terms as the Municipality shall see fit, and the Owner shall thereupon forthwith pay to the Municipality the sum or sums so paid, together with such sum as shall represent the reasonable costs of the Municipality and its solicitor in defending or settling any such action, suit, claim or demand.

27. By-Laws:

Notwithstanding any of the provisions of this agreement, the Owner shall be subject to all By-Laws of the Municipality. In the event of conflict between the provisions of this agreement and the provisions of any By-Law of the Municipality, the provisions of the By-Law prevail.

28. Subsequent Owners Bound:

Subject to the provisions of the Registry Act and the Land Titles Act, the covenants, agreements, conditions and understandings therein contained on the part of the Owner shall be conditions running with the land described in Schedule "A" hereto and shall be binding upon the Owner and their heirs, estate trustees, administrators, successors and assigns, as the case may be, and subsequent owners and occupiers of the said lands from time to time (and "Owner", wherever used in this agreement, is intended and shall be construed to include such subsequent owners and occupiers).

29. Separate Covenants:

All of the provisions of this agreement are and shall be construed and interpreted as covenants and agreements as though the words importing such covenants and agreements were used in each separate clause hereof. Should any covenant or provision of this agreement be adjudged unlawful or unenforceable, such covenant or provision shall be considered separate, distinct and severable from this agreement and the covenants and provisions of this agreement shall not be affected and shall remain fully enforceable.

30. Enforcing Performance of Requirements:

In addition to any remedy authorized or permitted by this agreement or by law, the Municipality, upon giving fifteen (15) days notice or forthwith in cases of emergency, may, in default of any matter or thing required to be done by the Owner under this agreement, do such matter or thing at the expense of the Owner and if the Municipality has incurred any expense, it may recover the expense by action, by performance bond or other security or by adding the said expenses to the tax roll and recovering same in like manner as municipal taxes. No proceeding by the Municipality under this clause and no waiver under any provision of this agreement shall prejudice the rights of the Municipality in respect of any subsequent default or any matter or thing required to be done by the Owner under this agreement. The rights of the Municipality may be enforced by any remedy authorized or permitted by the Agreement or By-Law and no such remedy shall be exclusive or dependent on any other remedy.

The Municipality may, in its absolute discretion, draw upon and use the funds from the irrevocable Letter of Credit delivered in connection with this application in the event any of the Site Works on the Approved Plans have not been or are not being provided or maintained to the Municipality's satisfaction during the installation and / or construction of the Site Works or in the event any of the Site Works have not been provided or completed by the Completion Date. The Municipality shall not, however, be obligated to provide, rectify, remediate, maintain, or complete the Site Works, or any part of them.

31. Number and Gender:

Words importing the singular only shall include the plural; words importing the masculine only shall include the female and words importing a person shall include corporations.

32. Notices:

Any notice required or permitted to be given hereunder shall be in writing and shall be effectively given if delivered personally or sent by registered mail in the case of notice to the Municipality as follows:

Municipality of South Huron
P.O. Box 759
322 Main Street South
Exeter ON, N0M 1S6

And in the case of notice to the Owners, as follows:

Drayton Theatres Inc.
46 Grand Ave. S.
Cambridge, ON N1S 2L8

Any notice so given shall be deemed conclusively to have been given and received when so personally delivered or on the third (3rd) business day following the sending thereof by registered mail.

33. Registration:

The Owner agrees that this document shall be registered against the title to the lands affected by it and that such registration shall be done by the Municipality. The cost of such registration and associated legal fees shall be the responsibility of the Owner.

The Owner further agrees that this agreement shall have priority over all mortgages that are registered against the property and the Owner hereby undertakes to deliver an agreement postponing those mortgages to this agreement and to register the same on title.

34. Costs:

Any costs incurred by the Municipality for the review, implementation and administration of this agreement (including engineering, administrative costs and legal fees) shall be borne by the Owner.

In Witness Whereof the Municipality and the Owner hereto have hereunto affixed their Corporate Seals duly attested by the hands of their proper officers in that behalf, the day and year first written above.

The Corporation of the Municipality Of South Huron

Per: George Finch, Mayor

Per: Rebekah Msuya-Collison, Clerk

We have authority to bind the Corporation.

Signed, Sealed and Delivered
In the presence of

Drayton Theatres Inc.

Per Alex Mustakas, Artistic Director & CEO

I have the authority to bind the Corporation.

Schedule “A”
Legal Description

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

PIN : 41249-0183 : PART OF LOT 3, CONCESSION A STEPHEN DESIGNATED AS PARTS 3 & 4, 22R-833, PART 1, 22R-4940, PART 1, 22R-6835; MUNICIPALITY OF SOUTH HURON

Schedule “B”

Approved Plans

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

R.J Burnside & Associates Limited

Functioning Servicing Report (25 pages) – Dated August 12th, 2010
Updated Functioning Servicing Report (11 pages) September 29th, 2010
Drawing S1: Site Servicing Plan – Last revised December 8th, 2020

B.M Ross and Associates Limited

Memo (2 Pages) – Dates October 6th, 2010

Aba Architects Inc :

Aba Architects Inc : Project No:2016-6011

Page 1 – Proposed Residence

Page 2 (2.1) – Proposed Floor Plans

Page 3 (3.1) – Elevations

Drawing SP.01- Site Plan- Last revised June 21st, 2019

Schedule “C”
Security to be provided

Note: It is understood and agreed that this Schedule forms part of the Municipality’s Agreement.

Item	Cost
Stormwater Management Plan/Storm Sewer Service	\$ 0.00
Sanitary Sewer Service (including pumping station)	\$ 350,000
Water Service/Fire Protection	\$ 50,000
Roadways (Paving, Curb & Gutters)	\$ 25,000
Landscaping	<u>\$ 5,000</u>
Subtotal	\$ 430,000
13% HST	<u>\$ 68,900</u>
Total Construction Costs	\$ 485,900