

FOR OFFICE USE ONLY

SN 48310  
CERTIFICATE OF RECEIPT  
CERTIFICAT DE RÉCÉPISSE  
2004 SEP 03 953  
NIAGARA SOUTH/SUD  
(59) WELLAND  
REGISTRAR / Registrateur

(1) Registry <input type="checkbox"/>	Land Titles <input checked="" type="checkbox"/>	(2) Page 1 of 18 pages
(3) Property Identifier(s)	Block PART OF 64072 - 0212 (LT)	Property Additional: See Schedule <input type="checkbox"/>
(4) Nature of Document Notice of Development Agreement BL 2603		
(5) Consideration Dollars \$		
(6) Description Part of Township Lot 177, former Township of Thorold as in <del>RO 696648</del> now Town of Pelham, Regional Municipality of Niagara, designated as Parts 1, 2 and 3 on Plan 59R-12393, being Part of PIN 64072-0212 (LT).		
(7) This Document Contains:	(a) Redescription New Easement <input type="checkbox"/> Plan/Sketch <input type="checkbox"/>	(b) Schedule for: Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/>

New Property Identifiers  
Additional: See Schedule ☐

Executions  
Additional: See Schedule ☐

(8) This Document provides as follows:  
The Corporation of the Town of Pelham has an unregistered estate, right, interest or equity in the land registered in the name of Nancy Mary Pasko, and hereby applies under Section 71 of the Land Titles Act for the entry of a Development Agreement.

Continued on Schedule ☐

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)	Signature(s)	Date of Signature Y M D
Name(s) NANCY MARY PASKO, Nancy Mary		
(Owner)		

(11) Address for Service  
746 Quaker Road, Welland, Ontario, L3C 3H4

(12) Party(ies) (Set out Status or Interest)	Signature(s)	Date of Signature Y M D
Name(s) THE CORPORATION OF THE TOWN OF PELHAM BY ITS SOLICITORS LANCASTER BROOKS & WELCH (Town/Applicant)	LANCASTER BROOKS & WELCH PER: (R. Bruce Smith)	2004 08 30

(13) Address for Service  
P. O. Box 400, Fonthill, Ontario, L0S 1E0

(14) Municipal Address of Property n/s Quaker Road Fonthill, Ontario	(15) Document Prepared by: R. BRUCE SMITH LANCASTER BROOKS & WELCH 247 East Main Street Welland, Ontario L3B 3X1	FOR OFFICE USE ONLY Fees and Tax Registration Fee Total
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**NANCY MARY PASKO  
DEVELOPMENT AGREEMENT**

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THIS AGREEMENT made this 16 day of August, 2004

BETWEEN:

NANCY MARY PASKO

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

**WHEREAS** the Owner purports to be the owner of the lands in the Town of Pelham described in Schedule "A" and have applied to the Town of Pelham Committee of Adjustment for consent under applications B2/2004, B3/2004 and B4/2004 and have obtained such consents subject to conditions;

**AND WHEREAS** the decision of the Committee of Adjustment was conditional upon, among other things, the entering into an Agreement by the Owner and the Town;

**AND WHEREAS** the Town requires the Owner, before final approval of the consents, to agree to certain terms and conditions for the development for which approval is sought;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the Town approving the said proposed development, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Owner to the Town (the receipt thereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

**1. DEFINITIONS in this Agreement:**

- (a) BUILDER means the person engaged by the Owner or subsequent Owner to construct a Building or any other work on the Lot.
- (b) BUILDING BY-LAW means the Building By-law No. 2277 (2001) passed by the Town and amended from time to time.
- (c) BUILDING means any structure which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals or chattels, and includes any structure as defined as a Building in the *Building Code Act* or in the Building By-law, but does not include any vehicles as defined herein.
- (d) BUILDING CODE ACT means the *Building Code Act*, R.S.O. 1990, c.B. 13, as amended, and all regulations thereto.
- (e) BUILDING PERMIT means a permit issued by the Chief Building Official of the Town and required pursuant to the provisions of the *Building Code Act*, as amended, or any successor thereto and the Building By-law of the Town and amendments thereto.
- (f) CHIEF BUILDING OFFICIAL means the Chief Building Official of the Town as appointed by by-law of the Council.
- (g) CLERK means the Clerk of the Town.
- (h) COMMISSION means the applicable local governing hydro-electric commission located in the Town.
- (i) CONSTRUCTION LIEN ACT means the *Construction Lien Act*, R.S.O. 1990, c.C. 30, as amended, and all regulations thereto.

- (j) COST OF CONSTRUCTION means the cost of construction approved by the Director and may include engineering fees ancillary thereto.
- (k) COUNCIL means the Council of the Corporation of the Town of Pelham.
- (l) DEVELOPMENT CHARGES means the development charges as prescribed by the *Development Charges Act*, R.S.O. 1990, c.D. 9, as amended, or any successor thereto.
- (m) DEVELOPMENT PLAN means the Development Plan attached hereto as Schedule "A-1" over the Lands pursuant to the provisions of the *Planning Act*, as amended, or any successor thereto
- (n) DIRECTOR means the Director of Operations for the Town.
- (o) FRONT LOT LINE means the front lot line as defined in the Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.
- (p) GRADE CONTROL PLAN shall mean a plan for the purpose of controlling the overall drainage pattern through the establishment of relative surface elevations in accordance with good engineering and drainage practices.
- (q) LANDS means the lands described in Schedule "A" hereto annexed.
- (r) LETTER OF CREDIT means a standby municipal, irrevocable Letter of Credit issued by a major chartered bank or credit union, posted with the Town pursuant to the terms of this Agreement. The Letter of Credit shall be in form satisfactory to the Town and shall contain a clause that automatically renews it from year to year, unless the Town gives written notice that it does not require the Letter of Credit to be renewed.
- (s) LOCAL IMPROVEMENT shall include utilities, fencing, sanitary sewers, storm sewers, sidewalks, curbs and gutters, pavements and such other local improvements as are defined by the *Municipal Act*, as amended, or any successor thereto.
- (t) LOT means a lot as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.
- (u) LOT FRONTAGE means lot frontage as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.
- (v) LOT GRADING PLAN means a drawing showing grades, swales and drainage patterns and may include catch basins and floor heights in relation to grades for each individual building Lot or Block in the Development Plan.
- (w) MAINTENANCE GUARANTEE means an undertaking by the Owner to the Town that all Works constructed under this Agreement will function as designed and will not fail in any manner whatsoever so as to cause a risk to public safety or private lands, building or structures within the Development Plan or immediately adjacent boundary lands, and that should the Works, or any of them, fail or not perform their intended function within the specified maintenance guarantee period, they will be replaced or repaired to the satisfaction of the Director by the Owner at its cost.
- (x) MUNICIPAL ACT means the *Municipal Act*, S.O. 2001, c.25, as amended, and all regulations thereto.
- (y) ONTARIO LAND SURVEYOR shall mean a surveyor commissioned by the Province of Ontario and qualified to establish monuments that define the boundaries of a parcel or parcels of land and to prepare all necessary reference plans and surveys for the purpose of the Agreement.
- (z) OWNER means the applicant for a Building Permit for one of the Lots and includes the person on whose behalf an application for a Building Permit is made.

- (aa) OWNER'S CONSULTING ENGINEER means the person or persons registered with the Professional Engineers of Ontario who are employed by the Owner, at its expense, to provide engineering services.
- (ab) PLANNING ACT means the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, and all regulations thereto.
- (ac) PLANS shall mean all drawings, plans, specifications, contracts and other documents providing for the installation, construction and erection of the Works approved by and filed in the office of the Director prior to execution of this Agreement by the Town.
- (ad) PRIMARY SERVICES means all private utilities and all municipal services including, without restricting the generality of the foregoing, storm sewers, sanitary sewers, sidewalks, fencing, watermain, roads (including base coarse asphalt and curbs and gutters), street lighting and drainage works and swales and/or such other works as detailed in Schedule "E" (Financial Obligations) attached to and forming part of this Agreement.
- (ae) PRIVATE UTILITIES means telephone, hydro electric systems and natural gas systems and cable television systems.
- (af) REGION means The Regional Municipality of Niagara.
- (ag) REGIONAL PUBLIC WORKS DEPARTMENT means the Region's Public Works Department.
- (ah) SECONDARY SERVICES means all works to be installed, constructed, or erected which are not Primary Services or private utilities and/or such other works as detailed in Schedule "E" (Financial Obligations) attached to and forming part of this Agreement.
- (ai) SECTION, when used in reference to a numbered part of the Agreement, means:
  - (i) a complete section including all its sections and subsections;
  - (ii) a particular subsection including its subsections; and
  - (iii) a particular subsection as the context may dictate or require.
- (aj) STREET means street as defined in the Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.
- (ak) STREET LINE means Street Line as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.
- (al) SUPERVISION means the full-time inspection and scrutiny of all Works for the express purpose of enforcing the provisions of this Agreement and certifying that the Works have been performed and completed to Town standards in the form prescribed for this purpose and "SUPERVISE" means to carry out such Supervision.
- (am) TREASURER means the Director of Financial Services of the Town.
- (an) UTILITY SERVICES means physical plant including but not limited to pipes, valves, conduits, cables, terminals, transformers, etc. owned and operated by communications, television, hydro, gas and oil companies or any other utility companies.
- (ao) WORKS shall jointly and severally mean and include all Services and all other matters, both internal and external, required to be completed or performed by the Owner pursuant to this Agreement.

2. **LANDS AFFECTED**

The Lands to be subdivided are those Lands described in Schedule "A" attached hereto and the Development Agreement shall be registered against all of such Lands. The registered ownership of the Lands shall be confirmed by the Owner's solicitor by way of certificate in form satisfactory to the Town.

3. **WATER SUPPLY**

- (a) The Owner shall at its own expense construct water connections (laterals) to each Lot from the street main to the Street Line. The water lateral shall be 20mm diameter type K copper tubing.
- (b) The Owner shall ensure that Town Operations Staff witness the required connections to the municipal water supply service.
- (c) The location of the water service laterals shall be illustrated on the Site Servicing Plan including restoration of affected road and boulevard surfaces. The Site Servicing Plan shall be attached to this Agreement as Schedule "B".
- (d) The Owner shall comply with the provisions of the *Ontario Water Resources Act* and amendments thereto and all Regulations thereunder, on all internal water supply services, which said *Act* and Regulations shall be enforced by the Town.

4. **SANITARY SEWERS**

- (a) The Owner shall, at its own expense, construct sanitary sewer laterals on the said Lands to adequately serve the buildings to be erected thereon, such construction to be in accordance with specifications and a design approved by the Director and filed in the Town's offices prior to the issuance of a Building Permit. No storm, surface or roof water or weeping tiles shall be discharged into the sanitary sewer system. The sanitary sewer lateral shall be a minimum of 125mm diameter building sewer pipe or equal acceptable to the Director.
- (b) Domestic waste from any building constructed on any Lot shall be discharged into the sanitary sewer system through a drain connected to the sanitary sewer system through a drain connected to the sanitary sewer lateral servicing each Lot.
- (c) The location of the sanitary sewer laterals shall be illustrated on the Site Servicing Plan including restoration of affected road and boulevard surfaces. The Site Servicing Plan shall be attached to this Agreement as Schedule "B".

5. **GRADE CONTROL PLAN**

The Owner shall be responsible for providing, at their expense, a Grade Control Plan for the land described in Schedule "A" attached hereto; said plan to meet with the approval of the Director. Building Restrictions shall be imposed upon each Lot and included in each deed prohibiting a subsequent owner thereof from altering such flow or from impeding the same to an extent sufficient to cause ponding in another Lot or adjacent property. Said Grade Control Plan shall be attached to this Agreement as Schedule "C". All elevations shown on Schedule "C" shall be maintained after construction of any building or structure upon the lands affected, and this provision shall be included in the Building Restrictions hereinbefore referred to. Minor changes to the storm drainage system may be permitted subject to the approval of the Director.

6. **DRIVEWAYS**

- (a) The Owner shall provide granular driveway access on the boulevard prior to occupancy of any Building. It shall be the responsibility of the Owner to ensure that driveway access is maintained at all normal times during the construction or maintenance of the Works.

(b) All driveway approaches between the edge of the road and the sidewalk, or in the absence of a sidewalk between the edge of the road and the Street Line, shall be paved by the Owner by no later than the 1st day of November in the year after the year in which the buildings served by the driveway approaches are occupied.

(c) All driveway approaches shall be constructed to the satisfaction of the Director.

7. **TREES**

(a) In order to maintain a high standard of amenity and appearance, the Owner shall retain the maximum number of existing trees as approved by the Director consistent with good subdivision design and conservation practices;

(b) In order to maintain a high standard of amenity and appearance, the Owner agrees to plant trees in accordance with the following:

(i) one tree per Lot Frontage and a minimum of two trees per Lot sideyard flankage shall be planted in the sodded portion of the street allowance between the lot line and the roadway in accordance with the Plans. Trees shall be sound, healthy, vigorous and free from plant disease with normally healthy root systems;

(ii) trees shall be 70 millimetre caliper, measured at a height of 150 millimetre above grade, be contained in a wire basket and be of such native varieties as listed in the "Native Species of Niagara Planting Guide" published by Land Care Niagara and approved by the Town;

In accordance with Schedule "E" affixed hereto, prior to execution of this Agreement by the Town, the Owner shall post with the Town security for the planting of trees at the rate of two hundred and fifty dollars (\$250.00) per tree to be planted.

The Owner shall be solely responsible for acquiring and planting trees in accordance with the terms of this Agreement and delivering written notice to the Town that such work has been completed.

Provided, however, that in the event the Owner does not plant trees in accordance with the provisions of this Agreement or within the prescribed time or to the complete satisfaction of the Director then the Town may, at its sole discretion, plant or replace or replant trees in accordance with the provisions of this Agreement and apply the above mentioned security against the Town's costs and/or collect such costs in like manner as municipal taxes.

8. **RIGHT TO ENTER**

(a) The Town shall, notwithstanding the Owner's obligations to maintain services herein set forth, have the right to enter on the Lands and carry out any necessary maintenance or repairs:

(i) without notice to the Owner, where in the sole opinion of the Director, an emergency condition exists;

(ii) where repairs to or maintenance of the Works have not been completed within forty-eight (48) hours after a notice requiring such repairs or maintenance has been forwarded to the Owner.

(b) The cost of any repair or maintenance work undertaken by the Town pursuant to the provisions hereof shall be borne by the Owner and the amount thereof shall be paid to the Town within thirty (30) days after a statement of account therefor has been forwarded to the Owner at its last known address. If the Owner fails to pay the amount due to the Town within such thirty day period, then the Town may and is hereby expressly authorized to deduct the amount owing to it for such repairs or maintenance from any monies or Letters of Credit deposited by the Owner with the Town pursuant to the provisions hereof.

- (c) The decision of the Director that repairs or maintenance to the Works are required or that an emergency state exists requiring immediate repair or maintenance to such Works shall be final, conclusive and incontestable.

**9. SECURITY DEPOSITS AND REFUNDS**

The Owner shall be responsible for the full amount of the cost for the design, servicing and maintenance of the Development Plans together with all Town administrative and consulting fees and legal costs and shall be required to post security, in a form satisfactory to the Town, on accounts of aforesaid costs, charges and fees in accordance with Schedule "E" affixed hereto prior to execution of this Agreement by the Town.

Security to be posted for Services and to cover the Town administrative, engineering and legal costs shall be calculated on the basis of the Owner's estimated cost of design, construction and maintenance of all Works as set out in Schedule "E" annexed hereto.

**(a) CASH PAYMENTS**

Prior to the execution of this Agreement by the Town, for payment of services to be rendered by the Town, its servants and its agents as required by this Agreement, and for presently outstanding payments owing to the Town, the Owner shall, in accordance with Schedule "E" annexed hereto, deposit with the Town the following non-refundable cash amounts:

- (i) a cash amount to secure the Town's engineering, administrative consulting and legal costs for this Agreement, approval of the Plans, and enactment of by-laws calculated on the following basis:
  - (1) where the Cost of Construction of all Works is less than \$100,000.00, the charge shall be \$4,000;
  - (2) where the Cost of Construction of all Works is between \$100,000.00 and \$400,000.00 the charge shall be \$4,000 plus 3.5% of the costs between \$100,000.00 and \$400,000.00; and
  - (3) where the Cost of Construction of all Works is in excess of \$400,000.00 the charge shall be \$14,500.00 plus 3% of the costs exceeding \$400,000.00;
- (ii) a cash amount to cover all arrears of taxes, all taxes for the current year and all current Local Improvement charges assessed against the Lands; and

**(b) LETTERS OF CREDIT**

- (i) Before commencing any of the Works provided for in this Agreement, the Owner will deposit with the Town a Letter of Credit drawn upon a chartered bank in favour of the Town and in a form satisfactory to the Treasurer, in an amount approved by the Director, which Letter of Credit shall be sufficient to guarantee the satisfactory completion of the Works or any portion of the Works as established by the Town in its sole discretion, and payments or any part thereof required to be made by this Agreement, and will, without restricting the generality of the foregoing, guarantee the following:
  - (1) payment of twenty percent (20%) of the approved estimated costs of the construction of the Primary Services to service the Lands, plus one hundred and twenty percent (120%) of the approved estimated construction costs of the Secondary Services upon the Lands as shown in Schedule "E" attached; and
  - (2) payment of one hundred percent (100%) of any other payments or Works as may be required of the Owner by the Town pursuant to this Agreement.



- (ii) The amount of the Letter of Credit required hereunder shall not be reduced unless all of the conditions of this Agreement are complied with and the estimated costs of rectifying any outstanding deficiencies, as estimated in the sole discretion of the Director, plus one hundred and twenty percent (120%) of the estimated costs of the completion of all outstanding Primary Services and Secondary Services plus all other outstanding costs payable under this Agreement, plus the Maintenance Guarantee as required under Section 11 of this Agreement, plus any *Construction Lien Act* requirements are all, in total, less than the amount of the Letter of Credit held by the Town. In such an instance, the amount of the Letter of Credit may, in the sole discretion of the Director be reduced from time to time to an amount equal to the total of all amounts set out above. Such reduction shall be based on the following:

- (1) progress certificates from the Owner's Consulting Engineer setting forth the cost of the Works completed and paid to date and the cost of unfinished Works; and
- (2) a request for reduction in the amount of the Letter of Credit in a form approved by the Director; and
- (3) proof of payment in a form satisfactory to the Director of the amounts paid on account of the completed Works to the date of the application for reduction.

Notwithstanding anything herein contained, the amount of the Letter of Credit shall at all times be sufficient to cover the balance of the costs of the completion of the unfinished Works, including Works deferred for extended periods and the requirements of the *Construction Lien Act*.

- (c) The Owner shall pay the cost of the Works and the fees of the Owner's Consulting Engineer and the Ontario Land Surveyor

#### 10. DEVELOPMENT CHARGES

The Development Charges for a Building unit shall be calculated and paid in full on the date the Building Permit is issued for such Building unit. The amount of Development Charges to be paid shall be the amount which, at the time of payment, is imposed by the Town upon such Buildings in accordance with the Town's current Development Charges By-law.

#### 11. MAINTENANCE GUARANTEE

- (a) The Letter of Credit deposited by the Owner pursuant to Section 9 hereof may, upon the completion of the Primary Services, and prior to the assumption of the Primary Services by the Town, at the Director's discretion, be reduced to an amount equal to ten percent (10%) of the completed Works (Schedule "E") plus one hundred and twenty per cent (120%) of the value, as estimated by the Director, of any uncompleted Secondary Services and such Letter of Credit shall be retained by the Town as a Maintenance Guarantee to guarantee the workmanship and materials of the Works until such time as the Works are completed.
- (b) The Letter of Credit may be realized upon by the Town if the Owner defaults in any payment or condition contained herein.
- (c) The Owner shall be conclusively deemed to be in breach of the covenant contained in Section 9(c), if, in the case of the cost of the Works or the fees of the Owner's Consulting Engineer and the Ontario Land Surveyor, a lien against the Lands or any part thereof is preserved pursuant to the *Construction Lien Act* and if, in the case of any other payment required to be made under this Agreement, a notice to that effect is forwarded to the Owner by the Director in accordance with Section 14(b) hereof.

**12. NOTICE**

All notices required or permitted to be given by one party to the other shall be given in writing either by prepaid registered mail or delivered personally addressed, in the case of the Town, to 20 Pelham Town Square, P. O. Box 400, Fonthill ON L0S 1E0, and in the case of the Owner, to Nancy Mary Pasko, 746 Quaker Road, Welland ON L3C 3H4 or, at such other addresses as may be given by either of them to the other in writing from time to time, and such notices shall be deemed to have been received, if mailed, on the third day following that on which it was so mailed and if delivered, on the day of such delivery.

**13. DEFAULT**

- (a) Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making an assignment for the benefit of creditors, the Town, at its option, may declare that the Owner is in default.
- (b) Notice of such default ("Notice of Default") shall be given by the Town and if the Owner does not remedy such default within such time as provided in the notice, the Town may declare that the Owner is in final default under this Agreement and shall then forthwith give notice of final default ("Notice of Final Default") thereof to the Owner.
- (c) Upon Notice of Default having been given, the Town may require all work by the Owner, their servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default has been remedied and in the event of final default, may require all work as aforesaid to cease.
- (d) Upon Notice of Final Default having been given to the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:
  - (i) Enter upon the Lands shown on the Development Plan by its servants, agents and contractors and complete any work, services repairs or maintenance wholly or in part required herein to be done by the Owner and collect the cost thereof from the Owner and/or enforce any security available to it;
  - (ii) Make any payment which out to have been made by the Owner and upon demand collect the amount thereof from the Owner and/or enforce any security available to it;
  - (iii) Retain any sum of money heretofore paid by the Owner to the Town for any purpose and apply the same in payment or part payment for any work which the Town may undertake;
  - (iv) Assume any work or services at its option, whether the same are completed or not, and thereafter the Owner shall have no claim or title hereto or remuneration therefor;
  - (v) Bring action to compel specific performance of all or any part of this Agreement or for damages;
  - (vi) Add any costs incurred by the Town to the tax collector's roll for the Lands and collect such costs by action or in like manner as municipal real property taxes; or
  - (vii) Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

**14. RESCISSION OF AGREEMENT**

- (a) In the event that the Development Agreement is not Registered within one (1) year from the date hereof, then the Town may, at its option and on one (1) month's notice in writing to the Owner, declare this Agreement null and void and may Register against the title to the Lands included within the Development Plan a notice to that effect.
- (b) The Owner shall not sell or convey any Lot or block shown on the Development Plan until this Agreement is Registered on title.

**15. RIGHT OF ENTRY**

The Owner shall obtain from any Purchaser of any of the Lots shown on the Development Plan, a licence permitting the Owner and the Town to enter upon such Lands for a period of three (3) years after the transfer thereof in order to ensure compliance with the provisions of this Agreement and shall forward an executed copy of such licence to the Town upon demand therefor.

**16. INDEMNIFICATION**

Until the expiration of the Maintenance Guarantee, the Owner, on behalf of itself, its successors and assigns, including its successors in title of the Lands in the Development Plan, hereby releases and discharges and indemnifies the Town from and against all actions, causes of action, suits, claims and demands whatsoever which may arise by reason of:

- (a) any alteration of the existing grade or level of any Street or Streets on the Plan to bring the said grade or level in conformity with the grade or level required by the Director; and
- (b) any damage to the Lands abutting on any Street or Streets shown on the Plan or to any Building erected thereon arising from or in consequence of any such alteration of grade or level; and
- (c) any damages or injuries (including death) to persons or damage to property occurring or arising on any Street or Streets on the Plan, however caused.

**17. COVENANTS THAT RUN WITH THE LAND**

- (a) The Owner and the Town acknowledge and agree that it is their intent that all the terms, conditions and covenants contained herein shall be covenants that run with the land and that the burden of such covenants shall be binding upon the Owner, their successors and assigns, and successors in title, from time to time, of the Lands described in Schedule "A" of this Agreement and any part or parts thereof and that the benefits of the said covenants shall enure to the Town, its successors and assigns in title of all roads, Streets and public lands forming part of or abutting on the Lands described in Schedule "A".
- (b) The Owner agrees that it shall, upon the sale or transfer by it of the Lands included within the Development Plan or any part or parts thereof, require the Purchaser or Transferee thereof as a condition of such sale or transfer to execute an Agreement satisfactory in form to the Town's Solicitor, agreeing to assume this Agreement and to be bound by and fulfil all of the terms, conditions and covenants herein set forth and containing a like covenant to this effect. The said Assumption Agreement shall be executed by the Town, the Owner and any such Purchaser or Transferee and may, at the Town's option, be Registered upon title. Provided, however, that such Assumption Agreement shall not be required for the sale or transfer of a Lot as shown on the Development Plan for the purpose of construction.

18. POSTPONEMENT AND SUBORDINATION

The Owner covenants and agrees at its own expense, to obtain and register such documentation in form satisfactory to the Town's solicitor from all mortgagees or encumbrancers as may be deemed necessary by the Town to postpone and subordinate their interest in the Lands to the interest of the Town to the extent that this Agreement and all related documentation to be registered shall take effect and have priority as if they had been executed and registered before the execution and registration of the document or documents giving to the mortgagees and/or encumbrancers their interest in the Lands. The Owner acknowledges that it shall not be permitted to sell any lots within the Development Plan until such time as these postponements have been registered and that the Town shall be permitted to register an inhibiting order pursuant to the *Land Titles Act* to ensure compliance with same.

19. SCHEDULES

The schedules attached hereto are a part of this Agreement. All schedules are to be interpreted as if the contents thereof were included in the Agreement.

20. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

**SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:**

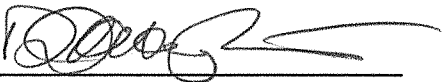

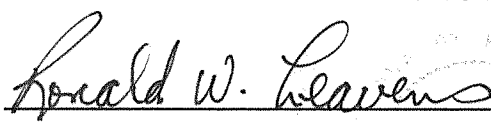
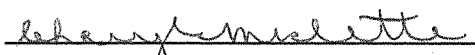
	)	NANCY MARY PASKO
	)	
	)	
Witness	)	Nancy Mary Pasko
	)	
	)	THE CORPORATION OF THE TOWN OF PELHAM
	)	
	)	
	)	Ronald W. Leavens, Mayor
	)	
	)	
	)	Cheryl Miellette, Clerk

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SCHEDULE "A"

LEGAL DESCRIPTION

Part of Township Lot 177, former Township of Thorold as in ~~RC 696648~~ ~~RC 696648~~, now Town of Pelham,  
Regional Municipality of Niagara, designated as Parts 1, 2 and 3 on Plan 59R-12393, being Part of  
PIN 64072-0212 (LT).

SCHEDULE "E"

Pasko

FINANCIAL OBLIGATIONS AND COST OF CONSTRUCTION

**PRIMARY SERVICES**

Water services - 3 lots @ \$1,500 each	\$ 4,500.00	
Sanitary services - 3 lots @ \$2,500 each	7,500.00	
Boulevard trees - 3 lots @ \$250 each	750.00	
Driveway culverts - 3 lots @ \$750 each	<u>2,250.00</u>	\$15,000.00

**SECONDARY SERVICES**

Driveway ramps - 3 lots @ \$750.00 each	\$ 2,250.00	
Adjustment of water service curb boxes - 3 lots @ \$250 each	750.00	
Grading and sodding of boulevards - 3 lots @ \$900	<u>2,700.00</u>	<u>\$5,700.00</u>

<b>Subtotal Municipal Services</b>	\$20,700.00	
Contingencies (5%)	1,035.00	
Engineering (10%)	<u>2,070.00</u>	<b>\$23,805.00</b>

Goods and Services Tax @ 7%		<u>1,666.35</u>
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**TOTAL - CONSTRUCTION OF MUNICIPAL SERVICES (Rounded) \$25,500.00 (1)**

**20% PRIMARY AND 120% SECONDARY SERVICE (Rounded) \$15,600.00 (2)**  
(Including Engineering, Contingencies and GST)

**TOWN ADMINISTRATION FEE \$4,000.00 (3)**

**INSPECTION COSTS \$1,000.00 (4)**

**SUMMARY**

**A. LETTER OF CREDIT REQUIRED**

Total of (2) **\$15,600.00**

**B. CASH PAYMENT REQUIRED**

Total of (3) + (4) **\$5,000.00**

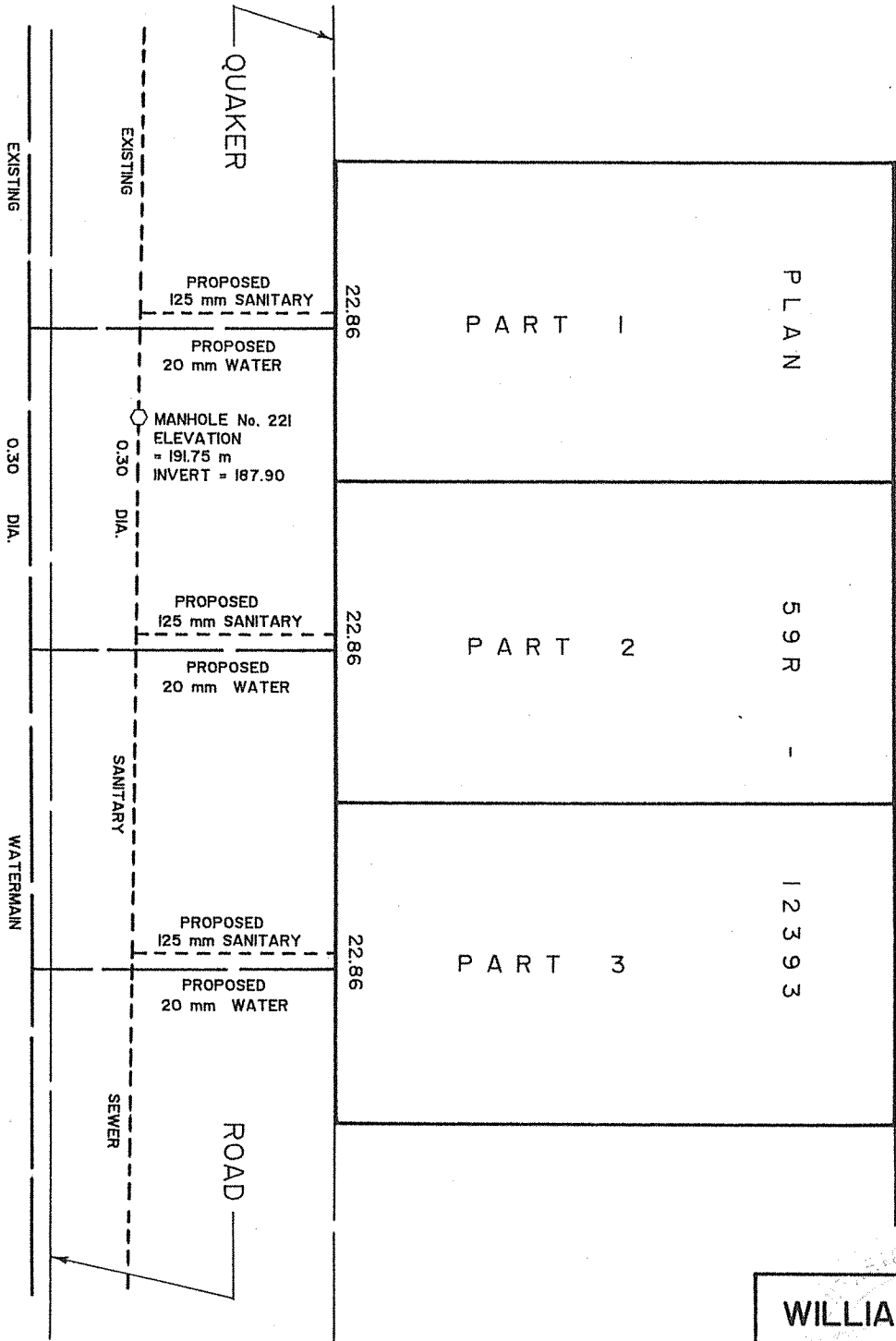
SITE SERVICING PLAN  
PART OF LOT 177

GEOGRAPHIC TOWNSHIP OF THOROLD , COUNTY OF WELLAND , NOW IN THE  
TOWN OF PELHAM  
REGIONAL MUNICIPALITY OF NIAGARA

SCALE : 1 : 500 .m

- 15 -

SCHEDULE "B"



WILLIAM A. MASCOE  
ONTARIO LAND SURVEYOR  
96 CHURCH STREET  
ST. CATHARINES , ONTARIO  
*William A. Mascoe*  
WILLIAM A. MASCOE  
ONTARIO LAND SURVEYOR  
DATE: JULY 16 , 2004 FILE: 7566



SCHEDULE "D"

BUILDING RESTRICTIONS  
(To be included in all Deeds)

The Owner shall cause to be Registered against all Lots in the Development Plan the transfer restrictions and restrictive covenants outlined below.

According to the nature of the annexed instrument, the words "Vendor", "Purchaser" and "Land" shall have the following meaning:

- (a) "VENDOR" means and includes also a grantor, transferor or seller and the heirs, successors and assigns of the Vendor.
- (b) "PURCHASER" means and includes also a grantee, transferee or buyer and the heirs, successors and assigns of the Purchaser.
- (c) "LAND" means and includes the land intended to be sold, conveyed or transferred by such instrument.

The Purchaser shall, in respect of the herein described land, adhere to and comply with the Grade Control Plan attached to the Agreement registered in the Land Titles Office for Niagara South and, in particular, shall do nothing to interfere with or impede the drainage patterns shown thereon. All grade elevation shown on the said Grade Control Plan shall be maintained after construction of any Building or structure upon the herein described land in accordance with the Town's Lot Grading Control Policy. In the event that the Purchaser fails to maintain such elevations, or to maintain the proper grades and levels herein referred to, or in the event that the Purchaser impedes any drainage system or pattern on the herein described Lands or neighbouring lands, the Purchaser shall be responsible for the immediate rectification and alteration of the land to conform with the drainage system or patterns laid out in the Agreement for any consequential damages, costs, expenses or other loss caused by the failure to maintain such grades or drainage patterns.

The Purchaser shall, in the event of requiring a different driveway entrance from that installed by the Vendor, relocate services/utilities at Purchaser's expense, cut and reconstruct the concrete curb where necessary on the roadway adjacent to the land herein described. He shall install, keep and maintain his driveway entrance or entrances from the travelled portion of the roadway to the Street line in good condition until the concrete sidewalk, concrete curbs and/or asphalt roadways for the said Development are constructed.

The Purchaser shall, within twelve (12) months of being able to occupy the home in accordance with the *Ontario Building Code* and to the satisfaction of the Chief Building Official, sod the lot.

The Purchaser shall maintain the road allowance between the Street line and the edge of the road in good condition and free from weeds and shall cut the grass thereon at frequent intervals.

The Purchaser will not remove any topsoil or strip the Lot of vegetation prior to commencing construction of a Building unit on the Lot. Only then will the Purchaser strip and excavate to the limit approved by the Town.

The Purchaser shall not occupy the dwelling on the Lot concerned until the Chief Building Official for the Town has certified that such of the following services as are applicable to the property have been installed and are operating adequately to serve the dwelling, or in the case of telephone services, are at least available to houses within the Development Plan: hydro, gas, water services, sanitary sewers and telephone.

The Purchaser shall not impede by the placing of fill, Buildings or other structures or Works any natural watercourse, swale, ditch, etc. which exists on the Lands.

The Purchaser shall not discharge by direct connection to a sanitary or storm sewer any discharge from eavestroughing, downspouts or swimming pools.

The Purchaser shall not erect any free standing tower, radio antenna, communication tower or similar structure.

## S C

TOWN OF PELHAM

THOROLD

