

CROSS-BOUNDARY SERVICE AGREEMENT

THIS AGREEMENT made in duplicate this _____ day of October, 2016.

BETWEEN:

**THE CORPORATION OF THE
TOWNSHIP OF NORTH HURON**

(hereinafter called "North Huron")

THE PARTY OF THE FIRST PART

- and -

**THE CORPORATION OF THE
MUNICIPALITY OF CENTRAL HURON**

(hereinafter called "Central Huron")

THE PARTY OF THE SECOND PART

WHEREAS both North Huron and Central Huron are lower tier municipalities within the County of Huron, Province of Ontario;

AND WHEREAS both North Huron and Central Huron have jurisdiction within their respective municipalities over water distribution;

AND WHEREAS section 19 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to exercise its powers to provide a service in an area of another municipality, with the consent of the other municipality;

AND WHEREAS section 20 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to enter into an agreement with one or more municipalities or local bodies to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries;

AND WHEREAS Sections 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, permits the supply of water and the entering into of a contract for the supply of water;

AND WHEREAS Central Huron requires water service to one (1) property adjacent to North Huron's municipal boundary;

AND WHEREAS North Huron wishes to supply water service to Central Huron as set out in this Agreement;

AND WHEREAS Central Huron consents to the supply of water service by North Huron as set out in this Agreement;

AND WHEREAS the Parties hereto wish to set out their respective rights and obligations respecting the supply of Water Service to a property located in Central Huron by North Huron;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained herein and the sum of TEN DOLLARS (\$10.00) paid by each of the Parties hereto to the other Party hereto, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

GENERAL TERMS OF SERVICING

1. Attached hereto as Schedule "A" to this Agreement is a description of the property located within Central Huron which shall be serviced with potable water provided by North Huron during the term of this Agreement (the "Water Property").
2. Attached hereto as Schedule "B" to this Agreement is the description of the Water Service Structure servicing the Water Property (the "Water Service Structure") and a preliminary drawing (10F1) of the Water Service Structure. North Huron shall have discretion and the right to approve the final design, any modifications of the design of the Water Service Structure, as well as in the maintenance, repairs, and replacement of the Water Service Structure, all acting reasonably in accordance with good engineering practices.
3. To be attached hereto as Schedule "C" to this agreement is Schedule "C": Form 1 – Record of Watermains Authorized as a Future Alteration from the Township of North Huron
4. To be attached hereto as Schedule "D" is the permit from the County of Huron, giving approval for the construction of the Water Service Structure within Blyth Road (County Road 25)
5. To be attached hereto as Schedule "E" is a letter from 2363769 Ontario Ltd., current owner of the Water Property, acknowledging awareness of, and concurrence with this agreement.
6. Except as otherwise provided in this agreement, North Huron shall supply potable water ("Water Service") to the Water Property from water pipelines owned and maintained by North Huron.
7. The Parties agree that the Water Service Structure extended from North Huron to Central Huron shall be used to supply domestic Water Service to the Water Property and for fire

suppression purposes at the Water Property and for no other purpose. Notwithstanding the foregoing, North Huron does not guarantee that the supply of water to the Water Property shall be sufficient to satisfy any or all fire suppression requirements for the Water Property arising pursuant to any Site Plan Agreement entered into between the owner of the Water Property and Central Huron.

8. The Parties agree that the extension of Water Service to the Water Property is not an extension of water supply to a water distribution system(s) owned by Central Huron
9. Central Huron consents to North Huron's servicing the Water Property through Central Huron from North Huron's water distribution system, and Central Huron has or will take all necessary legislative steps to consent to the works necessary to supply water from North Huron to the Water Property.
10. Central Huron shall not approve any additional development or permit redevelopment to the Water Property that would result in an increase in the demand for water from North Huron without first obtaining the prior, written approval of North Huron.
11. The provision of Water Service to the Water Property shall not be construed to mean that either North Huron and/or Central Huron will support and/or provide Water Service or other municipal services to any other lands.
12. The Parties agree that the Water Property will have an installed water meter(s). Such meter(s) shall remain the property of North Huron. The cost to supply, install and maintain to the satisfaction of North Huron shall be at the expense of the Water Property.
13. The Water Service Structure installed to the property line of the Water Property, shall remain in the ownership of North Huron and all maintenance, repairs, and replacement of the Water Service Structure, including meters and meter reading shall be carried out by North Huron or its agents, to a standard generally equivalent to similar structures elsewhere in North Huron's water distribution system, to North Huron's sole satisfaction.
All water service piping on private property is outside the responsibility of the Township and this agreement. As such, construction and maintenance of water service piping on the Water Property site shall be the responsibility of the Water Property.
14. Central Huron agrees that the plumbing in the Water Property shall be designed to prevent the backflow of non-potable or contaminated water into the North Huron water system.
15. North Huron shall not be required to supply Water Service to the Water Property in the event that the water supply for the water customers of North Huron has failed and is not available. In such an event, and once water supply for the water customers of North Huron is restored, North Huron will make reasonable efforts to return the supply of Water Service to the Water Property as soon as possible, and to the extent reasonably possible, in the same general manner and time frame as the water customers in North Huron.
16. Central Huron acknowledges North Huron's right to ensure that the Water Property in Central Huron abides by the various rules and regulations applied by North Huron to Water Service customers within North Huron. Without limiting the generality of the foregoing, this

includes the requirement that no person shall operate the North Huron municipal water shut off (curb stop) other than the water operator designated by North Huron.

FINANCIAL

17. The Parties agree that the rates and charges that will apply to the Water Property will be as set out in the By-law to Establish Fees & Charges for the Township of North Huron, for the category of properties outside of the Township boundary. North Huron shall have the authority to amend the water service rates and charges from time to time, without notice and at its sole discretion. Rates and charges for Water Service shall commence for the Water Property immediately upon connection of the Water Property to the North Huron water distribution system. North Huron shall attempt to notify Central Huron when the Water Property connects to the system.
18. North Huron shall collect from the owners and/or tenants of the Water Property the Water Service rates and charges. Any delay in payment shall result in penalty charges with interest accruing and overdue account notices, consistent with North Huron's standard practice for overdue utility accounts. North Huron will endeavour to mitigate arrears via their regular accounts receivable procedures.
19. For water service accounts in arrears more than 6 months North Huron shall invoice Central Huron. Central Huron shall pay to North Huron, within (30) days of receipt of an invoice from North Huron, the full amount of the outstanding Water Service rates and charges owing for the applicable period regardless of whether or not Central Huron is able to collect the proportionate share from the end-user. Both parties acknowledge that this fee recovery mechanism is a worst case scenario rather than standard practise.
20. The cost to install the Water Service Structure shall be addressed in an Agreement between the Water Property and North Huron.
21. Central Huron shall provide a minimum of 12 months written notice to North Huron of any intent to put in place an alternative or supplementary water supply for the area to be serviced. Central Huron will be responsible for any costs to modify the works to accommodate the alternative or supplementary supply.
22. Where it is necessary, as decided by North Huron and Central Huron, that future upgrading of the North Huron water supply and distribution system is required and that a frontage or similar charge be levied to pay all, or part of the costs; Central Huron shall prepare the necessary bylaws, collect the charges, and make application for grants or subsidies. Any funds collected shall be paid to North Huron or in some manner credited towards the upgrading project.

CONDITIONAL ON ADDITIONAL APPROVALS

23. This Agreement is conditional upon receipt and continuance of all necessary approvals and permissions including but not necessarily limited to:
- (a) The Township of North Huron and the Water Property entering into a Development Agreement for extension of the North Huron water distribution system and construction of the Water Service Structure;
 - (b) The County of Huron giving approval for the construction of the Water Service Structure within Blyth Road (County Road 25);
 - (c) Form 1 – Record of Watermains Authorized as a Future Alteration from the Township of North Huron.

GENERAL PROVISIONS

24. All disputes relating to this Agreement shall be resolved by arbitration in accordance with the following procedure:
- (a) The Party wishing to commence the arbitration process shall give written notice to the other party advising that it is exercising its right to submit the issue in dispute to arbitration by a single arbitrator (the “Arbitrator”) and provide the names of three (3) potential Arbitrators who are acceptable to it;
 - (b) Within ten (10) days of receipt by the other Party of the notice referenced above, the Parties shall agree upon an Arbitrator, either one named in such arbitration notice or otherwise, failing which either party may seek the appointment of an Arbitrator by a judge of the Superior Court of Justice (Ontario);
 - (c) The arbitration shall be conducted in accordance with the provisions of the *Arbitration Act, 1991* or its successor legislation as the case may be; and
 - (d) The Arbitrator’s award shall be in writing, shall state the reasons for the award, may include an award of costs (including reasonable legal fees and disbursements and fees and expenses of the Arbitrator) and shall be binding on the parties.

CENTRAL HURON CONTRIBUTION

25. In recognition that the Water Property is in Central Huron, Central Huron has agreed to make a financial contribution to the costs of the extension of the North Huron water distribution system and the Water Service Structure. The amount of the contribution will be the lesser of \$43,000 or 25% of the cost of the works. Central Huron also agrees to pay 50% of the North Huron annual hydrant charge if a hydrant serving the Water Property is located in the County Road right-of-way.
26. Any written notice or account under this Agreement shall be deemed properly given if either mailed or delivered electronically to the Parties at the addresses as follows:

(a) To North Huron:

Clerk, Municipality of North Huron
274 Josephine Street, Box 90
Wingham, ON N0G 2W0

(b) To Central Huron:

Clerk, Municipality of Central Huron
23 Albert St.
Clinton, ON N0M 1L0

27. This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and the laws of Canada.
28. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and shall be effective as of the formal date hereof. This Agreement may also be executed by facsimile or pdf, and any signature contained hereon by facsimile or pdf shall be deemed to be equivalent to an original signature for all purposes. Any party delivering this Agreement by facsimile or pdf shall forthwith deliver originally executed copies to the other party hereto.
29. Central Huron shall indemnify and hold harmless North Huron from and against any and all actions, causes of action, suits, claims, demands and costs of any nature or kind whatsoever arising under or in any way related to this Agreement or the Water Service, unless such costs are due solely to the negligence of North Huron.
30. In the event of an occurrence of an unauthorized connection or alteration to the Water Service Structure, or the extension of Water Service to any property not set out in Schedule "A" to this Agreement, North Huron shall have the authority to immediately terminate the provision of Water Service to the Water Property.
31. The invalidity of any particular provision of this Agreement shall not affect any other provision thereof, but the Agreement shall be construed as if such invalid provision were omitted.
32. The failure of either Party at any time to require performance by the other Party of any provision hereof shall in no way affect their right thereafter to enforce such provision. Nor shall the waiver by either Party of any breach of any covenant, condition or proviso hereof be taken or held to be a waiver of any further breach of the same covenant, condition or proviso.
33. All Parties hereto agree to do everything necessary to ensure that the terms of this Agreement take effect.
34. If at any time during the continuance of this Agreement the parties hereto shall deem it necessary or expedient to make any alteration or addition to this Agreement they may do so by means of a written agreement between them which shall be supplemental hereto and form part hereof. If the agreement between the two municipalities is amended a similar acknowledgment to the form attached as Schedule "E" hereto will be required from the owner of the Water Property before any such amendment is considered effective. However, incidental changes such as rate and/or bylaw changes or information regarding capital

requirements etc. - the owner of the Water Property will be informed via the same mechanisms as any other North Huron water customer

35. It is agreed that this written instrument embodies the entire agreement of the parties hereto with regard to the matters dealt with herein, specifically in relation to the cross-boundary services and that no other understandings or agreements, verbal or otherwise, exist between the parties except as herein expressly set out in this Agreement.
36. This Agreement shall enure to the benefit of and be binding on the respective heirs, executors, administrators and assigns of each of the parties hereto.
37. The agreement is limited to a 20-year initial term during which the consumption, terms and conditions will be reviewed. If there is a concern - the Water Property owner will be notified 24 months in advance of the end of the initial term, otherwise the agreement will automatically be renewed for successive 5 year terms, with the same requirement for review and notice.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

THE CORPORATION OF THE
MUNICIPALITY OF NORTH HURON

Neil G. Vincent, Reeve

Sharon Chambers, CAO

We have authority to bind the Corporation.

THE CORPORATION OF THE
MUNICIPALITY OF CENTRAL HURON

Jim Ginn, Mayor

Brenda MacIssac, Clerk

We have authority to bind the Corporation.

Schedule "A": The Water Property

Roll Number	Address	P.I.N.	Legal Description	Owner
TBD – MPAC has not processed recent severance or created roll #	Two 911 entrances: 40035 Blyth Road 82974 London Road	41322- 0256(LT)	Part Lot 22, Concession 14 Hullett as in R209161 except Part 1, 22R4936 & except Part 1, 22R5745; and Part Lot 23, Concession 14 Hullett as in R70875 & R81647 except Part 1, 22R6362, Municipality of Central Huron, in the County of Huron.	2363769 Ontario Ltd.

Schedule "B": Water Service Structure

The Water Service Structure servicing the Water Property consists of:

- A 150 mm dia. watermain crossing of Blyth Road.
- Fittings and valves arranged to provide two services; a 150mm diameter complete with 150mm valve shut-off and a 75mm diameter complete with a 75mm valve shut-off located on Blyth Road with valving at the limit of the Water Property

All as shown on Drawing 10F1, County Road 25 Watermain Extension as prepared by R. J. Burnside for the approval of the Township of North Huron.

Schedule “C”: Form 1 – Record of Watermains Authorized as a Future Alteration from the
Township of North Huron

**Schedule "D": Permit from the County of Huron for construction of the Water Service
Structure within Blyth Road (County Road 25)**

**Schedule “E”: A letter of acknowledgement from the owner of the Water Property,
2363769 Ontario Ltd.**