

## AGREEMENT OF PURCHASE AND SALE

**PURCHASER:** THE CORPORATION OF THE COUNTY OF GREY

**VENDOR:** WALKER AGGREGATES INC.

**PROPERTY:** Part of Lot 19, Concession A, west of Grey Road 31/Simcoe Road 95, Township of Grey Highlands (former Osprey), County of Grey, being Part 1 on draft Reference Plan as set out in sketch attached as Schedule "A", being part of PIN 37257-0122(LT) with a frontage of 325 metres and a depth of 5 metres more or less ("Property").

**PURCHASE PRICE:** TWO THOUSAND, ONE HUNDRED AND TWELVE DOLLARS --50/100 (\$2,112.50) Canadian

1. **PAYMENT:** The Purchaser agrees to pay the purchase price by certified cheque or bank draft to the Vendor's solicitor on closing.
2. **SCHEDULES:** SCHEDULE "A" form part of this Agreement.
3. **IRREVOCABLE:** This Offer shall be irrevocable by the Purchaser until 4:00 p.m. on the 2<sup>nd</sup> day of May, 2014, after which time, if not accepted; this Offer shall be null and void.
4. **REFERENCE PLAN:** The Purchaser agrees to pay for all costs associated with the preparation and registration of a reference plan for this transaction.
5. **AREA ADJUSTMENT:** If the reference plan is in draft form and not registered, the Vendor and Purchaser agree that the exact area of the Property may not yet have been confirmed, and therefore, prior to closing, an adjustment may be required to the area of the Property, provided it does not constitute a material change to the area of the Property, which may result in an adjustment to the Purchase Price.
6. **CONDITION PRECEDENT:** The Vendor acknowledges that the Purchaser has delegated authority to negotiate this Agreement, but that it is conditional for a period of one hundred and twenty (120) days from acceptance (the "Condition Date") upon approval of the Agreement and transaction by the authorizing officials at the Corporation of the County of Grey. The Purchaser shall use its best efforts to satisfy this condition by the Condition Date. In the event that the Purchaser does not provide written notice to the Vendor or the Vendor's solicitor that this condition is fulfilled or waived by the Condition Date, then this Agreement shall become null and void. The Vendor and Purchaser agree that this is a true condition precedent.
7. The Vendor acknowledges and agrees that the Property being purchased herein does not need to be assumed into the road system by the Purchaser pursuant to section 31(6) of the Municipal Act, 2001. The Transfer from the Vendor to the Purchaser will contain a statement indicating that the Transfer of the Property is for 'road widening purposes'.
8. The Vendor agrees that the compensation paid under this Agreement is full satisfaction for its Property and waives any claims under the Expropriations Act, R.S.O. 1990, c.E. 26.
9. **COMPLETION DATE:** This Agreement shall be completed no later than 45 days after the Notice of Fulfillment of Condition has been delivered to the Vendor in respect of the condition contained in paragraph 6 above, unless otherwise agreed to in writing between the parties. The Completion Date may be accelerated or extended by mutual agreement.

- 10. RIGHT OF ENTRY:** Upon acceptance of this Agreement the Vendor hereby irrevocably authorizes the Purchaser and its engineers, consultants, contractors, employees or other authorized representatives, including the applicable Hydro authority, to enter onto the Property at any time to complete such inspections, surveys or tests and to commence construction of all work required by the Purchaser to complete the road widening, including without limitation tree removal and hydro pole relocation. The Purchaser agrees that should the Agreement fail to close due to the fault of the Purchaser, any damage done to the Vendor's property as a result of actions taken by the Purchaser pursuant to this paragraph shall be rectified by the Purchaser at its expense. The Purchaser further agrees to indemnify the Vendor for any and all liability arising as a result of the Purchaser, and its engineers, consultants, contractors, employees or other authorized representatives, entering onto any portion of the Vendor's property for the purposes set out in this paragraph.
- 11. DISCHARGE:** The Vendor agrees to discharge any existing mortgages, liens, or other encumbrances now registered against the Property on or before closing at his own expense. The Purchaser shall not be required to accept the Vendor's solicitor's undertaking to discharge any such encumbrances.
- 12. ENVIRONMENTAL WARRANTIES:** The Vendor warrants that:
- i. The Vendor has not been prosecuted for or convicted of any offence under any Environmental Laws as defined in Section 27 of this Agreement nor has the Vendor been found liable in any proceeding to pay any fine, penalty, damages, amount or judgment to any person as a result of any release or threatened release as defined in Environmental Laws or as a result of the breach of any Environmental Laws and to the knowledge of the Seller there is no basis for any such proceeding or action;
  - ii. No part of the Property has ever been used by the Vendor as a landfill or for the disposal of waste and to the best of the knowledge of the Vendor no part of the Property has been used by any other person as a landfill or for the disposal of waste;
  - iii. To the best of the Vendor's knowledge and belief there are no past or present conditions, events or circumstances that:
    - a. Have or may reasonably be expected to give rise to any claim or other obligation under any Environmental Laws or that may require the Purchaser to incur any environmental costs, or
    - b. May reasonably be expected to form the basis of any claim, investigation or inquiry against or involving the Vendor or Purchaser based on or related to any environmental matter or which could reasonably be expected to require either of the Vendor or Purchaser to incur any environmental costs, and
    - c. Except to the extent that such request or requirement has been fully complied with, the Vendor has not been requested or required by any governmental authority to perform any investigatory or remedial activity or other action in connection with any environmental matter; underground storage tanks or other containers currently exist on the portion of the Property to be conveyed;
  - iv. The Vendor has made full disclosure in writing to the Purchaser of all facts and circumstances relating to the environmental conditions pertaining to the Property.
- 13. NOTICE:** Any notice relating hereto or provided herein shall be in writing. This Agreement, any counter-offer, notice of acceptance thereof, or any notice shall be deemed given and received:
- i. If by personal delivery, on the day of delivery;
  - ii. If by facsimile transmission on the date of delivery with electronic confirmation of receipt obtained;
  - iii. If by email transmission in "pdf" format on the date of delivery with electronic confirmation of email be sent;
  - iv. If by prepaid registered mail on the 4<sup>th</sup> business day following the posting thereof.
- 14. TITLE SEARCH:** The Purchaser shall be allowed until Closing to examine title to the Property, at its own expense, to satisfy itself that there are no outstanding work orders or deficiency notices affecting the Property. The present use of the Property is vacant land.

15. **HST:** If this transaction is subject to Harmonized Sales Tax (H.S.T.) then such H.S.T. shall be in addition to and not included in the purchase price, and the H.S.T. shall be collected and remitted in accordance with applicable legislation. The Vendor will not collect HST if the Purchaser provides to the Vendor a warranty that the Purchaser is registered under the *Excise Tax Act*, R.S. 1985, c. E-15 ("ETA"), together with a copy of the Purchaser's ETA registration, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Vendor in respect of any HST payable. If this transaction is not subject to H.S.T., the Vendor agrees to provide the Purchaser's standard form declaration and warranty, on or before closing, certifying that the transaction is not subject to H.S.T.
16. **TITLE:** Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:
- a. Any registered restrictions or covenants that run with the land, provided that such are complied with;
  - b. Any registered agreements with a municipality or a supplier of utility service including, without limitation, electricity, water, sewage, gas, telephone or cable television or other telecommunication service, provided such have been complied with or security has been posted to ensure compliance and completion as evidenced by letter from the relevant municipality or utility supplier;
  - c. Any minor easements for the supply of utility or telephone services to the Property or to adjacent properties;
  - d. Any easements for drainage, storm or sanitary sewer, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property.

If within the time for examining the title any valid objection to title, or any outstanding work order or deficiency notice, or to the fact that the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire, is made in writing to Vendor or Vendor's solicitor, which Vendor is unable or unwilling to remove, remedy or satisfy, and which Purchaser will not waive, this Agreement, notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end, and all money therefore paid shall be returned without interest or deduction and Vendor and his Agents shall not be liable for any costs or damages. Save as to any valid objection so made within such time, and except for any objection going to the root of title, Purchaser shall be conclusively deemed to have accepted the Vendor's title to the Property. The Vendor hereby consents to the municipality or other government authority releasing to the Purchaser details of all outstanding work orders or deficiency notices affecting the Property, and the Vendor agrees to execute and deliver to the Purchaser or his solicitor such further authorizations in this regard as the Purchaser may reasonably require.

17. **INSPECTION:** The Purchaser acknowledges having the opportunity to inspect the property prior to submitting this Agreement and the Vendor understands that upon Council approval this Agreement shall be a binding agreement of Purchase and Sale between the Purchase and the Vendor.
18. **PRIVACY CONSENT:** The Vendor hereby consents to, local and regional municipalities, the Province or any other governmental authority having jurisdiction, releasing to the Purchaser details of all outstanding municipal or other compliance or work orders or deficiency notices affecting the Property and/or such information related to the Property as is in their respective files and the Vendor agrees to promptly execute and deliver to the Purchaser such further authorizations in this regard as the Purchaser may reasonably require.
19. **FUTURE USE:** The Vendor and Purchaser agree that there is no condition, express or implied, representation or warranty of any kind that the future intended use of the Property by Purchaser is or will be lawful except as may specifically be stipulated elsewhere in this Agreement.
20. **DOCUMENTS:** The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Vendor. Vendor agrees that, if requested by the Purchaser, he will deliver any sketch or survey of the Property in his possession or within his control to Purchaser as soon as possible and prior to the last day allowed for examining title.

21. **PLANNING ACT:** Provided that this Agreement shall be effective to create an interest in the Property only if the subdivision control provisions of the *Planning Act*, R.S.O. 1990, c.P.13, are complied with by Vendor on or before completion and Vendor hereby covenants to proceed diligently at his expense to obtain any necessary consent on or before completion.
22. **RESIDENCY:** The Purchaser shall be credited towards the Purchase Price with the amount, if any, which it shall be necessary for Purchaser to pay to the Minister of National Revenue in order to satisfy Purchaser's liability in respect of tax payable by Vendor under the non-residency provisions of the *Income Tax Act*, R.S.C. 1985, c.1, by reason of his sale. Purchaser shall not claim such credit if Vendor delivers on completion the prescribed certificate or the Vendor's statutory declaration that the Vendor is not then a non-resident of Canada.
23. **CLOSING ARRANGEMENTS:** Each of the Vendor and Purchaser shall retain a lawyer to complete the transaction, and where the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, c.L.4 and the *Electronic Registration Act*, 1991, S.O. 1991, c.44, and any amendment thereto, the Vendor and Purchaser acknowledge and agree that the exchange of closing funds, non-registerable documents and other items ("Requisite Deliveries") and the release thereof to the Vendor and Purchaser will
  - a. Not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and
  - b. Be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a Document Registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
24. **DOCUMENT PREPARATION:** The Transfer and all closing documentation shall be prepared in registerable form by the Purchaser's solicitor, at the expense of Purchaser. If requested by Purchaser, Vendor covenants that the Transfer to be delivered on completion shall contain the statements contemplated by section 50(22) of the *Planning Act*, R.S.O. 1990, c.P.13.
25. **ADJUSTMENTS:** There shall be no adjustments made for realty taxes etc. on Closing.
26. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Vendor and Purchaser or by their respective solicitors who may be specifically authorized in that regard.
27. **TENDER:** Any tender of documents or money hereunder may be made upon Vendor or Purchaser or their respective solicitors on the day set for completion of this Agreement. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
28. **FAMILY LAW ACT:** The Vendor warrants that spousal consent is not necessary to this transaction under the provisions of the *Family Law Act*, R.S.O. 1990, c.F.3, unless the Vendor's spouse has executed the consent hereinafter provided.
29. **ENVIRONMENTAL LAWS:** Environmental Laws means all laws (including common law, statutes, bylaws, rules, regulations, orders, ordinances, protocols, codes, guidelines, treaties, policies, notices, directions, decrees, judgments, awards or requirements) of any governmental authority relating in full or in part to the environment (as defined in Environmental Laws), pollution or protection of the environment, the management, collection, handling, transfer, storage, processing, treatment, deposit or disposal of waste of any nature or kind, and includes those applicable Environmental Laws relating to collection, storage, generation, use, handling, manufacturing, processing, transfer, transportation, treatment, reuse, recycling, release and disposal of hazardous substances, any applicable municipal or other sewer use by-law, as amended from time to time.

30. **AGREEMENT IN WRITING:** If there is a conflict or discrepancy between any provision added to this Agreement (including any Schedule to this Agreement) and any provisions in the printed portion hereof, the added provision shall supersede the printed provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire agreement between the Purchaser and Vendor. There is no representation, warranty, collateral Agreement or condition, whether direct or collateral or expressed or implied, which induced any party hereto to enter into this Agreement or on which reliance is placed by any such party, or which affects this Agreement or the Property or supported hereby, other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
31. **HEADINGS:** The headings inserted into this Agreement are inserted for convenience only and shall not be used as a means of interpreting this Agreement.
32. **GENDER AND PLURALS:** This Agreement shall be read with all changes of gender or number required by the context.
33. **ENUREMENT:** This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, executors, successors, administrators and assigns.
34. **ENFORCEABILITY:** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any provision hereof and any such invalid or unenforceable provision shall be deemed to be severable.
35. **GOVERNING LAWS:** This Agreement is made pursuant to and shall be governed by and construed in accordance with the laws of the Province of Ontario and shall be treated in all respects as an Ontario contract.
36. **FACSIMILE TRANSMISSION:** The Purchaser and Vendor agree that the acceptance, rejection or modification of this Agreement may be transmitted by "fax" document transmission to their respective solicitors and that communication by such means will be legal and binding on all parties.
37. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

**PURCHASER:**

DATED at Owen Sound, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**THE CORPORATION OF THE COUNTY OF GREY**

Per:

\_\_\_\_\_  
Brian Milne, Warden

\_\_\_\_\_  
Sharon Vokes, Clerk

We have authority to bind the Corporation.

**VENDOR:**

**I/WE, HEREBY ACCEPT THE ABOVE OFFER, AND COVENANT, PROMISE AND AGREE TO AND WITH THE ABOVE NAMED PURCHASER TO DULY CARRY OUT THE SAME (ON THE TERMS AND CONDITIONS ABOVE MENTIONED).**

DATED at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2014.

**WALKER AGGREGATES INC.:**

Per:

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name:

Title:

I/we have authority to bind the Corporation.

**THE UNDERSIGNED HEREBY ACKNOWLEDGES THAT THE PURCHASER HAS RECOMMENDED THAT THE VENDOR SEEK INDEPENDENT LEGAL ADVICE PRIOR TO SIGNING THIS AGREEMENT, AND NOTWITHSTANDING THIS ADVICE, THE UNDERSIGNED HEREBY WAIVES HIS/HER/THEIR RIGHT TO DO SO.**

**WALKER AGGREGATES INC.**

Per:

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name:

Title:

I/we have authority to bind the Corporation.

**VENDOR'S SOLICITOR:**

Tel:

Fax:

**PURCHASER'S SOLICITOR:**

The Alliance of Kirby Robinson Treslan and  
Brian Barrie  
PO Box 730  
142 10<sup>th</sup> Street West  
Owen Sound, ON N4K 5W9  
Tel: 519-376-7450  
Fax: 519-376-8288

# SCHEDULE "A" Sketch of Property

To the Agreement of Purchase and Sale between the Corporation of the County of Grey, as Purchaser, and Walker Aggregates Inc., as Vendor.

