

**THE CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO. 4725-14**

Cannery Park Subdivision  
Roll No # 2627 020 024 09100

A BY-LAW TO AUTHORIZE A SUBDIVISION AGREEMENT  
BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-  
THE-LAKE AND SOLMAR HOME INC. AND BANK OF MONTREAL

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 12<sup>TH</sup> day of May 2014 between the Corporation of the Town of Niagara-on-the-Lake and Solmar Homes Inc. AND Bank of Montreal, be and the same is hereby approved; and
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the 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 12<sup>th</sup> DAY OF  
MAY 2014**

\_\_\_\_\_  
LORD MAYOR, DAVE EKE

\_\_\_\_\_  
TOWN CLERK, HOLLY DOWD

THIS INDENTURE dated the 12th day of May, 2014.

BETWEEN:

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

OF THE FIRST PART,

-And-

SOLMAR HOMES INC.  
(Hereinafter called the 'Developer')

OF THE SECOND PART,

-And-

BANK OF MONTREAL  
(Hereinafter called the 'Mortgagee')

OF THE THIRD PART,

**WHEREAS** the Developer is the Owner of the lands in the Town of Niagara-on-the-Lake described in Schedule 'A' attached hereto, and has applied to the Town of Niagara-on-the-Lake for approval of a Subdivider's Agreement for the purpose of registering the same in the Land Titles Office for Niagara North;

**AND WHEREAS** the Developer desires to subdivide and develop the Lands in accordance with a proposed final plan(s) of subdivision;

**AND WHEREAS** the Town agrees that it will release the Plan for registration subject to the terms and conditions of this Agreement and the conditions of draft plan approval;

**AND WHEREAS** the Town requires the Developer, before final approval of the proposed Subdivision Agreement, to pay for the construction and installation of certain municipal services hereinafter described to serve such a Subdivision and to agree to the provisions herein contained;

**AND WHEREAS** this Agreement applies to the "Cannery Park", being Part Township Lots 88 and 89, in the Town of Niagara-on-the-Lake, prepared by Brent Laroque dated September 22<sup>nd</sup>, 2012, and revised on December 10<sup>th</sup>, 2012, showing 235 residential lots, Block 237 for a stormwater pond, Block 241 for a park, Block 244 for an Environmental Reserve, and Blocks 238, 242 and 243 for pedestrian pathways.

**AND WHEREAS** this Agreement is an agreement executed under the authority of s. 51(26) of the Planning Act, R.S.O. 1990, c. P.13, as amended, and as such may be registered against title in the Land Titles Office for Niagara North.

**NOW THEREFORE THIS INDENTURE WITNESSETH** that in consideration of the Town approving the said plan of subdivision 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 covenant and agree one with the other as follows:

## **1 DEFINITIONS**

In this Agreement: unless there is something in the subject matter or context inconsistent therewith:

- 1.1 'Approved Plans' means the required plans as approved by the Town and other government agencies including conservation authorities.
- 1.2 'Assumption of the Subdivision' shall mean the date when all works under the Agreement have been completed, the maintenance period for Public Works has expired, no other obligations under the Agreement remain outstanding other than as may be specified on the date of assumption.
- 1.3 'Certificate of Completion' means the certificate of completion of all primary, secondary, tertiary services issued by the Director of Public Works, acting reasonably, upon being satisfied that the primary, secondary, tertiary services have been completed.
- 1.4 'Conditions' means the conditions of draft approval for the Draft Plan of Subdivision imposed by the Town in accordance with the requirements of the Planning Act, Ontario.
- 1.5 'Developer' includes the successors, assigns, heirs, executors, administrators, or other legal representatives of the Developer to whom the context can apply according to law.
- 1.6 'Easement' means easements that are to be conveyed to the Town or Region to service the Lands.
- 1.7 'Final approval' means final approval of the Plan for registration given by the Town in accordance with the requirements of the Planning Act (Ontario).
- 1.8 'Final Certificate of Approval' means the certificate issued by the Director of Public Works, acting reasonably, upon being satisfied with the completion of the primary, secondary and tertiary services and the completion of all maintenance required during the one (1) year maintenance periods provided for herein.
- 1.9 'Final Plan' means a Plan prepared at the request of the Developer and submitted to the approval authority as a Final Plan suitable for registration. Upon registration the registered plan shall be the final plan for the purposes of this Agreement.
- 1.10 'Highway' means land dedicated as a public highway by the Plan and includes a proposed public highway and proposed road widening shown on the Draft Plan.

- 1.11 'Inspector' means the Inspector appointed by the Town of Niagara-on-the-Lake for the Subdivision and provides inspection services on behalf of the Town.
- 1.12 'Install' shall also mean reinstall, provide, construct, or reconstruct.
- 1.13 'Lands' means all of the lands shown on the Draft Approved Plan and described in Schedule 'A'.
- 1.14 'Primary Services' means road signs, hydro wiring, street lighting, sidewalks (where required as primary services in Schedule 'C'), watermains, sewers, both sanitary and storm, and any pumping station, catch basins or other appurtenances, the base road including base asphalt, curbs and gutters, community mail box pads and lot pre-grading including sodded swales.
- 1.15 'Required Plans' means all of the plans and specifications for all of the works, matters, and things required to be designed, installed, and done by the Developer by this Agreement for the subdivision and development of the Lands, including without limiting the generality of the forgoing, servicing plans, street lighting plans, landscape and fencing plans (which include the plans for the noise attenuation works), etc. Where the subject matter or context of a particular section of this Agreement requires reference to any one of the required plans, it may be referred to by its individual name, e.g., 'required street lighting plans'.
- 1.16 'Secondary Services' means top coat of asphalt, sidewalks (where required as secondary service in Schedule 'D') and any services not included in 'Primary' or 'Tertiary Services'.
- 1.17 'Street Lighting' means street lighting and park walkway lighting system which includes all poles, standards, arms, lights, fixtures, wires, ducts and related equipments that are necessary for the safe illumination of the roadway, boulevard, park and walkway to the Town requirements.
- 1.18 'Surveyor' means an Ontario Land Surveyor.
- 1.19 'The Engineer' shall refer to the Developer's Consulting Engineer.
- 1.20 'The Land' means the property shown in Schedule 'A'.
- 1.21 'Tertiary Services' means those services or lot improvements that must be carried out as the buildings on each individual lot are completed and including tree planting, curb cut, driveway paving on the road allowance, final lot grading and sodding of boulevards.

## **2 ORGANIZATION OF AN AGREEMENT**

- 2.1 In the event of construction of this Subdivision proceeding in phases the terms of this Agreement will be read as applying to each such phase.
- 2.2 This Agreement shall define the obligations and duties of the Developer with respect to the plan of subdivision of the Lands, and without limiting the

generality of the foregoing, shall include the installation, construction, repair and maintenance of the public works to be provided and payments required to be made to the Town and such other matters as are more specifically set out herein and shall further define the responsibilities of the Developer related to the acceptance and assumption of the said plan of subdivision.

- 2.3 All Schedules attached hereto shall form part of this Agreement and shall have the same force and effect as if the information on them were contained in the body of this agreement.

### **3 PRECONDITIONS TO THE SIGNATURE OF THE AGREEMENT BY THE TOWN**

- 3.1 The Developer covenants and agrees that any outstanding taxes will be paid prior to the registration of the final plan.
- 3.2 The Developer covenants and agrees to commute and pay, upon execution of this Agreement, all designated charges, local improvement charges, and imposed rates now assessed and levied upon the Land, including but not limited to levies under the *Local Improvement Act*, *Ontario Water Resources Act*, *Public Utilities Act*, *Drainage Act*, and the *Municipal Act, 2001*, and any other special levies or charge against the property, save and except development charges.
- 3.3 The Developer shall prepare cost estimates for the construction of all Primary, Secondary and Tertiary off-site and on-site services and estimate the number of working days associated with the construction of such services upon which the calculation for inspections, Letters of Credit and security deposits shall be based.
- 3.4 The Developer covenants and agrees to grant to the Town and all appropriate authorities, free from encumbrances, the land dedications and easements for public purposes, as described in Schedule B hereto, or if the subdivision is constructed in phases, such conveyances and easements necessary for that phase. The documents for all lands described in Schedule B shall be deposited with the Town before execution of this Agreement by the Mayor and Clerk, with the plan numbers left blank in the description in the document. The Town is hereby authorized to fill in such blanks after the plan of subdivision is registered and a plan number is assigned.
- 3.5 The Developer shall comply with all conditions of the Subdivision Agreement, which are hereby referentially incorporated.
- 3.6 The Developer hereby covenants and agrees that this Agreement and the Schedules hereto, or any part thereof, will be registered by the Town upon the title of the Land within the proposed plan of subdivision and a copy of the registered Agreement will be given to the Developer.

- 3.7 The Developer shall name all public roads within the development to the satisfaction of the Town.
- 3.8 The Developer further covenants and agrees to submit a Final Plan of Subdivision (or phase) for approval.
- 3.9 The Developer is aware that if final approval is not given to this plan within three (3) years of the draft approval date and no extensions have been granted, draft approval shall lapse. If the Developer wishes an extension to the draft approval, a written explanation with reasons why the extension is required, must be received by the Town prior to the lapsing date.
- 3.10 The Developer shall obtain an Environmental Compliance Approval (ECA) from the Ministry of Environment to the satisfaction of the Niagara Region Public Works (Development Services Division) Department and the Town's Public Works Department for the necessary servicing (watermains, sanitary sewers and storm water drainage) for this development prior to final approval for registration.
- Note:** Any new storm outlet to a creek or storm water management scheme designed for quantity control/quality improvement will require direct approval from the Ministry of the Environment (Toronto Office).
- 3.11 The Developer agrees that all servicing plans shall be in accordance with current Town specification and submitted to the Public Works Department for approval.
- 3.12 The Developer agrees that all servicing plans and supporting reports will be subject to a peer review at the Developer's expense.
- 3.13 The Developer agrees to provide a stormwater management block in accordance with the requirements of the Niagara Peninsula Conservation Authority and to the satisfaction of the Niagara Region Public Works Department (Development Services Division).

#### **4 PRECONDITIONS FOR CONSTRUCTION OF SERVICES**

Before any work is commenced:

- 4.1 The Developer 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 issuance of the Final Certificate of Approval and during the maintenance period, in connection with the work required to be done herein by the Developers, contractors, servants or agents.
- 4.2 The Developer shall supply the Town with a liability insurance policy in the amount of \$5,000,000.00 in a form satisfactory to the Town, indemnifying

the Town from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Developer of the plan of subdivision. The said policy shall specifically refer to all work to be undertaken by the Developer or its agents on public road allowances. The policy shall be maintained in full force and effect until the Town assumes the plan of subdivision. In the event any renewal premium is not paid, the Town, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Developer agrees to pay the cost of such renewal or renewals within fourteen (14) days of the account therefore being rendered by the Town. The Developer covenants and agrees that the Town reserves the right to draw on and use the proceeds from the Letter(s) of Credit filed for the Agreement to make such payment if payment is not provided as requested.

- 4.3 The Developer shall submit satisfactory evidence that the contractor is qualified, experienced and has the equipment to successfully complete the works.
- 4.4 The Developer shall ensure that the contractor's bond guarantees the completion of the works and the maintenance thereof for a period of one (1) year from the completion of such works.
- 4.5 The Developer shall employ a professional engineer, approved by the Director of Public Works, to carry out the engineering services required herein to the Town design criteria and standards.
- 4.6 The Developer shall submit to the Town Public Works Department, Regional Planning and Development Department and the Niagara Peninsula Conservation Authority for review and approval two (2) copies of a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a suitably qualified professional engineer in accordance with the Ministry of the Environment and Energy's *Stormwater Management Planning and Design Manual, 2003* (as amended) and *Stormwater Quality Guidelines for New Development, 1991* (as amended):
  - 4.6.1 Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
  - 4.6.2 Detailed sedimentation and erosion control plans;
  - 4.6.3 Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility; and
  - 4.6.4 Detailed costs to construct the stormwater management facility with benefitting area costs breakdown.

**Note:** The Region will request the Niagara Peninsula Conservation Authority to review the stormwater management and other related plans on the Region's behalf and submit comments to the Regional Public Works Department (Development Services Division) regarding the approval of these plans and the subsequent clearance of related conditions by Regional staff.

- 4.7 The Developer agrees to implement the approved stormwater management plan required in accordance with Section 4.6 above.
- 4.8 The Developer shall provide to the Regional Development Services Department (Development Services Division) a Phase II Environmental Site Assessment (ESA) in accordance with Ministry of Environment (MOE) Regulation 153/04. If site remediation is required, a copy of the site remediation report shall be provided to the Region and Town for information.
- 4.9 The Developer shall submit detailed design drawings complete with calculations for the watermain system, the sanitary sewer system and the stormwater drainage system required to service this proposal be submitted to the Town's Public Works Department for its review and approval. That detailed design drawings with calculations for the watermain system be submitted to the Public Works Department and Fire Department for its review and approval and shall include required fire flows and existing system flows calculations.
- 4.10 The Developer agrees to submit a streetscape plan of the internal street illustrating the location of on street parking, street trees, community mail box locations, hydrants, and street lighting to the satisfaction of the Town's Public Works Department.
- 4.11 The Developer agrees to submit site servicing plans in accordance with current Town specifications and subject to approvals by the Ministry of Environment (MOE) and the Town Public Works Department.
- 4.12 The Developer agrees to provide detailed lot grading and drainage plans, delineating both existing and proposed grades and the means whereby major system flows will be accommodated across the lands, to the Niagara Peninsula Conservation Authority for review and approval
- 4.13 The Developer agrees to implement a detailed sedimentation and erosion control plan, to be approved by the Niagara Peninsula Conservation Authority, which explains methods proposed for; (a) the control of silt and erosion during the construction phase; and, (b) restoration proposed for the site after construction.
- 4.14 The Developer agrees to submit and implement a Tree Saving Plan to be approved by the Niagara Peninsula Conservation Authority, developed by a qualified arborist or forestry consultant in accordance with the Niagara



Region's Tree and Forest Conservation By-law No. 30-2008 prior to any site disturbances. The Tree Saving Plan shall identify the location of tree hoarding to protect existing trees within the woodland from construction activities.

- 4.15 The Developer shall submit a street lighting design to the Town's Public Works Department for approval and constructed to Town standards. LED lighting as approved by the Town shall be installed on all internal roads and Line 9 Road and Concession 3 Road.
- 4.16 The Developer's Engineer shall design all the works covered by the Agreement and further file with the Town a written undertaking, to the effect that he shall do all works, required of him, as per Schedule G to this Agreement.
- 4.17 The Developer agrees that the Town at its discretion may retain the services of an independent Professional Engineer for the purposes of reviewing or approving or inspecting any of the work required pursuant to this Agreement, such engineer shall be paid out of and deducted from the monies held on deposit. Such fees shall be set in accordance with the Schedule of Fees for Consulting Engineer services recommended by the Association of Professional Engineers of Ontario on costs and as identified in Schedule F attached.
- 4.18 The Developer agrees to provide Letter of Credit and enter into a legal agreement for the water and wastewater portion of the Regional Development Charges within 12 months of draft plan approval of this plan of subdivision, unless evidence of a complete Ministry of Environment application for servicing has been received by the Region within this time.
- 4.19 The Developer will be required to post with the Town Letters of Credit and cash deposits relating to primary, secondary and tertiary works, plan reviews, site inspections (based on working days), signs and barricades and road clean up prior to commencing the installation of any services. The amount of securities will be in accordance with the amounts detailed on Schedule F attached.
- 4.20 The Developer shall provide Letter(s) of Credit which shall be in a form approved by the Town, and the Developer covenants and agrees that the Letter(s) of Credit shall be kept in full force and effect and that it will pay all premiums as the Letter(s) of Credit becomes due or until such time as the Town returns the Letter of Credit in accordance with this Agreement.
- 4.21 The Developer agrees to submit the design drawings for the water, sanitary sewer and stormwater drainage systems required to service the development to the Niagara Region Public Works (Development Services Division) Department for review and approval.

- 4.22 The Developer shall post letters of credit or cash deposits with the Town for the Subdivision or the first phase to provide security for the provision of the primary, secondary and tertiary services necessary for the Subdivision or the current phase thereof, based on the estimated cost of construction as follows:
- 4.22.1 Primary Services-Letter of Credit equal to 20% of the estimated cost.
- 4.22.2 Secondary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.22.3 Tertiary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.23 The Developer hereby covenants and agrees that should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, whether or not such work or matter is specifically secured by way of letter of credit, and the Developer fails to comply, within thirty (30) days written notice, with a direction to carry out such work or matter, the Town may draw on the Letter(s) of Credit and enter onto the subject lands and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.
- 4.24 The Developer hereby covenants and agrees that the Town reserves the right to draw on and use the proceeds from the Letter(s) of Credit to complete any work or matter required to be done by the Developer pursuant to this Agreement.
- 4.25 The Developer further covenants and agrees that, notwithstanding Schedules F to this Agreement, in the event that the Town determines that any reduction in the Letter(s) of Credit will create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Developer pursuant to this Agreement, the Town will not be obligated to reduce the Letter(s) of Credit as outlined in this Agreement until such time as such work is satisfactorily completed or the Town has sufficient security to ensure that such work will be completed.
- 4.26 The Developer agrees that wherever in this Agreement a Letter(s) of Credit is required to be filed with the Town, the Developer may deposit with the Treasurer, cash or a certified cheque to be cashed, in an amount equal to the Letter(s) of Credit and such deposit shall be held by the Town as security in accordance with this Agreement provided that no interest shall be payable on any such deposit.
- 4.27 The Developer acknowledges that upon the transfer of Ownership of any of the subject lands to another Developer, the Town will not return any Letter(s) of Credit required under this Agreement until the new Owner files with the Town, substitute letters of credit in the required amounts.

- 4.28 The Developer agrees to enter into a separate Development Agreement with Niagara-on-the-Lake Hydro for the provision of hydro services for the development.
- 4.29 The Developer agrees to provide and install, at its own expense, centralized mailboxes within the development. Locations are subject to the approval of Canada Post and the Town of Niagara-on-the-Lake. The Developer agrees to include a concrete pad in accordance with the requirements of Canada Post to facilitate the installation. The pads shall be identified on the engineering servicing drawings and are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
- 4.30 The Developer agrees to determine the location (Municipal easement adjacent to Lot 39, 53, 54, 87, 102, 110, 193 & Block 242) of all centralized mail facilities in cooperation with Canada Post and to post the location of these sites on appropriate maps, information boards and plans.
- 4.31 The Developer agrees that he will not undertake any development on the lands, save and except for model homes until such time as sanitary sewers can be adequately provided.
- 4.32 The Developer agrees to submit an addendum to the archaeological assessment prepared by Mayer Heritage Consultants Inc. (dated November 2009) based on the revised subdivision plan and areas proposed for development. No demolition, grading or other soil disturbances shall take place on the subject lands prior to the Ministry of Culture clearance being received with respect to the archaeological report prepared by Mayer Heritage Consultants Inc. to address the preservation and/or removal of any cultural heritage resources in compliance with Ministry standards. A copy of the Ministry's clearance letter shall be forwarded to the Niagara Region Public Works (Development Services Division) Department for information and a copy of the archaeological report and the Ministry's clearance letter shall be submitted to the Town of Niagara-on-the-Lake Community & Development Services Department.
- 4.33 The Developers shall pay cash deposits, to erect street name signs and regulatory signs (e.g. stop signs; no exit signs, etc) to be installed by the Public Works Department in accordance with the amount detailed in Schedule F attached.
- 4.34 The Developer shall ensure that the proposed Draft Plan shall comply with the Regional Municipality of Niagara Waste Collection guidelines for minimum road allowance and pavement width for waste collection household waste without the need to reverse.

- 4.35 The Developer deeds a 0.3 metre reserve to the Region along Regional Road 100 abutting the subdivision to the satisfaction of the Niagara Region Public Works Department (Development Services Division).
- 4.36 The Developer deeds Block 239 containing the existing sewage pumping station and surrounding property to Niagara Region. The security/decorative fencing, landscaping, and construction of new truck access and related works for this site shall be the responsibility of Niagara Region.
- 4.37 The Developer dedicate road widening and daylighting triangles to Niagara Region along Regional Road 100 to the satisfaction of the Niagara Region Public Works Department (Development Services Division) as per Niagara Region's Policy Plan.
- 4.38 The Developer dedicate daylighting triangles on all lots abutting proposed intersections in accordance with Town standards and to be included in the roadway dedications of public streets to the Town.
- 4.39 The Developer files a Record of Site Condition (RSC) in accordance with Ontario Regulation 153/04 to the Ministry of Environment, and provides the Niagara Region Public Works Department (Development Services Division) and the Town each with a copy of the Ministry's written acknowledgement of the filing of the RSC.
- 4.40 The Developer agrees to submit for approval by the Niagara Region Public Works Department (Development Services Division) and Town of Niagara-on-the-Lake Community & Development Services Department an urban design plan and streetscape of Regional Road 100 (Four Mile Creek Road) illustrating improvements to urbanize the road, entrance or gateway features, and landscaping enhancements.
- 4.41 The Developer agrees that no landscaping, signs or fences will be permitted on the Regional Road 100 Road allowance, except with the written approval of the Niagara Region.
- 4.42 The Developer agrees to submit and implement a lot grading plan prepared in accordance with Town standards to be approved by the Public Works Department and Building Department and that the grading plan shall provide that the maximum height of the concrete showing on the foundation walls of buildings shall not be more than 30.48 cm (12 inches) above the final approved grade elevation and all construction shall be in accordance with the approved grading plan.
- 4.43 The Developer shall provide securities satisfactory to the Town sufficient to fully fund the construction of a 1.5 concrete metre sidewalk along the east side of Four Mile Creek Road across the frontage of the proposed development from Line 9 Road to the limit of the subdivision, including

Blocks 238 and 239. For clarity, the sidewalk shall not be constructed until approved by the Niagara Region.

- 4.44 The Developer agrees to submit a street lighting design to the Town's Public Works Department for approval and is constructed to Town standards.
- 4.45 The Developer agrees that a 0.3 metres reserve dedicated to the Town to prohibit access shall be required on the final plan along Street "D" across the exposed frontage of the employment lands.
- 4.46 The Developer agrees that prior to commencing any work the Developer must confirm that sufficient wire-line communication/telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that such infrastructure is not available, the developer is hereby advised that the developer may be required to pay for the connection to and/or extension of the existing communication/telecommunication infrastructure, the developer shall not be required to demonstrate to the appropriate municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication or telecommunication services for emergency management services.
- 4.47 The Developer agrees that the Town obtain, on the behalf of the Developer, approval from the Niagara Region to connect to Niagara Region's trunk watermain on Four Mile Creek Road.
- 4.48 The Developer agrees to be responsible for all costs associated with engineering, design and construction of the stormwater management facility sized to service the proposed subdivision on the east of Four Mile Creek Road.
- 4.49 The Developer agrees that the southern woodland feature (Block 244) be placed in an Environmental Protection type designation and zone category to prohibit development and recognize the sensitivity of the natural heritage features and that any lands included in the Block be planted with native vegetation.
- 4.50 The Developer agrees to clearly identify the limit of work fencing on the final Site Plan and Drainage Plan to prevent any disturbance of the approved setback buffers from the woodland and that the dripline of the woodland be identified and noted to remain undisturbed. The fencing is to be maintained during the construction period until ground cover vegetation has become established.

- 4.51 The Developer agrees to install and clearly identify permanent fencing on the approved grading and drainage plans along the rear lot lines of Lots 142 to 147 inclusive.
- 4.52 The owner agrees to implement the noise and mitigation measures and all warning clauses recommended in the Noise Feasibility Study prepared by HGC Engineering, dated October 10, 2013, and the subsequent addendum letter dated February 4, 2014.
- 4.53 The Developer agrees to pay for upgrades to the construction standard and lighting of Regional Road 100, within the limits of the subdivision, necessary for this development to the satisfaction of the Niagara Region Public Works Department (Development Services Division). The Region is responsible to pay for the upgrades on the west side of the road as well as for upgrades north of Line 9 Road, in accordance with the agreement between the Developer and the Region. The Developer shall submit the required securities and execute the agreement with the Niagara Region prior to undertaking any works on Regional property.
- 4.54 The Developer agrees that all sediment and erosion control measures shall be installed prior to the commencement of any site work and shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized and that muddy water, soil and silt shall not be allowed to leave the site. The Developer shall be responsible for the clean-up of any property affected by his failure to contain muddy water, soil or silt.
- 4.55 The Developer and the Town agree that the proposed location of the stormwater management pond, Block 237, is acceptable. The size of the property required for the pond shall be confirmed when a detailed stormwater management plan is submitted for approval to the Town's Public Works Department. Fencing will be required where the pond abuts Lots 16 and 38, constructed to Town standards.

## **5 CONSTRUCTION OF SERVICES**

- 5.1 The Developer agrees to construct, and to pay the entire cost of such construction and materials required for all of the works referred to in this Agreement and Schedules attached hereto, and in accordance with the conditions and specifications contained in such Schedule. All materials supplied shall be to the specifications and satisfaction of the Director of Public Works.
- 5.2 The Developer agrees 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 further that all roads and sidewalks adjacent to and in the vicinity of the development are kept clean of mud and debris.

- 5.3 The Developer agrees to prepare a composite utility plan that allows for the safe installation of all utilities, including required separations between utilities.
- 5.4 The Developer agrees to construct the streets in accordance with composite utility plans as submitted and approved by all utilities.
- 5.5 The Developer agrees to grade all streets to final elevation prior to the installation of the gas lines and provide Enbridge Gas Distribution Inc. with the necessary field survey information for the installation of the gas lines.
- 5.6 The Developer agrees that should the gas distribution system not be installed within the proposed common element, easements will be provided to Enbridge Gas Distribution Inc. at no cost.
- 5.7 The Developer shall be held responsible for the general tidy appearance of the Subdivision until assumption by the Town and shall carry out all weed, cutting and maintenance on all unsold lands and all unassumed road allowances to the satisfaction of the Town.
- 5.8 The Developer shall pre-grade the Subdivision such that all roads, lot corners, rear yard catch basins, swales, high points, and other features shown are in conformity with the approved 'General Grading Plan'.
- 5.9 The Developer shall construct at its expense the Primary Services for the proposed Subdivision in accordance with the terms of Schedule C attached hereto.
- 5.10 The Developer shall construct at its own expense all Secondary Services necessary to service the proposed development in accordance with the terms of Schedule D of this Agreement.
- 5.11 The Developer shall construct at its own expense all Tertiary Services necessary to service the proposed development in accordance with Schedule E of this Agreement.
- 5.12 The Developer shall make satisfactory arrangements and where necessary enter into an Agreement, with the telephone company, and where applicable, the gas company and cable company for the installation of these utilities and similar arrangements with any other utility to be installed in the Subdivision.
- 5.13 All utility services provided with respect to the lands shall be underground.
- 5.14 The Developer shall, as directed by the Public Works Department, ensure that water mains have passed applicable leakage and bacterial testing; sanitary sewer shall also be tested for infiltration and exfiltration. Sanitary and storm sewers shall be flushed and T.V. inspected, to the satisfaction of the Director of Public Works.

- 5.15 Upon completion of the Primary Services to the satisfaction of the Director of Public Works, the Director shall issue a certificate of completion of the Primary Services.
- 5.16 The Developer agrees to construct the internal roadway to current Town standards, which includes an 8.0 m wide pavement, concrete curb and gutter with barrier type curbs (O.P.S.D. 600.04) and storm sewers. The road and intersection design must be submitted to the Town's Public Works Department for approval and all works constructed to Town standards.
- 5.17 The Developer agrees to construct the approved stormwater management collection system at its own expense and agrees to pay proportional land costs associated with the construction of the stormwater management facility.
- 5.18 The Developer agrees to pay for the construction of a storm sewer from his proposed development to the proposed storm sewer system. The sewers will be designed to accommodate all stormwater flows with the subcatchment area as approved by the Town's Public Works Department.
- 5.19 The Developer agrees to rebuild Line 9 Road to urban standards as approved by the Director of Public Works, from Concession 3 Road to Four Mile Creek Road.
- 5.20 The Developer agrees to rebuild Concession 3 Road to urban standards as approved by the Director of Public Works, from Line 9 Road to York Road.
- 5.21 The Town agrees to pay for a portion of the works to rebuild Line 9 Road and Concession 3 Road. The Town shall reimburse the Developer a fixed amount of \$490,000, to be paid once the works are complete.
- 5.22 The Developer shall construct a 1.5 metre concrete sidewalk on all proposed streets, at no expense to the Town.
- 5.23 The Developer shall construct a 1.5 metre concrete sidewalk on the west side of Concession 3 Road from Line 9 Road to York Road. Within the limits of the subdivision the Developer shall be responsible for 100% of construction costs. Beyond the limits of the subdivision, the Town will reimburse the Developer for 50% of the construction costs, once complete.
- 5.24 The Developer shall construct a 1.5 metre concrete sidewalk on the south side of Line 9 Road, from Concession 3 Road to Four Mile Creek Road, at no expense to the Town.
- 5.25 The Developer shall construct 3.0 metre wide walkways, which shall meet the Town's standards for walkways, including through Block 238, 242 and 243. The Developer shall be responsible for the design and construction of all walkways, at no expense to the Town.



5.26 The Town agrees that it shall use its best efforts to collect from the owners of land which benefits from the storm water management works constructed by the Developer (the "Benefiting Land") their proportionate share of the cost of the storm water management works at the time that the Benefiting Land is developed. The Benefiting Lands are identified on Schedule H attached hereto. The proportionate share of the Benefiting Land shall be calculated by multiplying the total cost of the storm water management works by a fraction which has as its numerator the area of the Benefiting Land and as its denominator the total area of all lands within the drainage area of the storm water management works. The Town shall pay any money so collected to the Developer upon the Town's receipt of same. This best efforts obligation of the Town shall continue for a period of fifteen (15) years from the date of this Agreement, at which time it shall cease and the Town shall have no further obligations in this regard

## **6 INSPECTION**

- 6.1 The Developer's Engineer shall:
- 6.1.1 Supervise and inspect the construction of the works on an as-required basis, including the setting and checking of all lines and grades, quantity control, prior to, during and after construction.
  - 6.1.2 Arrange a pre-construction meeting and site meetings as required but at least once per month to which the Town shall be invited and for which the Town shall receive forthwith a copy of the minutes.
  - 6.1.3 Arrange for the inspection of works at all stages of construction so that "as built" drawings can be prepared.
- 6.2 All underground infrastructure and public road construction shall be constructed to Town standards and inspected by the Town at the Developer's cost.
- 6.3 The Developer agrees that the construction of the approved servicing plans will be subject to Town inspection, all at the owner's expense.

## **7 DEVELOPMENT CHARGES**

- 7.1 The Owner agrees to pay to the Corporation of the Town of Niagara-on-the-Lake and the Region of Niagara, all applicable Development Charges in accordance with the current Municipal and Regional By-laws and policies at the time of building permit application.

## **8 CONDITIONS PRECEDENTS TO THE ISSUANCE OF A BUILDING PERMIT**

- 8.1 Building permits shall not be issued until the following conditions are met:

- 8.1.1 Completion of Primary Services for the relevant phase of development.
- 8.1.2 The Developer/Builder shall submit individual lot grading plans prepared by the design Engineer in compliance with the approved 'General Grading Plan'. A cash deposit at the prevailing lot grading deposit rate is required to ensure final grading complies with the approved 'General Grading Plan'. The final grading shall be certified by the design engineer.
- 8.1.3 Payment of all development charges, including all applicable Municipal and Regional development charges, due and payable at the prevailing rate.
- 8.1.4 Compliance with the Building Code Act.
- 8.1.5 Activation of hydrants for the relevant phase of development.
- 8.1.6 The Developer agrees to address low pressure and low fire flows with respect to the existing water system and to construct the necessary system improvements to provide adequate water pressure and fire flows to the proposed development to the satisfaction of the Town's Public Works Department and Fire Department.
- 8.1.7 Installation of all applicable street and regulatory signs (including Private Road-Use At Your Own Risk) in the Subdivision to the satisfaction of the Director of Public Works.
- 8.1.8 The Developer agrees that review and approval of the Director of Community and Development Services Department is obtained with respect to the Village of St. Davids Urban Design Guidelines and in accordance with the Development and Design Principles and Standards for the Cannery Park Subdivision.
- 8.1.9 The Developer provides suitable buffering along the westerly/rear lot lines of the employment lands to provide appropriate screening from the adjacent existing industrial uses to the west of the subject lands.
- 8.1.10 The Developer shall complete the 2.7 m high acoustic barrier along the north and east property lines of Block 239, as per the recommendations for noise control measures for the pumping station contained in the Noise Feasibility Study prepared by HGC Engineering, dated October 20, 2013 and subsequent Addendum Letter dated February 4, 2014. The Chief Building Official or a Professional Engineer qualified to perform acoustical services in the Province of Ontario shall certify that the acoustic barrier has been constructed in accordance with the approved Study.

8.2 Notwithstanding 8.1 above, a Conditional Building Permit may be issued for the construction of dwellings, constituting not more than 10% of total lots, provided that the dwellings can neither be sold nor occupied as a residence until primary services are provided and all conditions of the permit and this section have been met. Any permissions granted by the Model Home Agreement shall be included in the 10% allotment. It is acknowledged by the Developer that the Conditional Building Permit is issued pursuant to the Building Code Act and to the satisfaction of the Chief Building Official and the Director Planning & Development Services. The Conditional Building Permit deposit required per lot or block shall be at the current applicable rate.

## **9 CONDITIONS PRECEDENT TO THE ASSUMPTION OF PRIMARY SERVICES AND RELEASE OF SECURITY**

The primary services shall be assumed upon:

- 9.1 The expiration of one year from the issuance of the Certificate of Completion of Primary Services.
- 9.2 The Developer is responsible for, at its own expense and pending assumption by the Town, repairing and maintaining any works to the standards required by the plans and specifications to the satisfaction of the Director of Public Works.
- 9.3 When written application for the assumption is received by the Director of Public Works, the Town shall have thirty (30) days from the receipt of the request to carry out such inspections as it may consider necessary.
  - 9.3.1 The payment of all financial requirements herein are received.
- 9.4 Upon satisfaction of the foregoing conditions, the deposit or letter of credit for Primary Services shall be returned to the Developer.

## **10 CONDITIONS PRECEDENT TO THE ASSUMPTION OF SECONDARY SERVICES AND THE RELEASE OF SECURITIES**

### **10.1 INSTALLATION**

10.1.1 Secondary Services shall be installed within three (3) years from the date that the first non-conditional building permit was issued for the Subdivision or within thirty (30) days of the issuance of the building permit representing 50% plus one (1) of the homes in the Subdivision. Where such date falls between, the 1st of December and 30th of April, then such services shall be completed by the following 30th of June. Upon completion to the satisfaction of the Director of Public Works, a certificate of completion of Secondary Services will be issued.

10.2 REDUCTION OF LETTERS OF CREDIT

10.2.1 Forty-five (45) days after completion of the Secondary Services to the satisfaction of the Director of Public Works, the Developer may apply to the Town and provided no construction liens are registered the Director of Corporate Services will return the letters of credit for Secondary Services less any costs or expense incurred by the Town to the Developer and shall retain only 10% of the deposit.

10.3 ASSUMPTIONS AND RETURN OF DEPOSIT.

The Secondary Services shall be assumed upon:

10.3.1 The expiration of one (1) year from the certificate of the Director of Public Works that all Secondary Services have been completed.

10.3.2 The completion of such repairs as may be required by the Town to bring the works to the standards set forth in the plans and specifications.

10.3.3 When written application for the assumption is received by the Director of Public Works, The Town shall have thirty (30) days to carry out such inspections.

10.3.4 The payment of all financial requirements herein are received.

10.3.5 Upon satisfaction of the foregoing conditions, the remaining deposit for Secondary Services shall be returned to the Developer.

**11 PRECONDITIONS PRECEDENT TO THE ASSUMPTION OF TERTIARY SERVICES AND THE RELEASE OF SECURITY**

11.1 INSTALLATION

11.1.1 Tertiary Services shall be installed for each lot within sixty days of the completion of the house upon the said lot or the occupancy of the house, whichever first occurs. Where the commencement date for the installation of Tertiary Services falls between the 1st of December and the 30th of April, the services shall be installed by the 30th of June next following. Upon completion of 25%, 50%, 75% and 100% of the Tertiary service to the satisfaction of the Director of Public Works, he shall issue a Certificate of Completion of such percentage of the Tertiary Services.

11.2 REDUCTION OF LETTERS OF CREDIT

11.2.1 Forty-five (45) days after issuance of the certificate the completion of 25%, 50%, 75% and 100% of the Tertiary Services, the Developer may apply to the Director of Corporate Services and provided no construction liens are registered, the Town will return the letters of credit for the percentage of work that has been completed and shall retain only the 10% of the deposit for such

percentage as is completed but shall retain letters of credit and deposits for the remaining Tertiary work.

### 11.3 ASSUMPTION AND RETURN OF DEPOSIT

The Tertiary Services shall be assumed upon:

- 11.3.1 The expiration of one (1) year from the certificate of the Director of Public Works that 100% of the Tertiary Services have been completed.
- 11.3.2 The completion of such repairs as may be required by the Town to bring the works to the standards set forth in the plans and specifications.
- 11.3.3 When the Director of Public Works receives written application for the assumption, the Town shall have thirty days (30 days) to carry out such inspections.
- 11.3.4 The payment of all financial requirements herein are received.
- 11.3.5 The re-staking of all key points in the Subdivision in accordance with the Surveys Act and Regulations thereunder.
- 11.3.6 The Developers engineer certifying to the Director of Public Works that the grading has been completed in accordance with the approved 'General Grading Plan'.
- 11.3.7 The Developers engineer supplying the Director of Public Works with a set of 'As Constructed Drawings' of all the works in a reproducible form satisfactory to the Director of Public Works.
- 11.3.8 When all matters, works, services and things required to be constructed, installed, or done by the Developer shall, in the opinion of the Director of Public Works, have been accomplished strictly in accordance with this Agreement and to the specifications and satisfaction of the Director of Public Works, the Director of Public Works shall issue to the parties hereto the Final Certificate of Approval.

## **12 RESTRICTIVE COVENANTS**

- 12.1 Pursuant to the Planning Act, this Agreement shall be binding upon the Developers, their heirs, executors, administrators, assigns and successors in title and Developers from time to time of the lands described in Schedule A to this Agreement and any part or parts thereof and that the benefit of the same covenants shall enure to the Town, its successors and successors in title of all roads, streets and public lands forming part of or abutting on the said lands described in Schedule 'A'. In particular the 'General Lot Grading Plan' shall be maintained in perpetuity or at the discretion of Council.

- 12.2 It is agreed and understood that the Developer and the Town shall have the right to enter upon the lands described in Schedule A from time to time to undertake any drainage works which may be deemed necessary by the Director of Public Works and or the Director of Planning and Development Services in order to ensure compliance with the 'General Grading Plan'. In the event the Town finds it necessary to undertake any drainage works the cost of any such works performed by the Town, shall be paid by the Owner upon demand. It is agreed and understood that should the Town find it necessary to enter upon the lands to undertake any drainage works that the Town shall proceed with reasonable care but shall not be responsible for the final restoration of any property including fences, gardens, landscaping, etc.
- 12.3 The Developer agrees that there shall be no open burning of waste construction materials unless specifically approved by the Town Fire Department.
- 12.4 The Developer include in all offers of purchase and sale, of those lots where the sidewalk location has been approved, a requirement that indicates that a sidewalk will be installed and constructed within the road allowance of such lot(s).
- 12.5 The Developer agrees to include a requirement in all offers to purchase and sale that the purchaser agrees to maintain any grassed boulevard including turning circle islands directly in front of his lot.
- 12.6 The Developer agrees to include a requirement in all offers to purchase and sale that the purchaser agrees to keep the sidewalk directly in front his lot clear from snow.
- 12.7 The Developer agrees that all offers and agreements of purchase and sale shall contain a clause notifying Owners that the general tidy appearance and maintenance of individual lots shall be the responsibility of the individual property Owner upon purchase of said lot.
- 12.8 The Developer will indemnify and save harmless the Town from and against all actions, causes of actions, 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 consequences related to the discharge of storm water.
- 12.9 **WARNING CLAUSE:** An electrical distribution line operation at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 - Proximity - of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is the proponent's responsibility to be

aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors could raise or lower without warning, depending on the electrical demand placed on the line. Warnings signs should be posted on the wood poles supporting the conductors stating "DANGER-Overhead Electrical Wires" in all locations where personnel and construction vehicles might come in close proximity to the conductors.

12.10 The Developer agrees that the following clause shall be inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit:

*"That mail delivery will be from a designated Centralized Mail Box."*

12.11 All future occupants of the lots within the subdivision are aware that from time to time the lands may be exposed to noise, odour and dust from nearby agricultural operations and agricultural-related traffic, industrial operations and industrial/commercial traffic that may occasionally interfere with some activities of the owners who may occupy these lands. The Developer agrees that a similar warning clause shall be inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit, advising of such potential exposure and interference.

12.12 All future occupants of the lots within the subdivision are aware of the potential noise and odour impacts from the sewage pumping station in Block 239. The Developer agrees that a similar warning clause shall be inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit, advising of such potential impacts.

12.13 The Developer agrees to implement all other warning clauses recommended in the Noise Feasibility Study prepared by HGC Engineering, dated October 10, 2013, and the subsequent addendum letter dated February 4, 2014.

### **13 DEFAULT**

13.1 Upon breach by the Developer of any covenant, term, condition or requirement of this Agreement, the Town on forty-eight (48) hours notice to the Developer, or immediately in the event of an emergency, enter upon the lands and remedy such breach and charge the cost thereof to the Developer.

### **14 SCHEDULES**

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

## **15 ARBITRATION**

15.1 If a dispute arises between the parties prior to notice of final default involving a material breach of covenant liability for any payment or other amounts claimed to be owing, by one party against the other, in substitution of any other remedy available to each party at law in equity or pursuant to this Agreement either party may submit the dispute to arbitration in the manner hereinafter set forth:

15.1.1 The party seeking arbitration shall give the other party written notice of the issue to be arbitrated, and the relief or remedy desired.

15.1.2 The party receiving the notice as above shall within three (3) working days thereof agree to the relief or remedy desired or failing such agreement and within the three (3) working day period, respond in writing by naming an Arbitrator.

15.1.3 Within three (3) working days, the party seeking arbitration shall name its Arbitrator. Both Arbitrators shall choose a third Arbitrator within three (3) working days. If any one party fails to appoint an Arbitrator in time, a single Arbitrator shall conduct the arbitration.

15.1.4 The hearing to take place within three (3) working days of the appointment of the third Arbitrator, or a single Arbitrator becoming empowered by Clause (c). The Arbitrators shall bring down their report within (10) working days of the hearing. The costs of arbitration shall be borne equally by the parties unless the Arbitrators specifically award costs to either party.

15.1.5 The award or decision of the Arbitrators shall be binding upon the parties hereto.

## **16 MORTGAGEES**

16.1 The mortgagees hereby acknowledge the terms of this Agreement and agree that in the event it takes possession of the said lands, or the interest of the Developer is vested in it, it and anyone acquiring title under it shall be required to comply with the terms of this Agreement to the same extent as if they had been the original Developer.

**THIS AGREEMENT** and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto and upon those persons or corporations hereafter acquiring title to all or any part of the lands described in Schedule A attached hereto.



ANY NOTICE GIVEN HEREUNDER SHALL BE SUFFICIENTLY GIVEN AND  
ADDRESSED TO THE DEVELOPER AND MORTGAGEE BEING:

**DEVELOPER:**

|                         |
|-------------------------|
| SOLMAR HOMES INC.       |
| <b>122 Romina Drive</b> |
| <b>Concord, Ontario</b> |
| L4K 4Z7                 |

**IN WITNESS WHEREOF** the Developers have hereunder set their hand seal  
and Town has hereunto affixes it Corporate Seal under the hands of its Lord  
Mayor and Town Clerk.

SIGNED, SEALED AND DELIVERED  
in the presence:

**THE CORPORATION OF NIAGARA-ON-  
THE-LAKE:**  
per:

\_\_\_\_\_  
**LORD MAYOR DAVE EKE**

\_\_\_\_\_  
**TOWN CLERK HOLLY DOWD**

**SOLMAR HOMES INC.:**  
per:

\_\_\_\_\_  
I, \_\_\_\_\_, have the authority to bind  
the corporation.

**BANK OF MONTREAL:**  
per:

\_\_\_\_\_  
I, \_\_\_\_\_, have the authority to  
bind the corporation.

**SCHEDULE A**  
**LEGAL DESCRIPTION**

PIN: 46376-0390 (LT)

Part Township Lots 88 & 89 Niagara, Parts 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10 Plan 30R-14121; Subject to an Easement in Gross over Part Township Lot 88 Niagara, Parts 3, 8 & 10 on 30R-14121 as in RO817707 & NR165866; Subject to an Easement in Gross over Part Township Lot 88 Niagara Parts 2, 3, 4, 5, 7, 8, 9 on 30R-14121 as in RO691836 (R072655); Subject to an Easement in Gross over Part Township Lots 88 & 89, Part 1 Plan 30R-14121 in favour of Part Township Lots 88 and 89 Niagara, Parts 13, 16, 19, 20, 21 & 22 Plan 30R-14121 AS IN NR330615; Town of Niagara-on-the-Lake

**SCHEDULE B****FINAL PLANS, LAND DEDICATIONS, EASEMENTS, AND RELATED MATTERS****1. FINAL PLANS**

The final Plan means the plan "Cannery Park", being Part of Township Lots 88 & 89 in the Town of Niagara-on-the-Lake prepared by Brent Laroque dated September 22<sup>nd</sup>, 2012, and revised on December 10<sup>th</sup>, 2012, showing 235 residential lots, including a stormwater pond (Block 237), a park (Block 241), and pedestrian pathways (Blocks 238, 242, 243) on Plan 30M-\_\_\_\_\_.

**2. LAND DEDICATIONS & EASEMENTS**

NOTE: All lands deeded to the Municipality shall be free and clear of any mortgages, liens, and encumbrances, to the satisfaction of the Municipality.

- 2.1 That Block 237 as shown of the Final Plan, 30M-\_\_\_\_\_ is placed in public ownership free and clear of any mortgages, liens or encumbrances for stormwater pond use.
- 2.2 That Blocks 238, 242, and 243 as shown on the Final Plan, 30M-\_\_\_\_\_ are placed in public ownership free and clear of any mortgages, liens or encumbrances for pedestrian walkway use.
- 2.3 That Block 241 as shown of the Final Plan, 30M-\_\_\_\_\_ be placed in public ownership free and clear of any mortgages, liens or encumbrances for parkland use.
- 2.4 That all public streets, lanes, daylight triangles and easements be transferred to the Town of Niagara-on-the-Lake free and clear of any mortgages, liens and encumbrances.
- 2.5 The Developer agrees to grant, on request and as required by the municipality, any easements for the placing of services or utilities, including, but not limited to a 1.5m easement over the frontage of all lots fronting on a 15m road right-of-way, including Block 241.
- 2.6 That a 0.3m reserve, shown as Block 240 on the Final Plan, 30M-\_\_\_\_\_ be dedicated to the Town to prohibit access along Street 'D' across the exposed frontage of the employment lands.

**NOTE:**

The Developer shall provide the deeds of conveyance along with confirmation of the partial discharge of any mortgagee or other encumbrance affecting the lands being conveyed to the Town.

**1. Conveying**

- a) As the land mentioned above to be conveyed to the municipal corporation may be more easily described in the conveyance by reference to a Registered Plan than by "metes and bounds", we suggest that the description be so worded, and,
- b) We further suggest that the owner give to the municipality an undertaking to deposit with the Clerk a properly executed copy of the conveyance concurrent with the registration of the Plan.

**2. Land Required to be Registered Under the Land Titles Act**

- a) Section 160(1) of The Land Titles Act, which requires all new plans be registered in land titles system;
- b) Section 160(2) - allows certain exceptions.

**SCHEDULE C****PRIMARY SERVICES****1. ROADS**

- 1.1. All roads dedicated as public highways shall be constructed to urban design standards with the pavement width being 8.5 metres from curb face to curb face; a granular depth of 450 mm and 50 mm HL8 HS asphalt; and concrete curb and gutter of standard type O.P.S.D. 600.04; to the satisfaction of the Town and all in accordance with the engineering plans approved by the Department of Public Works.
- 1.2. The Developers shall maintain and repair temporary roadways until trench settlement has ceased and adequate compaction of the road sub grade has taken place to permit commencement of permanent pavement construction. In the interest of public safety, all roads shall be kept clear of obstructions and storage of construction materials.
- 1.3. All manhole tops shall be originally set level with the base course of asphalt.
- 1.4. The Developer is responsible to carry out and pay all costs of restoration of the existing roads from any damages resulting from the servicing and construction of the development.
- 1.5. That during the construction of development the site will be kept in a reasonable tidy condition as 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 and that any standing water is eliminated.
- 1.6. Install concrete pads in accordance with the requirements of, and in locations to be approved by Canada Post.
- 1.7. Identify the concrete pads on the engineering servicing drawings. The pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.

**2. ELECTRICAL**

- 2.1. The Developers shall enter into a separate agreement with Hydro whereby the Developers agree to pay all necessary capital contributions towards the supply to the electrical system.
- 2.2. The Developer shall submit a residential street lighting plan for approval by the Public Works Department. The plan will consist of the design & installation of all lighting facilities, including lamp standards, conduits, lamps and control mechanisms in accordance with current TAC, Town, and Niagara-on-the-Lake Hydro standards. The type, number of lights, and their location including a lighting pattern from the manufacturer together with the estimated cost of the total installation must be approved by Niagara-on-the-Lake Hydro and Public Works.

**3. SANITARY SEWER**

- 3.1. All sewers shall be installed in accordance with engineering plans approved by the Director of Public Works. The sanitary sewer system shall meet the design criteria of the Regional Municipality of Niagara and the Ministry of Environment and Energy for domestic waste.

- 3.2. The pipe sizes selected shall have sufficient capacity to serve the ultimate drainage area in which the Subdivision is located and as designated or approved by the Director of Public Works.

#### 4. PRIVATE DRAIN CONNECTIONS

- 4.1. The Developers shall construct individual service laterals (separate sanitary connections (laterals)) to each lot from the street sewer main to the street property line. The sanitary sewer lateral shall be a minimum 125 mm diameter PVC DR28 with proper waterproof plug fittings approved by the Director of Public Works.
- 4.2. The ends of sanitary sewer laterals shall be marked with a wooden stake painted green.

#### 5. STORM SEWER AND STORMWATER MANAGEMENT SYSTEM

- 5.1. The development will utilize the existing road ditches as outlets. The proposed flows must not exceed pre-development levels and storm sewer quality must be addressed
- 5.2. The storm sewer shall be designed to accommodate the runoff from the total catchment area and development drainage area, and all roof water, drainage from basement weeping tile and surface runoff from all roads and abutting properties. The rational method together with the Town rainfall chart and runoff coefficients shall be used to determine discharge capacity for 5-year return storm.
- 5.3. Concrete storm sewer pipe, or other approved type shall be used; minimum pipe size for storm sewer shall be 300 mm diameter, except where otherwise specified by the Director of Public Works. Surface drainage shall be collected by means of catch basins as per the following detail. Maximum length of gutter flow shall be 100 meters.
- 5.4. Storm laterals will be provided for individual lots within the development. The sump pumps will be connected to the service connections and the roof leaders will discharge to the rear of the properties and at grade directed toward the rear yard grassed swale.

#### **NOTE**

##### **Water and Sewage Systems**

Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to approval of the Ministry of the Environment under Section 52 and Section 53 of The Ontario Water Resources Act, R.S.O. 1990.

#### 6. WATERMAINS

- 6.1. All watermains shall be installed in accordance with the Engineering Plans approved by the Director of Public Works. The watermain system shall meet the design criteria of the Regional Municipality of Niagara and Ministry of Environment. All alterations, relocations or connections to the existing water system will be the responsibility of the Developer and shall be approved by the Director of Public Works.
- 6.2. The Developer shall construct complete watermain system or systems and all necessary appurtenances, including hydrants, cathode protection and 19mm house water service connections from the watermain to the lot line. The design shall be as approved by the Director of Public Works and constructed in accordance with his specifications.

- 6.3. The Developer shall submit supporting documentation to the Town Public Works Department and Fire Department that the proposed water system design will deliver adequate fire flows.
  - 6.4. The Developer shall provide a metered minimum 3/4 inch diameter copper water service to each lot.
  - 6.5. Where hydrants have been installed but not yet functional or out of service they shall be clearly identified (bagged) as to be not in service.
  - 6.6. The Town Fire Department will be required to approve the number and location of all proposed fire hydrants.
  - 6.7. All hydrants shall be free of obstructions after being activated.
  - 6.8. Hydrants 'style' shall comply with the requirements of the Department of Public Works
  - 6.9. All hydrants and water flow must meet NFPA standards.
7. SIDEWALKS (Primary)
- 7.1. The Developer shall to the satisfaction of the Town Public Works Department:
    - 7.1.1. At its own expense, construct a 1.5 metre sidewalk along one side of all internal streets in the subdivision
    - 7.1.2. At its own expense, construct the 3.0 metre walkways required in Blocks 238, 242 and 243.
    - 7.1.3. At its own expense, construct a 1.5 metre sidewalk along the east side of Four Mile Creek Road.
    - 7.1.4. At its own expense, construct a 1.5 metre sidewalk along the south side of Line 9 Road.
    - 7.1.5. At its own expense, construct a 1.5 metre sidewalk along the west side of Concession 3 Road, from Line 9 Road to Concession 3 Road. The Town will reimburse the Developer for 50% of the cost of the sidewalk from the south limit of the subdivision to York Road, once the sidewalk is complete.
  - 7.2. That the Developer agree not to damage or remove any survey evidence adjacent to road allowances and easements during the development of the property and shall obtain a certificate from an Ontario Land Surveyor stating that all existing and new evidence is in place at the completion of the development

**SCHEDULE D**  
**SECONDARY SERVICES**

- 1 40 mm HL3 top coat of asphalt.
- 2 All manhole covers shall be raised to finished elevation prior to topcoat of asphalt.

**SCHEDULE E**  
**TERTIARY SERVICES**

1 **BOULEVARDS:**

- 1.1 A minimum of 50 mm of topsoil shall be applied from the curb road to the property lines and shall be sodded.
- 1.2 The driveway area between the curb and/or property line, or the sidewalk as the case may be, shall be, at a minimum, asphalt paved or such other of materials to the satisfaction of the Director of Public Works.
- 1.3 Trees shall be placed in locations according to the Tree Planting Plan approved by the Director of Parks and Recreation and the Director of Public Works.
- 1.4 Trees shall have a minimum calliper of 50 mm measured at a point 500 mm above the ground.
- 1.5 The type of tree to be planted shall be mutually agreed upon and approved by the Director of Parks and Recreation in accordance with the approved Tree Planting Plan.

2 **GENERAL**

- 2.1 Domestic waste from any building constructed on any lot shall be discharged into the sanitary sewer system through a drain connected to the sanitary lateral servicing such lot. It is noted that sanitary sewers may not be deep enough to service basement connections.
- 2.2 Roof water or discharge from a sump pump for any building constructed on any lot must be discharged to the surface at the rear of such lot. No connections shall be made to any existing field tile drainage systems.
- 2.3 Sump pump outlets for lots fronting on existing public roads will be diverted to the rear lot drainage works.
- 2.4 The Developer shall be responsible for any damage caused to such watermains and appurtenances that may occur during construction of buildings and during the lot grading.



**SCHEDULE F**  
**SECURITY DEPOSITS AND REQUIRED PAYMENTS**

| Item   | Reference | Subject   | Est. Cost      | L of C         | Cash   |
|--|-----------|---|----------------|----------------|--|
| Prior to Signature:                            |           |   |                |                |  |
| 1.   | 3.1       | Tax Arrears @ May 1, 2014                       |                |                | \$0  |
| <b>Total</b>                                   |           |   |                |                |  |
| Preconditions of the Construction of Services: |           |   |                |                |  |
| 1.   | 4.26.1    | Primary Services - 20%                          | \$5,607,546.57 | \$1,121,509.31 |  |
| 2.   | 4.26.2    | Secondary Services - 100%                       | \$389,134.49   | \$389,134.49   |  |
| 3.   | 4.26.3    | Tertiary Services - 100%                        | \$182,486.56   | \$182,486.56   |  |
| 4.   | 6.3       | Inspection                                      |                |                | \$52,650.00                                      |
| 5.   | 4.39      | Signs   |                |                | \$3,000.00                                       |
| 6.   |           | Maintenance of Public Roads during construction |                |                | \$4,000.00<br>(return all or any unused portion) |
| <b>Total</b>                                   |           |   |                |                |  |
|  |           |   |                |                |  |
| Prior to Issuance of Building Permit           |           |   |                |                |  |
|  | 8.1.2     | Lot Grading Deposit                             |                |                | Prevailing lot grading deposit                   |

## NOTE:

- Water Metering and Curb Cuts should be incorporated in the cost estimate for Primary Services.
- Separate Agreement with Niagara-on-the-Lake Hydro and other utilities (e.g., Canada Post) may be required.
- Inspection Deposit based on 90 working days.

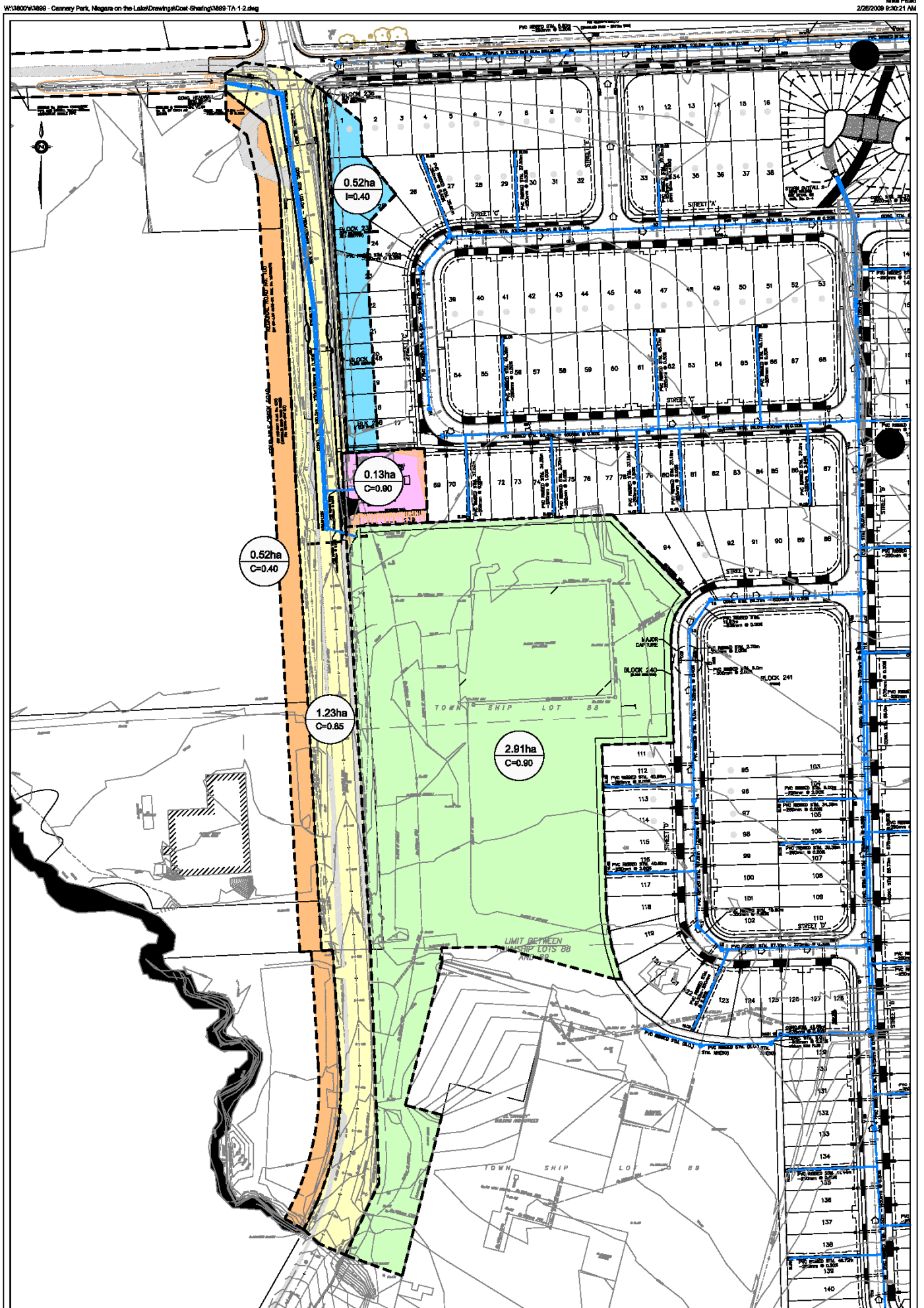
**SCHEDULE G****ENGINEER'S UNDERTAKING OF WORKS**

- 1) The Developer's engineer shall:
  - a) Design all the works covered by this Agreement and file with the Town a written undertaking:
    - i) That he has been engaged by the Developers to supervise the work and will complete the work as required by this Agreement,
    - ii) That the work will be done in accordance with the approved contract drawings and specifications and all other provisions of this Agreement, and,
    - iii) That all phases of the work are subject to the approval of the Director of Public Works.
  - b) Conduct such soil tests as may be required by the Director of Public Works.
  - c) Prepare a 'Storm water Management Plan' and a 'General Grading Plan' for surface drainage of all lands in the plan of subdivision, the said plan to clearly indicate the existing drainage pattern on all adjacent lands and to provide for the direction of all surface drainage, including water from adjacent lands originally flowing through, into or over the area of the proposed Subdivision, to the street storm sewer systems or any other outlet approved by the Director of Public Works
  - d) The engineer shall from time to time provide the Town upon request with verification that the lot grading is in conformity with the General Grading Plan.
  - e) Upon completion of the project, the design engineer shall certify that all grading, storm sewers, and stormwater management controls (including off site outlets) have been constructed in general conformity to the approved drawing and shall circulate copies of the certification to the Niagara Peninsula Conservation Authority.
  - f) Prepare plans, profiles and specifications for the said works using the following guidelines:
    - i) Title block 13 cm x 8 cm to be placed in lower right hand corner and shall indicate nature of work.
    - ii) A complete copy of design details and calculations of storm and sanitary sewer designs which shall be based on design formula provided by the Town.
    - iii) Plan-profiles shall be fully detailed and where reference is made to other construction drawings, specific reference to those drawing numbers shall be made and shall be 60cm x 84cm.
    - iv) Horizontal ties shall be made to the property lines.

- v) Levels shall be to datum and all field surveys shall be tied into geodetic benchmarks.
- vi) As built construction plans to be electronic format (AutoCAD).
- vii) Prepare applications to the necessary authorities and obtain approval for the works.

**SCHEDULE H**

**LANDS BENEFITTING FROM THE FOUR MILE CREEK ROAD STORM  
WATER MANAGEMENT WORKS**



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Tel: (905) 738-6100 Email: general@schaeffers.com

| LEGEND   |                            |
|--|----------------------------|
| <span style="color: blue;">■</span>  | CANNERY PARK SUBDIVISION   |
| <span style="color: green;">■</span>   | COLD STORAGE FACILITY      |
| <span style="color: orange;">■</span>  | REMAINING LANDS            |
| <span style="color: yellow;">■</span>  | FOUR MILE CREEK RD. R.O.W. |
| <span style="color: pink;">■</span>  | PUMP STATION               |
| <span style="border: 1px solid black; display: inline-block; width: 10px; height: 10px;"></span> | AREA BOUNDARY              |

**CANNERY PARK SUBDIVISION  
PROPERTY BOUNDARY PLAN**

|           |            |               |
|-----------|------------|---------------|
| 2013-3889 | MARCH 2014 | SCALE: N.T.S. |
|-----------|------------|---------------|

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Mike Pridin  
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