

THIS AGREEMENT made in triplicate this 15th. day of May, 1995 A.D.

GORDON PAGE

of the Town of Pelham, in the Regional  
Municipality of Niagara,

HEREINAFTER called "Page"

OF THE FIRST PART

– and –

THE CORPORATION OF THE TOWN OF  
PELHAM

a Municipal Corporation,

HEREINAFTER called the "Town"

OF THE SECOND PART

WHEREAS the Parties hereto wish to enter into an agreement for the purposes of supply and sale by the Town of Pelham to Gordon Page for a water loading station;

AND WHEREAS the Owner of the lands described in Schedule "A" to this agreement is in agreement with the location of the water loading station on his property in accordance with the terms of this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

(1) BUILDING:

Page shall, at his own expense, construct and arrange to be located in a position satisfactory to the Town's Director of Building & Enforcement Services, one aluminum clad building, to be termed a water station to receive the supply of water from the Town. Such building shall be located in the southwest quadrant of the lands described in Schedule "A", and shall be at least ten feet north of the south limit of the lands described in Schedule "A", and at least twenty feet east of the west limit of the said lands. Such building shall be adequately secured with locking door, and shall be used solely for the purpose of housing the water standpipe, the water meter, all necessary appurtenances thereto and an electrical supply adequate to heat the building and water line.

(2) INSTALLATION OF WATER SERVICE:

(a) Page shall pay all costs of the installation of a 50mm diameter waterline to the west limit of the lands described in Schedule "A" hereto, and Page shall at his own expense construct and install the 50mm diameter waterline from the said property line to the building, a Clayton Valve Model 50g pressure sustaining valve and water meter, all under the direction of, and to the satisfaction of the Town's Director of Operations.

(b) The pressure sustaining valve and water meter shall be entirely housed in the water station and the water supply shall be used solely by Page, his servants and employees except in cases of emergency as hereinafter provided.

(3) DRAINAGE:

(a) Page shall ensure that the lands associated with the water loading station and used for the purpose of vehicular traffic associated with the water station, or for accommodating the building, are graded in such a manner as to prevent any accumulation of water on the surface of the lands adjacent thereto.

(b) The Town's Director of Operations shall inspect the property periodically to determine that such grading has been undertaken to his satisfaction and any regarding shall be carried on by Page forthwith upon the request of the Director of Operations.

(4) CASH DEPOSIT:

Page has heretofore deposited with the Town's Director of Financial Services the sum of Five Hundred Dollars (\$500.00) in trust to indemnify the Town against any outstanding accounts which may be owed and due to the Town or related to any matters covered by this agreement. The Town is hereby authorized to deduct from the said deposit any unpaid balance resulting from the purchase of water from the Town by Page, and in the event that there is no unpaid accounts by Page at the time of the termination of this agreement, the deposit shall be returned to Page by the Town without interest.

(5) WATER BILLING:

(a) Page shall be billed by the Town on a monthly basis for all water consumed and delivered under the provisions of this agreement during the previous month at the rate of \$ per thousand gallons, provided that this charge will be subject to adjustments in direct proportion to the adjustment of the rate charged to the Town by the Regional Municipality of Niagara from time to time, and in direct proportion to the adjustment of the rate charged by the Town to its water users generally.

(b) Page shall have fifteen (15) days after mailing of the bill provided for in subparagraph (a) by the Town, to make full remittance in payment of such account to the Town's Director of Financial Services. In the event of any default in making of payment by Page, the Town shall notify Page of the default and if such default is not rectified within ten (10) days next after notification by the Town, this agreement shall forthwith be at an end.

(c) The Town does not hereby guarantee or undertake the furnishing of any minimum or other amount of water, and reserves the right in times of emergency, as defined by the Town, to limit or terminate the supply of water temporarily during the duration of such emergency.

(6) GENERAL:

(a) Page shall indemnify the Town against any damage sustained by the Town and from any action, cause of action, claim, demand, loss, costs, damage or injury which the Town may suffer or be put to, for or by reason of, or on account of the construction, maintenance, or any work done by Page, his contractors, servants, employees or agents in connection with the installation or operation of the water station on the lands described in Schedule "A". Page agrees that he shall produce evidence of liability insurance covering his own liability and the liability of the Town in the amount of at least \$500,000.00 in connection with his operations upon, and from the lands described in Schedule "A" at all times during the term of the agreement. Nothing herein contained shall required Page to indemnify the Town with respect to any loss or damage caused by, and as a result of the entry upon the premises by the servants, agents, employees of the Town or of its Fire Department.

(b) In the event of the failure of Page to carry out any of the provisions of this agreement, the Town may give to Page ten (10) days notice, in writing, of the nature of such default, and after such period of notice, or forthwith in cases of emergency as defined by the Town, shall have the right to enter upon the said lands and at the expenses of Page to do any such work as is required therein, and shall further have the right to recover the costs of such remedial work by action or from the cash deposit hereinbefore referred to, or by a combination thereof, and in addition or in the further alternative to treat the non-payment of such costs by Page as a breach warranting termination of this agreement.

(c) Page shall at all times, keep posted on the front of the water station or otherwise prominently displayed, a notice indicating the ownership of the said water station, and mailing address and telephone number of the persons having authority to deal with all matters relating to the said water station.

(d) Page shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity, or before any court or administrative tribunal, the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein described and this agreement shall be pleaded as an estoppel against Page in any such proceedings.

(e) Page agrees that he shall during the currency of this agreement or any successor thereto, upon the sale and transfer of the lands described in Schedule "A" attached hereto, require the purchaser or transferee thereof, to concur in and approve the provisions of this agreement by letter delivered to the Town and in the event that he cannot or does not produce evidence of such approval, then this agreement shall terminate at the option of either party.

(7) TERM OF AGREEMENT:

(a) This agreement shall come into force upon the 15th. day of May, 1995. This agreement shall remain in force and effect for a definite period of one year from the date of this agreement and thereafter shall continue in force for an indefinite period provided that either party may, by giving at least three months prior written notice

to the other, terminate this agreement upon the expiry of the original terms or at any time thereafter.

(b) Any notice required under the terms of this agreement shall be given, in writing, by either party to the other of them as follows:

To the Town at the Municipal Offices, P. O. Box 400, 20 Pelham Town Square, Fonthill, Ontario, L0S 1E0

And to Page at R. R. #3, Fenwick, Ontario, L0S 1C0

Any such notice shall be deemed to have been received by the other party at the time of personal service upon such other party, or on the third business day next after the mailing of such notice by prepaid first class mail.

(c) This agreement, or any extension or renewal thereof shall not be transferable to any party without the express concurrence and agreement of the other party to this agreement. The agreement shall take effect only upon receipt by the Town of the approval in writing of the present registered owner of the lands described in Schedule "A" to the terms of this agreement.

(9) FIRE DEPARTMENT:

Notwithstanding anything contained in this agreement, nothing shall prohibit or interfere with the right of the Pelham Fire Department from utilizing the water loading station for emergency purposes. Any water consumed by the Fire Department in pursuance of this paragraph shall not be charged to Page.

In this agreement where a specific employee or officer of the Town is mentioned, such employee shall be interpreted to mean the incumbent of such office at such time or times as are applicable to give effect to the terms of this agreement.

IN WITNESS WHEREOF Page has hereto affixed his hand and seal and the Town has hereunto affixed its Corporate Seal, duly attested by its proper officers in that behalf.

SIGNED, SEALED AND DELIVERED ,

- In The Presence of - *Shylennicette*

( GORDON PAGE  
( *Gordon Page*  
(

( THE CORPORATION OF  
( THE TOWN OF PELHAM

( *P. B. Brown*  
( MAYOR

( *Mary Hackett*  
( CLERK  
(  
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