

THIS AGREEMENT made in triplicate this 30th. day of September, 1997 A.D.

JIM BENI

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

HEREINAFTER called "Beni"

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 Jim Beni 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:

Beni shall, at his own expense, maintain the existing water loading station
which building is located in the southwest quadrant of the lands described in Schedule "A", and is
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) Beni shall, at his own expense, maintain 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 Beni, his servants and employees except in cases of emergency as hereinafter provided.

(3) DRAINAGE:

(a) Beni 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 Beni forthwith upon the request of the Director of Operations.

(4) CASH DEPOSIT:

Beni 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 Beni, and in the event that there is no unpaid accounts by Beni at the time of the termination of this agreement, the deposit shall be returned to Beni by the Town without interest.

(5) WATER BILLING:

(a) Beni 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 \$3.55 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) Beni 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 Beni, the Town shall notify Beni 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) Beni 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 Beni, his contractors, servants, employees or agents in connection with the installation or operation of the water station on the lands described in Schedule "A". Beni agrees that he shall provide the necessary liability insurance, in order to protect both the Town and himself from any claims that may arise. The minimum amount of this liability coverage will be One Million Dollars (\$1,000,000.00) and that the Town will be named, on this policy, as a co-insured. A copy of the insurance policy will be deposited with the Town prior to the execution of this Agreement by the Town. Nothing herein contained shall require Beni 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 Beni to carry out any of the provisions of this agreement, the Town may give to Beni 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 Beni 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 Beni as a breach warranting termination of this agreement.

(c) Beni 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) Beni 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 Beni in any such proceedings.

(e) Beni 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.

TERM OF AGREEMENT:

(a) This agreement shall come into force upon the 30th. day of September, 1997. 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 Beni 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 Beni.




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 Beni 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 -

Sheryl M. C. Little

(JIM BENI
(
(
(THE CORPORATION OF
(THE TOWN OF PELHAM
(
(MAYOR
(
(
(CLERK
(

Gore Mutual Insurance Co.
 252 Dundas Street North
 CAMBRIDGE, Ont. N1R 5T3
 Econ Mutual Insurance
 120 King Street West
 HAMILTON, Ont. L8P 4V2

This is to certify to: The Corporation of The Town of Pelham
 AttMurray Hackett
 Fax # 892-5055

Name of Insured — James Beni O/A Nicholas Water Haulage

CERTIFICATE OF INSURANCE

Address of Insured — 191 River Rd., R.R. # 3
 WELLAND, Ont. L3B 2R7

that policies of insurance as herein described have
 been issued to the insured named below and are in
 force at this date.

Location and Operations to —
 which this Certificate applies Trucking and delivery of water

KIND OF POLICY	POLICY NUMBER	EXPIRY DATE			LIMITS OF LIABILITY				
		D	M	Y	BODILY INJURY AND PROPERTY DAMAGE COMBINED				
PUBLIC LIABILITY (except automobile)	Economical # 5211	04	11	97	\$ 1,000,000	INCLUSIVE LIMIT AGGREGATE			
Products INCLUDED <input checked="" type="checkbox"/>					OR				
and/or Completed Operations EXCLUDED <input type="checkbox"/>					BODILY INJURY		PROPERTY DAMAGE		
					Each Person \$	Each Occurrence \$	Aggregate \$	Each Accident \$	Aggregate \$
EMPLOYER'S LIABILITY					BODILY INJURY				
					EACH PERSON \$		EACH ACCIDENT \$		
AUTOMOBILE LIABILITY					BODILY INJURY AND PROPERTY DAMAGE COMBINED				
All owned vehicles <input checked="" type="checkbox"/>	Gore Mutual				\$ 1,000,000	INCLUSIVE LIMIT			
Specific vehicles only <input type="checkbox"/>	73-79499	04	11	97	DESCRIBE SPECIFIC VEHICLES				
Standard Non-Owned <input type="checkbox"/>					All owned auto's				
Hired vehicles <input type="checkbox"/>									
Leased vehicles <input type="checkbox"/>									
OTHER (DESCRIBE) <input checked="" type="checkbox"/>									

NOTE: The Corporation of the town of Pelham is shown on the policy as additional Insured

This insurance afforded is subject to the terms, conditions and exclusions of the applicable policy. This Certificate is issued as a matter of information only and confers no rights on the holder and imposes no liability on the insurer. The insurer will endeavour to mail to the holder of this Certificate Fifteen (15) days written notice of any material change in or cancellation of these policies, but assumes no responsibility for failure to do so.

DateNov. 6.....1997.....

Agency James Duliban Insurance

Authorized Representative