



Vibrant · Creative · Caring

April 15, 2014

Callum Shedden
Daniel & Partners LLP,
39 Queen Street, PO Box 24022
St. Catharines, ON L2R 7P7

**RE: Memorandum of Understanding
The Corporation of the Town of Pelham and Wellspring Niagara Cancer
Support Foundation**

Dear Mr. Shedden

Please find enclosed the agreement and the By-law #3485 (2014) re Memorandum of Understanding Agreement between the Corporation of the Town of Pelham and Wellspring Niagara Cancer Support Foundation for the lease of said land. Please note that Wellspring has an original of the agreement and by-law.

If you have any further questions regarding the attached, please do not hesitate to contact Ms. Bozzato at 905-892-2607, extension 315.

Yours truly,

A handwritten signature in cursive script, appearing to read "Nancy J. Bozzato".

for (Mrs.) Nancy J. Bozzato, *Dipl. M.M., AMCT*
Town Clerk

Encl.

/db

From the Clerk's Department



**Administrative
Services**

20 Pelham Town Square P.O. Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055
pelham.ca

SCHEDULE A
To By-law #3485(2014)

Property Description:

Part of Township Lots 161 & 166, Thorold & Part of Road Allowance between Lots 161 & 166, Thorold (stopped up and closed by RO196052), being Part 1 on Reference Plan 59R-12687, except Part 7 on Reference Plan 59R-14225, subject to an Easement in Gross over Part of Road Allowance between Thorold Township Lots 161 & 166, being Part 8 on Reference Plan 59R-14225, as in SN306187, Town of Pelham

PIN 64063-0240 (LT)

MEMORANDUM OF UNDERSTANDING

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM
(hereinafter referred to as the "Town")

and

WELLSPRING NIAGARA CANCER SUPPORT FOUNDATION
(hereinafter referred to as "Wellspring")

WHEREAS:

The Town is the registered owner of the lands described in Schedule "A" attached hereto (the "Town Lands");

The Town has determined that a portion of the Town Lands are surplus to the needs of the Town and are therefore available for disposition;

The Town has determined that a lease of land to Wellspring to permit the development by Wellspring of centre to provide non-medical support for cancer patients and their families on a portion of the Town will result in a net benefit to the Town;

The Town and Wellspring agree that this Memorandum of Understanding (the "MOU") sets out the basic outline of an Agreement which is to be negotiated by the Parties; and

The Town and Wellspring acknowledge and confirm their mutual intention to negotiate a binding agreement to implement the terms outlined in this MOU and that this MOU is not legally binding on either Party.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

"Council" means the Council of the Corporation of the Town of Pelham.

"Memorandum of Agreement", "MOU", "this MOU", "hereto", "hereof", "herein", "hereby", "hereunder" and similar expressions mean and refer to this Memorandum of Agreement and all Schedules referred to in this MOU, all amendments to this MOU executed in writing by both Parties.

"Party" or "Parties" means the Town or Wellspring or both of them.

"Town" means the Corporation of the Town of Pelham.

"Town Lands" means the lands described in Schedule "A" to this Agreement.

2. LEASE OF TOWN PROPERTY TO WELLSPRING

2.1 Subject Property

The Town will lease to Wellspring and Wellspring shall lease from the Town that portion of the Town Lands identified as Parcel 11 on Schedule "B" attached hereto which is approximately two (2) acres in area (the "Wellspring Parcel").

2.2 Value of the Wellspring Parcel

The Town and Wellspring agree that the value of the Wellspring Property is \$375,000.00 per acre, as determined by the appraisal of the Town Lands which the Town obtained.

2.3 Lease Terms

The Town agrees that it shall lease the Wellspring Parcel to Wellspring for a term of Twenty (20) years at an annual rent of One Dollar (\$1.00). The Parties agree that the actual fair value of the lease of the Wellspring Parcel shall be a donation by the Town to the Wellspring building campaign for the Wellspring Niagara Cancer Support Centre in Pelham. This lease shall be automatically renewed at the end of the initial term for an additional term of Twenty (20) years at the same annual rent, and thereafter at the end of each renewal term for an additional term of Twenty (20) years, provided that the Wellspring Parcel continues to be used as the Wellspring Niagara Cancer Support Centre in Pelham at the time of renewal of the lease. Should Wellspring not wish to renew the lease at the end of a term, Wellspring shall provide the Town with written notice that the lease will not be renewed not later than Six (6) months prior to the expiry of the lease term, and the provisions of Section 2.7 shall apply.

2.4 Date of Commencement of Lease

The Town and Wellspring agree that the term of the lease shall commence when the Wellspring Niagara Cancer Support Centre in Pelham has been constructed on the Wellspring Parcel and the Center commences operation.

2.5 Restriction on Use of Wellspring Parcel

Wellspring and the Town agree that Wellspring Parcel shall be restricted to its use by Wellspring for provision of non-medical support for cancer patients and their families. Should Wellspring cease to operate the Wellspring Niagara Cancer Support Centre in Pelham on the Wellspring Parcel, the Town shall have the option terminating the lease or of charging market rent for the ground lease of the Wellspring Parcel as determined by binding arbitration for the remainder of the term of the lease. Wellspring shall also be entitled to terminate the lease upon giving the Town at least Six (6) months prior written notice should Wellspring cease to operate the Wellspring Niagara Cancer Support Centre in Pelham on the Wellspring Parcel. Upon termination of the lease, the provisions of Section 2.7 shall apply.

2.6 Assignment of Lease

The Parties agree that should Wellspring cease to operate the Wellspring Niagara Cancer Support Centre in Pelham on the Wellspring Parcel, Wellspring may, with the consent of the Town, assign the lease to another community service organization which provides services to the community. The approval of the assignment of the lease shall be in the sole discretion of the Town.

2.7 Termination of Lease

Upon the termination of the lease, the Town shall have the option to purchase the Wellspring building and improvements to the Wellspring Parcel for the fair market value ("FMV") thereof as determined by a qualified real property appraiser jointly retained by Wellspring and the Town to determine the FMV of the building and improvements, the FMV of the Wellspring Parcel land only and the FMV of the Wellspring Parcel including land, building and improvements. Should the Town not elect to purchase the Wellspring building and improvements, then the Wellspring Property shall be listed for sale at the FMV as determined by the appraisal. Upon the completion of the sale, the net proceeds of the sale shall be divided as follows:

- (a) The Town would receive the percentage of the net sale proceeds equal to the FMV of the Wellspring Parcel land only over the FMV of the Wellspring Parcel including the building and improvements;
- (b) The balance of the net sale proceeds would be paid to Wellspring.

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Per: Dave Augustyn
Dave Augustyn, Mayor

Date: April 7, 2014

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Per: Ann Mantini-Celima
Ann Mantini-Celima, Executive Director

Date: April 7, 2014

SCHEDULE "A"

Legal Description of the "Town Lands"

Part of Township Lots 161 & 166, Thorold & Part of Road Allowance between Lots 161 & 166, Thorold (stopped up and closed by RO196052), being Part 1 on Reference Plan 59R-12687, except Part 7 on Reference Plan 59R-14225, subject to an Easement in Gross over Part of Road Allowance between Thorold Township Lots 161 & 166, being Part 8 on Reference Plan 59R-14225, as in SN306187, Town of Pelham

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