

THIS AGREEMENT made this _____ day of _____, 2018.

BETWEEN:

2475650 Ontario Inc.

Hereinafter called the "Developer"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Developer purports to be the owner of the lands in the Town of Pelham described in Schedule "A" and has applied to the Town of Pelham Committee of Adjustment for consent under applications B24/2017P through B29/2017P and has obtained such consents subject to conditions;

AND WHEREAS the Town requires the Developer, before final approval of the consents, to agree to certain terms and conditions for the development for which approval is sought;

AND WHEREAS the Town entered into a previous Development Agreement for the development of the subject lands approved by By-law 2797(2006) on August 21, 2006 and registered as SN155058 on March 6, 2007;

AND WHEREAS it is deemed appropriate to amend the Development Agreement to address certain building permit and security requirements;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the Town approving the said proposed development, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Developer to the Town (the receipt thereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. Section 13 Security Deposits and Refunds is hereby deleted and replaced with the following:

"13 SECURITY DEPOSITS AND REFUNDS

The Developer shall be responsible for the full amount of the cost for the design, servicing and maintenance of the Development Plans together with all Town administrative and consulting fees and legal costs and shall be required to post security, in a form satisfactory to the Town, on accounts of aforesaid costs, charges and fees in accordance with Schedule "B" affixed hereto prior to execution of this Agreement by the Town.

Security to be posted for Services and to cover the Town administrative, engineering and legal costs shall be calculated on the basis of the Developer's estimated cost of design, construction and maintenance of all Works as set out in Schedule "B" annexed hereto. These costs will be subject to modification upon final approval of the detailed Plans and Specifications by the Director of Public Works.

(a) **CASH PAYMENTS**

Prior to the execution of this Agreement by the Town, for payment of services to be rendered by the Town, its servants and its agents as required by this

Agreement, and for presently outstanding payments owing to the Town, the Developer shall, in accordance with Schedule "B" annexed hereto, deposit with the Town the following non-refundable cash amounts:

- (i) a cash amount to secure the Town's engineering, administrative consulting and legal costs for this Agreement, approval of the Plans, and enactment of by-laws of \$2700.00 in accordance with the Town's current Fees and Charges By-law;
- (ii) a cash amount to cover all arrears of taxes, all taxes for the current year and all current Local Improvement charges assessed against the Lands; and,

(b) LETTERS OF CREDIT

- (i) Before commencing any of the Works provided for in this Agreement, the Developer will deposit with the Town a Letter of Credit drawn upon a chartered bank in favour of the Town and in a form satisfactory to the Treasurer, in an amount approved by the Director, which Letter of Credit shall be sufficient to guarantee the satisfactory completion of the Works or any portion of the Works as established by the Town in its sole discretion, and payments or any part thereof required to be made by this Agreement, and will, without restricting the generality of the foregoing, guarantee the following:
 - (1) payment of twenty percent (20%) of the approved estimated costs of the construction of the Primary Services to service the Lands, plus one hundred and twenty percent (120%) of the approved estimated construction costs of the Secondary Services upon the Lands as shown in Schedule "B" attached; and,
 - (2) payment of one hundred percent (100%) of any other payments or Works as may be required of the Developer by the Town pursuant to this Agreement.
- (ii) The amount of the Letter of Credit required hereunder shall not be reduced unless all of the conditions of this Agreement are complied with and the estimated costs of rectifying any outstanding deficiencies, as estimated in the sole discretion of the Director, plus one hundred and twenty percent (120%) of the estimated costs of the completion of all outstanding Primary Services and Secondary Services plus all other outstanding costs payable under this Agreement, plus the Maintenance Guarantee as required under Section 14 of this Agreement, plus any *Construction Lien Act* requirements are all, in total, less than the amount of the Letter of Credit held by the Town. In such an instance, the amount of the Letter of Credit may, in the sole discretion of the Director be reduced from time to time to an amount equal to the total of all amounts set out above. Such reduction shall be based on the following:
 - (1) progress certificates from the Developer's Consulting Engineer setting forth the cost of the Works completed and paid to date and the cost of unfinished Works; and,
 - (2) a request for reduction in the amount of the Letter of Credit in a form approved by the Director; and,
 - (3) proof of payment in a form satisfactory to the Director of the amounts paid on account of the completed Works to the date of the application for reduction.

Notwithstanding anything herein contained, the amount of the Letter of Credit shall at all times be sufficient to cover the balance of the costs of the completion of the unfinished Works, including Works deferred for extended periods and the requirements of the *Construction Lien Act*.

- (c) The Developer shall pay the cost of the Works and the fees of the Developer's Consulting Engineer and the Ontario Land Surveyor."

2. Section 14 Building Permits and Occupancy is hereby deleted and replaced with the following:

“14. BUILDING PERMITS AND OCCUPANCY”

- (a) The Developer agrees that no Building Permit shall be issued until the building drawings are approved to the satisfaction of the Chief Building Official.
- (b) The Developer agrees that, unless otherwise determined by Council, no Building Permits shall be issued on any parts of the lands until all Primary Services as defined elsewhere in this Agreement are completed, repaired and operational to the satisfaction of the Director of Public Works and soundness testing have been completed and results provided to and accepted by the Director of Public Works, save and except the burying of hydro. The Developer agrees that occupancy of any dwelling unit will not be granted until such time as burying the hydro is complete.
- (c) In addition to paying the building permit fee, the Owner of a lot shall:
 - (i) Pay the amount of the development charges which are applicable at the time of application for building permit; and,
 - (ii) Pay the amount of the cash-in-lieu of lands for parks purposes.”

3. Section 24 Notice is by deleting the reference to Fonthill Woods Ltd. and the accompanying address and replacing it with 2475650 Ontario Inc. 33 Maywood Avenue, St. Catharines, Ontario L2R 1C5

4. Schedule “F” is deleted and replaced with Schedule “B” attached hereto.

5. This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

)	2475650 Ontario Inc.
)	
_____)	_____
Witness)	Signature
)	
_____)	_____
(Print Name))	(Print Name)
)	
)	<input type="checkbox"/> I have the authority to bind the Corporation
)	
)	THE CORPORATION OF THE TOWN OF PELHAM
)	
)	
)	_____
)	Dave Augustyn, Mayor
)	
)	
)	_____
)	Nancy J. Bozzato, Clerk

SCHEDULE "A"

PIN: 64072-0635 (LT) LR0 59

Part Township Lot 177, Thorold; being Parts 2-8 Plan 59R-13220; S/T Easement in gross over Parts 1 and 2 on Plan 59R-13374 as in SN171889; Pelham.

SCHEDULE "B"

FINANCIAL OBLIGATIONS AND COST OF CONSTRUCTION

<i>Description</i>	<i>Estimated Quantity</i>	<i>Estimated Cost</i>
<u>Letter of Credit Criteria for Primary and Secondary Servicing Calculations</u>		
<u>Primary Servicing Cost (excluding engineering, contingency)</u>		
Replacement of sanitary laterals including Granular "A" backfill and curb and asphalt restoration (5 sanitary services)	5	\$7,500.00
Silt control – 3 silt sacks and silt fencing	190m	\$3,300.00
Rear yard swale - excavation, backfill including 100mm topsoil	175m	2,625.00
Curb cut for D/W entrance	30m	3,750.00
TOTAL FOR PRIMARY SERVICES (SECURITY PURPOSES)		\$17,175.00
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<u>Secondary Servicing Cost (excluding engineering, contingency)</u>		
Driveway aprons @ \$1250 each	6	\$7,500.00
Concrete sidewalks and 2 tactile warning strips	85m ²	\$6,550.00
Boulevard trees @ \$515 each	6	\$3,090.00
Street lighting		\$37,548.75
Adjustment of water valves and curb boxes	1	\$500.00
Grading and sodding boulevards	500m ²	\$3,750.00
TOTAL FOR SECONDARY SERVICES (SECURITY PURPOSES)		\$58,938.75
PRIMARY SERVICING COST		\$17,175.00
SECONDARY SERVICING COST		\$58,938.00
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Total Subdivision Servicing Cost (Net)		\$76,113.75
<u>Total Servicing Cost (including engineering, contingency)</u>		
5% contingency	5%	\$3,805.69
10% engineering	10%	\$7,611.38
Subtotal		\$11,417.07
TOTAL SERVICING COST (INCLUDING ENGINEERING, CONTINGENCY)		\$87,530.82
<u>Letter of Credit Calculations for Primary Servicing</u>		
Primary servicing cost		\$17,175.00
15% engineering and contingency	15%	\$2,576.25
Total primary servicing cost used for security calculation purposes		\$19,751.25
Primary Servicing Letter of Credit (20%)	20%	\$3,950.00
<u>Letter of Credit Calculations for Secondary Servicing</u>		
Secondary servicing cost		58,938.75
15% engineering and contingency	15%	8,840.81
Total secondary servicing used for security calculation purposes		67,779.56
Secondary Letter of Credit required (120%)	120%	\$81,335.00
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<u>Total Security Required – Letter of Credit</u>		\$85,285.00
<u>Cash Payment</u>		
Town administration fee		\$2,700.00
<u>Summary</u>		
Total financial security – Letter of Credit		\$85,285.00
Total administration fee – Cash Payment		\$2,700.00