

THIS AGREEMENT made this 31st day of May 2019,

BETWEEN:

THE CORPORATION OF THE TOWN OF MINTO
(hereinafter called the "TOWN") OF THE FIRST PART

- and -

April Desaulniers
(hereinafter called the "OWNER") OF THE SECOND PART

WHEREAS the Owner represent and warrants being the lawful and registered Owner of the lands and premises, (the "Subject Property") as described in Schedule "A" to this Agreement;

AND WHEREAS the Town has in place a Community Improvement Plan (the "CIP"), as provided for under Part IV of the Planning Act, R.S.O. 1990, Chapter P.13;

AND WHEREAS the Owner applied to the Town for one or more grants in the incentive program of the CIP to develop and/or re-develop and/or improve the Subject Property in accordance with this Agreement;

AND WHEREAS the Town requires the Owner, having received approval for certain grants to enter into an Agreement to maintain certain approved work as outlined in the approvals given by the Town

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual promises and covenants contained herein, and the sum of Two Dollars (\$2.00) CDN, now paid by each of the parties to each other, the receipt of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. RECITALS:

The Parties acknowledge the accuracy of the foregoing recitals and incorporate same as terms of this Agreement.

2. SCHEDULES:

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

2.1 Schedule "A" - Description of the Subject Property

2.2 Schedule "B" - Approved Complete Application

2.3 Schedule "C" - Further Terms Forming Part of this Agreement.

3. PRE-CONDITIONS:

The Owner acknowledges as follows:

- (a) that they have paid in full all municipal charges including taxes, water and wastewater charges, and local improvement charges as the case may be for the Subject Property;
- (b) confirm there are no outstanding or impending liens or other encumbrances other than duly registered mortgages in good standing; and
- (c) comply with all relevant Municipal By-Laws, codes and requirements both prior to the execution of this Agreement and throughout the term of this Agreement.

4. TERM:

Subject to the termination provisions of this Agreement, this Agreement shall be for a period of ten years commencing on the date of this Agreement. In the event the approved work contemplated under Schedule "B" of this Agreement is not suitably maintained or is altered or replaced within the Town may consider this Agreement at an end and seek repayment of the grant in accordance with the terms herein.

5. OWNER'S EXPENSES:

Every obligation 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 specifically stated otherwise. Nothing in this Agreement shall relieve the Owner from any other lawfully imposed rates, taxes, levies or charges now or hereinafter imposed by the Town or other government body.

6. OTHER AGREEMENTS:

Wherever some or all of the works associated with the Subject Property may also be subject to another agreement with the Town or any other party, then any matters related to the other agreements shall be coordinated with the requirements under this Agreement.

7. GENERAL CONDITIONS:

The Owner acknowledge, covenant and agree to be bound by the following:

- (a) Sale or transfer of Title or any other type of change of Ownership of the Subject Property must be reported to the Town in writing within 20 business days of the final closing date so the Town can assess grant eligibility implications for the new Owner;
- (b) Eligibility for any monies payable to the Owner under this Agreement may be lost in the event the Owner default on any other obligations with the Town; and
- (c) The Owner shall execute any documents, consent, or applications required to give effect to this Agreement.

8. CONSTRUCTION OF WORKS:

The Owner covenant and agree that the works shown on Schedule "B" shall be constructed and maintained in a good and workmanlike manner, in conformity with the prescribed scope of works, and in compliance with the Ontario Building Code. Further, such works shall be in accordance with any specifications set out in this Agreement, the Engineering Standards of the Town and the standards of any applicable regulatory authority. No deviation from or modification of the Schedules shall be made without the written approval of the Town.

9. PERMITS:

Prior to obtaining permits under the Ontario Building Code or any other provisions to modify the works on the subject lands, the Owner shall:

- (a) comply with the terms of this Agreement;
- (b) obtain all necessary permits and approvals required by any applicable agencies having jurisdiction, or made satisfactory arrangements to do so prior to starting construction;
- (c) submit required applications and fees to the Building Department for building permits, inclusive of all information as may be required by the Chief Building Official (CBO) of the Town or his designate; and
- (d) pay to the Town all applicable Development Charges and other charges as may be required.

10. ACCESS AND INSPECTION:

The Owner covenants and agrees that the Chief Building Official, Engineer and any other designated agent(s) of the Town shall have the right, at all times, to inspect the Subject Property, buildings and works being erected or constructed. If in the opinion of the CBO, Engineer or other Town designate, the work is not being carried out or maintained in accordance with the Ontario Building Code or other applicable law, or this Agreement, the CBO may, in the event of an urgent or emergency situation, immediately stop all or any part of the construction for Town any length of time until the building and works have been placed in satisfactory condition.

11. ROAD OCCUPANY PERMITS:

No construction shall take place on the Town's lands or rights-of-way prior without prior written approval from the Town. The Owner shall at all times keep the Subject Property and the Town's lands and roadways in reasonable condition and free from all hazardous situations and unnecessary debris and refuse. The Owner shall provide all necessary signs and lighting to provide ample warning to the public of any area that poses actual or potential dangers and/or hazards.

12. WASTE:

All refuse and debris associated with maintenance or repair of the works that are subject to this Agreement shall be disposed in an orderly, sanitary and expeditious manner in a disposal area provided by the Owner at their sole cost and expense. The Town will not be responsible for the removal, disposal or acceptance of refuse and debris.

13. EASEMENTS:

The Owner agrees to grant to the Town or its agents, free of cost and encumbrance and prior to the advance of any grant all such easements and rights-of-way as may be required as set out in Schedule "C".

14. PRINCIPAL PAYMENTS:

Subject to the provisions of this Agreement the Grant monies, as of the day the Grant(s) is (are) approved, shall be paid to the Owner in accordance with the general and specific provisions of the CIP and the provisions of this Agreement.

15. GRANT MONIES PAYABLE:

Grant monies shall be paid as shown in Schedule "B", subject to the terms and conditions of the CIP to the Owner. The maximum grant approved pursuant to this Agreement is the sum of Sixteen Thousand, One Hundred and Seventy Three Dollars (\$16,173.00).

16. OWNER FINANCIAL OBLIGATIONS:

- (a) In the event the Town determines that the Owner have failed to maintain approved work outlined in Schedule "B" to this Agreement, the Owner agree to re-pay the Town 10% of the grant amount listed in Part 15 of the agreement for each year of this agreement that the said works were not adequately maintained.
- (b) In the event this amount is not re-paid or are only partially re-paid within thirty (30) days of being billed, the Town will be entitled to charge interest on the overdue amounts at the rate charged on overdue property taxes. After ninety (90) days the Town shall add the unpaid amount and interest shall be inclusively deemed as tax arrears and may be collected in the same manner as tax arrears applicable to the subject lands.

17. INSURANCE:

Upon execution of this Agreement, the Owner shall file a Certificate of Public Liability Insurance with the Town in a form and on terms which are satisfactory to the Town in an amount of not less than Two Million Dollars (\$2,000,000.00), showing the Town as a named insured. The insurance coverage shall be primary and shall not call into contribution any insurance coverage by the Town. The Town reserves the right to increase this limit in the event it identifies additional risks that require further coverage. The Owner/Tenant shall keep the policy in force until the approved works have been completed and approved by the Town, or the Town otherwise advises that the coverage is no longer required.

18. MUNICIPAL LIABILITY AND INDEMNIFICATION:

The Owner indemnify the Town from any and all suits, claims, damages, demands, costs, suits, actions or causes of actions of any nature or kind whatsoever arising from or connected with the carrying out of the Owner's obligations in this Agreement without restricting the generality of the foregoing with respect to any claims pursuant to the Ontario Building Code and the Construction Lien Act. Notwithstanding any other provision of this Agreement, or any intervening acts or arrangements between the parties, the Owner shall, at their sole cost, indemnify the Town as set out above including the full legal costs of the Town, which may arise either directly or indirectly by reason of the Owner undertaking the prescribed works

19. ADDITIONAL OBLIGATIONS OF THE OWNER:

All building and works to be done pursuant to this Agreement shall be provided and maintained by the Owner's sole risk and expense, to the satisfaction of the Town. During the course of any construction or maintenance work, the Owner's shall not create any unreasonable public nuisance, such as dust, noise, vibration or noxious odours, and in particular shall not obstruct ingress or egress to the Subject Property or interfere with traffic flowing along adjoining roadways. The Owner's shall repair or replace any infrastructure, utilities, existing structure or landscaping located along the road allowance that has been damaged as a result of the construction or maintenance activity of works that are subject to this Agreement.

20. REGISTRATION:

The parties hereto agree that this Agreement may be registered on Title to the Subject Property at the option of the Town. Upon registration, the Agreement shall be deemed to run with and bind the Subject Property. This Agreement may be released from the title upon all obligations Town being fulfilled by the Owner, said release to be prepared and registered at the expense of the Town.

21. ENFORCEMENT:

- (a) If the Owner are in default of this Agreement, including the obligation to maintain the works, then the Town shall immediately provide written notice of the default to the Owner including the expected corrective work, and provide the Owner seven (7) calendar days, or in a bonafide life safety or emergency situation twenty-four (24) hours to comply with the requirements of the notice.
- (b) In the event the Owner fail to comply with the requirements of the notice, the Town may enter upon the Subject Property without further notice and take all necessary corrective work including, if necessary, removal of the construction works in order to restore the Subject Property to a safe condition.
- (c) Notwithstanding the foregoing, if in the opinion of the Town, there is danger to the public or property, the Town or anyone acting on its behalf, may immediately enter the property without notice to secure the property and/or remove the danger, all to the satisfaction of the Town, at the sole cost of the Owner. The Town shall be entitled to charge the total cost of such enforcement including all engineering and legal fees to the Owner who shall pay forthwith upon demand, failing which the Town may collect the costs from any security posted with the Town and/or add the cost to the tax bill of the Subject Property, whereupon such amount shall be inclusively deemed as tax arrears and may be collected in the same manner as tax arrears.
- (d) In this instance, the Owner shall be deemed to be in default of this Agreement. In the event of default in any obligation of the Owner, the provisions of Section 446 of the Municipal Act, S.O. 2001, and amendments thereto shall apply in addition to any other rights of enforcement that may be available to the Town.

22. APPLICATION TO COUNCIL:

The Owner may request relief from certain provisions of this Agreement by making Application to the Council of the Town in writing with reasons for the requested relief. Council for the Town will review the request in consultation with such departments, persons or agencies as it deems appropriate and provide its decision by way of Resolution of Council. The decision of Council shall be final and binding upon the parties. A copy of such decision shall be filed with the Town's copy of this Agreement.

23. EXTENSION OF TIME:

Time shall always be of the essence in fulfilling the terms of this Agreement. Any time limit specified in this Agreement may be extended with the consent in writing of both the Owner and Town Council, 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.

24. CONSTRUCTION LIEN ACT:

The Owner covenant and agree that it will hold back in its payments to any contractor who may construct services, facilities or works, such amounts as may be required under the provisions of the Construction Lien Act. The obligation of the Owner to indemnify the Town will extend to any matters arising under the Construction Lien Act, or any other claim for unpaid accounts. On demand by the Town, the Owner will take such steps as may be necessary to immediately discharge all liens registered upon the Subject Property or otherwise advanced against the interest of the Owner in relation to the prescribed works.

25. MORTGAGEE: In the event any Mortgagee becomes the Owner of the Subject Property, the Grant will become immediately repayable in accordance with Section 16 of this agreement be advanced unless the Mortgagee agrees in writing to be bound by this Agreement and to maintain the works as required herein.

26. TERMINATION:

- (a) If the Owner fail to take out a building permit and complete the construction and maintenance of the required work set out in Schedule "B", this Agreement may be terminated and declared null and void by the Town at its sole option and on thirty (30) days' notice to the Owner without any recourse, financial or otherwise, on the part of the Owner, their agents or other parties that may have a direct or indirect interest in the Subject Property.
- (b) The refund of any fees, levies or other charges shall be at the sole discretion of the Town, but under no circumstances will interest or any other form of opportunity costs foregone, whether explicit or implied, be paid on any refund nor will the Town be held liable for the terms of any third party agreements. It is the intent of this Agreement and the obligation of the Owner to ensure that maintenance works are performed correctly, expeditiously and continuously once this Agreement has been executed.

27. DEFAULT:

If the Owner are deemed by the Town to be in default of this Agreement, the grant amount listed in Part 15 shall be repaid to the Town in accordance with Part 16 of this agreement and any other applicable section contained herein.

28. BANKRUPTCY, LIQUIDATION OR RECEIVERSHIP:

In the event of bankruptcy, liquidation or receivership, then this Agreement will be deemed to be in default and subject to termination by the Town such that the Grant will not be advanced. Notwithstanding the foregoing, a Trustee or Receiver may seek to re-establish the Grant by applying to the Town, receiving the Town's approval, agreeing to be bound to this Agreement and completing the works as required herein.

29. NOTICE:

All notices that are required to be given under this Agreement shall be in writing and shall be delivered personally, sent by registered mail, or sent by facsimile to the parties at their respective addresses as set out as follows:

"Town"
Clerk, Corporation of the Town of Minto,
5941 Highway 89, Harriston Ontario, NOG 1Z0.
Fax Number: 519-338-2005

"Owner"
April Desaulniers
155 James St. Palmerston, ON NOG 2P0

Notices which are delivered or sent in the manner set out shall conclusively be deemed to be received for all purposes hereof and in the case of those personally delivered on the date of such delivery, in the case of those sent by facsimile on the first business day following the sending of the facsimile and in the case of those given by registered mail on the fourth (4th) day following that upon which the Notice was mailed.

30. WAIVERS:

Failure of the Town 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 Town 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 Town shall specifically retain its rights at law to enforce this Agreement.

31. SEVERABILITY:

If any provision of this Agreement or portion thereof or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement and its application to any person or circumstances shall not be affected.

32. GOVERNING LAW:

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

33. SUCCESSORS AND ASSIGNS:

This Agreement shall be binding upon and ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns, as the case may be.

IN WITNESS WHEREOF the individuals have hereunto set their hands and seals and the Town has hereunto affixed its Corporate Seals as attested by their proper signing officers in that behalf.

April Desaulniers

By: _____
April Desaulniers

THE CORPORATION OF THE TOWN OF MINTO

By: _____
George Bridge, Mayor

By: _____
Gordon Duff, Acting Clerk

I/we have authority to bind the Corporation.

Schedule "A" –Description of the Subject Property

Lands municipally known as 155 James St. in the former Town of Palmerston located in the Province of Ontario, County of Wellington

Schedule “B” – Approved Works Subject of Agreement

Interior and exterior renovation of the building including structural improvements including: windows, electrical and insulation.

Such grant payable to the Owner as follows:

1. One Thousand, Five Hundred Dollars (\$1,500) to be paid by the Town to the Owner upon execution of this agreement and proof of payment according to the terms of this agreement.

Schedule "C" – Further Terms Forming Part of this Agreement.
Not applicable