

LRO # 30 Notice Of Subdivision Agreement

Received as NR191203 on 2008 10 08 at 11:16

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 34

**Properties**

**PIN** 46373 - 0365 LT ☒ Affects Part of Prop

**Description** LOTS 1 TO 26, BLOCKS 27 TO 32, PLAN 30M-384  
LOT 2 SUBJECT TO EASEMENT IN GROSS OVER PART 17, 30R-11729 AS IN  
NR93643;  
NIAGARA-ON-THE-LAKE.

**Address** NIAGARA-ON-THE-LAKE

**Applicant(s)**

The notice is based on or affects a valid and existing estate, right, interest or equity in land.

**Name** THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

**Address for Service** 1593 Creek Road, P.O. Box 100, Virgil ON L0S 1T0

I, Lord Mayor Gary Burroughs and I, Holly Dowd, Town Clerk, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Party To(s)****Capacity****Share**

**Name** ST. DAVIDS HERITAGE DEVELOPMENTS INC. Registered Owner

**Address for Service** Suite 200  
242 Main Street East  
HAMILTON, Ontario  
L8N 1H5

**Statements**

This notice is for an indeterminate period

Schedule: See Schedules

**Signed By**

Callum Shedden	39 Queen St. P.O. Box 24022 St. Catharines L2R 7P7	acting for Applicant(s)	Signed	2008 10 06
Tel 9056881125				
Fax 9056885725				
Mark Alan Scholes	200-242 Main Street East, Hamilton L8N 1H5	acting for Party To(s)	Signed	2008 10 08
Tel 9055231842				
Fax 9055234011				

**Submitted By**

WEISZ, ROCCHI & SCHOLES	200-242 Main Street East, Hamilton L8N 1H5	2008 10 08
Tel 9055231842		
Fax 9055234011		

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

**File Number**

Applicant Client File Number : 36166

**CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO. 4231-08**

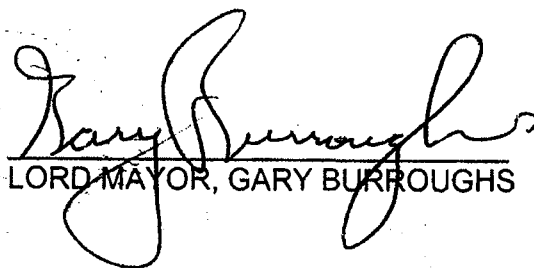
Apricot Glen Subdivision  
Roll No # 2627 020 025 10200

A BY-LAW TO AUTHORIZE A SUBDIVISION AGREEMENT  
BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-  
ON-THE-LAKE AND ST. DAVIDS HERITAGE DEVELOPMENTS  
INC. AND DEBORAH MARIE FEDORKOW AND JOHN  
FEDORKOW AND THE EFFORT TRUST COMPANY

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 16<sup>th</sup> day of June 2008 between the Corporation of the Town of Niagara-on-the-Lake and St. Davids Heritage Developments Inc. and Deborah Marie Fedorkow and John Fedorkow and The Effort Trust Company, and the same is hereby approved; and
2. THAT the Lord Mayor and 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 16<sup>th</sup> DAY OF  
JUNE 2008**

  
LORD MAYOR, GARY BURROUGHS

  
TOWN CLERK, HOLLY DOWD

THIS INDENTURE made in triplicates this 16th day of June, 2008.

BETWEEN:

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

OF THE FIRST PART,

-And-

**ST. DAVIDS HERITAGE DEVELOPMENTS INC.**  
(Hereinafter called the 'Developer')

OF THE SECOND PART,

-AND-

**DEBORAH MARIE FEDORKOW  
JOHN FEDORKOW  
THE EFFORT TRUST COMPANY**  
(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 Subdividers 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 "Apricot Glen Phase 2 Subdivision", being part of Part of Lot 92 in the Town of Niagara-on-the-Lake, prepared by William A. Mascoe, Ontario Land Surveyor, dated March 24, 2008 showing 26 single detached residential lots, 2 blocks for street townhouses, 1 block for access to future development, 1 block for a buffer and 2 blocks for access reserves.

**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 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 foregoing, engineering plans, street lighting plans, landscape and fencing plans (which include the plans for the noise attenuation works), landscape plans, 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, ie. '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 Land' means the property shown in Schedule 'A'.
- 1.20 '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 and connection of utilities and meters.

## **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 to pay all arrears of taxes outstanding and all taxes for the current year in respect to the Lands described in Schedule 'A', prior to the execution of this Agreement by the Town.
- 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 will prepare cost estimates for the construction of all Primary, Secondary and Tertiary off-site and on-site 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 lands and easements for public purposes, as described in Schedule 'B' hereto or if the subdivision is to be 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 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.
- 3.6 The Developer shall pay to the Town cash in the amount of 5 % of the appraised value of the lands described in Schedule 'A' to satisfy the requirements for Parks Dedication pursuant to section 51.1 (1) of the Planning Act and as detailed in Schedule 'F' attached hereto.
- 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 agrees that the commitment of servicing allocation by the Regional Municipality of Niagara will be assigned at the time of final approval of the Subdivision for registration purposes.
- 3.10 The Developer shall provide the Regional Niagara Planning and Development Department with a written undertaking that all offers and agreements of purchase and sale, which may be negotiated prior to registration of this subdivision, shall contain a clause clearly indicating that a servicing allocation for this subdivision will not be assigned until the plan is granted final approval for registration.
- 3.11 The Developer shall ensure the number and location of access(es) onto Regional Road No. 100 (Four Mile Creek Road) are to the satisfaction of the Regional Public Works Department.
- 3.12 The Developer is required to enter into an agreement with the Region for any works required to improve/restore Regional Road No. 100 and assume responsibility for the full cost. All work shall be in accordance with the Region's specifications.
- 3.13 The Developer shall submit two (2) copies of a Stormwater Management Report indicating the intended treatment of the calculated runoff to the Ministry of Transportation for their review and approval.
- 3.14 The Developer shall submit two (2) copies of an illumination plan with calculations indicating the lighting levels at the Highway 405 property line to the Ministry of Transportation for their review and approval.

#### **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 Before commencing any of the works provided for herein, 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 prepare a detailed sedimentation and erosion control plans for review and approval by the Niagara Peninsula Conservation Authority. All sedimentation and erosion control measures shall be maintained in good condition for the duration of



construction until all disturbed surfaces have been stabilized. Muddy water shall not be allowed to leave the site.

- 4.7 The Developer shall submit to the 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 (the plan should provide Level 2 protection) and the following plans designed and sealed by a suitably qualified professional engineer in accordance with the Ministry of the Environment documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991:

4.7.1 Detailed lot grading and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;

4.7.2 Detailed sediment and erosion control plans.

**Note;** The Region will request the Niagara Peninsula Conservation Authority to review the stormwater management plan and other related plans on the Region's behalf and to submit comments to the Regional Planning and Development Department regarding the approval of these plans and the subsequent clearance of related conditions by Regional Planning staff.

- 4.8 The Developer shall obtain Ministry of the Environment Certificates of Approval for the necessary servicing (watermains, storm sewers and sanitary sewers) for this development to the satisfaction of the Regional Public Works Department.

**Note:** The design of any new stormwater management system should be submitted directly to the Ministry of the Environment, Toronto office, for approval and issuance of a Certificate of Approval.

- 4.9 The Developer will provide to the Regional Planning and Development Department a Phase I Environmental Site Assessment (ESA) in accordance with Ministry of Environment (MOE) Regulation 153/04. If a Phase I ESA indicates that further evaluation and soil testing should be done, a Phase II ESA should be undertaken with any required remediation completed with a Record of Site Condition (RSC) filed with the Ministry registry and acknowledged by the Ministry of Environment.

- 4.10 The Developer will submit detailed design drawings complete with calculations for the watermain system, the sanitary sewer system and the stormwater drainage system including fire hydrant locations required to service the subdivision to the Town Public Works Department and the Town Fire Department for review and approval.

- 4.11 The Developer agrees to provide a grading plan to the Town for review and approval by the Director of Public Works. The plan will have regard for all the adjacent property elevations and drainage and provide elevations and notes for the following:
  - 4.11.1 Lot corners
  - 4.11.2 Apron elevations
  - 4.11.3 Sump pump discharge locations
  - 4.11.4 Note for roof leader discharge
  - 4.11.5 Note that the maximum height of the concrete showing on the foundation wall shall not be more than 30.48 cm (12 inches) above the final approved grade elevation
- 4.12 The Developer shall ensure all sanitary sewer, watermain and storm sewer construction will be in accordance with current Town specifications and subject to approvals by the Ministry of Environment (MOE) and the Town Public Works Department.
- 4.13 The Developer shall ensure all proposed infrastructure will be constructed to current Town specifications and subject to Town inspection at the Developer's expense.
- 4.14 The Developer shall submit a residential street lighting plan for approval by the Town Public Works Department. The street lighting poles and fixtures are to be the same as provided in the first phase of Apricot Glen.
- 4.15 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.
- 4.16 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 carrying out 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.
- 4.17 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.

- 4.18 The Letter(s) of Credit 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.
- 4.19 The Developer shall be responsible for all costs to construct a 1.5m concrete sidewalk along one side of internal streets to the satisfaction of the Town. Also, the Developer shall pay 50% of the construction cost for the installation of a 1.5 m concrete sidewalk along the west side of Four Mile Creek between Creekside Drive and the existing municipal sidewalk.
- 4.20 The Developer shall post letters of credit or cash deposits with the Town for the Subdivision 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:
- 4.20.1 Primary Services-Letter of Credit equal to 20% of the estimated cost.
- 4.20.2 Secondary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.20.3 Tertiary Services-Letter of Credit equal to 100% of the estimated cost.
- 4.21 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.
- 4.22 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.
- 4.23 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.

- 4.24 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.
- 4.25 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.
- 4.26 The Developer shall provide the following information to the Town Public Works Department in order that appropriate securities can be calculated:
  - 4.26.1 Cost of all on-site and off-site construction.
  - 4.26.2 Number of working days associated with the construction.
- 4.27 The Developer agrees to enter into a separate Development Agreement with Niagara-on-the-Lake Hydro for the provision of hydro services.
- 4.28 The Developer agrees to provide at its own expense, centralized mailboxes within the development, the locations to be subject to the approval of Canada Post and the Town of Niagara-on-the-Lake. The location of the centralized mailbox shall be shown on the servicing drawings.
- 4.29 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.
- 4.30 The Developer must obtain a Regional Construction Encroachment and/or Entrance Permit prior to any construction taking place within the Regional Road allowance.
- 4.31 The Developer shall undertake a Traffic Impact Study (TIS) and any recommendations from the TIS or recommendations from the Regional Transportation staff, solely at the Developer's expense.
- 4.32 Prior to commencing the construction of underground services, the Developer shall carry out a Stage 1 and 2 Archaeological Assessment of the subject property submitted to the Ministry of Culture for review and approval. Furthermore the Developer agrees that no grading or other soil disturbances take place on the subject property prior to the

Ministry of Culture through the Regional Planning Department and the Town of Niagara-on-the-Lake confirming that all archaeological resource concerns have met licensing and resource conservation requirements and that a copy of the Archaeological Assessment report be submitted to the Town Planning and Development Services Department.

- 4.33 The Developer shall pay cash deposits to erect street name signs and regulatory signs (e.g. stop signs; no exit signs, unassumed road, 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 Redhaven Drive and Bunny Glen Drive are connected as through streets to Phase 1 of the Apricot Glen development in order to provide curbside collection of waste.

## **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 shall submit detailed calculations to confirm adequate capacity with respect to sanitary sewers for this development and the future development to the south to the Town's Public Works Department.
- 5.3 The Developer shall ensure that the stormwater outlet to Four Mile Creek Road is completed to the satisfaction of the Town's Public Works Department in accordance with the approved plans for Phase 1 of Apricot Glen Subdivision.
- 5.4 The Developer agrees to implement the approved stormwater management, erosion and sediment control measures required in accordance with Section 4.7.
- 5.5 The Developer shall 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 and that any standing water is eliminated. As such, the Developer shall pay to the Town a deposit as indicated in Schedule 'F' attached.
- 5.6 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.

- 5.7 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 'General Grading Plan'.
- 5.8 The Developer shall construct at its expense the Primary Services for the proposed Subdivision in accordance with the terms of Schedule 'C' attached hereto.
- 5.9 The Developer shall construct at its expense all Secondary Services necessary to service the proposed development in accordance with the terms of Schedule 'D' of this Agreement.
- 5.10 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.
- 5.11 The Developer shall ensure all the road and road entrance designs are constructed to current Town and Regional standards and approved by the Town and Regional Public Works.
- 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 shall be underground.
- 5.14 The Developer shall ensure that watermains 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 that the streets, access reserve blocks (Blocks 31 and 32) and Block 30 are transferred to the Town free and clear of any mortgages, liens and encumbrances.

## **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.

## **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 development.

8.1.2 The Developer 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 The Developer implements all relevant recommendations of the approved noise feasibility study, including:

8.1.7.1 An acoustic barrier is required for Blocks 28 and 29.

8.1.7.2 Mandatory air conditioning units will be required and warning clauses for the entire subdivision.

8.1.8 Installation of all street and regulatory signs in the Subdivision to the satisfaction of the Director of Public Works.

- 8.1.9 The Developer agrees that the development will be subject to the review and approval of the Director of Planning and Development Services Department regarding streetscape design and urban design considerations which includes building scale, massing design and garage location for each lot in accordance with the Urban Design Guidelines prepared for St. Davids.
- 8.1.10 The Developer agrees to provide suitable buffering either through fencing or landscaping to screen the street townhouses on Block 29 from the existing residential development along Tanbark Road.
- 8.2 Notwithstanding 8.1 above, a conditional Building Permit may be issued for the construction of model homes, constituting not more than 10% of total lots, provided that the model homes 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. 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 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 or the issuance of the first non-conditional building permit, whichever is later.
- 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, and the payment of all financial requirements herein that are then due.
- 9.4 The payment of all financial requirements herein that are due.
- 9.5 Upon satisfaction of the foregoing conditions the deposit or letter of credit for Primary Services or the amount thereof remaining 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 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 the 10% cash 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, and

10.3.4 The payment of all financial requirements herein that are due.

10.3.5 Upon satisfaction of the foregoing conditions the deposit for Secondary Services or the amount remaining thereof 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% cash 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 financial requirements herein that are due.

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.

- 11.4 Upon satisfaction of the foregoing conditions the deposit or Letter of Credit for Tertiary Services or the amount thereof remaining shall be returned to the Developer and upon completion of the Tertiary Services for all phases the Town shall dedicate as a public road any one (1) foot reserve lying between the Subdivision and any assumed public roadway.

## **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 to include warning clauses in the property and tenancy agreements for all the dwelling units with sound level excesses. The actual wording and type of warning clause will be as stipulated in the approved Noise Feasibility Study.

12.3.1 The types of warning clauses to be include as per lot.

Lots	Air Conditioning	Exterior Wall	Exterior Window	Sound Barrier	Warning Clauses
Block 28 & 29	Mandatory	Brick Veneer	OBC*	Yes	A, B
All Remaining lots/blocks	Provision for Adding	OBC	OBC	No	A, C
*OBC indicates construction meeting the minimum non-acoustical requirements of the Ontario Building Code.					

#### 12.3.2 Warning Clauses

12.3.2.1 Type A: Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasions interfere with some activities of the dwelling occupants as the sound level may exceed the Municipality's and the Ministry of the Environment's noise criteria.

12.3.2.2 Type B: The dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby insuring that the indoor sound levels are within the Municipality's and the Ministry of the Environment's noise criteria.

12.3.2.3 Type C: This dwelling unit has been fitted with a forced air heating system and the ducting, etc, was sized to accommodate central air conditioning. Installation of central air conditioning will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality's and the Ministry of the Environment's noise criteria. (Note: The location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with criteria of MOE Publication NPC-216, Residential Air Conditioning Devices).

- 12.4 The Developer agrees that upon completion of Creekside Drive, the temporary emergency access for the first phase of Apricot Glen be removed and eliminated.
- 12.5 The Developer agrees that there shall be no open burning of waste construction materials unless specifically approved by the Town Fire Department.
- 12.6 The Developer agrees not to damage or remove any survey evidence adjacent to road allowances and easements during the development of the property and that the owner obtain a certificate from an Ontario Land Surveyor, stating that all existing and new evidence is in place at the completion of the development.
- 12.7 The Developer agrees to 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).
- 12.8 The Developer agrees to include a requirement that indicates that the purchaser is aware that the community mailbox will be installed and constructed within the road allowance width in all offers of purchase and sale of those lots that abut the approved locations for community mailbox, if it is required.
- 12.9 The Developer agrees to include a requirement in all offers to purchase and sale that the purchaser agrees to maintain the grassed boulevard directly in front of his lot.
- 12.10 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.
- 12.11 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.
- 12.12 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.
- 12.13 **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.

### **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 of 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:

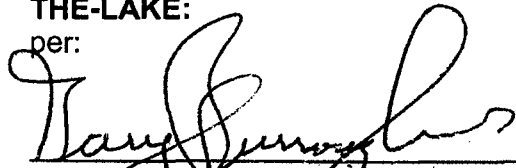
**DEVELOPER:**  
**St. Davids Heritage Development Inc.**  
**242 Main Street East, Suite 200**  
**Hamilton, Ontario L8N 1H5**

**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:**

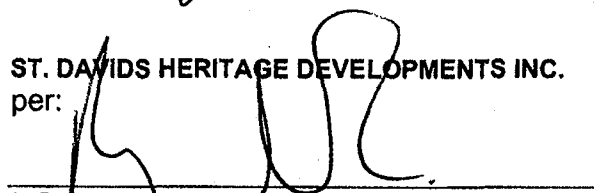
per:

  
LORD MAYOR GARY BURROUGHS


  
TOWN CLERK HOLLY DOWD

**ST. DAVIDS HERITAGE DEVELOPMENTS INC.**

per:

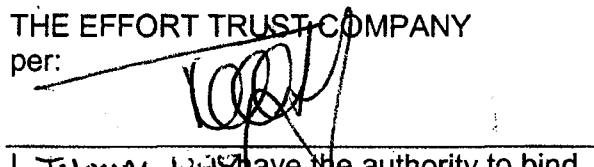
  
I, Bryce Ivanchuk, have the authority to bind the corporation.

  
DEBORAH MARIE FEDORKOW

  
JOHN FEDORKOW

**THE EFFORT TRUST COMPANY**

per:

  
I, Thomas West, have the authority to bind the corporation.



**SCHEDULE A  
LEGAL DESCRIPTION**

Lots 1 to 26, Blocks 27 to 32, 30M-384, in the Geographic Township of Niagara,  
County of Lincoln, now in the Town of Niagara-on-the-Lake, Regional  
Municipality of Niagara.

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

**1. FINAL PLANS**

The final Plan means the plan for "Apricot Glen Subdivision-Phase 2", being Pt Lot 92 in the Town of Niagara-on-the-Lake prepared by William A. Mascoe Surveying Ltd. dated July 18, 2008 showing 27 single detached lots on public roads and 2 Townhouse Blocks (Block 28 and 29) and including Block 30 and 31 and Block 32 on Plan 30M-384.

**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 The Developer agrees to grant to the municipality any required easements for services or utilities.**

Easement for Storm water pipe and catch basins:

Part Lots 3, 6, 7, 10, 11, 13, 14, 23, 30M-384 designated as Parts 1 to 8 respectively on 30R-13183;

Part Lot 1, 30M-384 designated as Part 15 on 30R-13183

Part Lot 24, Plan 30M-384, designated as Part 9 and 10, 30R-13183

Part Block 28, Plan 30M-384, designated as Part 11, 30R-13183

Part Block 29, 30M-384, Designated as Parts 12, 13, and 14, 30R-13183, Niagara-on-the-Lake

**2.2 That a 0.3 m reserve (shown as Block 31 and Block 32 on 30M-384) and additional lands (shown as Block 30 on 30M-384) be deeded to the Town.**

**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 375 mm and 50 mm HL8 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. Emergency access for fire protection purposes, turning radii and dead end roadways shall comply with the requirements of the Ontario Building Code Section 3.2.5.6.
- 1.5. To provide a pavement area with a minimum radius of 12.8 metres at the cul-de-sac bulb.
- 1.6. That the centerline turning radius at all intersections are at least 12m.
- 1.7. 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.
- 1.8. 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.
- 1.9. Install concrete pads in accordance with the requirements of, and in locations to be approved by Canada Post.
- 1.10. 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.

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- 2.3. The streetlights selected shall be high-pressure sodium 100 watts with the design and quality to be approved by the Director of 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.
- 3.3. The Developer shall provide detailed calculations to the Director of Public Works to confirm that there is adequate sanitary sewer capacity to service this development and the future development to the south.

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.

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 not be provided for individual lots within the development. The sump pumps and 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.

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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. All watermains shall be a 150 mm diameter or a sufficient size to service the Subdivision and structures therein as described in Schedule 'A'.
- 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 19 mm 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. Pay 50% of the construction cost for the installation of a 1.5 metre sidewalk along the west side of Four Mile Creek Road between Creekside Drive and the existing municipal sidewalk
- 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 Swales shall be sodded to ensure compliance with the lot grading plans.
- 2.5 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.
- 2.6 Fencing and landscaping in accordance to the Noise Feasibility Study shall be installed to the satisfaction of the Director of Parks and Recreation and Director of Public Works.

**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 12, 2008			\$0.00
2.	3.2	Local Improvement Charges			\$
3.	3.9	Registration of Final Plan.			\$
4.	3.7	Parks Dedication 5%			\$62,500.00
<b>Total</b>					<b>\$62,500.00</b>
Preconditions of the Construction of Services:					
1.	4.20.1.	Primary Services – 20%	\$516,000.00	\$103,200.00	
2.	4.20.2	Secondary Services -100%	\$454,000.00	\$454,000.00	
3.	4.20.3.	Tertiary Services – 100%	\$100,000.00	\$100,000.00	
4.	4.13/4.16	Inspection	\$12,000.00		\$12,000.00
5.	4.16/4.17	Engineering Plan Review	\$1,500.00		\$1,500.00
6.	4.33	Signs	\$1,000.00		\$1,000.00
7.	5.5	Maintenance of Public Roads during construction	\$1,000.00		\$1,000.00 (return all or any unused portion)
<b>Total</b>			<b>\$1,085,500.00</b>	<b>\$657,200.00</b>	<b>\$15,500.00</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 (i.e. Canada Post) may be required.
- Field Review Deposit based on 40 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.

Page 2 – Schedule G

- 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.

**Properties**

<i>PIN</i>	46373 - 0365    LT	<i>Interest/Estate</i>	Easement	<input checked="" type="checkbox"/> Add Easement
<i>Description</i>	SERVIENT LANDS: PART LOT 1, PLAN 30M-384, BEING PART 15, 30R-13183 PART LOT 3, PLAN 30M-384, BEING PART 1, 30R-13183 PART LOT 6, PLAN 30M-384, BEING PART 2, 30R-13183 PART LOT 7, PLAN 30M-384, BEING PART 3, 30R-13183 PART LOT 10, PLAN 30M-384, BEING PART 4, 30R-13183 PART LOT 11, PLAN 30M-384, BEING PART 5, 30R-13183 PART LOT 13, PLAN 30M-384, BEING PART 6, 30R-13183 PART LOT 14, PLAN 30M-384, BEING PART 7, 30R-13183 PART LOT 23, PLAN 30M-384, BEING PART 8, 30R-13183 PART LOT 24, PLAN 30M-384, BEING PART 9 AND 10, 30R-13183 PART BLOCK 28, PLAN 30M-384, BEING PART 11, 30R-13183 PART BLOCK 29, 30M-384, BEING PARTS 12, 13, AND 14, 30R-13183 NIAGARA-ON-THE-LAKE; THIS IS AN EASEMENT IN GROSS. SEE SCHEDULE ATTACHED.			
<i>Address</i>	NIAGARA-ON-THE-LAKE			

**Consideration**

*Consideration*    \$ 1.00

**Transferor(s)**

The transferor(s) hereby transfers the easement to the transferee(s).

<i>Name</i>	ST. DAVIDS HERITAGE DEVELOPMENTS INC.
<i>Address for Service</i>	Suite 200 242 Main Street East HAMILTON, Ontario L8N 1H5

I, Thomas J. Weisz, Secretary, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

<b>Transferee(s)</b>	<b>Capacity</b>	<b>Share</b>
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<i>Name</i>	THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
<i>Address for Service</i>	1593 Creek Road, P.O. Box 100, Virgil    ON L0S 1T0

**Statements**

Schedule: See Schedules

**Signed By**

Mark Alan Scholes	200-242 Main Streeet East, Hamilton L8N 1H5	acting for Transferor(s)	Signed    2008 10 08
Tel    9055231842			
Fax    9055234011			
Callum Shedden	39 Queen St. P.O. Box 24022 St. Catharines L2R 7P7	acting for Transferee(s)	Signed    2008 10 07
Tel    9056881125			
Fax    9056885725			

*The applicant(s) hereby applies to the Land Registrar.*

**Submitted By**

DANIEL & PARTNERS LLP	39 Queen St. P.O. Box 24022 St. Catharines L2R 7P7	2008 10 08
Tel        9056881125		
Fax        9056885725		

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Provincial Land Transfer Tax	\$0.00
Total Paid	\$60.00

**File Number**

Transferee Client File Number :            39166

*The applicant(s) hereby applies to the Land Registrar.*

**Submitted By**

DANIEL & PARTNERS LLP	39 Queen St. P.O. Box 24022 St. Catharines L2R 7P7	2008 10 08
Tel        9056881125		
Fax        9056885725		

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Provincial Land Transfer Tax	\$0.00
Total Paid	\$60.00

**File Number**

Transferee Client File Number :                    39166

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 46373 - 0365 SERVIENT LANDS:  
PART LOT 1, PLAN 30M-384, BEING PART 15, 30R-13183  
PART LOT 3, PLAN 30M-384, BEING PART 1, 30R-13183  
PART LOT 6, PLAN 30M-384, BEING PART 2, 30R-13183  
PART LOT 7, PLAN 30M-384, BEING PART 3, 30R-13183  
PART LOT 10, PLAN 30M-384, BEING PART 4, 30R-13183  
PART LOT 11, PLAN 30M-384, BEING PART 5, 30R-13183  
PART LOT 13, PLAN 30M-384, BEING PART 6, 30R-13183  
PART LOT 14, PLAN 30M-384, BEING PART 7, 30R-13183  
PART LOT 23, PLAN 30M-384, BEING PART 8, 30R-13183  
PART LOT 24, PLAN 30M-384, BEING PART 9 AND 10, 30R-13183  
PART BLOCK 28, PLAN 30M-384, BEING PART 11, 30R-13183  
PART BLOCK 29, 30M-384, BEING PARTS 12, 13, AND 14, 30R-13183  
NIAGARA-ON-THE-LAKE;  
THIS IS AN EASEMENT IN GROSS.  
SEE SCHEDULE ATTACHED.

BY: ST. DAVIDS HERITAGE DEVELOPMENTS INC.  
TO: THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE %(all PINs)

1. LORD MAYOR GARY BURROUGHS AND I, HOLLY DOWD, TOWN CLERK

I am

- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
- ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
- ☐ (c) A transferee named in the above-described conveyance;
- ☐ (d) The authorized agent or solicitor acting in this transaction for \_\_\_\_ described in paragraph(s) ( ) above.
- ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE described in paragraph(s) (c) above.
- ☐ (f) A transferee described in paragraph ( ) and am making these statements on my own behalf and on behalf of \_\_\_\_ who is my spouse described in paragraph ( ) and as such, I have personal knowledge of the facts herein deposed to.

3. The total consideration for this transaction is allocated as follows:

(a) Monies paid or to be paid in cash	1.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	0.00
(ii) Given Back to Vendor	0.00
(c) Property transferred in exchange (detail below)	0.00
(d) Fair market value of the land(s)	0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	1.00
(h) VALUE OF ALL CHATTELS - items of tangible personal property	0.00
(i) Other considerations for transaction not included in (g) or (h) above	0.00
(j) Total consideration	1.00

4.

Explanation for nominal considerations:

g) Transfer to a municipality pursuant to subdivision or development agreement, condominium approval or other municipal purposes: Transfer of easement to municipality pursuant to a subdivision agreement.

5. The land is subject to encumbrance

PROPERTY Information Record

A. Nature of Instrument: Transfer Easement  
LRO 30 Registration No. NR191204 Date: 2008/10/08

B. Property(s): PIN 46373 - 0365 Address NIAGARA-ON-THE-LA Assessment - Roll No

C. Address for Service: 1593 Creek Road, P.O. Box 100, Virgil ON L0S 1T0

D. (i) Last Conveyance(s): PIN 46373 - 0365 Registration No. NR164070  
(ii) Legal Description for Property Conveyed : Same as in last conveyance? Yes ☐ No ☒ Not known ☐

E. Tax Statements Prepared By: Callum Shedden  
39 Queen St. P.O. Box 24022  
St. Catharines L2R 7P7