

THIS AGREEMENT made in triplicate this 31st day
of January, A.D. 1978

BETWEEN:

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

HEREINAFTER CALLED

"LANE"
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 did enter into an
agreement dated the 21st day of March, A. D. 1977, for the
purposes of supply and sale by the Town of water to Lane.

AND WHEREAS for various reasons, the parties
hereto were unable to implement the said agreement and have
entered into this agreement in substitution for the afore-
mentioned agreement.

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

Lane shall at his own expense construct and
arrange to be located in a position satisfactory to the Town's
building inspector, one aluminum clad building, to be termed a

water station to receive the supply of water from the Town. Such building shall be located in the southwest quadrant of the lands described in Schedule "A", and shall be at least ^{TEN} ~~twenty~~ 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) The Town shall pay all costs of the installation of a two inch water line to the south limit of the lands described in Schedule "A" hereto, and Lane shall at his own expense construct and install the two inch water line 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 Works Superintendent.

(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 Lane, his servants and employees except in cases of emergency as hereinafter provided.

3. DRAINAGE

(a) Lane shall insure 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 Works Superintendent shall inspect the property periodically to determine that such grading has been undertaken to his satisfaction and any regrading shall be

carried on by Lane forthwith upon the request of the Works Superintendent.

4. CASH DEPOSIT

Lane has heretofore deposited with the Town's Treasurer the sum of Five Hundred (\$500.00) Dollars 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 Lane, and in the event that there are no unpaid accounts by Lane at the time of the termination of this agreement, the deposit shall be returned to Lane by the Town without interest.

5. WATER BILLING

(a) Lane 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 \$1.02 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) Lane 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 Treasurer. In the event of any default in making of payment by Lane, the Town shall notify Lane 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) Lane 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 Lane, his contractors, servants, employees or agents in connection with the installation or operation of the water station on the lands described in Schedule "A". Lane agrees that he shall produce evidence of liability insurance covering his own liability and the liability of the Town in the amount of at least \$500,000.00 in connection with his operations upon, and from the lands described in Schedule "A" at all times during the term of the agreement. Nothing herein contained shall require Lane 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 Lane to carry out any of the provisions of this agreement, the Town may give to Lane 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 expense of Lane 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 nonpayment of such costs by Lane as a breach warranting termination of this agreement.

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

(e) Lane 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.

7. TERM OF AGREEMENT

(a) This agreement shall come into force upon the first day of April, 1978, or upon such earlier date as Lane commences the drawing of water from the water station; provided however that if for any reason beyond the control of the Town, the installation of the water line from its main to the south limit of the lands described in Schedule "A" is delayed, the agreement shall come into force on the first day of the month next following the installation of said line. This agreement shall be terminated at the end of the eighteenth month next after its commencement.

(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,
Fonthill, Ontario;

and to Lane at R. R. #4, Fenwick, Ontario.

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.

8. FIRE DEPARTMENT

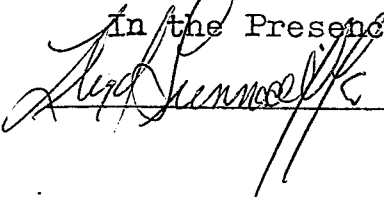
Notwithstanding anything contained in this agreement, nothing shall prohibit or interfere with the right of the Pelham Fire Department from utilizing the water loading station for emergency purposes. Any water consumed by the Fire Department in pursuance of this paragraph shall not be charged to Lane.

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 the agreement.

IN WITNESS WHEREOF Lane has hereunto affixed his hand and seal and the Town has hereunto affixed its corporate seal, duly attested by its proper officers in that behalf.

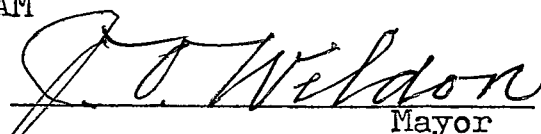
SIGNED, SEALED AND DELIVERED

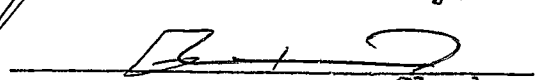
In the Presence of





THE CORPORATION OF THE TOWN OF
PELHAM

PER: 
Mayor

PER: 
Clerk

SCHEDULE "A"

ALL and singular that certain parcel or tract of land and premises, situate, lying and being in the Township of Pelham, in the Regional Municipality of Niagara (formerly in the County of Welland) and being composed of part of the original road allowance between Lots 2 and 3 in the 7th Concession and parts of Lots 2 and 3 in the said 7th Concession more particularly described as follows:

PREMISING that the bearings herein are astronomic and are referred to the meridian through the southeast corner of Lot 7, Concession 7, in the Township of Pelham in Longitude 79 degrees 06 minutes 30 seconds West;

BEGINNING at the southwest corner of Lot 2;

THENCE North 1 degree 06 minutes 30 seconds West along the West limit of Lot 2 a distance of 26.97 feet;

THENCE North 83 degrees 49 minutes 30 seconds East, 16 feet to the Point of Commencement;

THENCE North 43 degrees 51 minutes 30 seconds East, 70.76 feet to a monument in the West limit of a public road known as Haist Road;

THENCE North 1 degree 06 minutes 30 seconds West along the West limit of Haist Road, 130 feet to an iron post planted;

THENCE South 80 degrees 50 minutes 30 seconds West a distance of 210 feet to an iron post planted;

THENCE South 1 degree 06 minutes 30 seconds East a distance of 130.06 feet to an iron bar;

THENCE North 80 degrees 49 minutes 30 seconds East along the north limit of the road allowance between Concessions 7 and 8 as widened by D.H.O. Deposited Plan No. 80507, a distance of 160 feet to the Point of Commencement.///

