



MUNICIPAL ROAD TRANSFER AGREEMENT

BETWEEN:

THE CORPORATION OF THE COUNTY OF SIMCOE

"County"

- and -

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

"Township"

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ROAD IMPROVEMENT AGREEMENT

BETWEEN:

THE CORPORATION OF THE COUNTY OF GREY

"Grey County"

- and -

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

"Clearview Township"

- and -

WALKER AGGREGATES INC.

"Walker"

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ROAD IMPROVEMENT AGREEMENT

B E T W E E N:

THE CORPORATION OF THE COUNTY OF GREY

"Grey County"

- and -

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

"Clearview Township"

- and -

WALKER AGGREGATES INC.

"Walker"

The parties have entered into this agreement to identify the intended use and level of improvements to 26/27 Sideroad under the jurisdiction of Clearview Township, subject to the terms and conditions set out herein. A sketch of the portion of 26/27 Sideroad which is subject to the terms of this agreement is attached as Schedule "A".

Grey County and Clearview Township are municipal entities ("Municipal Entities") which will be impacted by the proposed haul route for the aggregate operations of Walker and associated re-routing of local traffic.

Walker has entered into a Minutes of Settlement with both The Corporation of the County of Simcoe and Clearview Township which has resulted in certain obligations for the road works to occur on the roads identified in those Minutes.

The 26/27 Sideroad has been identified as a road that will be improved to a rural gravel surface Township road.

Grey County has expressed their concern with the level of road improvements proposed given this road will link the local traffic between Clearview Township and Grey County. Grey County has raised this in its representative's participate statement before the Board in the hearing from the Walker quarry application.

The parties have entered into this agreement to set out the terms and conditions upon which the parties have reached a mutually satisfactory resolution to the works to be undertaken on the portion of 26/27 Sideroad in question such that Grey County are satisfied the tourism and residential link has been maintained and their concern has been addressed.

The parties are desirous of entering into this agreement for the purposes set out herein on the terms and conditions as set out further in this agreement. The *Municipal Act, 2001*, authorizes municipalities to pass by-laws authorizing the entering into of agreements for these purposes.

NOW THEREFORE in consideration of Grey County and Clearview Township's Councils supporting Walker's licence applications, or amendments thereto, related permits and approvals, and the covenants of parties to be fulfilled, the parties agree as follows:

SECTION 1 – INTERPRETATION

1.2 Headings

The headings inserted in this agreement are inserted for convenience only and not as a means of interpreting this agreement.

1.3 Lists

Whenever a statement or provision in this agreement is followed by words denoting inclusion of examples and then lists or references specific items, such list or reference should not be read as to limit the generality of that statement or provision even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.

1.4 Reference to Statutes

References herein to any statute or any provision thereof includes such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.

1.5 Schedules

Schedules attached form part of this agreement and have the same force and effect as if the information contained on them was included in the body of this agreement.

SECTION 2 – 26/27 SIDEROAD

2.1 Works

Upon final approval of Walker's application and the issuance of a licence under the *Aggregate Resources Act* and all other applicable permits and approvals, the parties agree as follows:

2.1.1 Clearview Township shall commission a traffic survey of 26/27 Sideroad annually. This traffic survey will be provided to both Grey County and Grey Highlands;

2.1.2 two years after the date of the issuance of the licence to Walker, Clearview shall surface treat 26/27 Sideroad with tar and chip, provided the traffic count is 400 vehicles per day or in such year the traffic study noted above evidences there are 400 vehicles per day;

2.1.3 the cost for the improvements that are required will be shared between Walker and Clearview Township, with Walker being responsible to pay Clearview a minimum of 50% of the cost;

- 2.1.4 Clearview Township shall adopt a by-law which would restrict truck traffic and load restrict 26/27 Sideroad year-round.

SECTION 3 - DISPUTE RESOLUTION

3.1 Mediation/Arbitration

In the event any disputes, differences or questions ("Issues") arise out of this agreement the parties shall submit the Issues to mediation. The parties shall jointly agree on a mediator. In the event such mediation fails, or there is a failure in agreeing on a mediator, the parties shall submit the Issues to arbitration, by one party giving notice to the other party. The parties shall jointly appoint one arbitrator. If the parties fail to agree on an arbitrator within 30 days of the notice to move to arbitration, then the arbitrator shall be appointed pursuant to Section 10 of the *Arbitrations Act, 1991*. The arbitration shall be conducted in accordance with the provisions of the *Arbitrations Act, 1991*, and shall be held without delay in the County of Simcoe. The decision of the arbitrator shall be final and binding on the parties hereto, and is not subject to appeal. The costs of the arbitration shall be paid as the arbitrator determines.

- 3.2 It is a condition precedent to any action being commenced by any party, for any liability arising out of or pertaining to this agreement, that the matter must be first referred to mediation/arbitration as herein provided.

SECTION 4 – GENERAL

4.1 Enforceability

The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision hereof and any such invalid or unenforceable provision shall be deemed to be severable.

4.2 Notice

Where this agreement requires notice to be delivered by one party of the agreement to the other, such notice shall be in writing and delivered either personally, by facsimile transmission or by courier by one party to the other at their addresses noted below. Such notice will be deemed to have been given, if by personal delivery on the date of delivery, and if by facsimile transmission on the date of delivery with electronic confirmation of receipt obtained, and if by courier on the 4th business day following the sending thereof which for the purposes of this agreement shall be deemed to exclude Saturdays, Sundays and statutory holidays:

Grey County:

The Corporation of the County of Grey
Transportation and Public Safety Department
595 9th Avenue East
Owen Sound, Ontario N4K 3E3

**Attention: Transportation and Public Safety Department
and County Clerk**

Fax: 519-376-0967
Tel: 519-376-7337

Clearview Township:

Planning and Development Department
Box 200, 217 Gideon St.
Stayner, Ontario L0M 1S0

**Attention: Director of Planning & Development
and Municipal Clerk**

Fax: 705-428-0288
Tel: 705-428-6230

Walker:

Walker Industries Holdings Limited
P.O. Box 100
Thorold Ontario
L2V 3Y8

**Attention: Mr. Ken Lucyshyn, Vice President and General Manager Aggregates and
Construction**

Fax: 905-227-1034
Tel: 905-227-4142

Such addresses and fax numbers may be changed by written notice to each party of this agreement.

4.3 Consent to Assign

4.3.1 Walker cannot assign this agreement without the prior written consent of the Municipal Entities. The Municipal Entities will not unreasonably withhold their consent to any assignment provided:

4.3.1.1 Walker is at the time in good standing under this agreement;

4.3.1.2 the party this agreement is assigned to ("Assignee") agrees in writing to assume all of the outstanding obligations of Walker under this agreement.

4.3.2 Upon any such assignment being completed, the parties will have no further obligations to one another under this agreement. All obligations will be between Clearview Township and the Assignee.

4.4 Governing Law

This agreement shall be interpreted in accordance with and governed by the laws of the Province of Ontario.

4.5 Entire Agreement

This agreement shall constitute the entire agreement between the parties, and the parties further acknowledge that there is no representation, warranty, collateral agreement, or adverse condition affecting this agreement other than as expressed herein in writing.

4.6 No Fettering of Discretion

Notwithstanding any other provision of this agreement, none of the provisions of this agreement, including a provision stating the parties' intentions, is intended to operate, nor will have the effect of operating, in any way to fetter any of the municipal councils which authorized the execution of this agreement or any of its successor councils in the exercise of any of councils' discretionary powers, duties or authorities. Walker hereby acknowledges that it will not obtain any advantageous planning or other consideration or treatment by virtue of it having entered into this agreement or by virtue of the existence of this agreement.

4.7 Municipal Act

The Municipal Entities are, in addition to any other remedy available to them, at liberty to utilize the provisions of sections 349, 442 and 446 of the *Municipal Act, 2001*.

4.8 Other Applicable Laws

Nothing in this agreement will relieve Walker from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any other governmental body which has jurisdiction over the lands owned by Walker and 26/27 Sideroad.

4.9 Further Assurance

Walker agrees to execute such further and other agreements as may be requested from time to time to give effect to the full intent and meaning of this agreement.

4.10 Counterparts

This agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear date as of the effective date. An executed copy of this agreement may be delivered by any signator hereto by facsimile. In such event, such party shall forthwith deliver to the other party hereto a copy of this agreement executed by such party.

4.11 Not Call Into Question

Walker shall not call into question in any proceeding or action in court or before any administrative tribunal, the municipal entities' right to enter into and enforce this agreement. This provision may be pleaded by the municipal entities in any action or proceeding as a complete estoppel of the right.

4.12 Effective Date

This agreement is effective from the date that the last party signs it.

4.13 Binding

This agreement shall inure to and be binding upon parties and each of its heirs, successors, administrators and assigns.

THE PARTIES HAVE SIGNED THIS AGREEMENT ON THE DATES SET OUT BELOW:

DATE: _____

THE CORPORATION OF THE COUNTY OF GREY

Per:

Arlene Wright, Warden

Sharon Vokes, County Clerk

We have authority to bind the corporation

DATE: _____

**THE CORPORATION OF THE TOWNSHIP OF
CLEARVIEW**

Per:

Ken Ferguson, Mayor

Bob Campbell, Township Clerk

We have authority to bind the corporation

DATE: _____

WALKER AGGREGATES INC.

Per:

Ken Lucyshyn, Vice President

I have authority to bind the corporation

SCHEDULE "A" Sketch Showing 26/27 Sideroad to be Improved



