

- 2 -

THIS AGREEMENT made this 17 day of MAY, 2005

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM  
hereinafter called the TOWN  
OF THE FIRST PART

AND:

992548 ONTARIO INC. and ROSE ANNETTE PORKOLAB  
hereinafter called the OWNER  
OF THE SECOND PART

WHEREAS:

- A. The Owner has made application to the Town for permission to lay water or irrigation pipes and appurtenances on, in, under, or along highways and roads and opened or unopened road allowances of the Town, in order to provide water from a natural source to the lands of the Owner for the purpose of supplying irrigation and water for irrigation purposes only to the property described in Schedule "A";
- B. The Owner has made application to the Council of the Town seeking to permit the installation, laying down, maintenance and use of pipes for the transmission of water under a specified portion of River Road in the Town of Pelham, in accordance with a plan deposited on title as Plan 59R-12726; and
- C. The Owner represents and warrants that is it the owner of the lands described in Schedule "A".

NOW THEREFORE, in consideration of the mutual agreements and covenants and premises herein contained and other good and valuable consideration, the parties hereto agree as follows:

1. Subject to the terms and conditions set forth in this Agreement, the Town agrees to grant temporary authority to the Owner permitting the Owner to request and effect the laying down, maintenance and use of pipes and other necessary works for the transmission of water under that portion of River Road, described as Part of Lot 2, Concession 14 Town of Pelham and designated as Part 2, on Plan 59R-12726 and being Part of PIN 64400-0040 which works are more particularly shown in Schedule "B" (hereinafter called the "Works").

2. In return for the authority referenced in paragraph 1, the Owner covenants and agrees that:

- i. the works shall be installed and maintained at the total expense of the Owner and by or under the direct supervision of the Town;
- ii. unless the Town otherwise agrees, the work shall be installed in accordance with Schedule "B" to this Agreement;
- iii. before the works are commenced, the Owner must pay a deposit in an amount as determined by the Town in its sole discretion (being essentially the estimated cost of the installation and any required maintenance of the works);
- iv. commencement of the installation of the works will not occur unless and until the Owner has obtained license or permission in writing from any other governmental authority required for the complete installation of the works to effect the conveyance of water from a natural source to the agricultural lands of the Owner;
- v. water from the works shall only be used for irrigation purposes;
- vi. the source of water shall be a natural source.

3. The Town reserves the right to request that the Owner remove the works in whole or in part within a period of twenty days after notice has been given by the Town to the Owner, if the Town in its sole discretion determines that the works in whole or in part should be removed in order that the Town may maintain or administer roads, road allowances and highways under its jurisdiction.

4. If the Owner fails to remove the works, the Town has authority without further notice to remove the works at the expense of the Owner, may retain all pipes, appurtenances, fixtures, etc. of the works after such removal as security against recovery of the expense from the Owner, may within sixty days of giving notice to the Owner dispose of such pipes, appurtenances, fixtures, etc. to recover the expense and may add any expense not so recovered in like manner as municipal taxes pursuant to the provisions of Section 398 of the Municipal Act, 2001, S.O. 2001, ch25, as amended

5. The Owner will do all acts and pay all costs of maintaining the works as may be requested or required by the Town in its sole discretion from time to time.

6. The Owner assumes full responsibility and all liability of any nature or kind arising from any damage that may be caused to anyone as a result of:

- (a) this license;
- (b) the installation and continued existence of the works;
- (c) the flow of water through the works;
- (d) the taking down of the waters; and
- (e) any other matter or thing related to the works.

7. The Town does not warrant or guarantee in any way the continued supply of water to the Owner and if for any reason, through fault or otherwise of the Town, the supply of water is temporarily or permanently interrupted to the lands of the Owner, the Owner hereby waives, releases and quit claims any rights it has or may have to claim damages from the Town therefore.

8. The Owner will obtain insurance at its total expense in an amount not less than \$2,000,000, and name the Town as an insured party there under in order to protect and save harmless and insure the Town from any and all claims for damages of any nature or kind that may arise as a result of this license or the placement, removal or use of the works. The policy of insurance, shall, contain a clause providing that the Town shall receive thirty (30) days written notice of any cancellation of the policy or any material change to same. The insurance shall remain in place throughout the term of this agreement and the Owner shall provide the Town with copies of the policy and renewals thereof.

9. The Owner shall ensure that no other land owner is harmed in any way as a result of the installation, removal or use of the work and without restricting the generality of the foregoing, shall specifically ensure that no private or municipal drainage systems shall be flooded or totally or partially obstructed in any way as a result of the installation, removal or use of the works.

10. Where the works proposed by the Owner are located in a section of municipal road allowance that is grassed and maintained by the immediately abutting land owner, special care shall be taken in the installation of the works so as to cause minimum

disturbance to the maintained area and the Owner shall be responsible for the complete restoration of any damages caused to the landscaped area upon removal of the works.

11. The Owner will indemnify and save harmless the Town from any and all claims of any nature or kind arising in any way from any source that the Town may incur, suffer or be put to as a result of the installation, removal or use of the works.

12. The Owner shall not assign any rights or benefits under or by virtue of this Agreement to anyone else without the prior consent of the Town which consent may be reasonably withheld.

13. The Owner will pay all legal and administrative expenses incurred by the Town in the preparation and administration of this Agreement and any enabling legislation therefore.

14. In the event that the Owner is in default of any obligation, covenant, requirement or otherwise pursuant to this agreement and such default shall not be rectified within thirty (30) days of the Owner receiving notice of such default the Town may, at its option, terminate this agreement and the Owner shall be obligated to remove the works and the provisions of paragraphs 3 and 4 of this agreement shall apply.

15. 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 992548 Ontario Inc., 105 South Pelham Road, P.O. Box 501, Welland ON L3B 5N8, 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.

16. The Owner hereby consents to the registration of this agreement on title to the lands described in Schedule "A".

17. This agreement shall be binding upon and enure to the benefit of the parties hereto and their successors, permitted assigns and those persons who are successors on title.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written and the parties hereto have hereunto affixed their Corporate Seals by the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED AND  
DELIVERED IN THE  
PRESENCE OF

) THE CORPORATION OF THE TOWN OF PELHAM

)

) Ronald W. Leavens

)

) RONALD LEAVENS (MAYOR)

)

)

) Cheryl Milette

)

) CHERYL MCLETTE (CLERK)

)

)

) 992548 ONTARIO INC.

)

)

) [Signature]

Per:

I have authority to bind the Corporation

)

)

) Rose Annette Porkolab

)

Michael Grady

Witness as to the signature) ROSE ANNETTE PORKOLAB  
of Rose Annette Porkolab

Schedule "A"

LEGAL DESCRIPTION

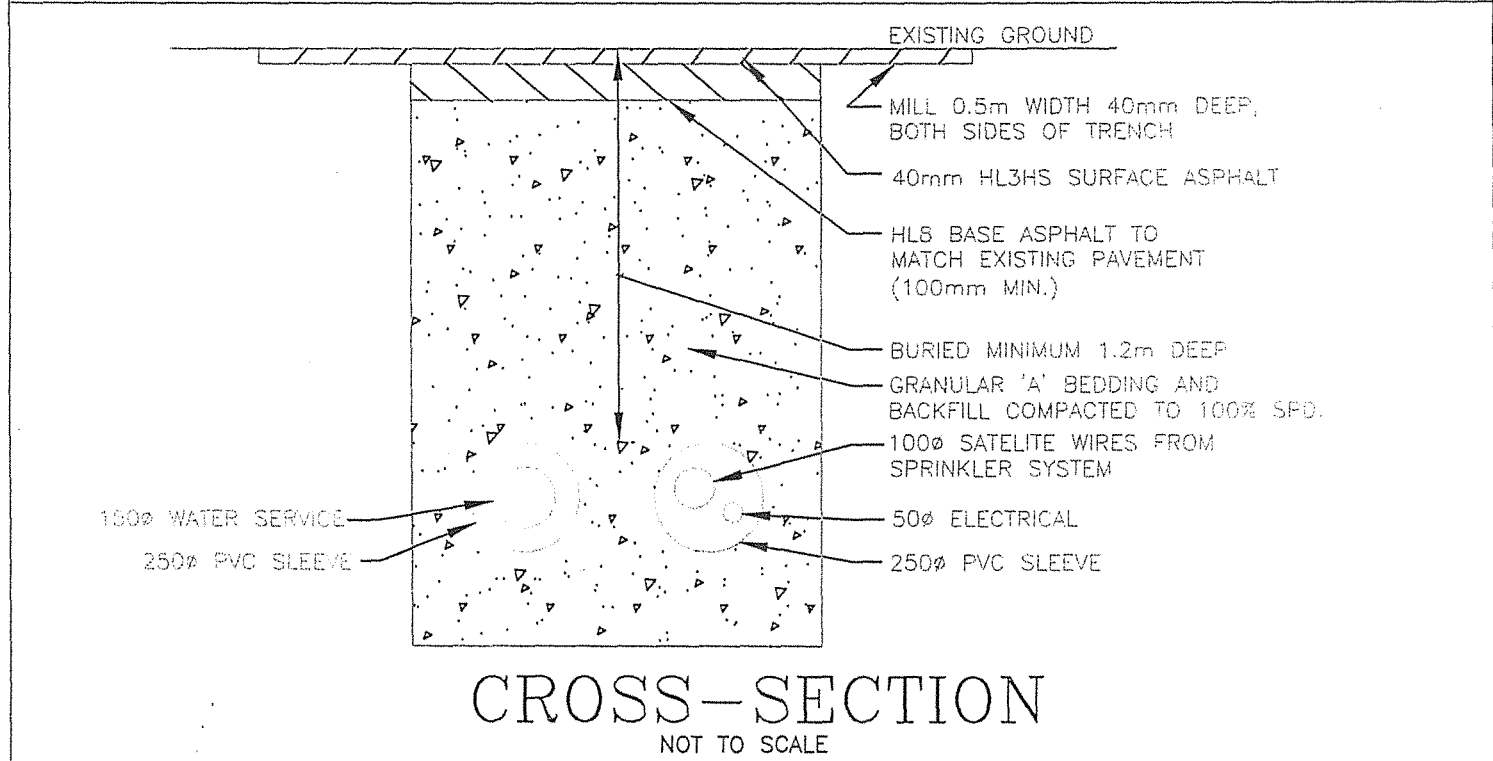
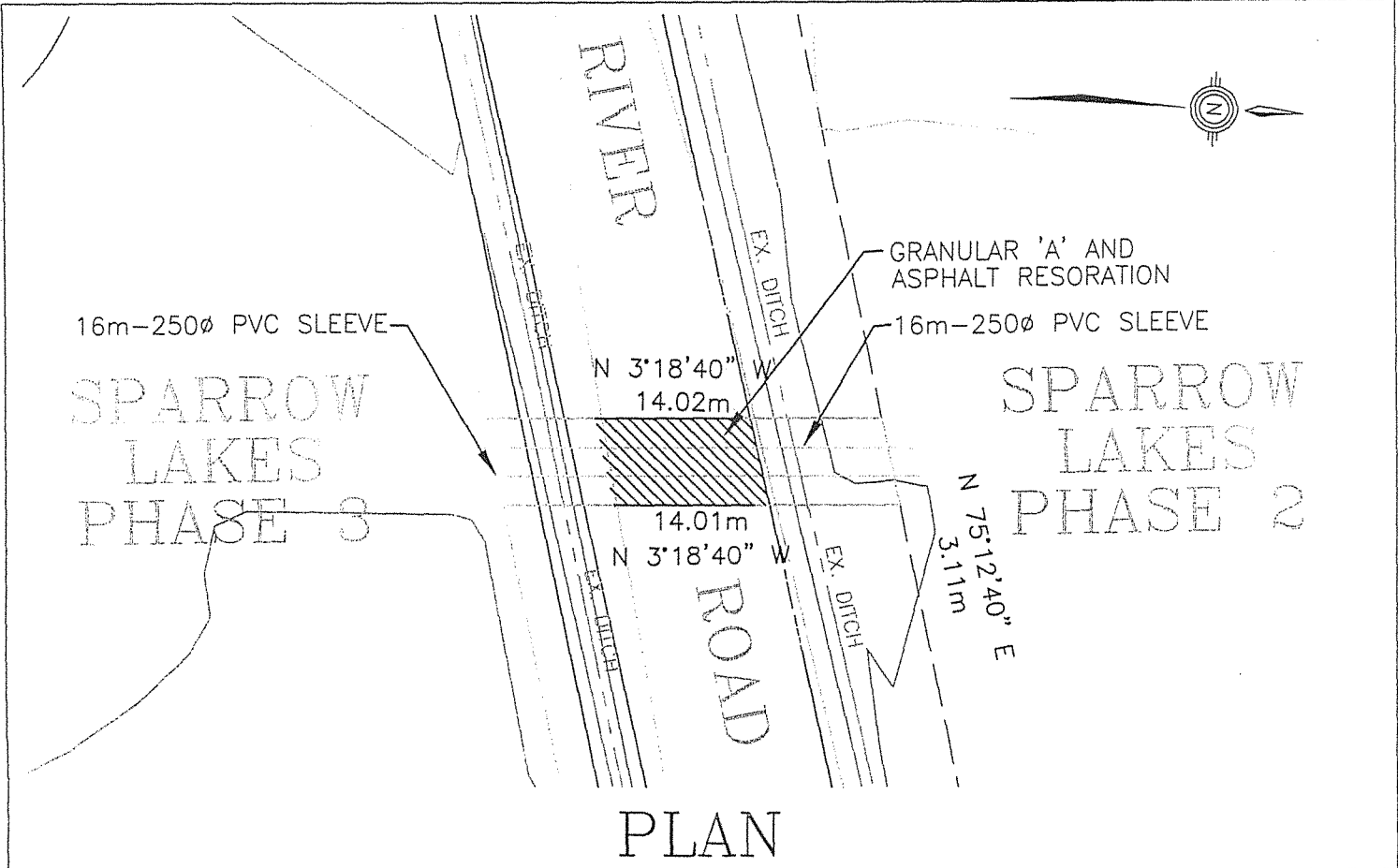
FIRSTLY

Part of Lot 2, Concession 14, Town of Pelham, formerly Township of Pelham, designated as Part 1 on Plan 59R-12726 and being Part of PIN 64400-0039.

SECONDLY

Part of Lot 2, Concession 14, Town of Pelham, formerly Township of Pelham, as in R0650620 and being all of PIN 64400-0027.

Schedule "B"



<p>SCHEDULE "B"</p> <p> <b>UPPER CANADA CONSULTANTS</b> ENGINEERS/PLANNERS</p> <p>261 Martindale Road Unit #1 St. Catharines, Ontario L2W 1A1 Phone: (905) 688-9400 Fax: (905) 688-5274</p>	<p>DRAWING TITLE:</p> <p>SPARROW LAKES GOLF COURSE Ph.3 TOWN OF PELHAM ROAD CROSSING</p>	<p>DRAWN BY: B.V.</p> <p>DATE: MAY 9, 2005</p> <p>SCALE: 1:250</p> <p>DRAWING No: 0350-CR</p>
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Properties

PIN	64400 - 0039 LT	Estate/Qualifier	Fee Simple Lt Conversion Qualified	<input checked="" type="checkbox"/> Affects Part of Prop
Description	PT LT 2 CON 14, PELHAM PT 1, 59R12726 ; PELHAM			
Address	RIVER RD PELHAM			
PIN	64400 - 0027 LT	Estate/Qualifier	Fee Simple Lt Conversion Qualified	
Description	PT LT 2 CON 14, PEL, AS IN RO650620 ; PELHAM			
Address	PELHAM			

Consideration

Consideration \$ 0.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name THE CORPORATION OF THE TOWN OF PELHAM  
Address for Service P. O. Box 400  
Fonthill, Ontario  
L0S 1E0

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation THE CORPORATION OF THE TOWN OF PELHAM by RONALD LEAVENS - Mayor and CHERYL MICLETTE - Clerk.

Statements

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Robert Bruce Smith	201-247 East Main St. PO Box 67 Welland L3B 5N9	acting for Applicant(s)	Signed	2005 05 27
Tel	905-735-5684			
Fax	9057353340			

Submitted By

LANCASTER BROOKS & WELCH	201-247 East Main St. PO Box 67 Welland L3B 5N9		2005 05 27
Tel	905-735-5684		
Fax	9057353340		

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

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hereinafter called the TOWN  
OF THE FIRST PART

AND:

992548 ONTARIO INC. and ROSE ANNETTE PORKOLAB  
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OF THE SECOND PART

WHEREAS:

- A. The Owner has made application to the Town for permission to lay water or irrigation pipes and appurtenances on, in, under, or along highways and roads and opened or unopened road allowances of the Town, in order to provide water from a natural source to the lands of the Owner for the purpose of supplying irrigation and water for irrigation purposes only to the property described in Schedule "A";
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16. The Owner hereby consents to the registration of this agreement on title to the lands described in Schedule "A".

17. This agreement shall be binding upon and enure to the benefit of the parties hereto and their successors, permitted assigns and those persons who are successors on title.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written and the parties hereto have hereunto affixed their Corporate Seals by the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED AND  
DELIVERED IN THE  
PRESENCE OF

) THE CORPORATION OF THE TOWN OF PELHAM

)

) Ronald W. Leavens

) RONALD LEAVENS (MAYOR)

)

)

) Cheryl Milette

) CHERYL MILETTE (CLERK)

)

)

) 992548 ONTARIO INC.

)

)

) [Signature]

Per:

I have authority to bind the Corporation

)

)

) [Signature]

[Signature]

Witness as to the signature) ROSE ANNETTE PORKOLAB  
of Rose Annette Porkolab

- 7 -

Schedule "A"

LEGAL DESCRIPTION

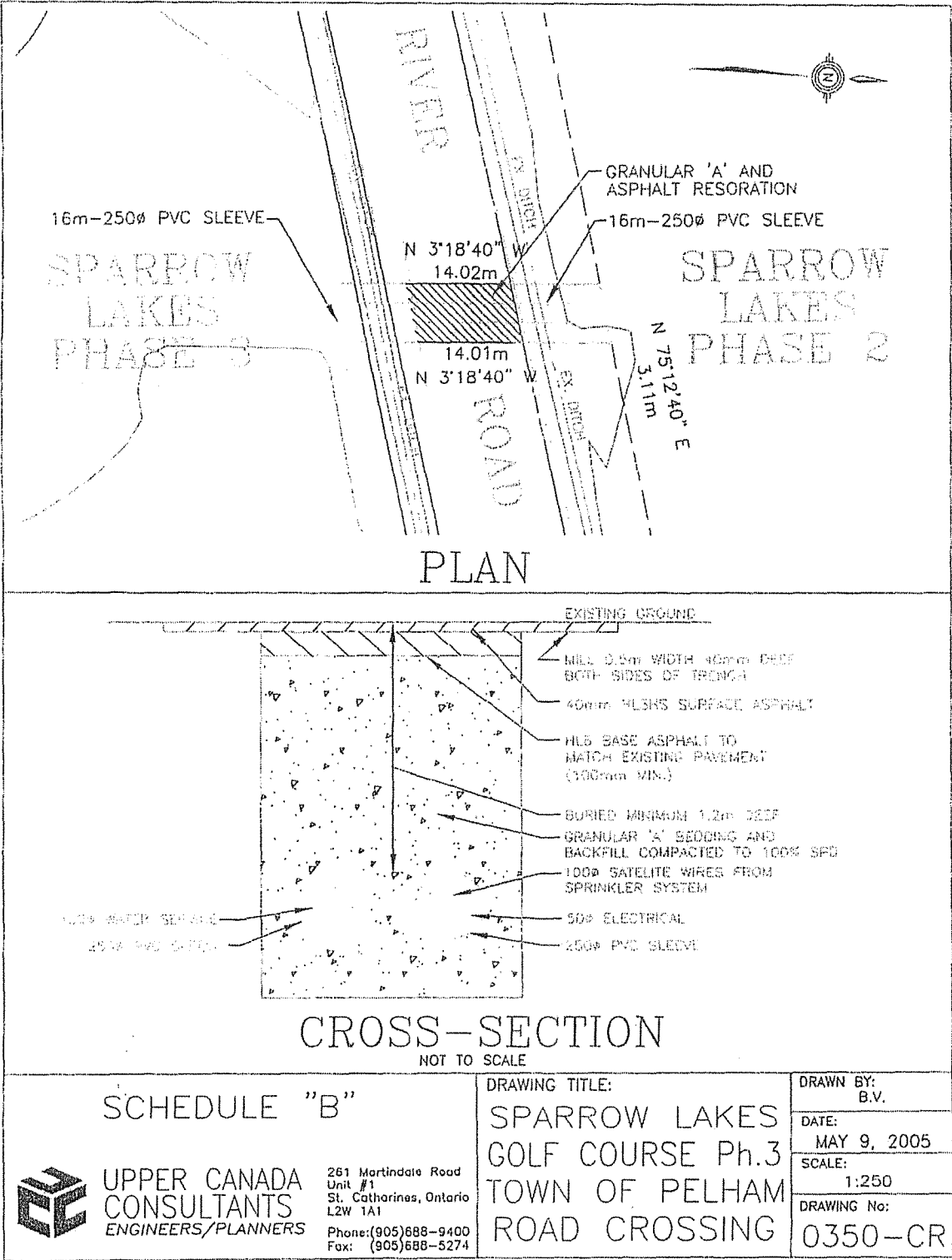
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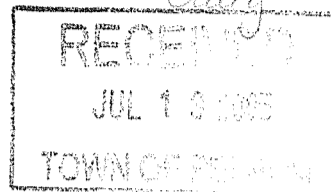
Schedule "B"





**Lancaster, Brooks & Welch LLP**  
BARRISTERS AND SOLICITORS

**PLEASE RESPOND TO WELLAND OFFICE**



July 8, 2005

The Corporation of the Town of Pelham  
P. O. Box 400  
Fonthill, Ontario  
L0S 1E0

**Attention: Mr. Craig Larmour**

Dear Sir:

**RE: Town of Pelham and 992548 Ontario Inc.**  
**(Sparrow Lakes Golf Course)**

2675

The above mentioned agreement was registered in accordance with your instructions and we therefor enclose the following:

- A. Copy of Notice of Agreement, registered on May 27, 2005 as instrument No. SN77282; and
- B. Our account for services rendered.

We trust this is satisfactory and remain,

Yours very truly,  
LANCASTER BROOKS & WELCH LLP  
PER:

RBS:pm  
Encls.

**Lancaster Brooks & Welch LLP**

PO Box 790, 80 King Street, Suite 800, St. Catharines, Ontario L2R 6Z1 Tel. 905.641.1551, Fax 905.641.1830  
PO Box 67, 247 East Main Street, Welland, Ontario L3B 5N9 Tel. 905.735.5684, Fax 905.735.3340  
[www.lbwlawyers.com](http://www.lbwlawyers.com)

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Malte von Anrep, Q.C.\*  
H. Christina MacNaughton\*\* (on leave)  
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Joseph B. Doucette

Gary L. Black  
Thomas A. Bielby  
Kenneth W. Garland

Bruce S. Wormald  
Robert W. P. Welch  
Michael A. Mann

Geoffrey F. Brooks, QC (retired); Robert S. K. Welch, OC, QC, LLD (1928 - 2000)

\* Certified by the Law Society as a Specialist in Civil Litigation \*\* Certified by the Law Society as a Specialist in Family Law