

THIS INDENTURE MADE IN TRIPLICATE THIS 1st. DAY OF OCTOBER, 1984 A.D.

BETWEEN:

567201 ONTARIO LIMITED

Hereinafter called the "Owner",
OF THE FIRST PART;

- and -

THE CORPORATION OF THE TOWN OF PELHAM,

Hereinafter called the "Town",
OF THE SECOND PART.

DEFINITIONS in this Agreement:

(a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.

(b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.

(c) "TOWN ENGINEER" shall mean the Engineer of the Corporation of the Town of Pelham.

(d) "TREASURER" shall mean the Treasurer of the Corporation of the Town of Pelham.

(e) "MINISTER" shall mean the Minister of Municipal Affairs & Housing.

WHEREAS the Owners purport to be the Owners of the lands in the Town of Pelham, described in Schedule "A" attached hereto and have applied, or propose to apply to the Minister of Municipal Affairs & Housing for approval of a plan of subdivision thereof, hereinafter called "The Plan" for the purpose of registering the same in the Land Registry Office (No. 59), Land Titles Division of Niagara South;

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AND WHEREAS the Town requires the Owner, before final approval of the proposed plan of subdivision, to agree to pay for the construction and installation of certain municipal services hereinafter described to serve such a subdivision or that part of such subdivision for which approval is sought and to agree to the other provisions herein contained;

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the Town approving the said proposed plan of subdivision, 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) REGISTRATION:

The Owner covenants and agrees:

(a) to register this Agreement against every lot and parcel of land within "The Plan" at the same time as "The Plan" is registered, and

(b) to register "The Plan" in the Land Registry Office (No. 59), Land Titles Division of Niagara South, within one (1) month after approval of "The Plan" is granted by the Minister.

(2) TRANSFER TO TOWN FOR MUNICIPAL PURPOSES:

The Owner will:

(a) pay to the Town payments of cash in substitution for the conveyance of 5% of the land to the Town pursuant to Section 41 (6) of the Planning Act; as follows:

Phase I - \$7,700.00

Phase II - \$9,500.00

(b) by certificate on the Plan, dedicate to the Town the road allowances;

(c) grant by way of easement to the Town those areas as shown on the Plan, and as described in Schedule "B".

(3) ENGINEERING SERVICES & INSPECTION:

(a) The works herein shall be undertaken by the Owner who will engage at their own expense the services of Professional Engineers who are registered under the Professional Engineers Association of Ontario, or the Town Engineers at the Owner's expense, to perform the following engineering services, subject to the approval thereof by the Town Engineer and the Council:

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- (i) preliminary investigation;
- (ii) layout drawings and design criteria of roads and services;
- (iii) detailed estimates of cost;
- (iv) contract drawings and specifications;
- (v) application to the Ministry of the Environment for necessary approvals;
- (vi) calling of tenders if so requested by the Owner;
- (vii) analysis of bids and recommendations to the Owner;
- (viii) setting out the work;
- (ix) general field supervision; and
- (x) preparation of progress certificates on the works undertaken by the Owner (having regard to utility agencies, e.g. hydro, gas, telephone, etc.)

(b) The said Professional Engineer shall file with the Town Engineer prior to registration of this Agreement, a written undertaking:

- (i) that he has been engaged by the Owner to supervise the work;
- (ii) that the work will be done in accordance with the contract drawings and specifications and all other provisions of this Agreement;
- (iii) that all phases of the work will be subject to the approval of the Town Engineer; and
- (iv) that he will provide the Town Engineer, prior to the acceptance of the works by the Town Engineer on behalf of the Town, with a complete set of linen tracings or certified true copies thereof suitable for making reproductions of the works as constructed pursuant to this Agreement, as well as detailed engineering data. The tracings or certified true copies or detailed engineering design shall be in the following form:

- (1) tracings shall be plan-profile linen 24" x 42" sheets and ink lettering;

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(2) title blocks (5" x 3") to be placed in lower right-hand corner and shall indicate nature of work, location, limits and scales;

(3) a complete copy of design details of storm and sanitary sewer layouts which said design details shall be based on design formula provided by the Town Engineer;

(4) plan profiles shall be fully detailed and where reference is made to other construction drawings, specific reference to those drawing numbers shall be made;

(5) horizontal ties shall be made to property lines;

(6) levels shall be to datum and all field surveys shall be tied into Geodetic Bench Marks.

(v) that he understands that any contractor employed by the Owner shall, as a condition of such employment, be approved by the Town Engineer.

(4) INSPECTION BY TOWN ENGINEER:

The Town shall inspect the works during construction as deemed necessary to ensure that the works are being constructed in accordance with the plans and specifications approved by the Town, to the Town Engineer's satisfaction. This inspection shall be in addition to the full time inspection provided by the Owner's Consulting Engineer, and shall in no way relieve the Owner or his Engineer of any responsibility with regard to supervision and inspection, or the proper completion of the work.

(5) INSPECTORS FEES:

The Owner shall pay the full cost of engineering inspection by the Town based on the following criteria:

(a) Where the estimated costs of all works to be inspected is less than \$100,000.00, the charge for inspection shall be based on a rate of 4.5% of the estimated amount up to a maximum of \$4,500.00.

(b) Where the estimated costs of all the works to be inspected is between \$100,000.00 and \$400,000.00, the charge for inspection shall be based on a rate of 4% of the estimated amount up to a maximum of \$14,000.00 but such amount shall not be less than \$4,500.00.

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(c) Where the estimated cost of all the works to be inspected is greater than \$400,000.00, the charge for inspection shall be based on a rate of 3.5% of the estimated amount.

Further, the Owner's Consulting Engineer shall be required to certify the actual cost of all construction in writing to the Town Engineer who may adjust the amount of inspection fee following construction if the actual construction costs vary from the original estimated costs by an amount of greater than 10%.

(d) In the event that Council changes or revises in any manner its policy concerning inspectors fees as contained in the Town Policy with respect to Development of Residential Subdivisions, the Owner shall have the option of going to the new policy.

(6) ENGINEERING, ADMINISTRATION & MAINTENANCE & PRELIMINARY ENGINEERING & PLANNING COSTS:

(a) The Owner shall deposit with the Town, cash or a letter of credit an amount equal to the estimated fees and disbursements billed to the Town by its Engineers for services performed by its Engineer in connection with the subdivision including waterworks, which will include the costs of administration, engineering and supervision. All such fees shall be set out in the Schedule of Fees for Consulting Engineers Services recommended by the Association of Professional Engineers of Ontario.

(b) Such deposit shall also include wages of the Town Inspector including overhead and shall be at the prevailing rate during the duration of construction.

(c) The fees and disbursements are estimated to be \$1,000.00, however, it is agreed that if the actual fees and disbursements are less than the estimated amount, the balance will be returned to the Owner and if the fees and disbursements are more than \$1,000.00, the difference will be paid by the Owner to the Town within 7 days of receiving the account.

(d) The Owners shall pay to the Town any and all balances outstanding for preliminary Engineering and preliminary Planning Deposits.

(7) REGIONAL INSPECTION:

The Regional Municipality of Niagara shall have the right at any time to inspect any of the works in progress, at no cost to the Owner.

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(8) CONSTRUCTION OF SERVICES:

The Owner agrees to construct and pay the whole cost of such construction and materials required for all of the works referred to in Schedules "C", "D", "E", "F", "G", "H", "I", "J", and "K" attached hereto, and in accordance with the conditions and specifications contained in such Schedules.

(9) CONTRACTORS:

Before commencement of any works, the Owner shall show satisfactory proof to the Council that the proposed contractors or sub-contractors to whom the Owner proposes to let or submit any part of the works, have in the opinion of Council sufficient and valid liability insurance policies, a certificate from the Workmen's Compensation Board showing that the contractor is in good standing; and, evidence satisfactory to Council that the contractor is qualified, experienced and has equipment to successfully complete the works. Any contractor employed by the Owner shall, as a condition of such employment, be approved by the Town Engineer.

(10) PERFORMANCE BOND:

The Owner shall provide performance bonds or Letters of Credit guaranteeing all of the construction required by the Town and by this Agreement, and each bond or letter of credit shall include maintenance of the work involved for a period of twelve months after accepted by the Town of all such construction. The said bonds or letters of credit shall be in the amounts as herein set out.

Phase I - \$8,336.56

Phase II - to be based on actual costs as of date of development

(11) LETTER OF CREDIT:

The Owner shall provide the Town with an irrevocable Letter of Credit from a Canadian Chartered Bank or Trust Company for an amount equal to 100% of the estimated costs of construction of the primary and secondary services as set out in Clause 27 (a). The Letter of Credit shall be valid for a period of at least one year. Upon application by the Owner, the Town may reduce the amount of the Letter of Credit from time to time, provided that the security held by the Town remains at least equals 110% of the estimated cost of the primary and secondary services still to be constructed. The Letter of Credit shall be renewed by the subdivider from year to year as necessary, such renewal shall be confirmed at least 14 days prior to the expiry, if such renewal is not confirmed, the Town shall draw on the letter of credit. At the time of final acceptance of the subdivision services by the Town, the Letter of Credit shall be returned to the Owner.

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(12) MATERIALS:

All the works required hereunder shall be done and performed to the satisfaction of the Town Engineer, and all materials required for the said works shall be supplied to the specifications and directions of the Town Engineer.

(13) STRIPPING TOPSOIL:

The Owner shall not remove any topsoil from the lands described in Schedule "A" attached hereto without first obtaining written approval from the Town.

(14) STRIPPING AND TREE REMOVAL:

(a) The Owner shall remove from all road allowances, any trees, brush, growth, or surplus, or other materials as may be designated by the Town Engineer and further shall remove from all the lands any unkempt, diseased or infested trees, vines or bushes. If such removal is not carried out within fourteen (14) days of written notice delivered to the Owner by the Town, the Town may cause the unkempt, diseased or infested trees, vines or bushes to be removed and the Owner agrees to pay to the Town the cost incurred thereby.

(b) The Owner agrees that before any trees are removed to facilitate the installation of the works required to be installed by it herein, they will arrange a site inspection of the development with representatives of the Town, the Owner, the Town Engineer, the Owner's contractor, the Ministry of Natural Resources and the utility companies. The representatives present will designate tree growths of major importance, which will be marked, and all efforts will be made during construction of services to preserve these specimens.

(c) The Owner agrees to insert a clause in all sales contracts that purchasers or builders will not remove topsoil or vegetation from the lots prior to making applications for building permits unless approval is otherwise granted by the Niagara Peninsula Conservation Authority and the Ministry of Natural Resources and the Town of Pelham.

(15) ROUGH GRADING ROADS:

The Owner agrees to rough grade all roads connected with the development of the land to the Town Engineer's specifications prior to the installation or construction of water and sewer systems and other ground systems as may be required by this Agreement. The Owner further agrees to keep boulevards and easements clear and free of all material and obstructions which might interfere with the construction of telephone, gas, water and hydro installations.

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(16) ROUGH GRADING LOTS:

The Owner agrees to level all lots in the subdivision after the construction of services and remove any debris which would prevent the mowing of weeds by means of a tractor and mower.

(17) CLEANING SEWERS AFTER ROAD CONSTRUCTION:

Upon completion of paving of roads, the Town shall inspect the storm and sanitary sewers, and if it is deemed necessary clean the storm and sanitary sewers serving the lands described in Schedule "A" attached hereto at the expense of the Owner.

(18) STORM SEWER:

The Owner shall be responsible for determining and providing, at their own expense, a storm sewer system with appropriate drains and outlets adequate for the ultimate drainage area, and for the future servicing of such area as shown on the engineering drawing. The final acceptance of the subdivision shall not be made unless and until design studies satisfactory to the Town Engineer shall have been furnished to him by the Owner and accepted by him on behalf of the Town, or alternatively prepared by the Town Engineer at the cost of the Owner. The Owner shall remain responsible for the impact on the surrounding drainage area occasioned by the operation of the storm sewers and on the natural watercourses as set out in paragraph 20 of this Agreement, to the date of final acceptance of the subdivision by the Town, or for a period of twelve months after final paving of the roads and roofing of the dwellings on 75 percent (75%) of the lots in the subdivision, whichever date is later.

(19) LOCAL IMPROVEMENT CHARGES:

(a) The Owner hereby agrees to commute and pay to the Town before the final approval of the said plan of subdivision is requested, any and all frontage charges with respect to the existing local improvements assessed against such of the property as shown on this plan, such charges are \$25,215.00.

(b) In addition to (a), the Owner hereby agrees to provide the Town with cash in the amount of Nineteen Thousand, Five Hundred & Seventy-Six Dollars and Ninety-three Cents (\$19,576.93) for the installation of watermain and appurtenances on Memorial Drive and additional works required to service Phase II of the development from the Balfour Street watermain.

(20) EXPANSION AND RENEWAL FUND:

(a) Phase I - The Owner shall pay the Town the sum of Eight Thousand, Two Hundred & Twenty-five Dollars (\$8,225.00) upon the signing of this agreement for the purpose of expanding and renewing services within the Town limits. Said sum being 7 lots times \$1,175.00.

(b) Phase II - The Owner shall pay the Town a fee equal to the impost fee as of the date of development of Phase II times the remaining number of lots as shown on the registered plan.

(21) SURFACE DRAINAGE PLAN:

The Owner shall be responsible for providing, at their expense, a surface drainage plan for all lands described in Schedule "A" attached hereto; said plan to meet with the approval of the Town Engineer. The said plan shall show inter alia the intended description of flow of storm water to, within and from each lot on the plan, the grades of each of the four corners of the lots and the grade of all swales at the property lines of each lot. 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. The said drainage plan shall be attached to this Agreement as Schedule "J". All elevations shown on Schedule "J" 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.

(22) NATURAL DRAINS:

The Owner shall not change or do any work that will prejudicially affect any natural watercourse or drainage ditch without making full and proper provisions for the continuance of such drainage facilities. The proposed proper provision to be made by the Owner shall be subject to approval of the Town Engineer. In the event changes are made, after having been approved by the Town Engineer, the Owner nevertheless shall be solely responsible for any damage caused thereto, and shall indemnify and save harmless the Town therefrom.

(23) HYDRO:

(a) The Owner shall pay the whole cost of and install street lights to the Town of Pelham Standards and in accordance with plans and specifications approved by Ontario Hydro. The said work is to be carried out in accordance with Schedule "F" attached hereto, and prior to the final approval of the proposed subdivision plan, the Owner shall deposit with the Treasurer an amount estimated to cover the cost thereof, unless otherwise satisfactory arrangements are made with Ontario Hydro.

(b) The Owner shall have the option of designing their own power distribution system, calling the tenders, and letting the contract for said work, subject to approval of all engineering design layouts by Ontario Hydro and subject to Ontario Hydro inspecting the installation.

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(24) REPLACING UTILITIES, ETC.:

The Owner shall assume complete responsibility and make all necessary arrangements for the moving or disturbance of any water, sewer, hydro-electric, gas or telephone pipes, conduits, wires or pole lines, or any other public utility works as required or approved by the Town Engineer, and shall be solely responsible for any damage caused to the said pipes, conduit, wires, pole lines, hydrants or other works.

(25) LIABILITY INSURANCE:

Before commencing any of the work provided for herein, the Owner shall supply the Town with a Liability Insurance Policy (with no exclusions) in a form satisfactory to the Town, and in an amount not less than One Million Dollars (\$1,000,000.00), indemnifying the Town until the issue of the certificate referred to in Clause 29, from any loss arising from claims for damage, injury or otherwise in connection with the work done by the Owner, their employees, servants or agents, or any independant contractor to serve the lands described in Schedule "A" attached hereto. The Owner shall submit to the Town evidence from the Insurer that the premium for the said Policy has been paid for a period of one (1) year and so on from year to year during the currency of the work provided for herein.

(26) RE-STAKING LOTS ON THE PLAN:

Upon completion of all works required under this Agreement and prior to the issuance of the final certificate, the Owner shall be responsible for re-staking all one-inch key bars in the subdivision. It is further understood and agreed that no lot may be severed by sale or conveyance until such sale or conveyance has been approved, pursuant to the provisions of the Planning Act.

(27) (A) DEFINITION OF PRIMARY & SECONDARY SERVICES:

(a) Primary Services:

- (i) drainage facilities sufficient, in the opinion of the Town Engineer, to provide safety and protection from undue inconvenience to residents and their visitors, both within and beyond the area of land which is the subject of this Agreement;
- (ii) roadways,
 - (a) of final design width;
 - (b) with a granular thickness at least three-quarters of the final granular thickness;
 - (c) with a surface which, in the opinion of the Town Engineer, will provide the residents and their visitors with convenient access and parking.

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- (iii) fully functioning and pressurized watermains, hydrants and appurtenances.
- (iv) rough grading of lots.

(b) Secondary Services:

All services as required not considered "Primary Services". These include top course roadway granular, roadway asphalt, driveway culverts, sodding, electrical distribution, street lighting, gas, telephone, etc. where applicable.

(27) (B) ACCEPTANCE OF SUBDIVISION SERVICES:

The Town of Pelham agrees to pass the necessary by-law to authorize acceptance of the subdivision services upon substantial completion of the subdivision.

Substantial completion implies the following services:

- Completion of construction of the primary services;
- Completion of construction of 80% of houses in the subdivision or 3 years from the completion of the secondary services of Phase II, whichever occurs first;
- Completion of a one year maintenance period (one year from the date of substantial completion of installation of the secondary services);
- Rectification of deficiencies discovered at an inspection at the end of the maintenance period.

(28) CASH DEPOSITS & LETTERS OF CREDIT:

The Owner will be required to deposit cash equal to the sum of:

(28A) PHASE I -

- | | |
|--|-------------|
| (a) the expansion and renewal impost | \$ 8,225.00 |
| (b) the engineering, administration & maintenance fees, as estimated in Clause 6 | N/A |
| (c) the cost of power and lighting installation unless other satisfactory arrangements have been made with Ontario Hydro | N/A |
| (d) payments for upgrading existing roads (Memorial Drive) | 5,425.00 |
| (e) cash in lieu of land for park purposes | 7,700.00 |
| (f) tax security deposit | N/A |
| (g) inspector's fees - as calculated under clause 5 | N/A |

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|---|-------------|
| (h) Local improvement charges (clause 19 (a)) | 25,214.98 |
| (i) Installation of Memorial Drive Watermain and additional works on Balfour Street Watermain | 19,576.93 |
| (j) Preliminary Engineering Costs | 1,948.84 |
| (k) Preliminary Planning Costs (credit to be (deducted) | (750.00) |
| | <hr/> |
| TOTAL | \$67,340.75 |
| | <hr/> |

(28B) PHASE I - LETTERS OF CREDIT -

| | |
|---|-------------|
| (a) Engineering, administration & maintenance fees as estimated in Clause 6 | \$ 1,000.00 |
| (b) Tax Security Deposit | 2,000.00 |
| (c) Estimated Cost of Construction of primary and secondary services (clause 11) | 8,000.00 |
| (d) Performance Bond | 8,336.56 |
| (e) Construction Lien Act Security Deposit | |
| | <hr/> |
| TOTAL | \$19,336.56 |
| | <hr/> |

(28C) PHASE II - CASH DEPOSITS -

To be determined at the time of construction of Phase II.
Plus Parks Dedication \$ 9,500.00

(29) RETURN OF PORTION OF DEPOSIT:

Unless otherwise directed by the Council, the Town shall, upon satisfactory completion of ALL of the works and subject to the provisions of this Agreement authorizing deductions Maintenance Bond 100% of the cost thereof for a period of one (1) year from the date of final acceptance of the services, return upon the written application of the Owner the remainder of the cash deposit provided in paragraph 27 (b) herein. The Treasurer, after receipt of satisfactory securities shall, from and out of monies or letters of credit on deposit, pay firstly any engineering fees and maintenance costs still owing; secondly, any arrears of taxes; thirdly, the taxes for the current year whether levied or unlevied, based on the assessment applicable; and finally, shall return the balance, if any, to the Owner. Should the deposit provided in paragraph 27 (b) be insufficient to pay the inspection and administration fees or other charges payable by the Owner, the Town shall invoice the Owner for the balance and the Owner shall pay such balance within thirty (30) days of the invoice date.

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(30) MAINTENANCE:

The Owner guarantees for a period of one (1) year from the date of final acceptance, proper functioning of all of the primary and secondary services in a manner satisfactory to the Town Engineer, and undertake and agree with the Town to indemnify it from any and all costs, expenses, fees, disbursements or charges of any manner whatsoever whether direct or indirect incurred by the Town and occasioned by the failure or partial failure of any or all of the services during the guarantee period.

Upon compliance with the terms of this Agreement, and upon completion of all the said work in accordance with the specifications and direction of and to the satisfaction of the Town Engineer, and upon payment of all financial requirements herein, the Town Engineer under authority of resolution of Council, shall at the expiration of the Owners' maintenance period above defined, and upon written application by the Owner, issue a certificate so stating to the Owner. Upon the said certificate being issued, ownership of all the services referred to herein shall be vested in the Town.

(31) TAXES:

The Owner agrees to pay all arrears of taxes outstanding against the property described in Schedule "A" hereto annexed and shall pay all taxes on this property on the present basis of assessment, whether previously levied or not, until such time as the lands being subdivided have been assessed according to the Registered Plan, before final approval of the Plan is requested. The Owner further agrees that when the said lands have been re-assessed, the Owner agrees to pay all current taxes as established by the re-assessment, or any additional amounts as thereby required.

(32) TAX SECURITY DEPOSIT:

The Owner agrees to deposit with the Treasurer the sum of Two Thousand Dollars (\$2,000.00) cash or letter of credit as security which may be drawn upon in the event the taxes are not paid by their due dates.

(33) CONSTRUCTION LIEN ACT SECURITY DEPOSIT:

In order to secure the Town with respect to its obligations under the Construction Lien Act, the Owner shall deposit with the Treasurer, upon the execution of this Agreement, a letter of credit in the amount of 10% of the cost of the design and construction of all primary services within the subdivision as estimated by the Engineer. Upon the receipt of claims for liens filed pursuant to the provisions of the Construction Lien Act with respect to the construction of primary services, the Town shall be entitled to call upon, the said letter of credit in order to meet the Town's obligations as Owner pursuant to the provisions of the Construction Lien Act.

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(34) MINISTRY OF NATURAL RESOURCES APPROVAL:

The Town agrees that, at the request of the Owner, it will join with them to make the necessary applications to the Ministry of Natural Resources for approval of the Plan.

(35) LEGAL COSTS:

The Owner shall pay to the Town all legal costs incurred by the Town in connection with the registration, consideration and final preparation of this document and of the plan of subdivision.

(36) BUILDING PERMITS & OCCUPANCY:

The Owner agrees that unless otherwise determined by Council, no building permit shall be issued nor any excavation or building commenced on any part of the lands described in Schedule "A" attached hereto, until the plan is registered and all primary services are completed and operational.

(37) INDEMNIFICATION:

The Owner hereby agrees and undertakes to save harmless and keep indemnified the Town, its successors and assigns from and against all manner of actions or claims for loss, costs, charges, damages, injuries, expenses or otherwise, arising before the issue of the certificate referred to in Clause 29 hereof, in connection with the work required to be done herein by the Owner, their contractors, servants or agents during the period of construction and during the guarantee period provided in paragraph 29 of this Agreement.

(38) SCHEDULES:

The provisions of all Schedules attached hereto shall form part of this Agreement.

(39) COVENANTS TO RUN WITH THE LAND:

The Owner and the Town acknowledge and agree that it is their intent that all the terms, conditions and covenants contained in this Agreement shall be covenants that run with the land and that the burden of such covenants shall be binding upon the Owner, their assigns and successors in title and owners from time to time of the lands described in Schedule "A" attached to this Agreement and any part or parts thereof and that the benefit of the said covenants shall enure to the Town, and its successors in title of all roads, streets and public lands forming part of or abutting on the said lands described in Schedule "A" and the said covenants shall continue in force for a period of ten (10) years from the date of this Agreement, except for Clause 19 (Surface Drainage Plan), which shall be in perpetuity.

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SCHEDULE

" A "

LEGAL DESCRIPTION

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the Town of Pelham, in the Regional Municipality of Niagara and the Province of Ontario formerly in the Township of Pelham, in the County of Welland and being composed of Part of Lot 13, in the Ninth Concession of the said former Township, containing 10.22 hectares more or less and being more particularly described as follows:

COMMENCING at the north west corner of said Lot 13;

THENCE North 88 degrees, 26 minutes, 15 seconds east along the northerly limit of said Lot 13, 203.43 metres more or less to the north west corner of Lot 14 according to Plan No. 17 (now known as Plan No. 704), registered in the Land Registry Office for the Registry Division of Niagara South (No. 59);

THENCE South 0 degrees, 04 minutes, 20 seconds east, 470.89 metres more or less along the westerly limit of said registered plan No. 17 (now known as Plan No. 704) to the northerly limit of Canboro Road;

THENCE South 63 degrees, 23 minutes, 40 seconds west, 91.16 metres to a point;

THENCE South 65 degrees, 34 minutes, 20 seconds west, 67.15 metres to a point;

THENCE North 16 degrees, 17 minutes, 40 seconds west, 54.07 metres to a point;

THENCE South 89 degrees, 39 minutes, 50 seconds west, 17.61 metres to a point;

THENCE South 0 degrees, 20 minutes, 10 seconds east, 32.82 metres to a point;

THENCE South 87 degrees, 46 minutes west, 26.72 metres more or less to a point in the westerly limit of said Lot 13;

THENCE North 0 degrees, 13 minutes, 30 seconds west along the westerly limit of said Lot 13, 516.00 metres more or less to the Point of Commencement.

S C H E D U L E

" B "

EASEMENTS

A permanent easement for storm water purposes over the westerly 5 metres of Lot 19.

A permanent easement for storm water purposes over the northerly 5 metres of Lot 4.

SCHEDULE

" C "

ROADWAYS

PAVEMENT -

The road shall be designated in accordance with the C.G.R.A. publication "A Guide to the Standard Design of Flexible and Rigid Pavements in Canada". Pavements shall be designed for ADT = 1000 vehicles and an anticipated life of 20 years.

CROSS-SECTION -

The roadway cross-section shall be as outlined in the current Town Standards.

SUB-SURFACE DRAINAGE -

Adequate sub-surface drainage shall be provided in soils where the percolation rate at road earth grade is slower than 25 mm per hour.

DRIVEWAY ENTRANCES -

The Owner shall ensure that the excavation, stoning and paving of each driveway, from the travelled portion of the road to the lot line and to the full width of the driveway, is completed either by himself or by the builder before acceptance of the subdivision, to the satisfaction of the Town Engineer.

DUST CONTROL -

The Owner will be required to provide dust control adequate in the opinion of the Town Engineer during the period of road usage prior to the placing of the asphalt surface.

(40) PAYMENT FOR CONSTRUCTION OF EXISTING ROADS:

Some of the land described in Schedule "A" attached hereto abuts the existing travelled road allowance of Memorial Drive. The Owner shall be required to pay to the Town in cash the sum of Five Thousand, Four Hundred and Twenty-five Dollars (\$5,425.00).

(41) DEVELOPMENT PHASING:

The Owner agrees that the development shall proceed in two phases. Phase I shall be restricted to the following lots 1, 2, 3, 4, 15, 16, 21 and 22. Phase II shall consist of all of the remaining lots as shown on the plan.

(42) RECOMMENDATION TO THE MINISTER:

Upon receipt of the payments required and execution of this Agreement, the Council will recommend to the Minister that the Plan be approved.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by affixing their respective Corporate Seals duly attested by the proper officers in that behalf.

SIGNED, SEALED AND DELIVERED

- IN THE PRESENCE OF -

(THE CORPORATION OF THE

(TOWN OF PELHAM

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(567201 ONTARIO LIMITED

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Treasurer

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S C H E D U L E

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TELEPHONE SERVICE & CABLE TELEVISION SERVICE

The Owner shall, as requested by the Bell Telephone Company of Canada, grant such easements as may be required to provide for the construction and installation of telephone power lines and facilities, and Cable Television facilities.

The Owner and the Town shall jointly endeavour to have the Bell Telephone Company of Canada install underground services.

SCHEDULE

" I "

TREES AND SODDING

The Owner shall plant two (2) trees on each lot specified by the Town. Trees shall not be considered as primary or secondary services in regard to security or cash deposit returns.

The type and location of trees is to be subject to the approval of the Works Committee. This work shall be completed within six (6) months after the construction of a dwelling on a lot.

Trees shall be planted in locations as determined by the Works Committee and of the types as specified below.

The Owner shall provide that sodding from the front lot lines, and in addition in applicable cases, from the appropriate side lot lines abutting any street, to the paved portion of the road, is completed either by themselves or by the builder before acceptance of the subdivision by the Town.

SPECIFICATIONS -

Number & Type of Trees -

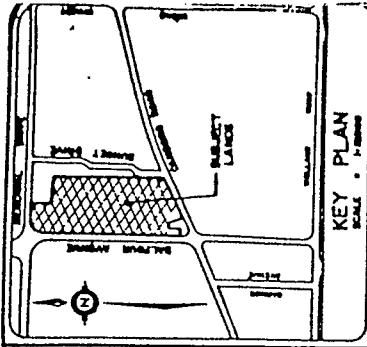
Norway Maple, Mountain Ash, Locusts, and Flowering Crab, 2.5m to 3m in height, and shall be sound, healthy, vigorous and free from plant diseases and insect pests or their eggs and shall have normal, healthy root systems.

There shall be two trees per lot frontage and two trees per exterior sideyard.

Proposals for other species will be reviewed by the Town upon request.

SODDING -

After completion of the roads, a minimum of 50mm of topsoil shall be applied from the paved portion to the property line. The Owner shall use nursery sod. Certain areas of extreme erosion such as swales and steep banks (3:1 slope or steeper) must be sodded using No. 1 quality sod, staked or unstaked as required.



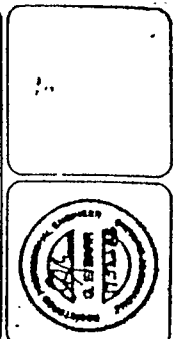
APPROVED BY
TOWN OF PELHAM
DATE: JAN 17 1995

DESIGNED BY: J.A.A.
DRAWN BY: J.A.A.
DATE: JAN 17 1995

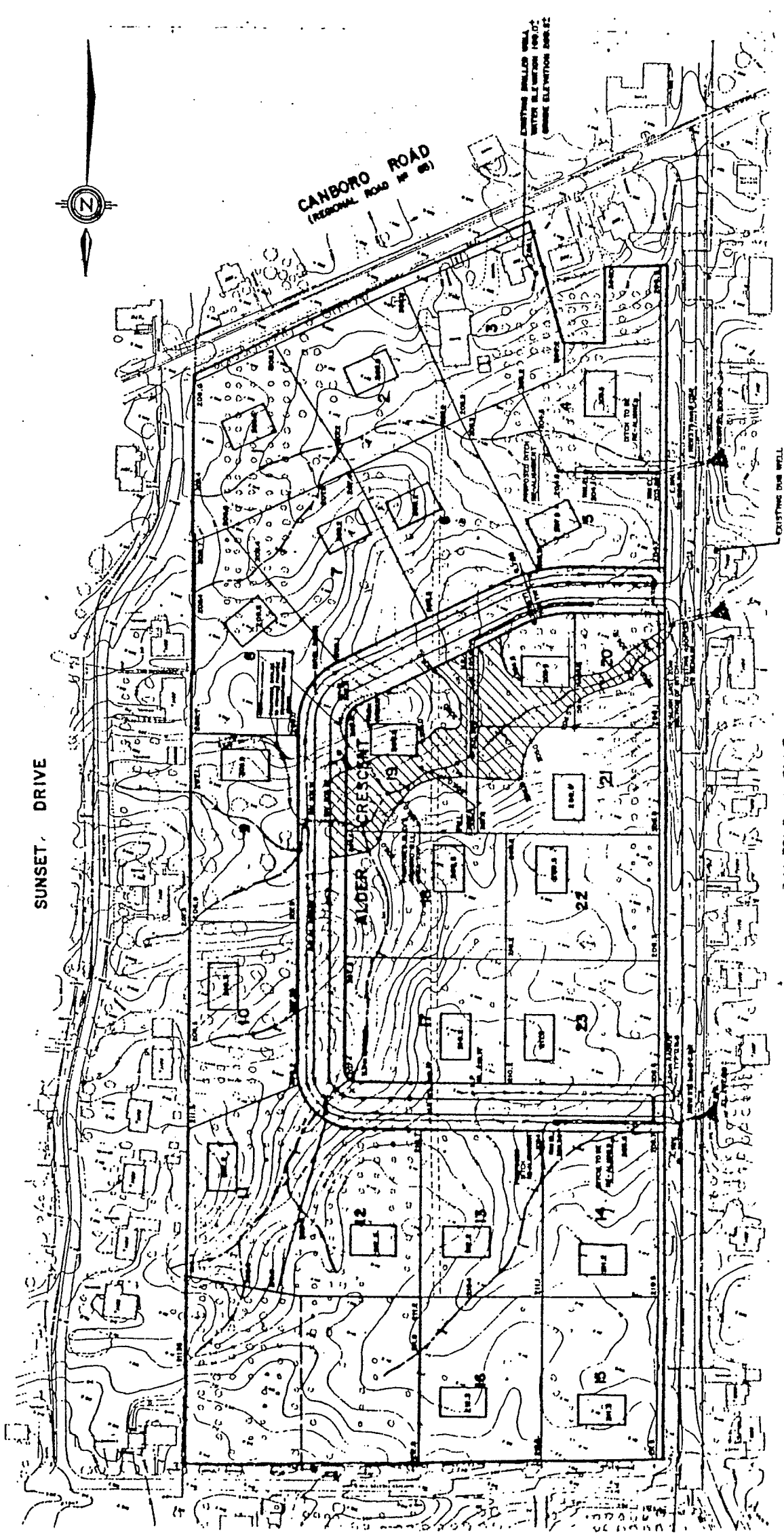
NO. 10000
SCALE IN METERS
10 0 10000 30 90

DESIGNED BY: J.A.A.
DRAWN BY: J.A.A.
DATE: JAN 17 1995

DATE: JAN 17 1995



567201 ONTARIO LTD.
Box 214
Pelham, Ontario
L0B 1C0 (416) 898-8718



SUNSET DRIVE

CANBORO ROAD
(REGIONAL ROAD # 8)

ALDER CRESCENT

BALFOUR AVENUE
(REGIONAL ROAD # 2)

MEMORIAL DRIVE

NOTE:
THE ELEVATIONS SHOWN THUS
ARE BUILDING APPROX ELEVATIONS TO BE
USED ONLY AS A GUIDE. PROSPECTIVE
BUILDERS SHOULD NOTE THAT DETAILED
SITE GRADING PLANS MUST BE
SUBMITTED AND APPROVED BY THE TOWN
AND THE ENGINEER.

| | | | | | | | | |
|--|--|------------------------------------|-------------------------|---|--|--|--|--------------------------------------|
| APPROVED BY TOWN OF PELHAM TOWN ENGINEER DATE: 2/1/95 | DESIGNED BY: S.E.A. DRAWN BY: J.A.A. DATE: 1/17/95 | FIELD BOOK: 100 CONTRACTOR: 100 | DATE: JANUARY 17 - 1995 | SCALE IN METERS 0 0 10 20 30 1:1000 | 557201 ONTARIO LTD Box 214 Pelham, Ontario L0B 1C0 (416) 895-2118 | PROJECT NAME: 'ALDER ESTATES | UPPER CANADA CONSULTANT Planners - Engineers 14 Church Street St. Catharines, Ontario L2R 1K1 (416) 488-5805 | GRADING PLAN SHEET NO. 393 SSGP 0 |
|--|--|------------------------------------|-------------------------|---|--|--|--|--------------------------------------|

SCHEDULE

" D "

STORM SEWERS & SURFACE DRAINAGE

The Owner shall construct a storm sewer system and outlet or such extensions as necessary to provide a connection to existing trunk sewers where applicable. All sewers shall be installed in such locations, grades and depths as the Town Engineer may direct and such pipe sizes as are required to serve the subdivision lands and all or any portion of the ultimate drainage area that the proposed development is located in. The storm sewers shall be designed to accommodate surface runoff from roads and properties within the area described in Schedule "A" of this Agreement.

Concrete pipe of the mortar-joint type or other approved type, shall be used. The minimum pipe size for storm sewers shall be 250mm diameter, except where otherwise specified by the Town Engineer. Surface drainage shall be collected by means of roadside ditches and/or catch basins as per the current Town Standards.

SPECIFICATIONS -

The storm sewers will be constructed in accordance with the engineering contract drawings on file in the Municipal Office. When approved the engineering drawings will be signed, approved and accepted by the Town Engineer. Nothing contained herein, however, derogates or detracts from the responsibility of the Owner as provided in paragraphs 16, 20 and 25 of this Agreement.

SCHEDULE

" E "

WATERMAINS

The Owner shall construct a complete watermain system or systems and all necessary appurtenances, including hydrants and house water service connections from the watermain to the street line. The design shall be as approved by the Town Engineer and constructed in accordance with his specifications. Connection to the existing watermain system at the cost of the Owner, shall be made at such point in such system as is designated by the Town Engineer. All watermains shall be a minimum of 150mm in diameter, or in the opinion of the Town Engineer a sufficient size to service the subdivision and structures therein.

The Owner shall be responsible for any damage caused to such watermains and appurtenances that may occur during construction of buildings on the land and during the grading of the same.

Town Standard hydrants and valves must be used in all cases.

SPECIFICATIONS -

The watermains will be constructed in accordance with engineering contract drawings to be filed in the Municipal Office. The approved engineering drawings will be signed, approved and accepted by the Town Engineer.

S C H E D U L E

" F "

UNDERGROUND WIRING

Such easements as may be required by Ontario Hydro for underground hydro purposes shall be granted by the Owner without cost.

In the case of secondary services underground wiring shall be mandatory, save and except Lot 3, which now contains an existing serviced dwelling.

SCHEDULE

" G "

STREET SIGNS

The Owner shall supply and erect street signs within the development to the satisfaction of the Town. The signs shall conform to the present Town Standard street sign being used by the Town.

SCHEDULE

" K "

BUILDING RESTRICTIONS

(To be included in all deeds)

The Owner shall cause to be registered against all lots in the subdivision the Deed 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 lot drainage plan attached to the Subdivider's Agreement registered in the Registry Office for the Registry Division of Niagara South as No. 59 and in particular shall do nothing to interfere with or impede the drainage pattern shown thereon. All grade elevations shown on the said lot drainage plan shall be maintained after construction of any building or structure upon the herein described land. 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 Subdivider's Agreement and for any consequential damages, costs, expenses or other loss caused by the failure to maintain such grades or drainage patterns.

The Purchaser shall provide, prior to the issuance of a building permit, if required by the Town a "Detailed Individual Lot Grading Plan", which has been prepared by a Professional Engineer or Ontario Land Surveyor and which is in conformity with the "Drainage Plan" (Schedule "J" to this agreement). Such plan shall be attached to the application for building permit and form part of such application.

con't.....

SCHEDULE

" K "

(con't)

The Purchaser shall maintain the road allowance between the lot line and the paved portion of the road nearest thereto in good condition and free from weeds and shall cut the grass thereon at frequent intervals.

The Purchaser shall not remove topsoil or vegetation from the lots prior to making application for building permits unless approval is otherwise granted by the Niagara Peninsula Conservation Authority and the Ministry of Natural Resources.

The Purchaser shall not impede by the placing of fill, buildings or other structures or works, any natural watercourse which exists on the property.

The approval of the Niagara Regional Health Unit for sub-surface sewage disposal systems must be obtained before any building permit for a habitable structure on any lot will be issued by the Town.

NUMBER 17 33838

CERTIFICATE OF RECEIPT

05 OCT 15 1984

R. H. & Lawrence

DEPT. LAND REGISTRAR
NIAGARA SOUTH No. 59
WELLAND

DATED: OCTOBER 1st., 1984

BETWEEN:

THE CORPORATION OF THE
TOWN OF PELHAM

- AND -

567201 ONTARIO LIMITED

SUBDIVIDER'S AGREEMENT

~~MURRAY M. HACKETT
CLERK
THE CORPORATION OF THE
TOWN OF PELHAM
P. O. Box 400
FONTHILL, Ontario
LOS 1EO~~

HARRIS, BARR

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