

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5353-21**

135 Queen Street & 178 Gate Street

A BY-LAW TO AUTHORIZE A SITE PLAN AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE AND EQUITY VENTURE GROUP CORP.

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Agreement dated the 30th day of August, 2021 between The Corporation of the Town of Niagara-on-the-Lake and Equity Venture Group Corp. be and the same is hereby approved;
2. THAT the Lord Mayor and Town Clerk be authorized to affix their hands and the Corporate Seal; and,
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 30th DAY OF AUGUST 2021

**_____
LORD MAYOR BETTY DISERO**

**_____
ACTING TOWN CLERK COLLEEN HUTT**

THIS AGREEMENT made this 30th day of August, 2021, it made pursuant to Section 41(7) of the Planning Act and authorized by By-law No. 5353-21 of The Corporation of the Town of Niagara-on-the-Lake

THIS AGREEMENT made this 30th day of August 2021.

BETWEEN:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE
(Hereinafter called the 'Town')

OF THE FIRST PART

-and-

EQUITY VENTURE GROUP CORP.
(Hereinafter called the 'Owner')

OF THE SECOND PART

WHEREAS the Owner represents that it is the registered Owner of the lands known municipally as being on the south side of Queen Street and east side of Gate Street, legally described as Part Lot 44, 53 Town Plan 86 Niagara Part 1 30-R8519 and Part Lots 42, 43, 54 & 55, Town Plan 86 Niagara, Parts 1 & 2, 30R-14091, Town of Niagara-on-the-Lake, in the Regional Municipality of Niagara;

AND WHEREAS the Owner has applied for Site Plan Approval to permit the construction of a new commercial building and associated landscaped areas, in accordance with Schedule B (Site Plan), Schedules C1 through C6 (Landscape Plan) and Schedule D (Architectural Elevations) attached hereto, all of which plans and design standards shall comply with the Ontario Building Code, and with all the Town building and Zoning By-law requirements;

AND WHEREAS the Council of the Corporation of the Town of Niagara-on-the-Lake has approved this agreement and authorized its execution by the Corporation of the Town of Niagara-on-the-Lake on the 30th day of August, 2021;

AND WHEREAS the Town has agreed to permit the said development of the Lands subject to the terms and conditions prescribed herein;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises, and the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Owner to the Town, the receipt of which monies is hereby acknowledged; the parties hereto do mutually covenant and agree as follows:

1. DEFINITIONS

- 1.1. 'Approved Plans' shall mean plans approved and signed by the Lord Mayor and Town Clerk of the Corporation of the Town of Niagara-on-the-Lake and Owner depicting the proposed development. Schedule B (Site Plan), Schedules C1 through C6 (Landscape Plan) and Schedule D (Architectural Elevations) of this agreement are a reduced copy of the approved plans on file with the Community and Development Services Department of the Town.
- 1.2. 'Chief Building Official' shall mean the Chief Building Officer of the Corporation of the Town of Niagara-on-the-Lake or their designate.
- 1.3. 'Council' shall mean the Council of the Corporation of the Town of Niagara-on-the-Lake.
- 1.4. 'Director of Community & Development Services' shall mean the Director of Community and Development Services of the Corporation of the Town of Niagara-on-the-Lake or their designate.
- 1.5. 'Director of Corporate Services' shall mean the Director of Corporate Services of the Corporation of the Town of Niagara-on-the-Lake or their designate.
- 1.6. 'Director of Operations' shall mean the Director of Operations of the Corporation of the Town of Niagara-on-the-Lake or their designate.
- 1.7. 'Fire Chief' shall mean the Fire Chief of the Corporation of the Town of Niagara-on-the-Lake or their designate.
- 1.8. 'Lands' shall mean the lands as described in Schedule A attached hereto.
- 1.9. 'Town' shall mean the Corporation of the Town of Niagara-on-the-Lake.

2. PREVIOUS AGREEMENTS

- 2.1. The previous site plan agreements applicable to the Lands are described as follows:
 - a) Land Registry Office Instrument No. RO466139, agreement registered August 22, 1983, Town By-law No. 1358-83; and
 - b) Land Registry Office Instrument No. RO696798, agreement registered June 13, 1995, Town By-law No. 2868-95.
- 2.2. The parties agree that the previous site plan agreements described in section 2.1 of this agreement are hereby rescinded, and shall be deleted forthwith from the title of the Lands. The application to the Land Registrar to delete the previous site plan shall be made by and at the expense of the Owner. The Town shall sign any consents or other documents required to effect the deletion.

3. STORMWATER MANAGEMENT

- 3.1. Prior to the issuance of a building permit, the Owner shall submit servicing plans for approval and, at its own expense, construct such works as may be required to collect and contain all stormwater on site and channel such stormwater to an approved outlet in accordance with specifications and plans approved by the Director of Operations and filed in the office of the Director of Operations. In this paragraph, stormwater shall include all surface water on the land including roof run-off, eavestroughs, surface catch basins and water from the foundation perimeter-weeping tile.
- 3.2. Any alteration or improvements to the existing services will be at the Owner's expense.
- 3.3. All underground servicing must be approved and inspected by the Town. Inspections shall include a closed-circuit television (CCTV) recording of the installed storm sewers for its entire length, to the satisfaction of the Director of Operations.
- 3.4. The Owner shall, at its own expense, conduct mandrel testing on all storm sewer systems which have been constructed by or on behalf of the Owner using flexible piping, to the satisfaction of the Director of Operations.
- 3.5. The Owner agrees to, at its own expense, repair, forever maintain, and, where necessary, replace any stormwater system located on the Lands identified in Schedule A attached hereto.
- 3.6. That where the stormwater system has not been maintained, the Director of Operations or their designate may enter upon the lands after reasonable notice having been given to the Owner, and effect such repairs as are deemed necessary and recover the costs thereof by action or in like manner as municipal taxes.

4. SANITARY SERVICES

- 4.1. Prior to the issuance of a building permit, the Owner shall submit servicing plans for approval and, at its own expense, construct such sanitary services as may be required to service the approved development.
- 4.2. Any alteration or improvements to any existing sanitary service will be at the Owner's expense and subject to approval of the Director of Operations.
- 4.3. All underground servicing must be approved and inspected by the Town. Inspections shall include a closed-circuit television (CCTV) recording of the installed sanitary sewers for its entire length, to the satisfaction of the Director of Operations.
- 4.4. The Owner shall, at its own expense, conduct mandrel testing on all sanitary sewer systems which have been constructed by or on behalf

of the Owner using flexible piping, to the satisfaction of the Director of Operations.

- 4.5. The Owner agrees to, at its own expense, repair, forever maintain, and, where necessary, replace any sanitary sewer system located on the Lands.
- 4.6. That where the sanitary sewer system has not been maintained, the Director of Operations or their designate may enter upon the lands after reasonable notice having been given to the Owner, and affect such repairs as are deemed necessary and recover the costs thereof by action or in like manner as municipal taxes.

5. WATER SERVICES

- 5.1. Prior to the issuance of a building permit, the Owner shall submit servicing plans for approval and, at its own expense, construct such water distribution systems as may be required to service the approved development.
- 5.2. Any alteration or improvements to any existing water service will be at the Owner's expense and subject to approval of the Director of Operations.
- 5.3. All underground servicing must be approved by the Town. Prior to connecting to the Town's existing watermain system, the Owner agrees to, at its own expense, have all watermains swabbed, flushed, pressure tested, chlorinated and bacterial tested in accordance with Town requirements and approved by the Director of Operations.
- 5.4. The Owner agrees to install any required fire hydrants in accordance with the Ontario Building Code.
- 5.5. All fire hydrant protection identified in this agreement shall be in working order and capable of being utilized prior to commencement of above ground construction.
- 5.6. Where fire hydrants have been installed but are not yet functional or are out of service, the hydrant shall be clearly identified (bagged) as to be not in service.
- 5.7. The Owner agrees to, at its own expense, repair, forever maintain, and, where necessary, replace any water distribution system located on the Lands.
- 5.8. That where the water distribution system has not been maintained, the Director of Operations or their designate may enter upon the Lands after reasonable notice having been given to the Owner, and effect such repairs as are deemed necessary and recover the costs thereof by action or in like manner as municipal taxes.

6. PARKING AND ROADWAY

- 6.1. The proposed uses would require thirty-six (36) parking spaces, in accordance with Section 6.39 Parking Space Requirements of Zoning By-law 4316-09 (the “Zoning By-law”). The subject lands were known to have a deficiency of eighteen (18) parking spaces on the date of passing of the Zoning By-law, and are entitled to a credit for these spaces upon redevelopment of the lands. Additionally, in accordance with Section 40 of the *Planning Act* and By-law No. 4767-14, *A by-law to authorize the approval of the cash-in-lieu of parking agreement between The Corporation of the Town of Niagara-on-the-Lake and Equity Venture Group (135 Queen Street)*, the Owner has agreed to pay to the Town a sum of three hundred eighty-six thousand and four dollars (\$386,064.00). In exchange for the cash-in-lieu of parking, the Owner shall be exempted from the requirement to provide an additional eighteen (18) parking spaces, that would otherwise be required by the Zoning By-law.

7. ROADS AND ENTRANCEWAYS

- 7.1. Not applicable.

8. LIGHTING/FLOODLIGHTING

- 8.1. All site lighting shall be constructed, forever maintained, and replaced as necessary, in accordance with plans and specifications approved by the Director of Community and Development Services.
- 8.2. The requirement for approval of lighting plans and specifications may be waived by the Director of Community and Development Services at his sole discretion.
- 8.3. Notwithstanding any waiver of approval of lighting plans and specifications, the Owner shall at all times comply with the Town’s by-laws, standards and policies in respect of lighting.
- 8.4. Any changes to the approved site lighting or additional lighting of the building or site will require that the Owner submit a revised lighting plan and specifications for review and approval by the Director of Community and Development Services, prior to undertaking any installations.

9. LANDSCAPING

- 9.1. The Owner shall, at its own expense, landscape the lands in accordance with Schedule C1 through C6 attached hereto, and to the specifications and design as approved by the Director of Community and Development Services.
- 9.2. The Owner shall forever maintain all landscaping in accordance with specifications and plans approved by the Director of Community and Development Services.

- 9.3. The Owner shall maintain all plantings in a healthy condition, and all dead or diseased plantings shall be replaced within eight (8) months from the time the dead or diseased plantings are recognized.
- 9.4. The following subclauses (a) through (i) apply with respect to the Queen Street boulevard:
- a) The Owner shall be responsible for restoring all aspects of the Queen Street boulevard, which are the responsibility of the Parks Division, to the same condition that they were in prior to the commencement of construction. All restoration shall take place promptly, and the timeline and quality of the restoration shall take place to the satisfaction of the Parks Supervisor. Items to be restored include but are not limited to pavers, floral displays, soil, irrigation systems, and bed surrounds.
 - b) The Owner shall contact the Parks Supervisor (by email: jb.hopkins@notl.com or by phone: 905 658 8758) three weeks in advance of construction, in order to arrange a site meeting to discuss all aspects of construction that will impact the Queen Street boulevard.
 - c) At present there are three (3) trees located in front of and immediately adjacent to 135 Queen. These trees include a Norway maple to the northwest, Crimson King Norway maple in front, and red oak to the southeast. The Owner shall perform all necessary measures to ensure no tree damage takes place including compliance with the public tree protection by-law 4571-12, and the Town's Tree Protection and Preservation Guideline. Should any damage take place the Owner shall be responsible for all restoration to the satisfaction of the Parks Division.
 - d) The Owner shall install and maintain a Tree Protection Zone (TPZ) for all three (3) trees identified in Section 9.6 of this agreement. The TPZ shall be surrounded by tree protection barriers installed to the drip line of both trees, and shall be installed on the entire perimeter of the drip line. Tree protection barriers shall consist of clean 3/4" plywood, installed to a height of 4 feet, installed on a wood frame made of 2 x 4s. Tree protection barriers shall be painted as required. No storage, construction activity, grade changes, surface treatment, or activity of any kind is permitted within the Tree Protection Zone.
 - e) Any proposed alterations to the TPZ shall be approved by the Parks Supervisor prior to implementation. All costs associated with alterations to the TPZ, including costs associated with engaging an arborist as required, shall be the responsibility of the Owner.

- f) Any tree roots encountered while excavating outside of the TPZ must be pruned in accordance with good arboricultural practice. Proper pruning cuts shall be performed with no root tearing. The Owner shall contact the Parks Supervisor three days prior to any root pruning to arrange for inspections prior to and after the work has taken place.
- g) The Owner shall ensure that any aspects of irrigation damaged during construction are promptly repaired to the satisfaction of the Parks Supervisor. Should construction take place while irrigation is operational, the Owner shall ensure that all necessary alternate arrangements are made to ensure that lines which cross the construction site remain active.
- h) The Owner shall provide the Town with a tree protection deposit of \$3000 prior to the commencement of work. The tree protection deposit shall be refunded one year following the conclusion of construction, subject to the deduction of any Parks Division costs related to protection of the trees, and verification that the Owner has not encroached into the tree protection zone, and that the trees are healthy and in a state of vigorous growth. The request for release of the deposit should be made during the growing season, not while the trees are dormant, so that a site inspection can be arranged to confirm the trees are acceptable.
- i) The Owner shall provide the Town with a site feature protection deposit of \$3000 prior to the commencement of work. The site feature deposit shall be refunded one year following the conclusion of construction, subject to the deduction of any Parks Division costs related to the restoration of site features. Site features shall include all aspects of the boulevard which are the responsibility of the Parks Division, excluding trees.

9.5. The following subclauses (a) through (c) apply with respect to the Gate Street Boulevard:

- a) The Owner agrees that if required, the removal of the Sycamore Maple tree (noted as Tree #1 in the "Tree Inventory and Preservation Plan Report" – Jackson Arboriculture – April 5, 2021), located in the Gate Street road allowance, shall be subject to approval by the Director of Operations (or his designate). The Owner further agrees provide compensation to the Town for the loss of said tree with a cash payment of \$3,000 (three-thousand dollars), which shall be paid prior to the removal of the tree. This

compensation will be used by the Town to plant trees in suitable locations at the Towns discretion.

- b) If the remainder of the works are completed without necessitating the removal of the tree a condition assessment must be completed during the applicable maintenance period to ensure the tree is in good health, is free of damage, and does not pose any safety risks. Such assessment may need to be carried out by a qualified tree professional in conjunction with Town forces wholly at the developers cost.
- c) If removal of the tree is deemed necessary during construction, or within the applicable maintenance period, that such removal will be wholly at the developers cost.

10. NOISE ATTENUATION

- 10.1. The Owner agrees that all external air conditioners, ventilation systems, exhaust fans or other similar mechanical equipment shall be directed away from abutting properties and screened from view or otherwise located on the Lands so as to attenuate noise impact on neighbouring residential properties, to the satisfaction of the Director of Community and Development Services.

11. GARBAGE DISPOSAL & STORAGE

- 11.1. The Owner shall, at all times, provide adequate facilities for the collection and disposal of garbage, sanitary refuse and commercial waste in accordance with Provincial legislation, Regional Policy and Town By-laws, and in the event of its failing so to do, the Town or its agents shall have the right to enter upon the lands and, at the expense of the Owner, undertake the collection and disposal and recover the costs thereof by action or in like manner as municipal taxes.
- 11.2. That the development shall be in accordance with Niagara Region's Corporate Policy for waste collection in order to receive Regional curbside recycling and waste collection, and that otherwise waste collection shall be the responsibility of the owner through a private contractor and not Niagara Region.
- 11.3. The storage, collection and disposal of refuse, garbage and waste in the development shall be so conducted as to create no health hazards, rodent harbourage, insect breeding areas, accident, fire hazards or pollution. This responsibility will rest entirely on the Owner.
- 11.4. All refuse, garbage and waste must be stored in waterproof, vermin proof, and covered containers.

12. SIGNAGE

- 12.1. The Owner agrees that any signage located on the subject lands shall be in accordance with the approval of the Director of Community and Development Services and in compliance with the *Ontario Heritage Act* Town's Sign By-law and Ontario Building Code.

13. ENGINEERING, LEGAL AND INSPECTION COSTS

- 13.1. The Owner agrees to deposit with the Town, prior to execution of this agreement, and to keep in full force and effect until completion of all on-site and off-site construction and services set out herein, an irrevocable letter of credit or security deposit as set out in Schedule E to this agreement, including but not limited to the cost of water services, sanitary services, stormwater management systems, surface treatments, landscaping, fencing, grading and similar elements as per the approved plans, to ensure that all terms of this agreement are fulfilled and that the site is left in a safe and tidy condition.
- 13.2. The required amount of the letter of credit or security deposit may be increased by the Town at any time and at its sole discretion, as required to ensure the completion of all on-site and off-site services to the satisfaction of the Town. Upon notification by the Town of an increase in the required amount, the Owner agrees to immediately deposit the additional letter of credit or security deposit amounts with the Town.
- 13.3. The Owner's Engineer shall, as part of the submission of engineering plans, submit construction cost estimates, and number of working days for the construction of the following off-site and on-site services in writing, for the approval of the Director of Operations as applicable:
 - 13.3.1. Sanitary and storm sewers and appurtenances;
 - 13.3.2. Water service and appurtenances;
 - 13.3.3. Pavements, including granular base, sidewalks and curbing; and,
 - 13.3.4. Stormwater management systems.
- 13.4. The Owner shall, prior to the execution of this agreement, pay a cash deposit, as set out in Schedule E to this agreement, representing the estimated cost of off-site and on-site inspections, prior to the execution of this agreement, which is based on the following criteria:
 - 13.4.1. The estimated cost of the inspection fees shall be based on the estimated number of working days and the daily inspection costs as established by the Town.
 - 13.4.2. The actual inspection fees shall be based on the actual number of working days and the daily inspection costs as established by the Town.

- 13.5. The Owner shall, prior to the execution of this agreement, pay a cash deposit, as set out in Schedule E to this agreement, to ensure that during construction of the development the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum, and to further ensure that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris, and that any standing water is eliminated.
- 13.6. The Owner shall, prior to the execution of this agreement, pay a cash deposit, as set out in Schedule E to this agreement, against the cost of reparations to any off-site damages that may occur during construction, the actual cost of such reparations to be at the Owner's sole expense and recoverable by action or in like manner as municipal taxes.
- 13.7. All securities for the works contemplated herein shall be released after a one (1) year maintenance period following completion of the works. Prior to the release of all the securities, the Owner agrees to have the consulting engineer to provide a certificate letter stating the completion date of all the works as outlined in this agreement and confirming all the works have been constructed in accordance with the approved plans and Town's standards, to the satisfaction of the Director of Operations.

14. DEVELOPMENT CHARGES

- 14.1. Prior to the issuance of building permit, the Owner shall pay to the Town all applicable Development Charges in accordance with the current Town and Regional by-laws and policies.

15. PARKLAND DEDICATION

- 15.1. Prior to the issuance of building permit, the Owner shall, in accordance with section 42 of the *Planning Act*, pay cash-in-lieu of parkland dedication, to the satisfaction of the Town. The amount of cash-in-lieu of parkland dedication shall be based on an appraisal prepared by a qualified professional, which shall be submitted for approval by the Town, all at the Owner's expense.

16. GRADING

- 16.1. Prior to the issuance of a building permit, the Owner shall submit a grading plan for approval by the Director of Operations. Specifications and design shall be approved by the Director of Operations and subsequent plans shall be filed in the office of the Chief Building Official prior to the commencement of any site work.
- 16.2. The Owner agrees to construct and grade the lands in accordance with the plans certified by and filed in the office of the Director of Operations.

- 16.3. The grading plans shall require grades to be established and maintained which will ensure proper drainage without interference with or flooding of adjacent properties and will retain all stormwater as required under Section 3, Stormwater Management, of this agreement. Any deviation from such requirements shall constitute a violation of this agreement.
- 16.4. Any change to any grading plans certified and approved pursuant to this agreement may require the submission of revised drawings prepared by an Ontario Land Surveyor or Professional Engineer and approved by the Director of Operations.
- 16.5. Unless otherwise approved or required by the Director of Community and Development Services, the Owner agrees not to undertake any site alteration of the said Lands until such time as a building permit is issued for the construction of the buildings contemplated herein on the lands.

17. HERITAGE AND ARCHAEOLOGY

- 17.1. The Lands are designated under Section 41 (1) of the *Ontario Heritage Act*. The Owner agrees that any alteration of the Lands shall be in accordance with Heritage Permits issued under Section 42(1) of the *Ontario Heritage Act*.
- 17.2. An archaeological site identified as Cassady Site (AhGs-381) and subject to Section 48(1) of the *Ontario Heritage Act* is present within the Lands. It has been recommended that there is further cultural heritage value or interest for the archaeological site within the area 'crosshatched or otherwise clearly marked' on Schedule F of this agreement.
- 17.3. There shall be no alteration, excavation, disturbance, interference with, destruction, removal or modification of the land or the soil situated thereon and therein by any person other than by prior agreement with the Ministry of Heritage, Sport, Tourism and Culture Industries. This restriction shall remain in place until such time that a licensed consultant archaeologist has recommended in a report that the archaeological site has no further cultural heritage value or interest, and the Ministry has stated its satisfaction with that report and entered it into the Ontario Public Register of Archaeological Reports according to section 48(3) of the *Ontario Heritage Act*.
- 17.4. Under section 48(3) of the *Ontario Heritage Act*, the restriction on alteration or the removal of an artifact or other physical evidence of past human use activity from the site will no longer apply when a licensee has completed archaeological fieldwork, within the meaning of the regulations, on the site and an archaeological report has been provided

to the Minister stating that the site has no further cultural heritage value or interest and the report is entered into the Ontario Public Register of Archaeological Reports. Any alterations or soil disturbance to an archaeological site prior to having met the requirements of Section 48(3) is an offence subject to penalty under Section 69(1) of the Ontario Heritage Act.

- 17.5. The general location of the archaeological site identified as Cassady Site (AhGs-381) is shown on Schedule F of this agreement. Further details regarding the locations and recommendations for those areas of further cultural heritage value or interest can be found in the Stage '4' report 'Project Information Form Number P029-0915-2017, MTCS File Number 0001712' from Archeoworks Inc. which has been entered into the Ontario Public Register of Archaeological Reports.
- 17.6. The Owner acknowledges and agrees that any application to amend the terms of this Site Plan Agreement with respect to the unexcavated part of the archaeological site or any application to remove the Site Plan from title to the Property will require the approval and consent of the Ministry of Heritage Sport Tourism and Culture Industries.

18. GENERAL

- 18.1. The Owner agrees to submit 'as constructed' plans in both PDF and AutoCAD formats, including Servicing and Grading Plan, prepared by a professional Engineer for any changes to the existing site to be approved by the Director of Operations and the Director of Community and Development Services.
- 18.2. The Owner agrees that during the construction of development, the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum and further that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris. The Owner shall keep all roads clear of obstruction and storage of construction materials.
- 18.3. The Owner shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity or before any administrative tribunal the jurisdiction of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein contained to the extent provided for within this agreement, and this agreement may be pleaded as an estoppel against the Owner in any such proceedings. Each of the terms of this agreement is independent of the other and in the event any term of this agreement is held to be invalid or unenforceable for any reason, then such invalidity or unenforceability shall affect that term only and the remainder of the agreement shall remain in full force and effect.

- 18.4. In the event of failure of the Owner to carry out any of the provisions of this agreement, then the Town, its servants, or agents shall, on fifteen (15) days' notice in writing of its intention so to do and forthwith in cases or emergency, have the right to enter on to the said lands and, at the expense of the Owner, do any work required hereby and further, shall have the right to recover the costs thereof by action or in like manner as municipal taxes, pursuant to the provisions of the Municipal Act, R.S.O. 2001.
- 18.5. The Owner agrees that if construction has not been seriously commenced within six (6) months of the date of this agreement or where the construction is substantially suspended or discontinued for a period of more than one year, the Chief Building Official may revoke the building permit issued heretofore and not issue a new permit until such time as a new agreement has been entered into. This clause is inserted to protect the Town from any change in its standards of service or any change in the requirements for municipal services relating to the capacity of any service, to service this or any other project.
- 18.6. The Owner agrees that all work authorized by this agreement shall be completed within two (2) years of the date of the execution of this agreement. If all work has not been completed within two (2) years from the date of execution of this agreement, the Town reserves the right to deem this agreement null and void.
- 18.7. The Owner shall indemnify and save harmless the Town from and against all actions, causes of action, interest, claims, demands, costs, charges, damages, expenses and loss which the Town may at any time bear, incur, be liable for, sustain or be put unto for any reason, or on account of, or by reason of, or in the consequence of, or related to the discharge of stormwater from the lands.
- 18.8. That the Owner shall agree in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunications services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements to the mutual satisfaction of the Owner and Bell Canada.
- 18.9. The Owner is advised that prior to commencing any work within the site, the Owner must confirm that sufficient wire line communication/telecommunication infrastructure is available within the development to provide communication/telecommunication services to the development. In the event that such infrastructure is not available, the Owner may be required to pay for the connection to and/or

extension to an existing communication/telecommunication infrastructure.

- 18.10. In case the Owner wishes not to pay for the connection to and/or extension to an existing communication/telecommunication infrastructure, the Owner shall be required to demonstrate to the Town that sufficient alternative communication/telecommunication facilities are available within the proposed site to enable, at a minimum, the efficient delivery of communication/telecommunication services for emergency management services (i.e. 911 Emergency service).
- 18.11. The Owner shall obtain a certificate from an Ontario Land Surveyor stating that all existing and new evidence is in place at the completion of the said development.
- 18.12. The Owner shall contact Enbridge Gas Distribution for service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.
- 18.13. If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phase construction, all costs are the responsibility of the Owner.
- 18.14. In the event that easement(s) are required to service this development, the Owner will provide mutually satisfactory the easement(s) to Enbridge Gas Distribution at no cost.
- 18.15. The Owner covenants and agrees that any outstanding taxes will be paid prior to the registration of the agreement.
- 18.16. Prior to the release of any securities, the Owner agrees to pay any arrears of taxes outstanding against the lands.
- 18.17. The Owner agrees that there shall be no open burning of waste or construction materials unless specifically approved by the Fire Chief.
- 18.18. The Owner shall enter into separate agreements as may be required for the provision of utilities to service the development, including but not limited to gas, hydro, telephone and cable utilities.
- 18.19. The Owner shall be subject to all by-laws of the Town and shall abide by them.
- 18.20. This agreement shall enure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, successors in title, mortgagees and assigns and all covenants, agreements, conditions and understandings herein contained on the part of the Owner shall run with the lands in perpetuity.
- 18.21. The Owner herein agrees and consents to the registration of this agreement, at its own expense, against the title of the lands. The notice of agreement shall be prepared and registered by the Town.

Any notice given hereunder shall be sufficiently given and addressed to:

EQUITY VENTURE GROUP CORP.

122 Romina Drive

Concord, Ontario

L4K 4Z7

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals under the hands of their officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED
in the presence of:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE:

Per:

LORD MAYOR BETTY DISERO

TOWN CLERK COLLEEN HUTT

EQUITY VENTURE GROUP CORP:

Per:

BENNY MAROTTA

SCHEDULE A
TO
SITE PLAN AGREEMENT

Legal Description: Part of Lots 44 and 53 TP PL 86 Niagara Part 1 30R8519;
Niagara-on-the-Lake, Regional Municipality of Niagara

Part of Lots 42, 43, 54 & 55, TP PL 86 Niagara, Parts 1 & 2,
30R-14091; TOWN OF NIAGARA-ON-THE-LAKE

PIN #: 46397-0080 (LT); 46397-0390 (LT)

SCHEDULE E
SECURITY DEPOSITS AND REQUIRED PAYMENTS

Item	Reference	Subject	Est. Cost	L of C	Cash
1.	6.1	Cash-in-lieu of Parking			\$386,064.00
2.	9.4(h)	Tree Protection Deposit			\$3,000.00
3.	9.4(i)	Site feature protection deposit			\$3,000.00
4.	13.1	Securities for Off-Site and On-Site Services - 20% or \$10,000.00	\$333,438.71		\$66,687.74
5.	13.4	Inspection Deposit			\$6,500.00 ¹²
6.	13.5	Road Cleaning Deposit			\$3,000.00 ¹
7.	13.6	Damage Deposit			\$3,000.00 ¹
8.	15.1	Parkland Dedication - TBD			TBD
Total					

NOTES:

1. Amounts noted are deposits, and any unused portion will be returned to the Owner upon completion of the works.
2. Inspection costs based on estimate of **10** working days.