

SCHEDULE "A"

TO

BY-LAW 3166 (2011)

LT 22-23 PL 717 Fonthill T/W R0422833, Town of Pelham, Regional Municipality of Niagara and municipally known as 1401 Pelham Street, Fonthill, Ontario.

AGREEMENT OF PURCHASE AND SALE

BETWEEN:

MERIDIAN CREDIT UNION LIMITED

(the "Owner")

-and-

THE CORPORATION OF THE TOWN OF PELHAM

(the "Town")

WHEREAS the Owner is the registered owner of the lands legally described as LT 22-23 PL 717 FONTHILL T/W RO422833, Town of Pelham, Regional Municipality of Niagara and municipally known as 1401 Pelham Street, Fonthill, ON L2R 7R8 (the "Owner's Lands");

AND WHEREAS Niagara Peninsula Energy Inc. ("the NPE") proposes to install a ground level transformer on a portion of Owner's Lands as part of a project to relocate overhead electrical cables to an underground configuration (the "Works");

AND WHEREAS the NPE requires an easement over a portion of the Owner's Lands to facilitate construction of the Works;

NOW THEREFORE in consideration of payment of the sum of ONE (\$1.00) DOLLAR paid by each of the parties hereto to the other, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The recitals herein are true and accurate.
2. The Owner hereby agrees to sell and the Town agrees to purchase an easement over a portion of the Owner's Lands as follows:
 - (a) a permanent easement for the purposes of constructing, installing, inspecting, altering, repairing, replacing, operating, maintaining and removing a ground level transformer as part of a project to relocate overhead electrical cables to an underground configuration, and all appurtenances or accessories thereto, on and over a portion of the Owner's Lands as shown as Part 1 on Schedule "A" (the "Permanent Easement Lands");
 - (b) The Permanent Easement Lands shall be referred to as the "Lands";

for a purchase price of **ONE-THOUSAND THREE-HUNDRED AND NO/100 DOLLARS (\$1,300.00)** (the "Purchase Price").

3. Areas and calculations shown are approximate and the Town shall prepare and register at its own expense a reference plan that accords substantially to the draft reference plan attached hereto as Schedule "A", which reference plan shall include area calculations of each part to be acquired. The purchase price for the Lands will be subject to the reference plan. Area calculations shall be binding on the Owner and the Town and the Purchase Price shall increase or abate accordingly based upon the price per square metre.
4. The parties hereto agree that any and all improvements, trees or shrubs within the Lands are included in the Purchase Price.
5. The Owner acknowledges and agrees that the Purchase Price represents full and final compensation and includes, without limitation, compensation for market value of the Lands, injurious affection, disturbance damages, reduction in market value of the remainder of the Owner's Lands and any and all claims that the Owner may make pursuant to the *Expropriations Act*, R.S.O. 1990, c. E.26 for the Town's purchase of the Lands.
6. This offer shall be irrevocable by the Owner until 4:30 p.m. on October 29, 2010, after which time, if not accepted by the Town, this Agreement shall be null and void.
7. *[Deposit requirement intentionally deleted.]*
8. The balance of the Purchase Price shall be paid by negotiable cheque or direct deposit on the Closing Date, subject to the adjustments outlined in the statement of adjustments, if any, provided the title to the Lands is good and free from all registered restrictions charges, liens and encumbrances, including but not limited to leases, agreements, and notices.
9. If this transaction is subject to Harmonized Sales Tax imposed by the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended (the "HST"), then such HST shall be in addition to and not included in the Purchase Price, and the Town hereby warrants that it is duly registered for HST purposes (HST registration number R122 161 698) and hereby covenants to self-assess and remit applicable HST in addition to the Purchase Price in accordance with the provisions of the *Excise Tax Act*, and agrees that on closing it will provide to the Owner an undertaking to self-assess and remit all applicable HST payable in relation to this transaction and to indemnify and hold harmless the Owner in relation to any HST payable in relation to this transaction, such undertaking and indemnity to be in a form satisfactory to the Owner's lawyer, acting reasonably. If this transaction is not subject to HST, the

Owner agrees to provide to the Town, on or before the Closing Date, a certificate in a form reasonably satisfactory to the Town certifying that the transaction is not subject to HST.

10. **The closing date of this transaction shall be November 30, 2010**, or prior thereto if mutually agreed in writing (the "Closing Date").
11. **The Town shall be allowed until the Closing Date to investigate the title to the Lands at its own expense.** If within that time any valid objection to title is made in writing to the Owner and which the Owner is unable to remove and which is not waived by the Town, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be null and void and the deposit paid herein shall be returned to the Town without interest or deduction.
12. The Town shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the possession or control of the Owner.
13. This transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, c. L.4, as amended. The Owner and the Town acknowledge and agree that the delivery of documents and the release thereof will: (a) not occur at the same time as the registration of the transfer/deed (and other documents intended to be registered in connection with the completion of this transaction); and (b) be subject to conditions whereby the solicitor(s) receiving documents and/or money will be required to hold them in escrow and not release them except in accordance with the terms of a written Document Registration Agreement, in a form satisfactory to the Town, between the solicitors. The Owner and the Town agree to be bound by the Document Registration Agreement which is recommended from time to time by the Law Society of Upper Canada.
14. The Owner covenants and agrees to deliver to the Town, or to whom it may direct, a Transfer Easement for the Lands suitable for registration and drawn in the name of "Niagara Peninsula Energy Inc." to provide it with good title to such easement, free and clear from all restrictions, charges, liens and encumbrances including but not limited to leases, agreements, notices. The Owner covenants and agrees to obtain any postponements which may be necessary to provide the Town with priority over all other encumbrances.
15. The Owner covenants that it will deliver to the Town on or before the Closing Date, each of the following:
 - (a) *intentionally deleted;*

- (b) an executed Transfer Easement in a form satisfactory to the Town and NPE, which Transfer of Easement will include the Schedule attached hereto as Schedule "C";
 - (c) Seller's Closing Certificate, including an undertaking to re-adjust the statement of adjustments, if necessary, upon written demand;
 - (d) a current tax certificate;
 - (e) a direction regarding the payment of funds;
 - (f) statement of adjustments, which shall be delivered at least two (2) business days prior to the Closing Date;
 - (g) *intentionally deleted*;
 - (h) such other deeds, conveyances and other documents as the Town or its solicitors may reasonably require in order to implement the intent of this Agreement.
16. The Town covenants that it will deliver to the Owner on or before the Closing Date:
- (a) a cheque or direct deposit in an amount equal to the balance of the Purchase Price due on the Closing Date as adjusted in accordance with the statement of adjustments;
 - (b) a direction as to title, if necessary;
 - (c) an undertaking to re-adjust the statement of adjustments, if necessary, upon written demand.
 - (d) *intentionally deleted*.
17. The Owner warrants that spousal consent is not necessary to this transaction under the provision of the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, unless the Owner's spouse has executed the consent hereinafter provided.
18. The Owner shall provide on closing any certificates, affidavits, declarations or any other documents reasonably required for compliance with the *Family Law Act*, the *Income Tax Act*, R.S.C. 1985, as amended, and any other statutes, where such certificates, affidavits, declarations or documents are required to permit the conveyance of the Lands to the Town free of any claim, lien or interest of any person or government.
19. Any tender of documents or money hereunder may be made upon either party or their respective solicitors on the Closing Date. Money may be tendered by negotiable cheque or bank draft.
20. The Town will reimburse the Owner for its reasonable legal fees, expenses, disbursements and HST payable thereon which are incurred in connection with this transaction, the negotiation and amendment of this agreement, the preparation of the closing documents, the transfer of the easement to NPE and the NPE's acquisition of the

easement over the Lands, and the Owner will, on or before closing, provide to the Town an itemized statement of account, and the total amount of such legal account shall be itemized as an item in favour of the Owner on the statement of adjustments, which adjusted amount shall be paid by the Town to the Owner on the closing date.

21. The Owner represents and warrants to the Town that:
 - (a) to the best of the Owner's knowledge at the present time, there has been no release, deposit, spill, disposal, leakage or discharge of any contaminant, waste, pollutant, or hazardous substance on, from, under or to the Lands;
 - (b) the Owner has not received notice of any violation or alleged non-compliance with any laws, regulations, by-laws, guidelines, or policies pertaining to the environmental condition of the Lands, nor have any proceedings, investigations or other evaluations been commenced to determine whether any such violation or non-compliance exists;
 - (c) the Owner has not received notice of any claims or demands pertaining to the environmental condition of the Lands or of adjacent lands;
 - (d) to the best of the Owner's knowledge at the present time, there are no facts or conditions relating to the Lands that could give rise to any remedial obligations, claims, demands or orders;
 - (e) to the best of the Owner's knowledge at the present time, the Lands have not been used as a waste disposal site; and
 - (f) to the best of the Owner's knowledge at the present time, no storage tanks are or have been on, at or under the Lands.
22. The Owner shall provide the Town with all consents or authorizations (written or otherwise) necessary or desirable to enable the Town to obtain information as the Town may consider necessary or advisable in determining the environmental condition of the Lands within three (3) days after the request therefor. The Owner shall further provide the Town with all documents and reports in its control or possession relating to the environmental condition of the Lands within three (3) days after the request therefor.
23. In the event that the Town is not satisfied, in its absolute discretion, with results of any inspection, environmental test, survey, or response to inquiries or if any environmental contaminants are released prior to closing, the Town may, without limiting any other right that the Town may have at its sole option, rescind this Agreement by delivering a notice of termination to the Owner and in such event the Town and the Owner shall be released from all obligations hereunder.
24. The Owner and the Town acknowledge that this Agreement constitutes the entire Agreement between the Owner and the Town and there are no representations,

warranties, collateral agreements or conditions affecting this Agreement or the Lands other than as expressed herein in writing.

- 25. Execution of this Agreement by the Town shall be deemed to grant to the Town, its agents and contractors the right to exercise their easement rights in the Lands as of the date of acceptance and without prejudice to its rights herein.
- 26. Time shall be in all respects of the essence hereof provided that the time for doing or completing any matter herein may be extended or abridged by an agreement in writing signed by the Owner and the Town or by their respective solicitors who are hereby expressly appointed in this regard.
- 27. This Agreement shall be binding upon and shall enure to the benefit of the parties hereto, and each of their respective representatives, successors, heirs and assigns.
- 28. This Agreement may be executed and delivered in any number of separate counter-parts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument. Any party may deliver an executed copy of this Agreement by facsimile transmission.
- 29. All covenants, representations and warranties contained in this Agreement on the part of both the Owner and the Town shall not merge upon the closing of this transaction.
- 30. Schedules “A” – “the Land”, “B” – Additional Clauses and “C” -“Easement Schedule”, and attached hereto form an integral part of this Agreement.
- 31. This Agreement, when executed by the Town’s authorized signing officer(s), shall constitute a binding agreement.

[this space is intentionally left blank]

IN WITNESS WHEREOF the Owner has on the 28th day of October, 2010 affixed its corporate seal attested by the hands of the duly authorized officer(s).

MERIDIAN CREDIT UNION LIMITED

Per: [Signature]
Name: GARY GENIK
Title: CHIEF INFORMATION OFFICER

I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF the Town has on the 4th day of January, 2011 affixed its name under the hand of its duly authorized signing officer.

THE CORPORATION OF THE TOWN OF PELHAM

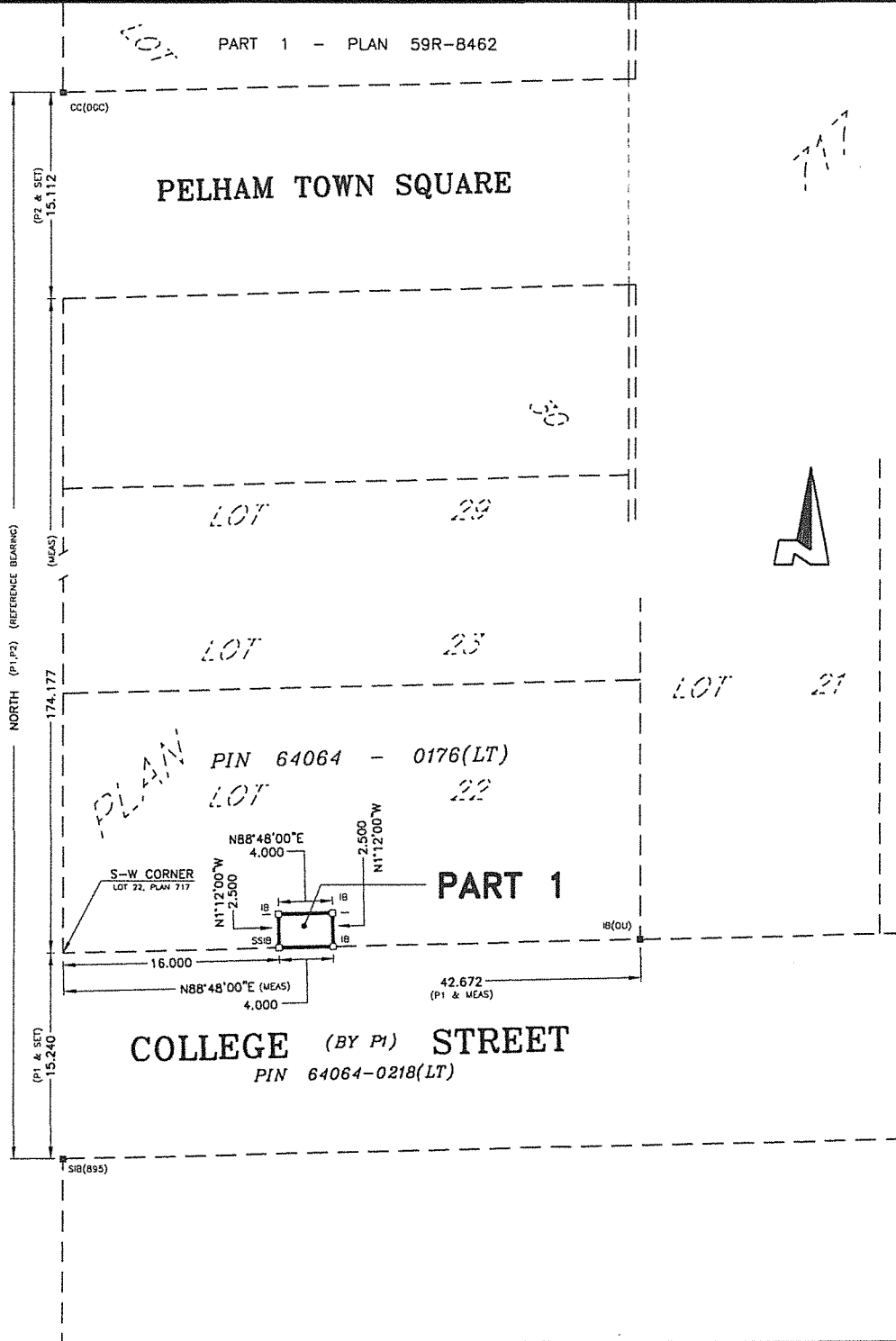
Per: [Signature]
Name: Dave Augustyn
Title: Mayor

I have authority to bind the Corporation.

Nancy J. Bozzato
Nancy J. Bozzato
Town Clerk

SCHEDULE "A" - THE LAND

PELHAM STREET
(FORMERLY SOUTH PELHAM STREET BY PLAN 717)
BY BY-LAW No 409, INSTRUMENT No R0306504
ORIGINAL ROAD ALLOWANCE BETWEEN TOWNSHIPS OF PELHAM AND THOROLD
(FORMERLY REGIONAL ROAD No 36, REMOVED FROM
REGIONAL ROAD SYSTEM BY BY-LAW No 97-2006)



I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

PLAN 59R-14349

RECEIVED AND DEPOSITED

DATE 8 OCTOBER 2010

DATE OCTOBER 13, 2010

W. Stephenson

ASSISTANT DEPUTY LAND REGISTRAR FOR THE LAND TITLES DIVISION OF NIAGARA SOUTH(59)

SCHEDULE

PART	LOT	PLAN	PIN
1	PART OF LOT 22	PLAN 717	64064-0176(LT)

PART 1: PART OF PIN 64064-0176(LT)

PLAN OF SURVEY OF
PART OF LOT 22
PLAN 717
IN THE
TOWN OF PELHAM
REGIONAL MUNICIPALITY OF NIAGARA
SCALE 1 : 300

0 1 2 3 4 5 10 15 20 30 METRES

DONALD G. CHAMBERS
ONTARIO LAND SURVEYOR

NOTES

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE EASTERLY LIMIT OF PELHAM STREET AS SHOWN ON PLAN 717 ON A COURSE OF "NORTH".

—■— DENOTES SURVEY MONUMENT FOUND

—○— " SURVEY MONUMENT SET

SIB " STANDARD IRON BAR

SSIB " SHORT STANDARD IRON BAR

IB " IRON BAR

CC " CUT CROSS

MEAS " MEASURED

WIT " WITNESS

OU " ORIGIN UNKNOWN

N/S/E/W " NORTH/SOUTH/EAST/WEST

PIN " PROPERTY IDENTIFICATION NUMBER

P1 " PLAN 717

P2 " DEPOSITED PLAN 59R-8462

895 " D. A. LANE, O.L.S.

DGC/1854 " DONALD G. CHAMBERS, O.L.S.

METRIC NOTE

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1) THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM;

2) THE SURVEY WAS COMPLETED ON THE 30th DAY OF JUNE, 2010.

19 JULY 2010

DATE DONALD G. CHAMBERS, B. Sc., O.L.S.

CHAMBERS AND ASSOCIATES SURVEYING LTD

203 EAST MAIN STREET (Upper)
WELLAND ONTARIO
L3B 3W7

(905) 735-7841 / 735-7844
FAX (905) 735-7333
don@ccal-surveying.com

DRAWN BY: D. H. T. DISK: CIVIL 2010 DWG: 87375-25 FILE No: 87-375-2

SCHEDULE “B” - ADDITIONAL CLAUSES

[No additional clauses]

SCHEDULE "C" – EASEMENT SCHEDULE

The Transferor is the registered owner of the lands legally described as Lots 22-23, Plan 717, Fonthill, together with RO422833, Pelham, being all of PIN 64064-0176 (LT) (the "Property").

The Transferee is the registered owner in fee simple and in possession of the lands described in Appendix "A" hereunto annexed and will erect over, on, upon, along or under the Easement Lands (as hereinafter defined), electrical plant, cable(s) and other equipment for the distribution of electrical energy.

The Transferee requires an easement on, over and under the Easement Lands to be used in conjunction with the lands described in Appendix "A" for distribution and supply of electrical power and energy to its subscribers and forming part of the Transferee's continuous lines between its lands described in Appendix "A" hereto and the premises of its subscribers.

Subject to the terms hereof, the Transferor hereby transfers to the Transferee, its successors and assigns, an easement as follows:

- (a) The free, uninterrupted and unobstructed right and easement in perpetuity to enter on and construct, maintain, repair, and operate the Transferee's power and service wires, plant and equipment, in, upon and under the lands described as Part 1, on Reference Plan 59R-14349 (the "Easement Lands"), including all wires, and cables both buried and aerial, conduits, vaults, markers, fixtures, guys, anchors and equipment and all appurtenances or accessories thereto as the Transferee, acting reasonably, may at any time hereafter deem requisite.
- (b) The right of free, uninterrupted and unobstructed access for the Transferee, its servants, agents, workmen, vehicles, supplies and equipment at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the rights hereby transferred over the Easement Lands for the purpose of erecting and maintaining the aforesaid lines, plant and equipment.

The Transferor covenants with the Transferee that it has the right to convey, grant or transfer the within easement on, over and under the Easement Lands.

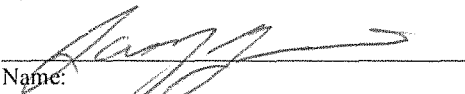
The aforesaid rights, privileges, and easement are herein granted subject to the following terms, stipulations and conditions. The Transferee:

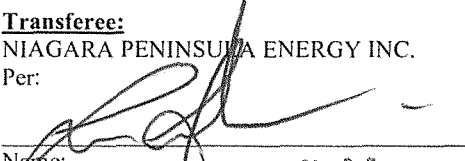
- (a) Shall keep the Easement Lands clear of all obstructions of any nature whatsoever, save and except those which are permitted herein;
- (b) Shall be responsible for any damage to the Property, the Easement Lands and any building or personal property of the Transferor or the Transferor's customers and invitees which is caused directly or indirectly by the acts or omissions of the Transferee or persons acting under the authority of the Transferee and those for whom the Transferee is in law responsible;
- (c) Covenants with the Transferor that it has the right to enter into this agreement and that this agreement constitutes a legal, valid and binding obligation of the Transferee;
- (d) Indemnifies and saves harmless the Transferor from and against any actions, causes of action, suits, costs, charges, damages, losses, expenses, claims, or demands by the Transferor or any person, or persons, resulting from or related to (i) the negligent acts or omissions on the part of the Transferee or those for whom the Transferee is in law responsible, (ii) the presence of and any work performed by the Transferee and its employees, contractors, visitors, invitees and those for whom it is in law responsible, on the Easement Lands, (iii) the conduct of the activities of the Transferee and its employees, contractors, visitors, invitees and those for whom it is in law responsible by virtue of or related to the easement granted herein, (iv) any damage to or contamination of the Property and the Easement Lands caused directly or indirectly by the acts or omissions of the Transferee, its successors, assigns, employees, visitors, invitees and those for whom it is in law responsible, (v) all repairs or remediation (including all costs

and expenses related thereto) respecting the Property and the Easement Lands required as a result of any damage or contamination caused by the Transferee as outlined above, it being understood and agreed that the Transferee shall, at its own cost and expense, be obligated to restore the Property and the Easement Lands to their previous state and condition in the event of any such damage or contamination as outlined above, and (vi) any damage, loss, injury or death to person or property which shall be sustained by the Transferor, its employees, customers and invitees, or the Transferee, its successors, assigns, employees and those for whom it is in law responsible, as a result of the Transferee's (or those parties for whom the Transferee is in law responsible) use of or presence on the Property or the Easement Lands or the exercise of the Transferee's rights hereunder;

- (e) Shall not have the right to assign or transfer its rights hereunder in whole or in part without the prior written consent of the Transferor;
- (f) After any work undertaken on the Easement Lands, shall repair and return the Property and the Easement Lands to their previous state and condition, at its own cost and expense.

The burden of this Transfer of Easement shall run with the Easement Lands and shall extend to and be binding on the Transferor, its successors and assigns, executors, heirs and administrators, subject to the provisions contained herein.

Transferor:
MERIDIAN CREDIT UNION LIMITED
Per:

Name:
Office: **GARY GENIK**
CHIEF INFORMATION OFFICER
Name:
Office:
We have authority to bind the Corporation.

Transferee:
NIAGARA PENINSULA ENERGY INC.
Per:

Name:
Office: **Tom Sielicki**
VP of Engineering
Name:
Office:
We have authority to bind the Corporation.



**SCHEDULE “C” – EASEMENT SCHEDULE
APPENDIX “A”**

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Niagara Falls, in the Regional Municipality of Niagara, and being more particularly described as follows:

FIRSTLY: The whole of Lots 4 and 13 according to a Plan registered in the Land Registry Office for the Land Titles Division of Niagara South (No. 59) as Number M-40.

SECONDLY: That part of Block B, according to said Plan M-40 designated as Part I on a plan of reference filed in the said Land Registry Office as Number 59R-3785.

Being all of PIN 64263-0070.



The Corporation of The
TOWN OF PELHAM

FROM THE OFFICE OF THE DIRECTOR OF COMMUNITY AND INFRASTRUCTURE SERVICES

January 24, 2011

Lancaster, Brooks & Welch LLP
Barristers and Solicitors
247 East Main Street
Box 67
Welland, ON L3B 5N9

#13166
agreements
& all related

Attention: Mr. Bruce Smith

Dear Sir

RE: Pelham Street Property Acquisition
Meridain Credit Union, 1401 Pelham Street, Fonthill

Enclosed is a copy of the signed agreement between the Town and Meridian Credit Union for the purchase of an easement over a portion of the Credit Union's lands at 1401 Pelham Street for the purpose of installing and maintaining a ground level electrical transformer.

Would you please contact Thomas Wall at Sullivan Mahoney LLP to arrange for closing. The closing date has expired therefore it will be necessary to arrange for an extension.

Should you have any questions, please do not hesitate to contact the undersigned at 905-892-2607 extension 313.

Yours truly,

TOWN OF PELHAM

LT22-23 PL717

Alan R. Mannell C.E.T., C.R.S.
Manager of Engineering
Enclosure
ARM

c.c.: Nancy J. Bozzato, Clerk



The Corporation of The
TOWN OF PELHAM

FROM THE OFFICE OF THE DIRECTOR OF COMMUNITY AND INFRASTRUCTURE SERVICES

January 24, 2011

Sullivan Mahoney LLP
40 Queen Street
Box 1360
St. Catharines, ON L2E 6B1

Attention: Mr. Thomas Wall

Dear Sir

RE: Pelham Street Property Acquisition
Meridain Credit Union, 1401 Pelham Street, Fonthill
File No. 88520

Enclosed are two copies of the signed agreement between the Town and Meridian Credit Union for the purchase of an easement over a portion of the Credit Union's lands at 1401 Pelham Street for the purpose of installing and maintaining a ground level electrical transformer.

Should you have any questions, please do not hesitate to contact the undersigned at 905-892-2607 extension 313.

Yours truly,

TOWN OF PELHAM

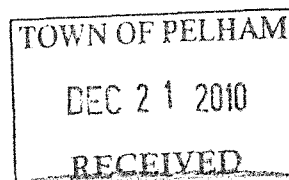
Alan R. Mannell C.E.T., C.R.S.
Manager of Engineering
Enclosure
ARM

c.c.: Nancy J. Bozzato, Clerk

December 15, 2010

Sent via: Canada Post Lettermail

Town of Pelham
c/o Al Mannell
20 Pelham Town Square
Fonthill, ON L0S 1E0



RE: Pelham Street Property Acquisition
Meridian Credit Union
1401 Pelham St, Fonthill, ON
PIN No. 64064-0176; MPAC No. 273203000415200

Dear Al:

Please have your signing authority review and consider the enclosed Agreement (in quadruplicate), and if satisfactory, sign and return two (2) out of the four (4) originals to the following address and then arrange for closing:

Sullivan Mahoney LLP
c/o File No. 88520 (Thomas Wall)
40 Queen St, P.O. Box 1360
St. Catharines, ON L2E 6B1

↑ gave original BL# 3166 to AL Mannell
+ 2 agreements
to Mahoney
for closing
Jan 20/11

Please note that due to the numerous delays in getting the documents signed by all parties, the irrevocable and closing dates have expired. During the closing process, please have your legal counsel contact Sullivan Mahoney to arrange for an extension of the irrevocable and closing dates.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Nelson Lau
Real Estate Officer

Enclosures: Four (4) originals of the Agreement of Purchase and Sale

Building Community. Building Lives.