

SUBDIVISION AGREEMENT

THIS AGREEMENT DATED as of the day and date specified in Schedule "B" of this Agreement.

BETWEEN:

THE OWNER

(specified in Schedule "B" of this Agreement)
(hereinafter may be referred to as the "Owner")

of the First Part,

- and -

CITY OF HAMILTON

(hereinafter may be referred to as the "City")

of the Second Part,

WHEREAS:

- (a) the City of Hamilton was incorporated as of January 1, 2001 by the City of Hamilton Act, 1999 (S.O. 1999, Chapter 14, Schedule C), and the City is the successor to the former regional municipality, The Regional Municipality Of Hamilton-Wentworth and to the former area municipalities, namely The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Town of Glanbrook, The Corporation of the City of Hamilton, and, The Corporation of the City of Stoney Creek; and,
- (b) all references to the "City" in this Agreement shall be deemed to also include where required, references to the former area municipality as the case may be, or to the former regional municipality, The Regional Municipality of Hamilton-Wentworth; and,
- (c) the Owner is the registered owner in fee simple of the land described in Schedule "A" appended hereto; and the Owner has represented that there are no arrears of realty taxes on the said land and that the current municipal address and legal description of such land is set out in Schedule "A" of this Agreement, (hereinafter such land may be referred to as the "Land"); and,

- (d) the Owner is required to enter into this Agreement with the City to record the terms and conditions under which the Owner may, with the approval of the City, provide for one or more of the following:
- (i) the terms and conditions under which the Owner, who has made an application to the City pursuant to Section 51 of the Planning Act, R.S.O. 1990, c. P.13, for approval of a draft plan of subdivision, (the name and Application number of which subdivision are set out in Schedule "B") may develop the Schedule "A" Land in accordance with a plan of subdivision; and,
 - (ii) the terms and conditions under which the Owner, who has made application to the City pursuant to the Condominium Act, (R.S.O. 1990, chap. C.26) for approval of a draft plan of condominium, (the name and Application number of which condominium are set out in Schedule "B") may develop the Schedule "A" Land in accordance with a plan of condominium; and,
 - (iii) the terms and conditions under which the Owner, who has made application to the Committee of Adjustment for the City of Hamilton — for Consent to sever the Schedule "A" Land into two or more parcels, may develop such Land in accordance with the Decision of the Committee and the Consent(s) it has conditionally authorized; and,
 - (iv) the terms and conditions under which the Owner, who has made application to the City for another approval under the Planning Act, and specified in Schedule "B" of this Agreement, may receive such approval and develop and use its Land in accordance with such approval and its conditions; and,
- (e) the said Application, its Application Number (where assigned) the nature of the Application, the name of the plan of subdivision or plan of condominium (where applicable) — that are the subject of this Agreement, are specified in Schedule "B" of this Agreement; and,
- (f) the said Application in respect of the Land did receive conditional approval and the decision and its conditions of approval, are included in Schedule "C", and,
- (g) the said Application by the Owner was approved on the condition that the Owner comply with and carry out the conditions and requirements listed in Schedule "C", including the required details thereof and the Owner's obligations in relation to recorded in this Agreement.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and of the terms and covenants and conditions hereinafter set forth, the parties hereby mutually covenant and agree each with the other as follows:

CITY OF HAMILTON
SUBDIVISION AGREEMENT
I N D E X

SECTION TITLE

1. EXECUTION AND REGISTRATION OF DOCUMENTS
2. TRANSFERS / DEDICATIONS OF LAND / EASEMENTS
3. SIGNS
4. EXPENSES TO BE PAID BY OWNER
5. SECURITY FOR PERFORMANCE
6. COMMUTATION OF FRONTAGE CHARGES
7. FEE FOR ENGINEERING SERVICES AND AGREEMENT
ADMINISTRATION
8. DEVELOPMENT CHARGES
9. INTEREST
10. ENGINEERING SERVICES
11. COMMENCEMENT OF WORKS
12. ORDER OF INSTALLATION OF WORKS
13. EROSION AND SEDIMENT CONTROL
14. WORKS OUTSIDE THE LAND
15. RELOCATION OF SERVICES
16. STORM & SANITARY SEWERS AND STORM & SANITARY SEWER
DRAIN CONNECTIONS, WATERMAIN & WATER SERVICE
CONNECTIONS
17. ROADWAYS
18. HYDRO ELECTRIC AND OTHER UTILITY INSTALLATIONS
19. SIDEWALKS AND DRIVEWAY APRONS
20. STREET NAME SIGNS
21. BUILDING LEVELS
22. PREGRADING OF BUILDING PARCELS (FIRST STAGE GRADING
CONTROL)
23. FINAL GRADING (SECOND STAGE GRADING CONTROL)
24. ISSUANCE OF BUILDING PERMITS
25. OCCUPANCY OF BUILDINGS
26. RESTRICTED DEVELOPMENT LOCATIONS
27. SODDING
28. CONTROL OF WEEDS
29. PROHIBITION AGAINST DEBRIS ON LANDS
30. STREET CLEANING
31. TREES
32. FENCING
33. DEFICIENCIES IN WORKS
34. MAINTENANCE OF WORKS

INDEX

Continued

SECTION TITLE

- 35. ENTRY BY CITY EMPLOYEES, CONTRACTORS OR AGENTS
- 36. SNOW REMOVAL AND USE OF WORKS BY CITY
- 37. "AS CONSTRUCTED" DRAWINGS
- 38. ASSUMPTION OF WORKS BY CITY
- 39. LIABILITY OF OWNER AND INDEMNIFICATION OF THE CITY
- 40. INSURANCE
- 41. REMEDIES
- 42. AGREEMENTS OF PURCHASE AND SALE
- 43. MISCELLANEOUS
- 44. LIST OF SCHEDULES TO THIS AGREEMENT

DEFINITIONS

In this Agreement the following terms and phrases shall have the meanings set out below, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed:

- a) **"Acceptable Road Access"** means an asphalt surface road, or a road that has been accepted as an access road by the City.
- b) **"Acceptance"** means the date upon which the maintenance period for the Works has commenced, pending completion of all requirements, which relate to the construction of the Works.
- c) **"Agreement"** means this agreement including each of its Schedules, attached hereto, and forming part of this agreement, together with the required plans and specifications required by this agreement and approved by the City in accordance with the provisions of this agreement.
- d) **"Assumption"** means the date when the Works have been completed, the maintenance periods have expired and no other obligations under this agreement remain outstanding with respect to the Works.
- e) **"Block"** means a parcel of land laid out by a draft or registered plan of subdivision and designated by the Plan as a Block.
- f) **"City"** means the City Of Hamilton.
- g) **"City Engineer"** means the Manager of the Engineering Section in the Development Division of the Planning and Development Department for the City of Hamilton, or their designate.
- h) **"Consulting Engineer"** means a qualified Professional Engineer or Engineering Firm, registered under The Professional Engineers Act of Ontario which has been hired by the Owner to perform all engineering services related to development of the Land required of the Owner.
- i) **"Detailed Grading Plan"** means the grading plan for a particular lot, unit, block or severed parcel approved by the Director of Building & Licensing.
- j) **"Draft Plan"** or draft plan, means the proposed plan of subdivision or condominium comprised of the Land described in Schedule "A". The details of the Plan are set out in Schedule "A". The Plan was approved by the City, subject to the provisions of this Agreement; draft plan does not include a plan under Site Plan Control.

DEFINITIONS

Continued

- k) **"Land"** subject to the exception which follows, Land means the land described in Schedule "A" of this agreement; exception, after the plan of subdivision or the plan of condominium which is the subject of this agreement has been registered on title to the Schedule "A" Land, a reference to "Land" in this agreement shall be deemed to be a reference to the said registered plan;
- l) **"Lot"** means a parcel of land laid out by a draft or registered plan of subdivision and designated by the Plan as a Lot;
- m) **"Model Home"** means a single detached dwelling, semi-detached dwelling or townhouse block used in the interim for the sole purpose of an office and/or show room and/or sales centre to promote the sale of residential units within a draft approved Plan of subdivision proposed for registration.
- n) **"Mortgagee"** means the person, company or business having a beneficial entitlement to an interest in the Land in the form of a registered mortgage over all or part of the Land.
- o) **"Others"** means all utilities and telecommunication systems, excluding the Hydro authority, including but not limited to telecommunication cables, gas mains and television co-axial cables.
- p) **"Overall Grading Plan"** means the grading plan for all of the Land approved by the City Engineer.
- q) **"Owner"** means the registered owner of the Land described in Schedule "A" and may include an individual, an association, a partnership or corporation. The Owner's name is set out in Schedule "B" of this Agreement.
- r) **"Plan"** means the Final Plan of Subdivision or Condominium identified in Schedule "A" and registered on title to the Land; and "plan" has the same meaning unless otherwise required by the context; Plan or plan does not include plans which are the subject of Site Plan Control.
- s) **"Property"** includes a lot, block, unit or severed parcel;
- t) **"Security"** means the security defined under Section 5 (Security for Performance) of this agreement.
- u) **"Severed Parcel"** means a parcel of land that is, was or may be transferred as a result of the severance of the Schedule "A" Land within which the severed parcel is located, with the Consent of the Committee of Adjustment; and, severed parcel includes a parcel of the Schedule "A" Land which remains or will remain in the owner's name after the owner is no longer the owner of any abutting land.
- v) **"Street"** is a highway or road allowance owned by the City or intended to be vested by registration of a plan of subdivision or dedicated by transfer to the City, and includes both the traveled and untravelled portion of the street and all shoulders, boulevards and sidewalks located thereon, and includes land dedicated or vested in the City for a walk way. A roadway is that portion of a street, which is improved for use by cars and pedestrians. Street does not include an internal private road laid out within a plan of condominium.
- w) **"Super Mailbox"** means any group or community mailbox installed or to be installed by the Canada Post Corporation in order to provide postal service to residences situated within all or part of the Land.
- x) **"Unit"** means a portion of land laid out by a draft or registered plan of condominium and designated by the plan as a Unit.
- y) **"Works"** means all municipal or other services to be constructed by the Owner under this agreement. These municipal services are referred to on the construction drawings listed under Schedule "E" (List of Approved Construction Drawings) and the estimated costs of such municipal services are set out in Schedule "F" (Estimated Costs of Works to be installed by the Owner).

EXECUTION AND REGISTRATION

1.1 Before this Agreement is executed by the City, the Owner shall have:

- (a) executed and delivered at least four copies of this Agreement to the City; and,
- (b) delivered to the City cash and security as required by this Agreement; and,
- (c) delivered to the City the insurance policies as required by this Agreement.

1.2 (a) Where the Land which is the subject of this Agreement is being developed by a plan of subdivision, the Owner shall register at its expense on title:

Firstly, the land(s) or easement(s) identified in Schedule "I" that are external to the Plan and to be transferred to the City; ("external transfers"), the registration of which shall be prior to approval being endorsed on the Plan; and,

Secondly, the plan of subdivision identified in Schedule "A" on title to the Land — within thirty days of the City's approval being endorsed on the Plan; and,

Thirdly, this Agreement on title to every Lot and Block of the registered Plan — within ten days of registration of the Plan and prior to the transfer of any Lot and Block of the registered Plan; and,

Fourthly, the land(s) or easement(s) identified in Schedule "I" that are internal to the Plan and are to be transferred to the City ("internal transfers"); and,

Fifthly, the transfer of the surface drainage easement to the City as described in Schedule "I", on title to all lots and blocks of the registered plan other than block(s) transferred to City.

(b) Where the Land which is the subject of this Agreement is being developed with the Consent of the Committee of Adjustment, the Owner shall register at its expense on title:

Firstly, the land(s) or easement(s) identified in Schedule "I" that are intended for the City and are required as a condition of the Decision of the Committee of Adjustment, including those dedications that are external to the Land ("external transfers") or are from within the Land; and,

Secondly, this Agreement (the registration of which shall be prior to:

- (i) the endorsement of the Committee of Adjustment Consent to any permitted transfer of a severed parcel or of an easement, or,
- (ii) prior to the issuance by the Committee of any Certificate of its Decision); and,

Thirdly, the transfer of the surface drainage easement to the City as described in Schedule "I" on title to the Land other than any Land transferred to City; and,

Fourthly, any severed parcel and/or easement, the transfer of which by the Owner to a person is intended to be the subject of the Committee's Consent.

- (c) Where the Land which is the subject of this Agreement is being developed by a plan of condominium:
- (i) the Owner shall register at its expense on title the following:
- Firstly, any land(s) or easement(s) identified in Schedule "I" that are external to the plan and are to be transferred to the City; ("external transfers") the registration of which shall be prior to approval being endorsed on the Plan; and,
 - Secondly, this Agreement on title to the Land; and,
 - Thirdly, the plan of condominium on title to the Land — within thirty days of the City's approval being endorsed on the plan of condominium; and,
 - Fourthly, the land(s) or easement(s) identified in Schedule "I" that are internal to the Plan and are intended to be transferred to the City ("internal transfers"); and,
 - Fifthly, the transfer of the surface drainage easement to the City as described in Schedule "I" on title to the Plan other than any Land transferred to City; and,
 - Sixthly, a Condominium (assumption) Agreement on title to the registered plan of condominium (— prior to registration of a transfer of any unit of the registered condominium plan).
- (ii) the Owner shall, following registration of the condominium plan, cause the new condominium corporation to enter into a further "Condominium (assumption) Agreement with the Owner and with the City in which the condominium corporation covenants to the City to comply with the provisions of this subdivision agreement and the site plan agreement registered in respect of the Land. The further Condominium Agreement shall also include the Condominium Corporation's other obligations in favour of the City in a form and in accordance with terms satisfactory to the City.
- (d) The Owner's registration of this Agreement, the other required agreements, easements and transfers with or in favour of the City shall be free and clear of all mortgages and charges and shall be registered in a form satisfactory to the City's Corporate Counsel. Such registration shall be in an electronic format or in a paper format, as may be required by the Land Registry Office.

1.3 Where registration is in an electronic format, the Owner acknowledges and agrees that:

- (i) some or all of the Schedules that are attached to and forming part of the paper version of this Agreement, may not be attached and form part of the electronic registered Notice of this Agreement; and,
- (ii) the Owner authorizes its representative to signify its approval of the Notice of this Agreement for electronic registration; and,
- (iii) the electronic version of the Notice of this Agreement, by its nature, shall not include the signatures of the Owner or its corporate officers and directors, as the case may be; and,
- (iv) the Owner for itself its successors and assigns on title to the Land shall be bound by the electronic registered version of the Notice of this Agreement.

1.4 Where the Mortgagee(s) either execute this Agreement or authorize its electronic registration, it does so to:

- (i) postpone its registered mortgage with the Owner to the Land and to this Agreement as if this Agreement had been registered prior to the mortgage; and,
- (ii) postpone all its (their) right, title and interest in the Land to the rights of the City pursuant to this Agreement.

In the event the Mortgagee enters into possession of the Land pursuant to the default provisions of its mortgage with the Owner, the Mortgagee shall be bound by each and every term, provision and condition of this Agreement.

1.5 The Owner's lawyer shall provide the City with their Lawyer's Certificate of Title and Registration to certify to the City, in a form satisfactory to the City's Corporate Counsel, that the electronic version (if any) and the paper version of this Agreement have been entered into/authorized by the registered owner of the Land which is the subject of this Agreement and that this Agreement has been registered, as required herein, on title to the Land.

Such Certificate shall be the minimum evidence of completion of such registration by the Owner where completion of such registration is a requirement of this Agreement. Where a time frame is not specified for completion of such requirement, the Lawyer's Certificate shall be provided to the City within thirty (30) days of such registration.

1.6 The land(s) and easement(s) required in Schedule "I" to be transferred by the Owner to the City free of charge and with clear title thereto shall be registered as required in Clause 1.2 of this Agreement and its related provisions and schedules by and at the expense of the Owner.

TRANSFERS / DEDICATIONS OF LAND / EASEMENTS

2.1 (a) Draft Transfer(s):

Whether, as indicated in Schedule "I", any land or easement is to be transferred to the City, either following the registration of the Plan (where applicable) or prior to the registration of this Agreement, the Owner shall first submit to the City, a draft, in paper, of each required transfer and a Tax Certificate which confirms there are no arrears of realty taxes for the land.

(b) Registration:

After each draft transfer has been reviewed and approved by the City, the Owner's lawyer shall, with the participation of the City's Teraview representative, register the required transfer(s) (either prior to or after the registration of this Agreement, as may be required in Schedule "I").

(c) Lawyer's Certificate of Title:

Following registration of the required transfer(s), the Owner's lawyer shall provide their Certificate of Title in a form satisfactory to the City's Corporate Counsel regarding the registration of the transfer(s).

Such Certificate shall be the minimum evidence of completion of such registration by the Owner where completion of such registration is a requirement of this Agreement. Where a time frame is not specified for completion of such requirement, the Lawyer's Certificate shall be provided to the City within thirty (30) days of such registration.

- 2.2 To fulfill their obligation to dedicate five percent (5%) of the land being developed for park purposes, the Owner shall either:
- (i) by transfer of land, dedicate to the City the land(s) designated in Schedule "I" for parks, free and clear of all encumbrances and grade, seed and place such park land in a physical condition satisfactory to the requirements of the City; or,
 - (ii) pay to the City prior to the execution of this Agreement by the City cash-in-lieu of a land dedication for park purposes, the amount of which is set out in Schedule "G"; and,
- 2.3 The Owner shall, where the Land is to be subdivided by a plan of subdivision or by a plan of condominium, dedicate to the City by Certificate on the Plan, those land(s) as required by the Conditions of Approval in Schedule "C" and/or in Schedule "I" and/or in the balance of this Agreement.
- 2.4 The Owner shall transfer and/or dedicate the land(s) and easement(s) to the City as required by the Conditions of Approval in Schedule "C", and/or in the provisions of Schedule "I" and/or in the balance of this Agreement.

SIGNS

- 3.1 Prior to commencement of construction, the Owner shall erect at each main entrance to the Land:
- i) a General Land Use billboard sign displaying the design of the Plan, zoning, proposed and surrounding land use, sidewalk locations and pedestrian connections and other special site features; with the sign contents and sign size all firstly approved by the City's Director of Development. The Owner shall maintain the General Land Use billboard sign until all the lots, blocks, units or severed parcels have been built on; and,
 - ii) a Utility Locate Sign for the purpose of informing the public, including contractors, subcontractors and new property owners of the necessity for calling a central number for information as to the location of underground utilities. Such sign shall be obtained by the Owner from the applicable utility companies and shall be installed and maintained by the Owner, at its expense, until construction on all lots, blocks, units or severed parcels has been completed.
- 3.2 The Owner shall affix, in a conspicuous position, on each lot, block, unit or severed parcel where there is no dwelling, a lot or unit number, where applicable, to the satisfaction of the City. Where a dwelling has been constructed on a plan of subdivision or on a severed parcel, the Owner shall affix a house number on each dwelling, to the satisfaction of the City.
- 3.3 All signs required to be erected under this section are subject to the approval of the City. The design of each sign shall be satisfactory to the City and shall comply with, where applicable, the City's Sign By-laws or site plan agreement(s). Upon the expiration of the maintenance period for each sign, (the time period between erection and removal of the sign) the Owner shall remove it. The erection, alteration, maintenance and removal of each sign shall be carried out by the Owner.
- 3.4 In the event that any uses of Land shown on any such sign are changed, or in the event that any Land is re-subdivided, the Owner shall make appropriate changes on the signs to reflect the new information within one month after final approval is granted to the changed uses or re-subdivision of Land.

EXPENSES TO BE PAID BY OWNER

4. Every provision of this Agreement that the Owner is obligated to perform or carry out in any way shall be deemed to include the words "at the expense of the Owner" unless such provision expressly provides to the contrary.

SECURITY FOR PERFORMANCE

- 5.1 Prior to the execution of this Agreement by the City, the Owner shall deposit with the City security in an amount which is seventy-five percent (75%) of the estimated costs of installation of the Works set out or referred to in Schedule "F". The amount of the required security is specified in Schedule "G".
- 5.2 The required security shall be issued by a financial institution in the form of an irrevocable letter of credit(s), cash or such other equivalent security satisfactory to the Finance Department.
- 5.3 The letter of credit shall be irrevocable and valid for an initial term of not less than one (1) year. The Owner shall keep the Letter of Credit in full force and in effect and shall be renewed from time to time until the City determines such security is no longer required.
- 5.4 The security is required to secure:
 - a) completion of the said Works by the Owner in conformity with the provisions of this Agreement; and,
 - b) performance of all other obligations of the Owner under this Agreement.
- 5.5 The security received and held by the City in accordance with this Agreement may be applied and used by the City to not only the matters for which the security is expressly required, but may also be applied and used by the City in accordance with the remedial provisions of this Agreement, to any other matter, expense or obligation of the Owner, notwithstanding that such security was not expressly received for such purpose.
- 5.6 The security deposited as required by the provisions of this section shall be reduced in amounts from time to time at the discretion of the City following receipt, satisfactory to the City, of a progress certificate from the Consulting Engineer and proof of payment to the contractor, in respect of the Works covered by the said security; but in no case shall the amount of the security be reduced to less than an amount equivalent to the cost of the uncompleted Works as estimated by the Consulting Engineer, satisfactory to the City, plus ten percent (10%) of the estimated cost of completed Works and thirty percent (30%) of the estimated cost of planted trees as set forth in Schedule "F" or \$ 10,000, which ever amount is greater.
- 5.7 The financial security received and held by the City pursuant to this section of the Agreement, whether such security be in the form of an irrevocable letter of credit(s), cash or such other equivalent may, in this Agreement (including its Schedules) be referred to as the "security". Any reference to "security" in this Agreement (including its Schedules) shall be deemed to be a reference to the security deposited by the Owner with the City's Finance Department pursuant to this section of the Agreement.

COMMUTATION OF FRONTAGE CHARGES

6. Prior to execution of this Agreement by the City, the Owner shall commute and pay to the City all frontage charges and assessments on the tax roll of the Land, including those charges set out in Schedule "H".

FEE FOR ENGINEERING SERVICES AND AGREEMENT ADMINISTRATION

7. For the City's review and supervision of the Owner's engineering services and administration of security in connection with the construction and installation of the Works, the Owner shall pay to the City, prior to the City's execution of this Agreement, a fee in accordance with the City's User Fee By-law, which amount is set out in Schedule "G".

DEVELOPMENT CHARGES

8. The Owner acknowledges that it is required, at the time of the issuance of a building permit by the City, for residential or non-residential land within the Land, to pay such development charges as may be levied by Development Charges By-laws authorized by the Development Charges Act, S.O. 1997, c.27, ss. 1 to 68, as amended.

INTEREST

9. Interest at the prime rate of the Bank of Canada, plus 2% adjusted quarterly, accrues and shall be paid by the Owner to the City from and after the expiration of thirty (30) days from the date when any sum becomes due and payable by the Owner to the City under the provisions of this Agreement. This provision does not apply to arrears of realty taxes, local improvements and other municipal and non-municipal levies of local or general application, which have their own provisions in respect of interest on arrears.

ENGINEERING SERVICES

- 10.1 The Owner shall have engaged the services of a qualified Professional Engineer registered under The Professional Engineers Act of Ontario, to perform all required engineering services related to the Owner's development of the Land, subject to the approval thereof by the City Engineer.
- 10.2
 - a) The Owner shall provide to the City the full name, address, telephone & fax numbers and e-mail address of the Consulting Engineer, which shall provide the engineering services required of the Owner by the City.
 - b) For the purpose of this Agreement, any notices, directions or approvals from the City in respect of any matters arising from the approval of the said Application, may be given by the City to the Owner or to the Owner's Consulting Engineer. The Owner shall inform the City by Notice in writing of any change of Consulting Engineer made by the Owner, together with the full name, address & telephone number of the replacement Consulting Engineer subject to approval by the City Engineer.
- 10.3 The Owner agrees that before any of the Works described under Schedule "F", are commenced or any contracts for such Works are entered into, such engineering services shall, in accordance with the standards and policies of the City, include, (but not be limited to) the following services:
 - a) calling of tenders,
 - b) analysis of bids including recommendation to the Owner,
 - c) application to the Ministry of Environment for approval of sewers and watermains,
 - d) application for other permits required to construct the Works required by this Agreement.
- 10.4 The Consulting Engineer's services shall include, but not be limited to, the following obligations:
 - a) setting out the work,
 - b) full time construction inspection and quality assurance all in accordance with plans and specifications of the Works, to the satisfaction of the City,
 - c) preparation of progress certificates.

10.5 a) The Owner covenants to the City that:

- (i) the Works shall be carried out in accordance with the approved construction drawings and specifications and all other relevant provisions of this Agreement; and,
- (ii) all phases of the Works described in this Agreement are subject to the prior approval of the City Engineer; and,
- (iii) the Consulting Engineer shall provide to the City, at the expense of the Owner:

Firstly, prior to commencement of the Works - a copy of the approved construction drawings in a digitized electronic format acceptable to the City; and,

Secondly, within six (6) months of acceptance of the sewer and watermain works - "as constructed" drawings in a manner consistent with the requirements under this Agreement for "as constructed" drawings as well as inspection field records and reports of the constructed Works; and,

- (iv) its Consulting Engineer is authorized to act as its representative to the City, including the submission of all engineering services and matters subject to the review and/or approval of the City and its consulting engineer is authorized to receive on behalf of the Owner, all directions, approvals and requirements of the City.

b) The City agrees that, at the request of the Owner, it will join with the Owner to make the necessary applications to the Ministry of the Environment for approval of the plans for sewers, private drains, watermains, water service connections and all other applications required by an authority for other City services and improvements.

c) The Owner shall not commence construction of any Works pursuant to this Agreement prior to the issuance of a related Certificate of Approval by the Ministry of the Environment or other authority.

COMMENCEMENT OF WORKS

11.1 The Owner shall give to the City, a minimum of two (2) clear business days written notice prior to the commencement of construction of any of the Works provided for under this Agreement. Should any significant work stoppage occur in the prosecution of Works, the Owner shall give to the City, prompt notice of the stoppage of such Works, and shall give two (2) clear business days written notice prior to the re-commencement of construction of such Works.

11.2 The Owner shall, in addition to and without limiting the application of any other terms of this Agreement, commence the Works described in the Schedules within six (6) months from the date of registration of this Agreement and diligently continue construction and installation of the Works, failing which the City may, upon 14 (fourteen) days written notice to the Owner, draw upon the security and complete the Works.

11.3 For the purpose of paragraph 11.2 above, the Owner shall be deemed to have commenced the Works when the Owner has actually undertaken construction and installation or completed part of the Works described in Schedule "F".

11.4 Before commencement of Works on the Land the Owner shall:

- a) obtain approval from the City and, where required, approval from the Conservation Authority of engineering design drawings for the works to be constructed to service the subdivision, including receipt of M.O.E. certificates and an erosion and sedimentation control plan; and,

- b) obtain Director of Development approval of the proposed final plan of subdivision for confirmation of zoning compliance and conformity to road pattern and road alignment to the approved draft plan; and,
- c) obtain approval of a Tree Preservation Plan by the appropriate agency, when such plan is required, including implementation of all necessary protection measures; and,
- d) ensure all sedimentation controls are in place prior to any earthworks on the site; and,
- e) submit written verification that an archeological survey has been conducted and the site is free and clear for construction, when the requirement for an archeological survey is a condition of draft plan approval; and,
- f) submit written verification that the subdivision lands have been decommissioned, when the requirement for decommissioning is a condition of draft plan approval; and,
- g) conduct a pre-blast survey of residences within 100 metres and notify residents of blasting within 200 metres of the subdivision lands, where services are to be constructed in rock; and,
- h) arrange for all required site inspections and materials testing for the works to be constructed to service the subdivision; and,
- i) arrange for a pre-construction meeting for construction of the works to service the subdivision; and,
- j) submit originally signed certificates of insurance for the Owner and the contractor as proof that both Owner and contractor have obtained adequate insurance coverage in accordance this Agreement.
- k) executed and delivered at least four copies of this Agreement to the City; and,
- l) delivered to the City cash and security as required by this Agreement; and,

ORDER OF INSTALLATION OF WORKS

- 12.1 The Owner shall proceed diligently with construction and installation of the Works in accordance with the following timetable:
- a) Commencement of storm sewers, sanitary sewers, storm and sanitary private drains, watermains and water service connections —
within three (3) months of registration of this Agreement;
 - b) Commencement of preliminary roads, including base course asphalt, barricades and guide rails, traffic signs and street lighting —
within three (3) months of the completion of services as set forth in paragraph a) above;
 - c) Commencement of curbs and gutters and fencing —
within twelve (12) months of the completion of the Works as set forth in paragraph b) above;
 - d) Commencement of sidewalks and tree planting —
as directed by the City and in any event, no later than completion of the final asphalt on the roads within the Land.
- 12.2 The Owner shall commence the installation of all Works within the time limits prescribed in this section. Upon the written application of the Owner to the City to extend the time for completion of the said Works or any of them, the City, in its discretion, may extend the time for completion for such period of time and upon such terms and conditions as it deems reasonable.

EROSION AND SEDIMENT CONTROL

13. The Owner agrees to:
- a) install all erosion and sediment control measures approved by the local Conservation Authority and the City, prior to development, and maintain such measures throughout the construction process, until all disturbed areas have been re-vegetated; and,
 - b) inspect and maintain all erosion and sediment control measures after each rainfall to the satisfaction of the City and maintain a diary for review upon request by the City; and,
 - c) provide suitable temporary mulch and seed cover within seven (7) days of the completion of a particular phase of construction for any disturbed area not scheduled for further construction within forty-five (45) days; and,
 - d) re-vegetate all disturbed areas with permanent cover immediately following completion of construction.

WORKS OUTSIDE THE LAND

14. The Owner agrees that:
- a) where the Land adjoins an existing road or, where municipal services must be brought from some distance to the Land or be taken some distance to a suitable outfall, the Works herein may include works to be done outside of the Land, and in this event, such Works shall be identified in the Schedules of this Agreement and such Works shall be carried out by the Owner in accordance with the same requirements and be subject to the same obligations in favour of the City as provided for in this Agreement for the other Works to be carried out within the Land.
 - b) where work is performed by the Owner, pursuant to this Agreement, on existing roads outside the Land, such roads shall be reinstated by the Owner to the satisfaction of the City. The Owner is required to obtain all necessary road cut permits from the appropriate road Authority. Access shall be maintained at all times to properties abutting such roads and the travelling public shall be protected. All Works and services shall be carried out satisfactory to the City.
 - c) the Works required to be carried out by the Owner outside the Land, shall be completed according to the drawings and specifications set out under Schedule "E" and at such cost as may be agreed upon between the Owner and the City under Schedules "D" and "F".

RELOCATION OF SERVICES

15. Where the abandonment, relocation and/or reconstruction of any existing storm sewers, sanitary sewers, sewer private drains, watermain, private water services, roadways, sidewalks and/or utility installations is necessary by reason of the development of the Land, the Owner shall carry out such abandonment, relocation and/or reconstruction in accordance with the approved engineering drawings noted on Schedule "E" and pay all associated costs in accordance with Schedule "F".

STORM & SANITARY SEWERS, STORM & SANITARY SEWER DRAIN CONNECTIONS, WATERMAINS AND WATER SERVICE CONNECTIONS

16. The Owner shall carry out all subdivision storm and sanitary drainage and watermain Works as one of its developmental responsibilities to the satisfaction of the City and in accordance with the Ministry of the Environment's approval.

ROADWAYS

- 17.1 The Owner shall construct, install and complete the roadways on all streets within the Land in accordance with:
- (i) the recommendations of a soils report prepared by a qualified engineer and approved by the City; and,
 - (ii) the drawings and specifications thereof approved by and satisfactory to the City; and,
 - (iii) the time tables contained in this Agreement; and,
 - (iv) the approved plan of subdivision or condominium of the Land, as the case may be.
- 17.2 The roadway Works described in the above paragraph shall be installed and tested by the Owner's Geotechnical Engineer at the Owner's expense, all to the satisfaction of the City.
- 17.3 Prior to installation of the final layer of asphalt pavement on any roadway, the Owner shall:
- a) wait until at least one year has passed after placement of the base asphalt; and,
 - b) wait until at least 80% of the dwellings in the Land are constructed; and,
 - c) remove any base asphalt or granular base course that in the opinion of the City Engineer has deteriorated; and,
 - d) repair or replace such deteriorated base asphalt and/or granular base course to the satisfaction of the City Engineer; and,
 - e) give the City five (5) clear business days prior notice, in writing, of its intention to install the final layer of asphalt pavement.
- 17.4 The construction of the final layer of asphalt pavement shall be undertaken and completed by the Owner in accordance with the criteria in this section, unless otherwise directed by the City. No final layer of asphalt pavement shall be laid in any year before the first day of May or later than the first day of November.

HYDRO-ELECTRIC AND OTHER UTILITY INSTALLATIONS

- 18.1 The Owner shall arrange with and satisfactory to the Hydro authority:
- a) for the design, provision and installation of all required electrical power transmission, distribution and street lighting systems and facilities, which shall be located and installed according to specifications approved by the City; and,
 - (i) to install underground such Hydro facilities that, in the opinion of the City, are capable of being installed underground; and,
 - (ii) to assume the costs involved in providing and installing the described facilities, as determined by the Hydro authority and to pay such authority those costs; and,
 - b) for installation of all electrical service connections and appurtenances from the Hydro distribution system to lots, blocks, units and severed parcels within the Land at locations approved by the City; and,
 - (i) the wiring of such service connections shall be underground; and,
 - (ii) the entire cost of providing and installing such service connections and appurtenances shall be borne by the Owner and paid to the Hydro authority.

- c) for any locations not within the street(s) and not within land(s) dedicated by Transfer or vested by a Plan into the City's name, the transfer of easements required by the Hydro authority, for the installation of poles and guy wires, subterranean cables, transformers and other appurtenances of an electric distribution system, on, across, or under the Land without charge and with clear title thereto, prior to registration of any transfer of a lot, block, unit, or parcel severed within the Land;
- 18.2 Regarding all other utilities and telecommunication facilities, (hereinafter referred to as "others") permitted at law or, where the City's approval is required, with the City's approval, (as the case may be) including telecommunication cables, gas mains and television co-axial cables,
- a) the Owner shall ensure that such "others" are installed underground in a manner as may be required at law and in a manner and in locations satisfactory to the others and to the City; and,
 - b) the Owner shall, prior to registration of any transfer of a lot, block, unit, or parcel severed within the Land and after the transfer of any land or easement required by the City, grant, (in respect of locations not within public highways or walkways,) easements, as may be required, by such "other" company, to permit installation of side and rear of parcel utility services by such "other" company.

SIDEWALKS AND DRIVEWAY APRONS

- 19.1 The Owner shall construct sidewalks and driveway aprons leading up to any required sidewalk in all locations and in accordance with the drawings and specifications referred to in Schedule "E".
- 19.2 The Owner covenants and agrees that prior to entering into any agreement of purchase and sale relating to any lot, block, unit or severed parcel within the Land, the Owner shall display in the site sales office/model home the approved grading or engineering plan(s) which clearly indicate the location of sidewalks and boulevard areas and any known street furniture locations within the Land.

STREET NAME SIGNS

- 20.1
- a) The Owner shall pay the amount specified under Schedule "G" for all street name signs required on those streets created or affected by development of the Land.
 - b) The City shall supply and erect all street name signs in accordance with the standard design of the City at locations satisfactory to the City.
- 20.2 The Owner shall supply, erect and pay for all temporary or permanent barricades and guide rails on streets as may be required by the City and no such barricade or guide rail may be removed or its position changed without the written consent of the City.

BUILDING LEVELS

21. The Owner agrees that the basement floor elevations of all buildings hereafter erected on any lots, blocks, units or severed parcels within the Land shall not be set below the lowest allowable floor elevation as prescribed on the Overall Grading Plan as referred to in Schedule "E".

PREGRADING OF BUILDING PARCELS (FIRST STAGE GRADING CONTROL)

22. The Owner shall, before an application is made for a building permit for construction of a single detached or semi-detached dwelling on any lot, block, unit or severed parcel within the Land:
- a) prepare and submit to the City for the City's review and approval an Overall Grading Plan which the Owner shall procure pursuant to the Owner's engineering design for the Works in respect of all of the Land; and,

- b) deposit with the City security for the purpose of first stage grading control, the amount of which deposit shall be determined by the City in accordance with the City's Lot Grading Policy ("Owner's Grading Deposit"). The parties acknowledge and agree that the Owner's Grading Deposit shall be held by the City in addition to any other security, which the Owner may be required to provide to the City pursuant to this Agreement. The Owner's Grading Deposit shall be held by the City to ensure completion of pre-grading and to ensure the correction of any issues which may arise regarding completion of final lot grading, which issues may include but are not limited to overall grading of the Land as a whole and those grading issues which cannot be resolved by modification to a single lot alone.

The parties acknowledge and agree that the Owner's Grading Deposit, or remaining balance thereof, shall not be released to the Owner until receipt by the City, of Grading Certificates for all lots, blocks, units or severed parcels within the Land, which certificates are satisfactory to the City; and,

- c) remove the top soil from the entire lot, block, unit or severed parcel and stockpile it at locations approved by the City; and,
- d) pre-grade the entire lot, block, unit or severed parcel to the elevation shown on the Overall Grading Plan making due allowance for the final application of top soil and sod and for the material to be excavated for the foundations and basements of buildings to be constructed; and,
- e) submit a Certificate for all the lots, blocks, units and severed parcels within the Land where single and two family dwellings will be constructed, issued by its Consulting Engineer in which the Consulting Engineer certifies to the City, without qualification, that the pre-grading as required in this section, has been duly fulfilled.

FINAL GRADING (SECOND STAGE GRADING CONTROL)

23.1 Prior to issuance of a Building Permit for construction of a single detached dwelling or semi-detached dwelling, the owner of any lot, block, unit or severed parcel within the Land shall:

- a) prepare and submit to the City, for the City's review and approval, a Detailed Grading Plan for each lot, block, unit or severed parcel, which the owner of any lot, block, unit or severed parcel shall prepare in accordance with the Overall Grading Plan for the Land which has been approved by the City Engineer; and,
- b) deposit with the City cash security for each lot, block, unit or severed parcel, the amount of which deposit shall be determined by the City in accordance with the City's lot grading policy. Such cash deposit shall be held by the City as security for the purpose of second stage grading control ("Builder's Grading Deposit"). The parties acknowledge and agree that the Builder's Grading Deposit shall be held by the City in addition to any other security which the Owner may be required to provide to the City in this Agreement, and in addition to any other security which the Owner's builder may be required provide to the City pursuant to this Agreement. The Builder's Grading Deposit shall be held by the City to ensure completion of, or correction to, any grading issues which may arise in respect of final lot grading of individual lots, blocks, units or severed parcels by the property owner's builder.

The parties acknowledge and agree that the Builder's Grading Deposit, or remaining balance thereof, shall not be released until receipt by the City of a grading certificate for the lot, block, unit or severed parcel, which certificate is satisfactory to the City, as required under this section; and,

- c) pay to the City a fee for inspection of final lot grading by the City, which amount shall be determined in accordance with the City's User Fee By-law.

- 23.2 Upon receipt of a Building Permit for construction of a single detached dwelling or semi-detached dwelling the owner of any lot, block, unit or severed parcel within the Land shall:
- a) carry out and complete final grading, which includes provision of topsoil and sod, in accordance with the Detailed Grading Plan, approved by the City, for each lot, block, unit or severed parcel located within the Land, to the satisfaction of the City, within six (6) months after the insulation inspection date with the exception of the period between November 30 and April 1, the grading shall be completed by June 15 of the same year following April 1; and,
 - b) submit to the Director of Building and Licensing, or designate, a certificate stamped by a qualified professional engineer stating that the "as built" grading of the lot, block, unit or severed parcel within the Land conforms to the approved Detailed Grading Plan.
- 23.3 The Owner covenants and agrees to complete the grading of parks and other areas within the Land as approved by the City Engineer, in accordance with the Overall Grading Plan, within six (6) months after completion of the base asphalt for the roads within the Land.
- 23.4 All buildings erected on the lots, blocks units or severed parcels located within the Land are to conform to the grades shown on the Overall Grading Plan.
- 23.5 In the event that the final grading of a lot, block, unit or severed parcel is not completed in accordance with this Agreement, the City may:
- a) enter upon the lot, block, unit or severed parcel and carry out the work necessary to complete the final grading; and,
 - b) draw upon the security to pay the City's cost to complete the final grading.
- 23.6 Notice is hereby given that the City may subsequently approve amendments, revisions and adjustments to the Overall Grading Plan, as referred to on Schedule "E" of this Agreement, such that the reader is advised to examine the plans on file with the City to determine current requirements.
- 23.7 The owner of any lot, block, unit or severed parcel within the Land covenants and agrees not to construct an accessory building, an addition or structural alteration to an existing building or a pool, or pool enclosure, until the City has received a Grading Certificate certifying that final grading has been completed in accordance with the approved Detailed Grading Plan on such lot, block unit or severed parcel.

ISSUANCE OF BUILDING PERMITS

- 24.1 No building permits shall be issued for any lot, block, unit or severed parcel within the Land by the City;
- a) until the Plan, if any, has been registered on title; and,
 - b) until this Agreement has been registered on title; and,
 - c) until such time as the Owner's Consulting Engineer has certified that watermains, including fully serviceable and operative fire hydrants, together with a roadway, which includes granular base and base asphalt, have been installed in accordance with municipal standards to the satisfaction of the City Engineer; and,
 - d) until such time as the Owner's Consulting Engineer has certified that the lots, blocks, units or severed parcels have been pre-graded in accordance with the requirements of this Agreement for pre-grading; and,
 - e) until a Detailed Grading Plan indicating the site of the building, the main floor and top of foundation wall elevations, and the proposed grading according to

the Overall Grading Plan has been prepared by an Ontario Land Surveyor or a qualified professional engineer and filed with the Director of Building and Licensing, or designate; and

- f) all trees to be preserved on the lot, block, unit or severed parcel have been satisfactorily protected in accordance with the standards established by the City; and,
- g) unless otherwise prescribed in Schedule "D" (Specific Provisions).

24.2 Notwithstanding the forgoing provisions of this section, the Owner Agrees that:

- a) In accordance with the provisions of the relevant Zoning By-law, the Owner may construct Model Homes on the Land prior to registration of the Plan of subdivision provided that:
 - i) the Owner receives a Building Permit from the City's Director of Building and Licensing for each model home to be constructed; and,
 - ii) the Owner confirms that there is adequate water supply and pressure with fully operational hydrants to within 150 metres of any building erected on the Land for fire protection; and,
 - iii) the Owner confirms that there is road access, acceptable to the City's Director of Building and Licensing, to within 90 metres of any building erected on the Land for emergency access; and,
 - iv) the Owner certifies to the City's Director of Building and Licensing that lots designated for model home construction, have been pre-graded to the elevation shown on the Overall Grading Plan, for the Land, making due allowance for the final application of top soil and sod and for material to be excavated for foundations and basements of Model Homes to be constructed, and all provisions set out in Section 11.4 of this Agreement requiring completion prior to commencement of servicing have been satisfied.
- b) The maximum number of Model Homes permitted by the City for construction by the Owner on the Land under the provisions of this section shall not exceed ten percent (10%) of the lots intended for single-detached dwellings, semi-detached dwellings or townhouse purposes within the Plan of subdivision proposed for registration to a maximum of twenty (20) dwelling units, all in accordance with the provisions of the City's relevant Zoning By-law, as amended.
- c) In order to guarantee compliance with all the terms and conditions contained within this section, the Owner covenants and agrees to place security with the Director of Building and Licensing in an amount of \$ 3,000 for each and every model home in an form satisfactory to the City, prior to issuance of a Building Permit for construction of any model home permitted by this Agreement.

The security deposit is required to secure, but is not limited to:

- i) demolition of any number of Model Homes beyond that which is permitted by the relevant Zoning By-law for the Land in the event a plan of subdivision for such Land is not registered in accordance with the terms of this Section; and/or,
- ii) maintenance and/or clean-up of the City's roads in the event that they become damaged or soiled with earth and debris as a result of model home construction.

The City shall release the security deposit required under this Section, or remaining balance thereof, without interest, to the Owner provided:

- i) a Plan of subdivision has been registered on the Land; and,
 - ii) there are no outstanding obligations required of the Owner with respect to the security held under this Section.
- d) All Model Homes constructed under the provisions of this Section shall be used for the sole purpose of an office and/or show room and/or sales centre to promote the sale of residential units on the Land and shall not be occupied as a dwelling unit until:
- i) a Plan of subdivision has been registered against the Land; and,
 - ii) the City has received from the Owner a Surveyor's Real Property Report prepared by an Ontario Land Surveyor showing the location of the constructed building on the lot and the City has determined that the location of such building complies with the requirements of the Building, Zoning and Health By-laws of the City; and,
 - ii) the building has passed an inspection for occupancy to the satisfaction of the City's Director of Building and Licensing, or designate, pursuant to the conditions for occupancy in the Building Code Act and Regulations thereunder.
- e) The Owner shall register a Plan of subdivision on the Schedule "A" Land, within six (6) months of issuance of a building permit for the first model home.

In the event that the Owner cannot register the Plan of subdivision within six (6) months of the date of issuance of a Building Permit for the first model home, the Owner may upon written request to the City's Director of Building and Licensing, apply for an extension, provided the request for such extension is received by the City within twelve (12) months of the date of issuance of a Building Permit for the first model home.

- f) Where the Owner has not registered a Plan of subdivision on the Land and no written request for extension to register a Plan of subdivision has been received by the City within twelve (12) months of the date of issuance of a Building Permit for the first model home, then the City may, upon written notification to the Owner, require the Owner to immediately:
- i) demolish any number of Model Homes, which are beyond the maximum number permitted by the relevant Zoning By-law on the Land; and,
 - ii) remove any and all appurtenances used to service the said model home(s), which shall include, without limiting the generality of the foregoing, connections to the water and sewer services as well as electrical service connections, telecommunication cables, gas mains and television co-axial cables; and,
 - iii) to restore the Land to its original state prior to execution of the attached Agreement, pursuant to the Building Code Act, Section 8, Subsection 4.
- g) In the event that no action is taken by the Owner, satisfactory to the City, to remove such Model Homes within thirty (30) days after the mailing of such Notice, the City has, and is hereby given, the right of entry by the Owner to the Land and may do and perform any and all actions, matters and things that may be required to demolish any number of Model Homes which are beyond the maximum number permitted by the relevant Zoning By-law on the Land and in pursuance thereof, may hire labour, equipment and purchase such materials as the City considers necessary. All expenses incurred by the City, pursuant to this subsection, shall be charged against the security deposit required under this Section.

OCCUPANCY OF BUILDINGS

25. The Owner agrees that no building on any lot, block, unit or severed parcel within the Land shall be occupied by any person, unless and until:
- a) the City has received from the Owner a registered Ontario Land Surveyor's Plan showing the location of the constructed building on the lot block, unit or severed parcel and the City has determined that the location of such building complies with the requirements of the Building, Zoning and Health By-laws of the City; and,
 - b) the building has passed a final inspection for occupancy to the satisfaction of the City's Director of Building and Licensing, or designate, pursuant to the conditions for occupancy in the Building Code Act and Regulations thereunder.

LAND RESTRICTIONS

26. The Owner agrees regarding the lots, blocks, units and severed parcels, if any, described in Schedule "J":
- a) that they:
 - (i) are unsuitable for building purposes — due to insufficient size or frontage, or because of their low-lying, rocky, marshy, or environmentally sensitive character; and,
 - (ii) must be amalgamated with an adjoining lot, block, unit or severed parcel;before the Schedule "J" parcel may be eligible for a building permit or as further provided for in Schedule "J"; and,
 - b) that no application may be made by the Owner for a building permit for the erection of any building or structure on any of the said lots, blocks, units or severed parcels until such time when same becomes part of an adjoining lot, block, unit or severed parcel which larger combined parcel is suitable for development in accordance with the intent of the approved development plans and applicable zoning by-laws.

SODDING

27.1 The Owner shall:

- a) upon installation of sidewalks or where no sidewalks exist, upon installation of curbs and gutters, provide topsoil and lay sod of a quality acceptable to the City on the untravelled portion of the roadway shown within the approved Plan; within such other approved plans or as may otherwise be required by this Agreement; and,
- b) maintain the sod on the untravelled portion of the roadway until completion of the maintenance period of the Works.

27.2 The owner of any lot, block, unit or severed parcel within the Land shall:

- a) provide topsoil and lay sod of a quality acceptable to the City, in accordance with the time limits specified for completion of Final Grading in this Agreement, on the front, side and rear yards of each lot, block, unit or severed parcel from the building face thereto produced to the boundaries of such land, except for the area designated as a driveway; and,
- b) maintain the sod on each lot, block, unit or severed parcel until possession of the property by a third party.

CONTROL OF WEEDS

28. The Owner agrees to control, to the satisfaction of the City, weeds on all of the Land except lots, blocks, units, or severed parcels conveyed by the Owner to a third party.

PROHIBITION AGAINST DEBRIS ON LANDS

- 29.1 The Owner agrees:

- a) to not use land dedicated, transferred or vested in the City for the depositing of waste, debris, tree branches, topsoil, fill material or refuse obtained from the development of the Land, except with the prior approval in writing of the City and subject to such terms as may be required by the City; and,
- b) to ensure that until all buildings to be erected on every lot, block, unit or severed parcel within the Land have been occupied, they will not become unsightly by the accumulation of garbage, debris or builder's waste; and,
- c) to restrain, by all reasonable means, all other persons from depositing waste, debris, topsoil, fill material or refuse on the Land; and,
- d) to remove, at its expense, any such wastes, debris, tree branches, topsoil, fill material or refuse so deposited forthwith upon being so directed by the City.

- 29.2 The City may, if the Owner has not cleaned up any such lot, block, unit, severed parcel or municipal lands upon forty-eight (48) hours notice from the City, enter on and clean up such land, charging the cost therefor against the security.

- 29.3 Burning of garbage and debris by the Owner or any builder within the Land may be permitted only upon the written approval of the Fire Chief of the City.

- 29.4 The Owner shall not dispose or stockpile any waste or surplus fill material on the Land except in a manner and in a location approved by the City.

STREET CLEANING

- 30.1 Until the Works intended to belong to the City which the Owner is required to construct under this Agreement are assumed by the City:

- i) the Owner shall be responsible to prevent earth and debris from being tracked onto streets outside the Land; and,
- ii) the Owner shall, as soon as any dwelling within the Land has been commenced to be constructed, keep the street adjacent to which the dwelling is situate, and all streets affording access to that street, clear of earth, debris and building materials.

- 30.2 If earth, debris and building materials are allowed by the Owner to accumulate on any of the aforementioned streets, either inside or adjacent to the Land, the Owner shall forthwith clean the said streets and remove the debris and materials.

- 30.3 In the event the Owner fails to fulfill the requirements of this section, the City is authorized to have such work done at the Owner's expense. The City will notify the Owner in advance of the City cleaning and removal of debris and materials from the streets. The cost of any work done pursuant to this subsection may be charged by the City against the security.

TREES

- 31.1 The Owner shall:

- a) provide advance notice to the Manager of Forestry, or designate and obtain all necessary underground locates, prior to commencement of tree planting; and,
- b) plant one shade tree of a type acceptable to the City on the untravelled

portion of the road allowance in front of each lot, block, unit or severed parcel and two shade trees at equal spacing and frequency for the flankage yard of each corner lot, block, unit or severed parcel within the Lands in accordance with Schedule "F"; and,

- c) repair any damage caused to underground utilities as a result of tree planting operations; and,
- d) preserve and protect all existing trees within the Land, in accordance with good arborist practices except for those trees that the City has agreed may be removed, and no trees shall be removed without such permission, and the City shall remove all municipally owned trees; and,
- e) remove all trees within the Land which have died or were severely damaged during the construction process and replace damaged or dead trees with new trees, where required to do so by the City, except for municipally owned trees, which shall be removed by the City; and,
- f) maintain each tree for a period of two (2) years after acceptance by the City of the work carried out by the Owner for tree planting, to ensure that each tree is living and shows signs of active growth; and,
- g) place a letter of credit with the City in an amount as specified under Schedule "F", appended hereto, to secure the maintenance obligation of the Owner under this Agreement for tree planting.

31.2 At any time during the maintenance period, the Owner shall, upon request from the City, remove any tree, which has died or is not in satisfactory condition. In the event the Owner fails to maintain the trees to the satisfaction of the City, the City may have the work carried out on behalf of the Owner with all associated costs charged against the security. The City shall release the remaining balance of the security deposit for trees to the Owner, upon assumption of the trees by the City.

31.3 In the event that the measures required for the protection of trees during building operations become unsatisfactory, in the opinion of the City, the Owner or any builder on the Land or their representatives, shall upon forty-eight (48) hours notice from the City, reinstate protection for the trees. Upon failure by the Owner or any builder on the Land or their representatives to reinstate protection for the trees, the City may have the work carried out at the Owner's expense, with all associated costs charged against the security.

FENCING

32. All parklands adjacent to other lands and abutting streets within the Plan (if any) are to be fenced in accordance with the requirements of the City and as shown on the approved drawings as referred to under Schedule "E".

DEFICIENCIES IN WORKS

33.1 In the event that the City determines that the Owner is not proceeding with due diligence to carry out the Works or any of them:

- a) in accordance with the timetable for the Order of Installation of Works specified under this Agreement; or,
- b) in a proper and workmanlike manner and in accordance with Schedules "E" and "F"; or,
- c) in accordance with other provisions of this Agreement;

then, in that event, the City may cause a Notice in writing to be sent by Registered Mail or delivered personally to the Owner at its last known place of business specifying such default and requiring that the default be remedied forthwith.

- 33.2 In the event that no action is taken by the Owner satisfactory to the City to remedy such default within seven (7) clear business days after the service or mailing of such Notice (or within such greater period as may otherwise expressly be permitted in this Agreement) or in the event of emergency, in addition to any other remedies hereunder, the City has and is hereby given the right of entry by the Owner to the Schedule "A" Land and may do and perform any and all actions, matters and things that may be required to remedy the default(s) as aforesaid, and in pursuance thereof, may hire labour, equipment and purchase such materials as the City considers necessary. All expenses incurred by the City, pursuant to this subsection, shall be paid by the Owner to the City within seven (7) days from the date of an account therefor being rendered to the Owner by the City.
- 33.3 Where, in the opinion of the City, any damage to any property has been caused directly or indirectly, or by reason of any default of the Owner under the provisions of this Agreement, the City has and is hereby given the right by the Owner to remedy such default at the expense of the Owner. The Owner shall pay such expense to the City within seven (7) days from the date of an account therefor being rendered to the Owner by the City.
- 33.4 The expense of all remedial work done by the City pursuant to this section shall:
- a) be calculated by the City whose decision on such expense is final; and,
 - b) include a management fee and a liquidated damages payment equal to fifty percent (50%) of the cost of labour, materials and equipment to perform such work, payable to the City as a consequence of such default; and,
 - c) include such further sums for special damages as may be determined by the City.
- 33.5 No work, act, matter or thing done by the City, its officers, employees or contractors as an agent of the Owner, pursuant to the provisions of this section or any other sections of this Agreement shall:
- a) give rise to any action, claim, counterclaim or demand by the Owner and/or Mortgagee or their respective executors, administrators, successors or assigns for damages, costs or compensation of any kind, except where such action, claim, counterclaim or damage arises from the negligence of the City or those for whom it is responsible; and,
 - b) be an acceptance of any such City service or improvement by the City.

MAINTENANCE OF WORKS

- 34.1 The Owner shall maintain to the satisfaction of the City during the period between the first occupancy of any permanent building within the Land and the placement of the final layer of asphalt pavement on the roadways of the Land:
- a) the asphalt base for such roadways in a well-graded and dust and muck free condition, fit for normal traffic at all times; and,
 - b) all curbs and gutters.
- 34.2 The Owner shall maintain, against any defective materials, latent defects or poor workmanship, at its own expense and to the satisfaction of the City:
- a) all sewer and watermain works and appurtenances installed by it under the provisions of this Agreement from the time of installation and continuing for a period of two (2) years after acceptance of sewer and watermain works by the City; and,
 - b) all base and surface course asphalt, curb and sidewalks installed by it under the provisions of this Agreement from the time of installation and continuing for a period of one (1) year after acceptance of surface course asphalt by the City; and,

- c) all trees installed by it under the provisions of this Agreement from the time of installation and continuing for a period of two (2) years after acceptance of surface course asphalt by the City.
- 34.3 The City agrees that acceptance of the Works and commencement of the maintenance periods described in this Agreement shall take place upon fulfillment of the following conditions by the Owner:
 - a) where the Land is being developed by a Plan, the Owner has registered the Plan in the Registry Office for the Land Titles Division of Wentworth; and,
 - b) the Works, which the Owner is required to construct pursuant to this Agreement, are substantially complete, in the opinion of the City; and,
 - c) the Works, which the Owner is required to construct pursuant to this Agreement, have been inspected to the satisfaction of the City; and,
 - d) the City has not identified any major deficiencies in the Works constructed pursuant to this Agreement.
- 34.4 The required security to be deposited by the Owner in this Agreement shall include an amount to secure this maintenance obligation and shall be no less than ten percent (10%) of the cost of completed Works and thirty percent (30%) of the estimated cost of planted trees or \$ 10,000, whichever amount is greater.
- 34.5 During construction and installation of the Works and site grading, and until the streets are assumed by the City, the Owner shall, on or before the 15th day of November in each year, complete all such road Works as it has, on or before the 10th day of October in that year, been directed in writing by the City to perform — in order to place the roads in a satisfactory condition for the winter, including such work required to prevent damage to snow plows.
- 34.6 Notwithstanding the obligation of the Owner to maintain the said Works for the periods of time herein prescribed, the title to the Works together with all materials, pipes, pumps, machinery and other equipment connections and things appurtenant thereto, shall vest in the City immediately upon their installation and the Owner shall execute and deliver to the City when requested by the City, such other assurance(s) of title as the City may require.

ENTRY BY CITY EMPLOYEES, CONTRACTORS OR AGENTS

- 35. Employees, contractors or agents of the City may, at any time and from time to time enter the Land without notice to the Owner, to inspect any of the Works and, if considered necessary by the City, may make emergency repairs thereto without notice to the Owner. The Owner hereby expressly consents to such entry by the City's employees, contractors or agents. The cost of all such emergency repairs determined by the City shall be paid forthwith by the Owner. In the event the Owner fails to make payment within thirty (30) days of receipt of the account, such cost may be recovered by the City from the security.

SNOW REMOVAL AND USE OF WORKS BY CITY OR AUTHORIZED PERSONS

- 36.1 The Owner agrees:
 - a) that pending completion of the said Works and/or acceptance thereof by the City, the Works, or any of them, may be used by the City or by any persons authorized by the City for the purposes for which such Works are designed; and,
 - b) that where the Land is being developed by a Plan, the City and any and all persons authorized by the City may enter upon all highways within the Plan with all necessary machinery and equipment and plow or remove snow or perform any other work which may be deemed necessary or expedient to make such highways safe and more convenient for the use of persons or vehicles; and,

- c) to consent to such entry by the City personnel and authorized persons for the purposes set out herein.

36.2 Notwithstanding the provisions of the above section:

- a) the use of the Works or any of them or such snow plowing or removal of snow or the performance of other work shall not constitute an acceptance of the Works or any of them pursuant to this Agreement by the City; and,
- b) the use of the Works or the snow plowing or removal of snow or the performance of such other work as the City considers necessary does not relieve or discharge the Owner of its obligations in respect of the construction and maintenance of the said Works or any of them, or of any other obligation of the Owner pursuant to the provisions of this Agreement.

"AS CONSTRUCTED" DRAWINGS

37. The Owner's Consulting Engineer shall:

- a) incorporate any job changes on the plans for such Works; and,
- b) deliver one (1) complete set of such revised "as constructed" drawings in mylar form, certified by the Owner's Consulting Engineer, as well as in a digitized electronic format acceptable to the City, within six (6) months after acceptance of the sewer and watermain works.

ASSUMPTION OF WORKS BY THE CITY

38.1 Before the Works intended to belong to the City are assumed by the City, the Owner shall:

- a) have complied with all of the terms and conditions of this Agreement in respect of the Works; and,
- b) have corrected all deficiencies in the Works identified under the maintenance periods described in this Agreement, to the satisfaction of the City; and,
- c) have furnished to the City a duly sworn statutory declaration of the Owner:
 - (i) that it has paid all accounts in connection with the supply, installation of and maintenance of the Works; and,
 - (ii) that there are no outstanding debts, claims or liens in respect of the installation of or maintenance of the Works; and,
- d) have furnished to the City a progress certificate, in the form of a statutory declaration, prepared and signed by its Consulting Engineer; and,
- e) provide the City with a Certificate by an Ontario Land Surveyor stating that he has made visible all standard iron bars on all corners and at all points where there occurs a horizontal change of direction in every street, easement and/or other lands dedicated to the City and along the outside perimeter of the Land; and,
- f) have furnished to the City such additional assurances (such as a solicitor's opinion) as the City may require.

38.2 Where the Owner has fulfilled the requirements for assumption of the Works by the City, the Consulting Engineer shall submit his Certificate confirming that all of the Works have been installed and maintained as required by the City. The City Engineer shall acknowledge in writing that the Works have been assumed by the City.

38.3 Upon the City's acceptance of the completion of installation and maintenance of the Works, including the streets and easements dedicated to the City hereunder, the Works shall thereupon be deemed to have been assumed by the City, and,

thereafter, the City shall be responsible for their maintenance and all liability pertaining thereto, subject to the Owner's obligations under Section 34 herein.

LIABILITY OF OWNER AND INDEMNIFICATION OF THE CITY

39.1 The City shall not be responsible for or liable for:

- a) any loss or damage that may happen to the Works, or to any part or parts thereof installed by the Owner pursuant to this Agreement and not yet assumed by the City; or
- b) any of the materials or other things used and employed in finishing and completing the Works by the Owner or any part or parts thereof; or,
- c) any injury to any person or persons, including workmen and the public, during the construction of the said Works or the maintenance thereof by the Owner pursuant to the provisions of this Agreement; or,
- d) damage caused by the storage, handling or use of explosives by the Owner or its employees, agents or contractors; or,
- e) the unapproved disposal of surface water from the Land; or,
- f) damage to any roadway, pavement, sidewalk or property of the City within the Land prior to assumption of the said Works by the City; or,
- g) damage by the Owner to the property of any person while the Owner is carrying out any of its Works in respect of the development; or,
- h) damage caused by the construction or operation of the Works under this Agreement prior to assumption thereof by the City; or,
- i) any loss or damage caused by the disposal or escape of surface water from the Land prior to assumption of the streets by the City.

39.2 The Owner covenants and agrees, at the Owner's expense, to defend, indemnify and forever save harmless the City, its employees, personnel, servants, contractors and agents from and against all actions, causes of action, interest, claims, demands, costs, (including legal costs) charges, damages, expenses prosecutions, fines, rights of contribution, and loss which the City may, at any time, bear, incur, be liable for, sustain or be put into for any reason, on account of or by reason of or in consequence of, arising directly or indirectly from (1) the City entering into this Agreement, and (2) from the implementation of the provisions of this Agreement by the Owner, its employees, agents, assignees or contractors and (3) in respect of any failure by the Owner to fulfil its obligations under this Agreement.

39.3 Notwithstanding any provision of this Agreement, the City shall not be liable for and no provision of this Agreement shall be construed as imposing upon the City any liability, in respect of any matter or thing arising directly or indirectly out of the provisions of this Agreement, for any damage or damages suffered by the Owner, or to any other employee, servant or agent of the Owner or to any property of the Owner or of any other person by reason of:

- a) any inspection carried out by the City or by a duly authorized employee, servant, contractor or agent of the City under any By-law of the City, under this Agreement or otherwise; or,
- b) the failure of the City or of any duly authorized employee, contractor or agent of the City to carry out any inspection under any By-law of the City, this Agreement or otherwise; or,
- c) the approval or failure to approve of any matter or thing, arising directly or indirectly out of the provisions of this Agreement, by the City or any duly authorized employee, servant, contractor or agent of the City.

INSURANCE

40.1 In accordance with the indemnification and save harmless covenants in favour of the City from the Owner in this Agreement, the Owner, prior to the execution of this Agreement by the City, shall:

- a) obtain at its own expense, including the cost of deductibles, its own policies of Insurance as specified below in this Agreement, in a form and with limits and deductibles acceptable to the City Engineer, and maintain such policies in force until assumption of the Works by the City (including the maintenance period); and,
- b) obtain from the Contractor(s) hired by the Owner to carry out the Works or any portions of them under this Agreement, the said specified policies of Insurance, in a form and with limits and deductibles acceptable to the City Engineer, and shall maintain such policies in force until acceptance of the Works by the City.

40.2 The said policies of insurance required under this Agreement shall include the following:

- a) Commercial General Liability Insurance, providing coverage in an amount of not less than Two Million Dollars (\$ 2,000,000) per occurrence; including but not limited to, blanket contractual liability, products liability, completed operations liability, owners/contractors protective liability, non-owned automobile liability.

Where the works to be carried out include any one of the following activities, the policy shall not contain any exclusions or limitations with respect to such activity: shoring; storage; handling and use of explosives; underpinning; raising or demolition of any building or structure; pile driving; caisson work; collapse of any structure or subsidence of any property, structure or and from any cause.

The Owner's policy shall:

- (i) insure the Owner and shall include all contractors, agents, sub-trades and subcontractors employed or used by the Owner while engaged in any activities under this Agreement; and,
- (ii) name the City as an additional insured; and,
- (iii) contain cross-liability and severability of interest provisions.

The Contractors' policy shall:

- (i) insure the Contractor, and shall include all agents, sub-trades and subcontractors employed or used by the Contractor while engaged in any activities under this Agreement; and,
 - (ii) shall name the Owner and the City as additional insured; and,
 - (iii) contain cross-liability and severability of interest provisions.
- b) Automobile Liability Insurance, being a Standard Owners Form Automobile insurance policy, including third party liability coverage in an amount of not less than One Million Dollars (\$ 1,000,000) per occurrence; to cover all licensed vehicles owned and/or leased, as may be used in conjunction with this Agreement.
 - c) Any other form of insurance coverages in such amounts and deductible levels, or increased limits of the aforementioned coverages, as the City may require, taking into consideration Works to be done and industry standards.

40.3 Evidence, Acceptability, Cancellation, Termination/Non-Renewal

- a) Prior to execution of this Agreement by the City and prior to construction of the Works by the Contractor, the Owner shall deposit with the City originally signed certificates of insurance, or if required by the City, certified copies of each of the above noted insurance policies and, thereafter during the term of this Agreement, shall provide all policy renewals at least 15 days prior to the expiry date of such insurance.
- b) All insurance policies shall be in terms, form and amount and with Insurers (licensed to carry on business in Ontario) acceptable to the City Engineer.
- c) Insurance policies shall contain a provision that in the event of cancellation/termination/non-renewal, insurers shall provide prior written notice to the City of not less than 30 days for Commercial General Liability Insurance and 15 days for Automobile Liability insurance.

40.4 In the event the required insurance is not received or not maintained in force by the Owner, the City may, but is not obliged to, pay premiums for such insurance or substitute insurance and in such event, the Owner shall reimburse the City forthwith for all premiums so paid by the City. In the event of the failure of the Owner to so reimburse the City, within ten (10) days of the Notice of payment by the City, the City may, without further Notice, realize upon the security or may recover same as a debt in a court of competent jurisdiction.

REMEDIES

- 41. a) In addition to any other remedies in favour of the City in this Agreement, where the Owner does not proceed, satisfactorily in the opinion of the City Engineer, with the development of the Land under this Agreement within a period of one (1) year from the delivery of this fully executed agreement to the Owner or from the date of registration of this Agreement, whichever is earlier, the City may realize upon the security and apply same as may, in the opinion of the City, be required to complete and/or secure the Works commenced or the Works not commenced, but are required in the opinion of the City Engineer, to provide a satisfactory resolution of the property under development, compatible with the development and environmental concerns in the balance of the area adjacent to the Land.
- b) The waiver or acquiescence by the City of any default by the Owner under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.

AGREEMENTS OF PURCHASE AND SALE

- 42. The Owner shall include in any Agreements of Purchase and Sale for lots, blocks units and severed parcels:
 - a) in respect of sidewalks:
 - (i) a plan showing the location of sidewalks; and,
 - (ii) a notice advising prospective purchasers and tenants that a sidewalk will, or will not, be constructed within the street right-of-way fronting the lot/block, unit or severed parcel.
 - b) in respect of the Detailed Grading Plan:
 - (i) a clause whereby the right is reserved, notwithstanding completion of the sale, for the Owner to enter upon the lot, block, unit or severed parcel sold for a period of one (1) year after the completion of the sale or until expiration of the maintenance period for the Works specified in this Agreement whichever date is later, in order to alter the land's grading in compliance with the Detailed Grading Plan; and,

- (ii) where roof leaders are not connected to the storm sewer a statement by the purchaser acknowledging that the purchaser understands and agrees that there are continuing lot, block, unit or severed parcel grading obligations and requirements and a restrictive covenant regarding the discharge of roof leaders to the ground, which shall run with the Land.
- c) in respect of Super Mailboxes and/or Catchbasins:
 - (i) a statement by the purchaser acknowledging the location of all Super Mailboxes and/or catchbasins within the Land; and,
 - (ii) a statement by the Owner that, as of the date of execution of the Agreement of Purchase and Sale, the lot, block, unit or severed parcel has or will have, as the case may be, a catchbasin and/or a Super Mailbox upon or adjacent to it (and, if the Super Mailbox location is not then known, upon being so informed by the Canada Post Corporation, the Owner shall immediately, at its own expense, notify, in writing, the purchaser of this fact); or,
 - (iii) where the purchaser of the lot, block, unit or severed parcel is a builder that has purchased the property for the purpose of constructing a residence on the property and its re-sale to a homebuyer, a covenant by the builder that, prior to the sale of the property to a homebuyer who intends to occupy the premises as a residence, the builder shall, at its own expense, notify, in writing, the homebuyer that the property has or will have, as the case may be, a catchbasin and/or a Super Mailbox abutting or fronting on it (or, if the location of the Super Mailbox is not then known, upon being so informed by the Canada Post Corporation, the builder shall immediately, at its own expense, notify, in writing, the homebuyer of this fact).

MISCELLANEOUS

43.1 All terms, covenants, obligations and conditions in this Agreement are and shall be deemed to be covenants running with the Land and it is hereby agreed among the parties to this Agreement that:

- a) every term, covenant, obligation and condition in this Agreement inures to the benefit of and is binding upon the parties hereto and also any person or persons, corporate or otherwise, who execute this Agreement and their respective executors, administrators, successors and assigns; and,
- b) when the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine or neuter, as the case may be, were expressed; and,
- c) the headings to the paragraphs in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or of any provision hereof; and,
- d) notices may be given to the Owner at the address set out in Schedule "B". Notices to the City may be addressed as follows, (until the City gives notice otherwise);

City of Hamilton,
Attention: City Clerk,
 71 Main Street West,
 Hamilton ON L8P 4Y5

- e) subject to the provisions of this Agreement regarding changes to the approved construction drawings that may be subsequently approved by the City and regarding the plans and drawings to be prepared and submitted to the City for approval and subject to the fact that some or all of the Schedules of this Agreement may not form part of the version of this Agreement registered in an electronic format, this Agreement contains the entire agreement between the

Owner and the City, there is no condition precedent or warranty of any nature, no warranty or covenant exists collateral to this Agreement and this Agreement supersedes all prior agreements, arrangements, promises, representations or other understandings; and,

- f) notice is hereby given that unregistered amendments, revisions and adjustments may subsequently be authorized by the City to:
 - i) the approved schedules and construction drawings either required and/or referred to in this Agreement; and,
 - ii) the Schedules listed in this agreement; and,
 - iii) such that the reader is advised to examine the approved Schedules and construction drawings on file with the City to determine current requirements; and,
- g) if any of the provisions of this Agreement or their application to any person or circumstance are to any extent illegal, invalid or unenforceable at law, the remainder of this Agreement shall be construed as if such illegal, invalid or unenforceable provision were not part of the Agreement; and,
- h) this Agreement may not be modified or amended except by instrument in writing signed by the Owner and the City.

43.2 Time shall be of the essence of this Agreement.

LIST OF SCHEDULES TO THIS AGREEMENT

44. It is understood and agreed that::

- (i) schedules "A", "B", "C" and "D" listed below are attached to the paper version of this Agreement, and are to be included in and form part of this Agreement; and,
- (ii) schedules "E", "F", "G", "H", "I" and "J" listed below, (unless designated in Schedule "D" (the Specific Provisions Schedule) of this Agreement as "Not Applicable" or as "N/A") — are also attached to the paper version of this Agreement, and are to be included in and form part of this Agreement:
- (iii) where further Schedule(s) (if any) in addition to the foregoing Schedules, are also attached to and form part of this Agreement, such further Schedules shall be listed in Schedule "D".

Schedule "A" -	Legal Description
Schedule "B" -	Ownership and Execution
Schedule "C" -	Conditions of Approval
Schedule "D" -	Specific Provisions
Schedule "E" -	List of Approved Construction Drawings for the Works
Schedule "F" -	Estimates of Costs of Works to be carried out by the Owner
Schedule "G" -	Financial Obligations of Owner
Schedule "H" -	Recovery of Costs for Existing and Future Works
Schedule "I" -	Transfers/Dedications of Lands and Easements
Schedule "J" -	Land Restrictions

SCHEDULE "A"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Specific details of the Land that is the subject of this Agreement to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

DETAILS OF THE PLAN

Plan prepared by: S.D. McLaren, O.L.S.

Plan dated:

MUNICIPAL ADDRESS OF LOCATION OF DEVELOPMENT:

- NOT APPLICABLE -

LEGAL DESCRIPTION:

Being composed of Part of Lot 5, Concession 5, formerly Geographic Township of Glanford, now in the City of Hamilton, being more particularly described as Lots 1 to 178, inclusive, Blocks 180 to 184 inclusive and Block 195 and streets namely, Hampton Brook Way, Thames Way, Fulmar Way, Rosebury Way, Solsbury Crescent, Provident Way, Malwood Drive, Hollybank Way, Penfold Court, Stoneglen Way and Strathearne Place, as shown on a plan of subdivision plan registered in the Land Registry Office of the Land Titles Division Of Wentworth as Plan 62M-_____.

Date Schedule prepared: September 9, 2003

SCHEDULE "B"

of a Subdivision Agreement between the City of Hamilton and the Owner named below.
Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

DATE OF THIS AGREEMENT: December 4, 2003

NAME OF OWNER: 1536708 Ontario Inc.

ADDRESS OF OWNER FOR NOTICES: 1070 Stone Church Road East, Unit 41
Hamilton ON
L8W 3K8

The Parties to this Subdivision Agreement, to which this Schedule "B" is attached, do enter
into the said Subdivision Agreement with each other and
IN WITNESS WHEREOF the Parties duly execute this Agreement, as follows:


FINANCE

CITY OF HAMILTON


Larry DiIanni, Mayor


Kevin C. Christenson, City Clerk

(c/s)

Where Owner is not a company,
the Owner's signature was signed
In the presence of:

1536708 Ontario Inc.

Per: 

Anthony G. DiCenzo, President

Witness (signature)

Print name of Witness

Address of Witness

(c/s)

I/We have authority to bind the corporation.

Where Owner is a corporation, also

- (i) above signature line, print corporation name;
- (ii) below signature line, print officer's/director's and their title;
- (iii) affix corporate seal, if available.

And, Where Owner is an individual also,

- (i) have witness(es) sign;
- (ii) cross out phrase, "I/We have authority to bind the corporation."

OFFICE OF THE CLERK			
APPROVED BY COUNCIL			
DATE	August 22, 2001		
REPORT	01-025	ITEM	47
INTL.	0m	YEAR/FILE	2003-2439

SCHEDULE "C"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 (Southampton Estates)
and 25T200301 (South Mount Hope Estates)

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

CONDITIONS OF APPROVAL

("Southampton Estates", revised February 17, 2000)

As authorized by By-law No. R95-041, I, G. Paparella, hereby approve draft plan of subdivision, "*Southampton Estates*" Subdivision, Kaytor Developments Limited and the Executor for the Estate of Lena Marie Kaytor, owners, in the Township of Glanbrook under Regional File No. 25T-98002, subject to the following (65) conditions:

- (1) That this approval apply to the draft plan prepared by Wellington Consultants on behalf of Kaytor Developments Limited and the Executor for the Estate of Lena Marie Kaytor dated February 19, 1998 and certified by S. D. McLaren, an Ontario Land Surveyor, on November 12, 1997, *subject to the following modifications and conditions of approval:*

Township of Glanbrook

- (2) That the owner modify the original draft plan to include the following:
- (i) extend the western limit of Street G, north to connect with Street B and renumber the lots accordingly;
 - (ii) Realign the storm channel at the south western limit of the subject lands;
 - (iii) Modify the lot frontage and area of Lots 17 to 19 and Lots 53 to 66, inclusive, to ensure a minimum lot frontage of 15 metres and a minimum lot area of 450 square metres is provided in compliance with the Residential "R3" Zone regulations;
 - (iv) Combine block B with the majority of Block D to form a larger Block B;
 - (v) Separate a 10 metre strip of land from the eastern limits of Lot 16 and identify these lands as a separate Block (i.e., Block 13 on Figure 2);
 - (vi) Reconfigure Lots 11, 12, 59 and 60 to provide for the establishment of a sanitary sewer easement between Street Q and the northern limit of Street I;
 - (vii) Blocks B and D (combined) be identified as the lands required to accommodate a temporary stormwater management facility to the satisfaction of the Township;
 - (viii) Shift the southern limits of the storm channel (Block 7) northerly to Block D;
 - (ix) Shift the portion of the storm channel located east of and adjacent to Blocks C and D on the adjacent lands, onto the subject property;

- (x) Eliminate any portion of the storm channel located within Block J;
 - (xi) Remove reference to "Landscaped Berm" in Block 6;
 - (xii) Eliminate unit numbers identified in the Legend for the Block Townhouses;
 - (xiii) Remove reference to Block 4 in Legend (not identified on draft plan) and renumber blocks accordingly;
 - (xiv) Delete block E reference (continue to identify these lands as Street P) and re-letter blocks accordingly;
 - (xv) *That lots 85, 86, 148, 149 and 150 be eliminated and replaced with a Block for a Public Park, and that the Lots and Blocks be renumbered accordingly; and*
 - (xvi) *That the lot lines between Block C (Park) and Block B (Medium Density Residential) be relocated 26 metres to the east, which establishes a lot frontage of 108 metres for Block C, an area of approximately 0.91 hectares (2.25 acres) for Block C and an area of approximately 1.234 hectares (3.05 acres) for Block B.*
- (3) That the Owner agrees to submit a detailed engineering servicing design to the Township for the subdivision prior to the finalization of the Subdivision Agreement. The design shall be prepared by a qualified professional Engineer and shall include all requirements of the Township, Region and the Ministry of Transportation for both the upgrading and extension of Homestead Drive, among other matters.
- (4) That the Owner agrees to prepare detailed lot grading and storm drainage plans, and storm drainage calculations for the proposed development to the satisfaction of the Township and in accordance with the Township of Glanbrook Municipal Engineering Standards. Among other matters, these plans must consider both existing and post development storm drainage conditions and the appropriate controls on the subject and surrounding lands.
- (5) That the Owner agrees to grant such easements and/or blocks as may be required for servicing, drainage, stormwater management facilities and/or proposed utilities, to the appropriate Municipality or Authority.
- (6) That the owner agrees to have the flowing studies prepared by a qualified Professional Engineer and submitted to the Township Engineer for approval:
- (a) A Stormwater Management study which shall indicate how stormwater is to be accommodated on and off the subject property to an adequate outlet, including Stormwater Management Facilities either as a temporary facility in the area designated in the Draft Plan or in the area designated in the Secondary Plan for the permanent Stormwater Management Facility for the total area of the Secondary Plan to provide quality and quantity controls. The Study should also address methods for erosion and siltation control.
 - (b) A Geotechnical Report which shall address the potential impact of construction on ground water, recommendations for pavement structure design, requirements for subdrains, and design information for sewer backfill and for building foundations. This report shall be submitted and approved prior to the finalization of the engineering drawings.

- (7) That the Owner agrees that the development of Phases 2 and 3 shall not proceed until such time as the storm channel on Blocks 6 and 7 has been constructed and connected with one another, to the satisfaction of the Township.
- (8) That the Owner agrees to provide, at his cost, and to the satisfaction of the Township, a temporary stormwater management facility in the southwest corner of the subdivision on Blocks B and D to properly service the development of the subject lands. Alternatively, the Owner shall provide the permanent Stormwater Management Facility and, in this case, shall front end the cost of the permanent Stormwater Management Facility, which shall be located, designed and constructed to the satisfaction of the Township.
- (9) That the Owner, through its soils consultant or other qualified consultant, be required to check the existing wells which provide the potable water supply within a reasonable distance of the subject lands to establish the existing depth of water within the wells prior to the commencement of construction; monitor these wells during construction; and check the wells after the completion of construction. If any problems do arise, they must be appropriately addressed by the developer to the satisfaction of the Township.
- (10) That the Owner shall prepare and submit for approval, a plan showing the design and location of required siltation controls, and temporary and/or permanent fencing, on the subject lands, to the satisfaction of the Township.
- (11) That the Owner agrees to install underground electrical power for the development.
- (12) That the Owner agrees to construct all works which may be considered temporary to facilitate the development of the subject property as required by the Township Engineer. In addition, these works may include, but not be limited to, emergency access or temporary outfalls.
- (13) That the Owner agrees that a maximum of 100 residential units shall be permitted to be constructed with only one (1) public road access to service the new development. A second public road access to the subject lands to the satisfaction of the Township is required prior to additional development beyond the initial 100 residential units.
- (14) That all lots shall be serviced with municipal sanitary sewers, watermains and storm drainage.
- (15) That prior to registration of the subdivision, the Owner shall be required to secure all the necessary approvals from the Ministry of Transportation to provide for the acquisition of the appropriate lands from the Ministry for the extension of Homestead Drive to the subject lands, at his cost.
- (16) That the Owner agrees to carry out the necessary works required, including the preparation of a Reference Plan, to have the M.T.O. right-of-way transferred to the Township of Glanbrook and the Region.
- (17) That prior to registration of the subdivision, the Owner shall acquire sufficient lands from the adjacent property to provide for the required right-of-way of the Homestead Drive extension, and shall dedicate these required lands to the Township.
- (18) That the Owner agrees to construct the required road improvements to Homestead Drive and to construct the southerly extension of Homestead Drive, at his cost, to the satisfaction of the Township, Region and Ministry of Transportation.

- (19) That the streets shall be dedicated as public highways on the final plan.
- (20) That the streets shall be named to the satisfaction of the Township of Glanbrook.
- (21) That the Owner shall provide all signage for traffic control within the subdivision to the satisfaction of the Township of Glanbrook.
- (22) That the Owner agrees to provide street lighting on the streets in accordance with the Township of Glanbrook Municipal Engineering Standards, to the satisfaction of the Township Engineer.
- (23) That the Owner agrees to prepare a Tree Preservation Plan to the satisfaction of the Township.
- (24) That the Subdivision Agreement between the Owner and the Township of Glanbrook shall be/registered by the Township on the title of the subject lands.
- (25) That the Owner agrees to implement appropriate noise attenuation measures adjacent to Highway No.6 (existing and new) based on the requirements of a Noise Study to be completed by the Owner to the satisfaction of the Township of Glanbrook and the Region.
- (26) That Block J be dedicated to the appropriate Road Authority to provide for the realignment of White Church Road.
- (27) That Blocks C, K and the new block at the south-west corner of the intersection of Streets B and D (formerly Lots 85, 86, 148, 149 and 150) be dedicated free of charge to the Township for public parkland.
- (28) That Blocks 5, 6 and 7 shall be dedicated to the Township for storm drainage purposes.
- (29) That the development of Blocks 8, 9, 10, 11 and 12 for single detached dwellings shall be conditional upon land assembly with the adjacent lands to the east, in accordance with the Zoning requirements of the Township of Glanbrook.
- (30) That the development of Block D shall be conditional upon land assembly with the adjacent lands to the east.
- (31) That Block 13 shall be merged in title with either the lot to the east or west in accordance with the resolution of the ownership issue, and shall not be established and developed as a separate lot by itself.
- (32) That no development shall occur on Block L until such time as it is merged in title with the adjacent lands to the south, and secures the appropriate zoning and site plan approvals to the satisfaction of the Township.
- (33) That prior to registration of the Plan, the Owner shall confirm to the satisfaction of the Township, that all building, structures and facilities associated with Lot 2 are located entirely within the boundaries of Lot 2 and comply with the pertinent zoning requirements.
- (34) That prior to registration of the Subdivision, the Owner shall demolish or remove the existing dwelling on Block A to the satisfaction of the Township.

- (35) That the Owner shall provide a certified list prepared by a surveyor showing the lot frontage and lot area of each lot and block on the Final Plan.
- (36) That the proposed Subdivision conforms with a Zoning By-law approved under the Planning Act.
- (37) That due to the proximity of the subject lands to the Hamilton Airport, a notice clause similar to the following shall be included in the Subdivision Agreement and registered on title:

"Future residents of this development are advised that the Hamilton Airport is located north of the subject lands and, as a result, there is a potential for noise nuisance at times related to Airport activity."

- (38) That the Owner agrees to provide Canada Post facilities as required by the Canada Post Corporation and to locate these facilities to the satisfaction of the Township and Canada Post. The facilities are to be installed as part of the installation of Public Works.
- (39) That the Owner agrees to provide a Geodetic-Benchmark in a location to the satisfaction of the Township.
- (40) That the development of all lots that either include or are adjacent to the Enbridge (formerly Interprovincial) easement through the subject lands shall satisfy all the requirements of the Enbridge Pipeline Inc. regarding such matters as setbacks, construction and notification.
- (41) That the Owner agrees, in writing, to satisfy all the requirements, financial and otherwise, of the Township, regarding the provision of roads, installation of services, drainage and all other matters related to the development of the subject lands. These matters shall be included within a Subdivision Agreement between the developer and the Township.

Bell Canada

- (42) That Bell Canada shall confirm that satisfactory arrangements, financial and otherwise, have been made with Bell Canada for any Bell Canada facilities serving this draft plan of subdivision which are required by the Municipality to be installed underground; a copy of such confirmation should be forwarded to the Municipality.
- (43) That the owner shall agree in the Subdivision Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. If there are any conflicts with existing Bell Canada facilities or easements, the owner/developer shall be responsible for rearrangements of relocation.

Canada Post

- (44) That the owner agrees to provide Canada Post facilities as required by Canada Post Corporation and to locate these facilities to the satisfaction of the Township of Glanbrook and Canada Post. These facilities are to be installed as part of the installation of Public Works.

Community Planning and Development Division – Land Development Department

- (45) That the owner provide a servicing study to demonstrate any staging of sanitary sewer and water servicing to the satisfaction of the Community Planning and Development Division.

- (46) That the owner extends the existing 300 mm diameter watermain along Homestead Drive southerly from the pipeline easement through this development to Whitechurch Road and connecting to Highway No. 6 for looping purposes.
- (47) That the owner agrees in writing to satisfy all requirements, financial and otherwise, of the Region of Hamilton-Wentworth prior to development of any portion of these lands.
- (48) That the owner provide all the required easements to the satisfaction of the Community Planning and Development Division.
- (49) That prior to final approval, the owner shall engage the services of a qualified consultant to complete a noise assessment study investigating noise levels impacting the proposed development and recommending noise control measures (if applicable), with said study and noise control measures being to the satisfaction of the Region.
- (50) That prior to final approval, the Region be in receipt of the fully executed subdivision agreement stating that the specific noise control measures recommended in the noise assessment study in accordance with the above noted conditions, and approved by the Region, shall be implemented as approved by requirements of the subdivision agreement.
- (51) That the owner agree to include in every offer to sell and register on title the following noise warning clause for all proposed residential units:

"Purchasers are advised that despite the inclusion of noise control measures within the development area and within the individual building units noise levels may become of concern, occasionally interfering with some activities of the occupants."
- (52) That the owner shall carryout an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Community Planning and Development Division and the Ministry of Citizenship, Culture and Recreation confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

Niagara Peninsula Conservation Authority

- (53) That the owner prepare a comprehensive stormwater management plan, wherein Provincial standards for water quality and quantity controls, and best management practices are utilized. This plan should include detailed design drawings for the proposed stormwater management facilities and channels, preferably utilizing natural channel design techniques, and detailed lot grading and drainage plans indicating that major system flows will be adequately conveyed across the site. These plans should be submitted to the Conservation Authority for review and approval.
- (54) That the executed subdivision agreement between the developer and the municipality include provisions stating that the developer agrees to implement the Authority approved stormwater management plans and lot grading and drainage plans as noted in the above condition.

Enbridge Pipelines Inc. (formerly Interprovincial Pipe Line Inc. (IPL))

- (55) That any proposed crossings of the right-of-way by roads, laneways, bike/walking paths, services and utilities are permitted in accordance with the regulations of the National Energy Board (NEB) Act and subject to approval by IPL's Crossing Coordinator, Mr. Warren Loper at (403) 420-5381. The owner will be required to enter into IPL's Standard Crossing Agreement.
- (56) That no permanent structures are permitted within the easement area.
- (57) IPL is regulated by the National Energy Board (NEB) Act. Section 112 of the Act requires any excavation within 30 m of IPL's easement to be approved by IPL. For locates of our facilities or approvals to excavate within 30 m, the owner must contact Mr. Brian Jeffery or Bob Payne at (905) 659-7989, three business days prior to the proposed work.
- (58) IPL requests that vehicle barriers be installed where IPL's easement intersects roads to control access along IPL's right-of-way. An IPL inspector must be present for installation and approval.
- (59) That during construction phase, the right-of-way shall be snowfenced.
- (60) That no building materials will be stored on IPL's right-of-way.
- (61) That no grading or placing of fill on IPL's right-of-way will be permitted without prior approval of IPL.
- (62) That no work shall take place on IPL's right-of-way without the presence of an IPL inspector.
- (63) That no heavy machinery will be permitted to cross IPL's right-of-way without prior approval.
- (64) That no landscaping shall take place on IPL's right-of-way without IPL's approval.

Director of Land Development

- (65) That prior to the signing of the final plan, the Director of Land Development be advised by:
 - i) The Township of Glanbrook that conditions (2) to (41) inclusive;
 - ii) Bell Canada that conditions (42) and (43);
 - iii) Canada Post that condition (44);
 - iv) Community Planning and Development Division that conditions (45) to (52), inclusive;
 - v) Niagara Peninsula Conservation Authority that conditions (53) and (54); and
 - vi) Enbridge Pipelines Inc. (formerly Interprovincial Pipe Line Inc.) that conditions (55) to (64), inclusive

has/have been carried out to their satisfaction with a brief but complete statement indicating how each condition has been satisfied.

NOTE: Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses, and the Township of Glanbrook concurs.

CONDITIONS OF APPROVAL
("South Mount Hope Estates")

As authorized by By-law No. R95-041, I, T. McCabe, hereby approve draft plan of subdivision, **"South Mount Hope Estates"**, 1536708 Ontario Inc., owner, for lands located in the City of Hamilton (Stoney Creek) under File No. 25T200301, subject to the following conditions:

- 1) That this approval apply to "South Mount Hope Estates", dated December 2002, prepared by Planning and Engineering Initiatives Ltd., redline revised, showing a maximum of twenty (20) lots for single detached dwellings (Lots 1 to 20), one block for future low density residential uses (Block 21), one (1) block for future medium density residential uses (Block 22), two (2) blocks for a storm channel (Blocks 23 and 24), one (1) block for future high density residential uses (Block 25), one block (1) for future development (Block 26), one (1) block for lot additions to abutting residential development (Block 27), one (1) block for a road widening (Block 28) and seven (7) blocks for 0.3 metre reserves (Blocks 29 to 35). Streets "A" and "B" will be dedicated to the City as public roadways;

Development Engineering

- 2) That all road allowances, daylight triangles, public walkways and road widenings be dedicated by certificate as public highways on the final plan.
- 3) That the owner agrees to deed, free and clear to the appropriate authority, all easements or blocks required for utility purposes.
- 4) That, if required by the City of Hamilton, the owner/subdivider shall transfer to the City of Hamilton any easement over the subdivider's draft approved lands need for water or sewer services, or both, which easements will permit development to occur on adjacent property in accordance with the criteria approved by Council. Such easements are to be conveyed upon registration of the final plan of subdivision for any phase of that draft approved land.
- 5) That the owner agrees to provide a Geodetic Benchmark in a location to the satisfaction of the City of Hamilton.
- 6) That the owner agrees that any dead-ends and open sides of road allowance created by this draft plan of subdivision shall be terminated in 0.3m reserves and conveyed to the City of Hamilton.
- 7) That the owner shall prepare a plan showing the design and location of siltation and erosion control devices in accordance with the "Keeping Soils On Construction Sites" manual and to the satisfaction of the Manager of Development Engineering.
- 8) That the owner shall submit a detailed Storm Water Management report. Sufficient back-up information will be required to verify that the proposed location of the SWM facility will accommodate the proposed facility designed in accordance with current/ applicable Storm Water Management Guidelines to the satisfaction of the Manager of Development Engineering and all other appropriate agencies.
- 9) That the Storm Water Management report shall include "Best Management Practices" to be implemented in the development.
- 10) That the Storm Water Management report shall determine what impacts runoff from the site will have on the downstream water course and provide recommendations for any necessary mitigative measures.

- 11) That the owner agrees that the final plan of subdivision shall not be registered until an adequate sanitary sewer outlet has been provided to the limit of the draft plan of subdivision.
- 12) That the owner shall submit detailed engineering design drawings to current standards and to the satisfaction of the Manager of Development Engineering.
- 13) That the owner agrees that all lots and blocks shall be developed with full municipal services.
- 14) That the owner agrees to submit a servicing report to the satisfaction of the Manager of Development Engineering.
- 15) That the owner agrees that all roads shall be designed to current geometric design standards of the City of Hamilton.
- 16) That all temporary turnarounds be signed in accordance with the City's policy indicating that the street shall be extended in conjunction with future development.
- 17) That the owner provide a temporary vehicular turnaround, if necessary, to the satisfaction of the General Manager, or designate, of the Planning and Development Department.
- 18) That the owner establishes a 0.30 metre reserve adjacent to the lots required to accommodate the temporary vehicular turnaround.
- 19) That the owner agrees to have prepared by a qualified consulting engineer and submitted to the City of Hamilton, a detailed engineering design submission to be approved by the Manager of Development Engineering prior to the preparation of the Subdivision Agreement.
- 20) That the owner agrees to construct all works which may be considered temporary to facilitate the development of the subject property, as required by the Manager of Development Engineering. These may include, but not be limited to, emergency access, temporary turn around, or outfalls.
- 21) That the owner shall submit a detailed grading plan showing how the grading within the development will be integrated with the existing adjacent residential properties. The grading of the buildings will attempt to blend in with the existing topography and natural setting, where possible.
- 22) That the owner agrees that grading shall be carried out in accordance with the current standard drawings and specifications. Any modification to these drawings/specifications will require approval by the Manager of Development Engineering.
- 23) That the owner agrees that all dead or diseased trees shall be removed from the road allowances and that the removal and replacement of street trees, as required by the reconstruction of the roads, will be at the sole expense of the owner.
- 24) That the owner agrees to provide street lighting throughout the subdivision to the limits of the subdivision, to the satisfaction of the Manager of Development Engineering.
- 25) That the owner agrees not to dispose or stockpile any waste or surplus fill material except in a manner and in a location approved by the City of Hamilton.
- 26) That the owner agrees that no blasting will take place without a blasting permit from the City of Hamilton.
- 27) That the owner shall provide a Noise Impact Study addressing the impacts of road traffic and/or air traffic on this development prior to the registration of the final plan of subdivision. All noise mitigation measures required shall be undertaken at the expense

of the owner. Air traffic noise shall be addressed in conjunction with the latest NEF contour mapping.

- 28) That the owner shall prepare a Groundwater Study which shall assess the impact that the proposed development would have on the water supply and the sewage disposal systems on the adjacent properties. Pending the outcome of the Study, the owner shall propose appropriate mitigative measures to address the concerns to the satisfaction of the Manager of Development Engineering.
- 29) That the owner shall transfer to the City of Hamilton any easement over the subdivider's draft approved lands needed for municipal water or sewer services, or both, which easements will permit development to occur on adjacent property. Such easements are to be conveyed upon registration of the final plan of subdivision for any phase of that draft approved plan in accordance with the Council approved criteria.
- 30) That the owner agrees that no clearing or grubbing of the subject lands shall commence until such time as the tree preservation plan, if required, is approved to the satisfaction of the Manager of Forestry, Public Works Department and all engineering approvals are in place to the satisfaction of the Manager of Development Engineering.
- 31) That the Owner shall not register Lots 1-20, Blocks 21, 22 and 25 until such time as the pumping station as identified within the Southampton Estates draft plan of subdivision (25T-98002) is constructed and operating to allow for a sanitary sewer outlet.
- 32) That the Owner agrees that no phase of the plan of subdivision shall be registered, until such time, as the temporary storm water management pond as identified within the Southampton Estates draft plan of subdivision (25T-98002) is constructed and operating to allow for a storm sewer outlet.
- 33) That the Owner shall prepare a geotechnical report and implement the report's recommendations.
- 34) That the Owner shall install a minimum 1.8m high wood privacy fence along the west limit of Block 21.
- 35) That the Owner shall install a minimum 1.8m high chain link fence along the west limit of Block 25, adjacent to the storm drainage channel.
- 36) That no phase of the plan of subdivision shall be registered, until such time as Blocks 23 and 24 are constructed for storm water management purposes, to the satisfaction of the Manager of Development Engineering and the NPCA.
- 37) That the Owner, through its soil consultant, shall check the existing wells which provide the potable water supply within a reasonable distance of the subject lands to establish the existing depth of water within the wells prior to the commencement of construction; monitor these wells during construction; and check the wells after the completion of construction. If any problems do arise, they must be appropriately addressed by the developer to the satisfaction of the Manager of Development Engineering.
- 38) That the Owner shall dedicate sufficient lands for road widening purposes to establish a 30m road allowance width on White Church Road.
- 39) That Blocks 23 and 24, and any additional lands required to provide for storm water management purposes, be dedicated to the City of Hamilton for storm drainage purposes, to the satisfaction of the Manager, Development Engineering.
- 40) That the Owner agrees that a maximum of one hundred (100) residential units shall be permitted to be constructed with only one (1) public road access to service the development. A second public road access to the subject lands is required prior to additional development beyond the initial one hundred (100) residential units, all to the satisfaction of the Manager, Development Engineering.

- 41) That the Owner dedicates lands to the City of Hamilton for the purposes of 12.0m by 12.0m daylight triangles at the intersection of Street "A" and Whitechurch Road, 7.0m by 7.0m daylight triangles at Streets "A" and "B" and 4.5m by 4.5m daylight triangles at all other intersections.
- 42) That the Owner shall extend the existing 300mm diameter watermain along Homestead Drive southerly from the pipeline easement through draft plan of subdivision Southampton Estates (25T-98001) and this development to White Church Road and connecting to Highway No. 6 for looping purposes.

Development Planning

- 43) That the owner prepare and submit, to the satisfaction of the Manager of Development Planning, Planning and Development Department, a municipal house numbering plan.
- 44) That the owner agrees to select a street name from the City of Hamilton Reserved Street Name Index and/or submit street names to the satisfaction of the City of Hamilton.
- 45) That the owner agrees to erect a sign in accordance with the Subdivision Agreement prior to the issuance of a final release by the City of Hamilton.
- 46) That the final plan conforms to the Zoning By-law approved under the Planning Act.
- 47) That the owner agrees to provide the City of Hamilton with a certified list showing the net lot area and width of each lot and block and the gross area of the subdivision in the final plan.
- 48) That the owner submit, to the satisfaction of the City of Hamilton, a noise/vibration study prepared by a qualified professional, with said study containing an investigation of the noise/vibration levels impacting the proposed development, and the necessity for noise/vibration control measures.
- 49) That in event the proposed noise control measures do not fully achieve the MOE's recommended sound level limits for residential land uses, and a slight noise level excess remains, that the owner agrees to the inclusion in the Subdivision Agreement the following noise warning clause:

"Purchasers are advised that despite the inclusion of noise/vibration measures within the development area and within the individual building units, noise levels may become of concern, occasionally interfering with some activities of the occupants."

- 50) That the owner shall carryout an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Planning and Development Department and the Ministry of Citizenship, Culture and Recreation confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
- 51) That due to the proximity of the subject lands to the John C. Munro Hamilton International Airport, a notice clause similar to the following shall be included in the Subdivision Agreement:
- "Future residents of this development are advised that the John C. Munro Hamilton International Airport is located in the vicinity of the subject lands and, as a result, there is a potential for noise nuisance at times related to Airport activity."*

- 52) That the owner make a cash payment in lieu of the conveyance of 5% of the land included in the plan to the City of Hamilton, as provided for under Section 51 of the Planning Act. The owner shall submit a land appraisal, to the satisfaction of the City, that identifies the value of the cash-in-lieu payment and is to be included in the

Subdivision Agreement to the satisfaction of the Director, Design and Construction, Design and Construction Division, Community Services Department and the Manager, Real Estate and Properties, Real Estate Section, Corporate Real Estate and Buildings Division, Community Services Department.

- 53) That any phasing of the development of the subject lands be to the satisfaction of the Director of Development, Planning and Development Department.
- 54) That the owner agrees, in writing, to satisfy all requirements, financial and otherwise, of the City of Hamilton prior to development of any portion of these lands.
- 55) The owner agrees to enter into a Subdivision Agreement or Agreements with the City of Hamilton.
- 56) That the owner shall install a minimum 1.8m black vinyl chain link fence along the east limit of Block 26.
- 57) That prior to the registration of any lots or blocks or roadways that contain existing buildings or structures, the owner shall remove the existing buildings and structures on said lots or blocks or roadways, prior to their registration.
- 58) That the owner agrees and acknowledges that the 0.3m reserves shown as Blocks 29 to 33 shall not be removed until such time as those lots and blocks to which the 0.3m reserves apply have been registered.
- 59) That the owner agrees and acknowledges that Blocks 22, 25 and 27 shall only be developed in conjunction with adjacent lands.
- 60) That the Owner agrees that the registration of the first phase of the subdivision consisting of Street "A", Street "B" to the easterly limit of Lot 11, and Block 27 only, shall be permitted subject to the Owner satisfying the following conditions of draft approval contained in Appendix "A" to Report PD03093 presented at Hearing Sub-Committee on April 23, 2003.

(ii), (iii), (v), (ix), (x), (xi), (xii), (xiv), (xv), (xvi), (xvii), (xviii), (xx), (xxi), (xxii) (xxiii), (xxv) to (xxix), (xxx) and (xxxi).

Roads and Traffic

- 61) That the owner shall construct an eastbound left turn lane on White Church Road at Street 'A', as noted in the Southampton Estates Traffic Impact Study - Supplementary Left Turn Lane Report, dated September 9, 1998, prepared by Tranplan Associates, at the Owner's expense. The construction of the eastbound left turn lane shall occur either in conjunction with the re-alignment of White Church Road at the new Highway No. 6 overpass, or when warranted based on the phasing of the subject Draft Plan, or Plan of Subdivision 25T-98002 (Southampton Estates). The owner shall prepare a supplementary Traffic Impact Statement to the satisfaction of the General Manager of Public Works, that determines at what stage of development the eastbound left turn lane on White Church Road is warranted. The construction of the left turn lane shall be undertaken concurrently with the White Church Road re-alignment or when warranted by development traffic, whichever occurs first.
- 62) That the owner shall provide a profile of the centerline elevation of White Church Road from the start of taper of the above noted eastbound left turn lane (profile must include the realigned White Church Road over the new Highway No. 6) to the west limit of the existing signalized intersection of Highway No. 6, in conjunction with the construction of the intersection of Street 'A' at White Church Road at the location shown on the preliminary engineering plan. The centerline profile of White Church Road must illustrate the sightlines available for a driver turning from Street 'A' onto White Church Road (driver 1.05m to headlight 0.6m) and also for eastbound motorists turning left from White Church Road onto Street 'A'. Any centreline alignment modifications, or other roadway improvements that may be required on White Church Road to meet TAC

sight line standards, shall be at the expense of the owner and to the satisfaction of the General Manager of Public Works.

Open Space Development Division, Capital Planning and Implementation

- 63) That the Owner agrees that undeveloped blocks within the Subdivision Plan, which have been disturbed from their natural state or are difficult to maintain in a controlled state, shall be graded, seeded and maintained by the Owner until construction commences thereon.
- 64) That the Owner agrees to provide and implement, at the Owner's expense, a Streetscape Plan detailing street lighting, street-tree planting for Street "A" and Street "B", and enhanced boulevard landscaping treatment for Street "A" and White Church Road, prepared by a full member, in good standing, of the Ontario Association of Landscape Architects (OALA) and to the satisfaction of the City.
- 65) That the Owner agrees to provide, at the Owner's expense, a 1.5m high chainlink fence along Blocks 23 and 24 adjacent to the future Storm Channel, to the satisfaction of the City.

Bell Canada

- 66) That the owner be required to enter into an Agreement (Letter of Understanding) with Bell Canada complying with any underground servicing conditions imposed by the municipality, and if no such conditions are imposed, the owner shall advise the municipality of the agreement made for such servicing.
- 67) That Bell Canada shall confirm that satisfactory arrangements, financial and otherwise, have been made with Bell Canada for any Bell Canada facilities serving this draft plan of subdivision which are required by the City of Hamilton to be installed underground; a copy of such confirmation shall be forwarded to the City of Hamilton.
- 68) That the owner shall agree in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. If there are any conflicts with existing Bell Canada facilities or easements, the owner/developer shall be responsible for rearrangements of relocation;

Canada Post

- 69) That the owner agrees to provide Canada Post facilities as required by Canada Post Corporation and to locate these facilities to the satisfaction of the City of Hamilton and Canada Post. The facilities are to be installed as part of the installation of Public Works.

Transport Canada

- 70) That the Subdivision Agreement require the following paragraph in all agreements of purchase and sale:

"Prospective tenants or owners should be aware that this residential development is located in close proximity to a takeoff and approach area for the Hamilton International Airport and residents will be subjected to the noise impact associated with substantial aircraft activity."

Niagara Peninsula Conservation Authority

- 71) That detailed lot grading and drainage plans, noting both existing and proposed grades, and the means whereby major system flows will be accommodated across the site, be submitted to the Conservation Authority for review and approval.

- 72) That detailed sedimentation and erosion control, detailing controls to be implemented both during and after construction, be submitted to the Conservation Authority for review and approval.
- 73) That a storm water management plan be prepared by a qualified professional engineer in compliance with the Ministry of Environment and Energy's "Stormwater Management Practices Planning and Design Manual", June 1994, and the "Stormwater Quality Guidelines for New Development", May 1991, be submitted to the Authority for review and approval.
- 74) That approvals be obtained from the Conservation Authority and Department of Fisheries and Oceans (DFO) for watercourse relocation.
- 75) That an Environmental Impact Assessment (EIA) be prepared for the site which addresses the fish habitat requirements of the Provincial policy statement and that the report be submitted to the Authority for our review and approval. The plan may be subject to revisions to accommodate the watercourse and buffers approved by the NPCA.
- 76) That the watercourse and any setback to protect fish habitat, as recommended in the EIA be included within an Environmental protection zone where no structural development is permitted.
- 77) That the subdivider's agreement include appropriate clauses that require the implementation of the conditions of the Niagara Peninsula Conservation Authority.

Union Gas

- 78) That the owner agrees to establish easements of an appropriate width in favour of Union Gas, if necessary.

Ministry of Transportation

- 79) That the owner shall submit a copy of the Storm Water Management Report and plans, indicating the intended treatment of the calculated runoff and any resultant impacts on the highway drainage system to the satisfaction of the Ministry of Transportation of Ontario.
- 80) That the owner shall submit a traffic study, to the satisfaction of the Ministry of Transportation, indicating the anticipated traffic volumes and their impact upon the Ministry's future highway.
- 81) That the owner shall submit an illumination plan and calculation to the satisfaction of the Ministry of Transportation.

Public Health & Community Services

- 82) That any existing septic tank be pumped out by a licensed contractor and refilled with suitable material to prevent it from collapsing.
- 83) That any existing abandoned water wells are plugged in accordance with Environment Ontario's Facts Sheet entitled: "Water Wells and Groundwater Supplies Recommended Methods for Plugging Water Wells".

Director of Development

- 84) That prior to the signing of the final plan, the Director of Development be advised by:
- a) The Development Engineering that conditions (2) to (42) inclusive;
 - b) The Development Planning that conditions (43) to (60) inclusive;
 - c) Public Works, Roads and Traffic that conditions (61) and (62);
 - d) Open Space Development Division that conditions (63) to (65) inclusive;

- e) Bell Canada that conditions (66) to (68) inclusive;
- f) Canada Post that condition (69)
- g) Transport Canada that condition (70) ;
- h) Niagara Peninsula Conservation Authority that conditions (71) to (77) inclusive;
- i) Union Gas that condition (78);
- j) Ministry of Transportation that conditions (79) to (81); and
- k) Public Health & Community Services that conditions (82) and (83) inclusive;

has/have been carried out to their satisfaction with a brief but complete statement indicating how each condition has been satisfied.

NOTE: Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses.

Signed: _____

Date: June 4, 2003

Tim McCabe, Director
Development Division

SCHEDULE "D"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

SPECIFIC PROVISIONS

(Related to the Works, that are not addressed in the general text of this Agreement, including timing)

In the event of a conflict between this Schedule and the provisions of the Agreement, including the other Schedules, the specific provisions of this Schedule "D" set out below, shall prevail.

Schedules to this Agreement

Each of the Schedules listed in Section 44 of this Agreement are attached to and form part of the paper version of this agreement — except for the following designated Schedule(s) that are Not Applicable to this Agreement.

The following Schedules designated "N/A" are not attached to the paper version of this Agreement and do not form part of this Agreement.

Best Efforts - Cost Recovery Clause

(1) For the purposes of this section:

"Benefiting Area" means those lands that will derive a benefit from the construction, installation and/or provision of the Improvements defined herein;

"Benefiting Owner" means any owner of land within the Benefiting Area, other than the Owner, as described under Schedule "B" of the attached Agreement. Such Benefiting Owners shall be designated under Schedule "F-2" of the attached Agreement;

"Improvements" means those Services set out and designated as such in Schedule "F-2" of the attached Agreement, which services are required to enable both the Owners' lands and the Benefiting Area to be serviced;

"Improvement Costs" as defined in Schedule "F-2" of the attached Agreement

"Proportionate Share of Improvement Costs" is the reasonable share attributed to each Benefiting Owner, calculated pursuant to the formula in Schedule "F-2" of the attached Agreement and payable to the City for reimbursement to the Owner.

(2) The Owner has made application to the City to develop the Land described under Schedule "A" of the attached Agreement, which Land requires construction, installation and provision of certain works, facilities and services (herein after referred to as "Improvement(s)") which are outside or abutting the limit of the Land. Such

improvements are related to or within the abutting area to the Lands and are necessary to allow for the development of the Lands. The City has, pursuant to Subsection 51(25) of the *Planning Act* and as permitted by subsection 59(2) of the *Development Charges Act* approved the installation, construction or provision of these Improvements as a condition to this Agreement.

- (3) The Owners, at their sole expense covenant and agree to install, construct or otherwise provide these Improvements as described in Schedule "F-2" of the attached Agreement. The estimated cost to the Owner for the Improvements is **\$ 322,710.13** and is detailed in Schedule "F-2" of the attached Agreement.
- (4) The Owner agrees to provide to the City Engineer proof of the actual cost of the "Improvements" set out in Schedule "F-2" of the attached Agreement, (herein called the "Actual Cost") as soon as it is available. The City Engineer, in conjunction with the Director of Development will review the Actual Costs of the Improvements and determine the Proportionate Share of the Improvements Costs using the formula as set out in Schedule "F-2" of the attached Agreement.
- (5) Subject to the provisions of this Agreement, the City shall require Benefiting Owners to pay their Proportionate Share of the Improvements Costs of the Improvements as a condition of an application for development of their Benefiting Lands or upon request to connect to the Improvement and shall be calculated according to the formula set out in Schedule "F-2" of the attached Agreement. The City covenants and agrees to use its best efforts to collect the Benefiting Owners share from the Benefiting Owners.
- (6) The "Benefiting Owner's" share shall be calculated according to the formula set out in Schedule "F-2" of the attached Agreement and shall be adjusted by the percentage change in the Canadata Construction Cost Index (Ontario Series) from the date of Construction of the "Improvements" to the date of payment of any of the "Benefiting Owner's" share.
- (7) The City shall require each Benefiting Owner to pay its Proportionate Share of the Improvement costs to the City, as a condition of approval of any development of the Benefiting Owners land located within the benefiting area. The Benefiting Owners proportionate share shall be calculated in accordance with the provisions in Schedule "F-2" of the attached Agreement. The payments are to reimburse the Owner described under Schedule "B" of the attached Agreement for the Benefiting Owner's share of the costs of the Improvements.
- (8) The Owner covenants and agrees that the City may, in its discretion, release copies of any certificates, reports, contracts or other documents and materials that are in its

possession to any Benefiting Owner for the purposes of satisfying a Benefiting Owner as to the amount of the Improvements

- (9) The City shall, within forty-five (45) days of receiving payment of the "Benefiting Owner's " share of the Improvements Costs from any of the "Benefiting Owners", pay to the Owner under this Agreement the amount of the "Benefiting Owner's" share received.
- (10) The City shall collect a fee from the Owner immediately upon execution of this Agreement for the administration of the recovery of the Improvement Costs associated with the "Benefiting Lands" for which the Owner under this Agreement is required to pay in accordance with this Section and Schedule "G" of the attached Agreement.
- (11) The Owner covenants and agrees to indemnify, save, defend and keep completely harmless the City, its employees, elected officials, officers, contractors, servants and agents from costs, all actions, causes of action, suits and liabilities from or in any way connected with, but not limited to:
 - a) a breach by the Owner of their obligation under this Agreement;
 - b) the installation of the Improvements or any other work performed pursuant to this Agreement and any construction liens relating thereto
 - c) any dispute arising with respect to the cost of installing the Improvements, including any disputes by a Benefiting Owner.
 - d) all claims form property damage or injury, injuries resulting in death to any person, and any consequential damage arising from such damages or injuries, whether such damage or injuries are caused by or attributed to the negligence of the City or its employees, elected officials, officers, contractors servants or agents.
- (12) The Owner shall, at the request of the City, and at its own expense, retain such counsel as the City Solicitor deems necessary or desirable to represent the City in respect of any matter in respect of which the City is entitled to be indemnified or released by the Owner. The City shall be entitled to choose and exclusively instruct such counsel.
- (13) The obligations of the Owner under this section shall survive any termination or expiry of this Agreement, anything in this Agreement to the contrary notwithstanding.

Noise Warnings

- 1) Due to the proximity of the subject lands to the Hamilton Airport, the owner covenants and agrees to include a notice clause similar to the following in all offers of purchase and sale and reservation agreements:

"Future residents of this development are advised that the Hamilton Airport is located north of the subject lands and, as a result, there is a potential for noise nuisance at times related to Airport activity.

Prospective tenants or owners should be aware that this residential development is located in close proximity to a takeoff and approach area for the Hamilton International Airport and residents will be subjected to the noise impact associated with substantial aircraft activity."

- 2) That the owner covenants and agrees to include the following notice clause in all offers of purchase and sale and reservation agreements:

"Purchasers are advised that despite the inclusion of noise control measures within the development area and within the individual building units, noise levels may become of concern, occasionally interfering with some activities of the occupants."

- 3) That the owner covenants and agrees to include the following warning clauses in all Development Agreements and Offers of Sale and Purchase or Lease Agreements:

Type A: Lots 1 to 244 & Blocks 1 to 3 and 8 to 13 ("Southampton Estates Phase 1")

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Highway 6, White Church road and future Highway 6 (new) and air traffic at Hamilton International Airport may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality's and the Ministry of the Environment's noise criteria."

Type D: Lots 1 to 15, 19 to 72 and 74 to 244 & Blocks 1 to 3 and 8 to 13
(Lots 1 to 65 inclusive and 69 to 178 inclusive and Blocks 182 to 188 inclusive, shown in "Southampton Estates Phase 1" draft plan)

"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 by the occupant 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 device should be done so as to comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices and thus minimize the noise impacts both on and in the immediate vicinity of the subject property.)"

Type C: Lots 16, 17, 18 and 73
(Lots 66 to 68 inclusive, shown in "Southampton Estates Phase 1" draft plan)

"This dwelling unit has been supplied with a central air conditioning system which 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 device should be done so as to comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices and thus minimize the noise impacts both on and in the immediate vicinity of the subject property."

Building Acoustic Insulation

Lots: 16, 17, 18, 73 and 74
(Lots 66 to 68 inclusive, shown in "Southampton Estates Phase 1" draft plan)

"All exterior building components (walls, windows and doors) shall meet the minimum Acoustic Insulation Factors (AIF) shown in Tables 4 and 5 of the April 5, 2002 Noise Study prepared by DLR Consultants Ltd. All windows should be well fitted and weather-stripped."

Niagara Peninsula Conservation Authority

The Developer shall carry out or cause to carry out, implement and construct, both on and external to the site, all grading, drainage works, stormwater management plan works, erosion and sedimentation controls and re-vegetate or otherwise restore all disturbed areas immediately upon completion of construction, all in accordance with plans prepared by S.Lewellyn and Associates Limited, consultant, as signed by their Chief Engineer Scott Llewellyn, P.Eng. dated October 2, 2003 which are necessary to fulfill the conditions for final approval of the MOE, NPCA and the City of City of Hamilton.

Storm Water Management Facilities

- 4) The owner agrees to operate and maintain, in an acceptable manner, stormwater management facilities through construction of the subdivision, or until a time to be established by the Manager of Development Engineering, and monitor such operation and effects thereof. An operation manual, prepared by the owner's engineer, shall be provided to the Manager of Development Engineering that provides guidance for future inspection, monitoring and maintenance of the pond.
- 5) The City and owner agree that the City shall review the amount of the security held in respect of the owner's obligations to maintain the storm water management facilities, once yearly on or about the anniversary date on which this Agreement was executed by the City to determine whether the amount of such security is sufficient to cover one hundred percent (100%) of the value of the owner's obligations to maintain the storm water management facilities under this Agreement which are outstanding at the time of such review.. If the amount of the security is determined to be insufficient by the City, then the owner covenants and agrees to increase the amount of such security to satisfy the City's requirements.

Pumping Station

- 6) The Owner agrees that no occupancy of the dwellings in this development constructed on Lots 69 through to 178, inclusive, shall be permitted until the Pumping Station is constructed and operating to allow for a sanitary sewer outlet, to the satisfaction of the Manager of Development Engineering. Pending the assumption of such operation by the City, the Owner shall be permitted to operate the Pumping Station through a private licensed consultant acceptable to the Manager of Development Engineering, and building permits for the dwellings may be issued on this basis subject to the delivery to the City of evidence of the operator's licensing and liability insurance satisfactory to the City Solicitor. All such liability insurance shall reflect the City as an additional insured thereunder.

The Owner shall further post with the City cash or satisfactory securities representing not less than 100% of the fees of such operator under a fixed price contract providing for the operation of the Pumping Station for not less than six (6) months. Further, the City reserves the right to draw on said cash or security with notice to cover unforeseen costs incurred by the City as a result of the aforesaid arrangement. Said cash or securities plus all securities being held for the subdivision will not be reduced until such time as the assumption of the operation of the Pumping Station by the City has occurred as aforesaid. Following assumption of the pumping station: (i) the City will release the cash and securities posted pursuant to this paragraph 6, subject to deduction for any amount drawn by the City as aforesaid; and (ii) the City will resume the release of the balance of the cash and securities held by it in accordance with the terms of this Subdivision Agreement.

For further certainty, the Owner acknowledges and agrees that the general indemnity contained in section 39.2 of the Subdivision Agreement to which this Schedule "D" is annexed shall extend to all actions, causes of action, interest, claims, demands, costs (including legal costs), charges, damages, expenses or loss

that the City may at any time bear, incur, be liable for, sustain or be put into as a consequence of the private operation of the Pumping Station in the manner aforesaid including, without limitation, any interruption or failure in such operation. Title to Lots 69 through to 178, inclusive, within the development shall further contain a restriction preventing the purchaser thereof from denying that it has been informed that, pending such assumption by the City, the City shall have no liability or obligation in respect of the operation of the Pumping Station or any interruption or failure of such operation.

- 7) That the Owner agrees to install underground electrical power for the development.

SCHEDULE "E"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

LIST OF APPROVED CONSTRUCTION DRAWINGS for Works Included in the Agreement

The following drawings as approved by the City Engineer, including any current revisions, are to be read in conjunction with and form part of the Agreement.

Construction drawings prepared by S. LLevellyn and Associates Limited numbered 1 to 31 inclusive and D-1 to D-6 inclusive, under project number 02082, Southampton Channel Relocation construction drawings prepared by Planning and Engineering Initiatives Limited numbered 1 to 6 inclusive and "Southampton Estates Sewage Pumping Station drawings prepared by Aldworth Engineering Incorporated numbered P-1, M-1 to M-6 inclusive, E-1 to E-5 inclusive, A- and A2 and S1 to S3 inclusive, under project number 0240.

Please note that any revisions to the following drawings and/or documents approved by the Department of Fisheries and Oceans under Authorization No. BU-03-0767 must be re-submitted to the Department of Fisheries and Oceans for review and approval:

- 1) The "Application for Authorization for Works or undertakings Affecting Fish Habitat", dated April 8, 2003.
- 2) The document entitled "Southampton Channel Relocation Project Phase 1 Report City of Hamilton", prepared by PEIL, dated April 2003.
- 3) The document entitled "Southampton Channel Relocation Project Phase 2 – Design Brief City of Hamilton", prepared by PEIL, dated May 16, 2003. and revised June 11, 2003.
- 4) The engineering drawings entitled
 - i) "Southampton Channel Relocation Channel Plan and Profile" sheet No.1, prepared by PEIL, dated May 16, 2003, stamped and signed on 05/20/03.
 - ii) "Southampton Channel Relocation Channel Plan and Profile" sheet No.2, prepared by PEIL, dated May 16, 2003, stamped and signed on 06/11/03.
 - iii) "Southampton Channel Relocation Channel Plan and Profile" sheet No.3, prepared by PEIL, dated May 16, 2003, stamped and signed on 05/20/03.
 - iv) "Southampton Channel Relocation Channel Plan and Profile" sheet No.4, prepared by PEIL, dated May 16, 2003, stamped and signed on 05/20/03.
 - v) "Southampton Channel Relocation Details and Notes 1" sheet No.5, prepared by PEIL, dated May 16, 2003, stamped and signed on 05/20/03.
 - vi) "Southampton Channel Relocation Details and Notes 2" sheet No.6, prepared by PEIL, dated May 16, 2003, stamped and signed on 05/20/03.

Date Schedule prepared: September 9, 2003

SCHEDULE "F"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

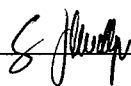
APPLICATION NUMBER:

NAME OF SUBDIVISION OR CONDOMINIUM:
(where applicable)

ESTIMATE OF COSTS AND DESCRIPTION OF WORKS TO BE CARRIED OUT BY THE OWNER

Submitted By:

S. Llewellyn & Associates Limited




Date: Dec 31/03



Approved By:

CITY OF HAMILTON



Senior Project Manager,
Engineering Section - Development Division,
Planning and Development Department

Date: 03 12 04

SCHEDULE "F"

Continued

ESTIMATE OF COST OF WORKS TO BE CARRIED OUT BY THE OWNER**Part A** - Works to be carried out by the Owner and costs to be shared as shown below.

		<u>Total Cost Of Works</u>	<u>Owner's Share</u>	<u>City's Share</u>
1.	WHITE CHURCH ROAD <i>From: Existing Hwy. No. 6 To: Hampton Brook Way (Incl. Connection to the existing watermain on Highway No. 6</i>			
	a) Sewers (including manholes)	\$ - NIL -	\$ - NIL -	\$ - NIL -
	b) Watermains (including valves and hydrants) 300mm dia. and appurtenances 250.0m @ \$230.00/m	57,500.00	57,500.00	\$ - NIL -
	c) Catch Basins and Connections	\$ - NIL -	\$ - NIL -	\$ - NIL -
	d) Curbs and Gutters (including subdrains)	\$ - NIL -	\$ - NIL -	\$ - NIL -
	e) Final Roads (gravel, asphalt base and surface asphalt)	\$ - NIL -	\$ - NIL -	\$ - NIL -
	f) Sidewalks	\$ - NIL -	\$ - NIL -	\$ - NIL -
	g) Dead-end Barricade & Signs	\$ - NIL -	\$ - NIL -	\$ - NIL -
	h) Street Lighting 5.0 @ \$1,500.00/ea.	7,500.00	7,500.00	\$ - NIL -
2.	HAMPTON BROOK WAY <i>From: White Church Road To: Thames Way</i>			
	a) Sewers (including manholes) Sanitary - 300mm dia. and appurtenances. 196.0m @ \$170.00/m Storm - 375mm dia. and appurtenances 61.5m @ \$170.00/m	\$33,320.00 10,455.00	\$33,320.00 10,455.00	\$ - NIL - \$ - NIL -
	b) Watermains (including valves and hydrants) 300mm dia. and appurtenances 198.0m @ \$150.00/m	29,700.00	29,700.00	\$ - NIL -
	c) Catch Basins and			

		Connections 2.0 singles @ \$1,500.00/ea. 2.0 doubles @ \$2,500.00/ea.	8,000.00	8,000.00	\$ - NIL -
	d)	Curbs and Gutters (including subdrains) 405.0 @ \$45.00/m	18,225.00	18,225.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 2050.0m ² @ \$28.00/m ²	57,400.00	57,400.00	\$ - NIL -
	f)	Sidewalks 600.0m ² @ \$40.00/m ²	24,000.00	24,000.00	\$ - NIL -
	g)	Dead-end Barricade & Signs	\$ - NIL -	\$ - NIL -	\$ - NIL -
	h)	Street Lighting 5.0 @ \$1,500.00/ea.	7,500.00	7,500.00	\$ - NIL -
3.	THAMES WAY <i>From: East limit of the subdivision, east of Hampton Brook Way To: The end of the cul-de-sac</i>				
	a)	Sewers (including manholes) Sanitary – 250-300mm dia. and appurtenances. 322.0m @ \$170.00/m Storm – 600-1200mm dia. and appurtenances 324.0m @ \$300.00/m	\$54,740.00 97,200.00	\$54,740.00 97,200.00	\$ - NIL - \$ - NIL -
	b)	Watermains (including valves and hydrants) 200-300mm dia. and appurtenances 382.0m @ \$150.00/m	57,300.00	57,300.00	\$ - NIL -
	c)	Catch Basins and Connections 8.0 singles @ \$1,500.00/ea. 2.0 doubles @ \$2,500.00/ea. Rear Lot Catch Basin 4.0 @ \$4,000.00/ea.	17,000.00 16,000.00	17,000.00 16,000.00	\$ - NIL - \$ - NIL -
	d)	Curbs and Gutters (including subdrains) 605.0 @ \$45.00/m	27,225.00	27,225.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 2900.0m ² @ \$28.00/m ²	81,200.00	81,200.00	\$ - NIL -
	f)	Sidewalks 620.0m ² @ \$40.00/m ²	24,800.00	24,800.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 2.0 @ \$1,000.00/ea.	2,000.00	2,000.00	\$ - NIL -
	h)	Street Lighting 9.0 @ \$1,500.00/ea.	13,500.00	13,500.00	\$ - NIL -

4.	FULMAR WAY <i>From: Thames Way</i> <i>To: Provident Way</i>				
	a)	Sewers (including manholes) <i>Sanitary – 250mm dia. and appurtenances.</i> 232.5m @ \$170.00/m <i>Forcemain – 250mm dia. and appurtenances</i> 280.0m @ \$150.00/m <i>Storm – 900-1200mm dia. and appurtenances</i> 254.5m @ \$400.00/m	\$39,525.00 42,000.00 101,800.00	\$39,525.00 42,000.00 101,800.00	\$ - NIL – \$ - NIL – \$ - NIL -
	b)	Watermains (including valves and hydrants) <i>300mm dia. and appurtenances</i> 260.0m @ \$150.00/m	39,000.00	39,000.00	\$ - NIL -
	c)	Catch Basins and Connections 6.0 @ \$1,500.00/ea. Rear Lot Catch Basin 2.0 @ \$4,000.00/ea.	9,000.00 8,000.00	9,000.00 8,000.00	\$ - NIL – \$ - NIL -
	d)	Curbs and Gutters (including subdrains) 450.0 @ \$45.00/m	20,250.00	20,250.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 2100.0m² @ \$28.00/m²	58,800.00	58,800.00	\$ - NIL -
	f)	Sidewalks 350.0m² @ \$40.00/m²	14,000.00	14,000.00	\$ - NIL -
	g)	Dead-end Barricade & Signs	NIL	NIL	\$ - NIL -
	h)	Street Lighting 6.0 @ \$1,500.00/ea.	9,000.00	9,000.00	\$ - NIL -
5.	ROSEBURY WAY <i>From: West limit of the subdivision</i> <i>To: East limit of Phase I, East of Hollybank Way</i>				
	a)	Sewers (including manholes) <i>Sanitary – 250mm dia. and appurtenances.</i> 281.0m @ \$170.00/m <i>Storm – 375-825mm dia. and appurtenances</i> 234.5m @ \$225.00/m	\$47,770.00 52,762.50	\$47,770.00 52,762.50	\$ - NIL – \$ - NIL -
	b)	Watermains (including valves and hydrants) <i>200mm dia. and appurtenances</i> 285.0m @ \$140.00/m	39,900.00	39,900.00	\$ - NIL -

	c)	Catch Basins and Connections 6.0 @ \$1,500.00/ea. Rear Lot Catch Basin 2.0 @ \$4,000.00/ea.	9,000.00 8,000.00	9,000.00 8,000.00	\$ - NIL - \$ - NIL -
	d)	Curbs and Gutters (including subdrains) 650.0 @ \$45.00/m	29,250.00	29,250.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 2900.0m ² @ \$28.00/m ²	81,200.00	81,200.00	\$ - NIL -
	f)	Sidewalks 390.0m ² @ \$40.00/m ²	15,600.00	15,600.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 2.0 @ \$1,000.00/ea. Removal of Temporary Turning Circle 1.0 @ \$2,000.00/ea.	2,000.00 2,000.00	2,000.00 2,000.00	\$ - NIL - \$ - NIL -
	h)	Street Lighting 8.0 @ \$1,500.00/ea.	12,000.00	12,000.00	\$ - NIL -
6.	SOLSBURY CRESCENT <i>From: Fulmar Way around the Crescent</i> <i>To: Provident Way</i>				
	a)	Sewers (including manholes) Sanitary – 250mm dia. and appurtenances. 190.5m @ \$170.00/m Storm – 300-450mm dia. and appurtenances 150.5m @ \$180.00/m	\$32,385.00 27,090.00	\$32,385.00 27,090.00	\$ - NIL - \$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 240.0m @ \$140.00/m	33,600.00	33,600.00	\$ - NIL -
	c)	Catch Basins and Connections 6.0 @ \$1,500.00/ea. Rear Lot Catch Basin 3.0 @ \$4,000.00/ea.	9,000.00 12,000.00	9,000.00 12,000.00	\$ - NIL - \$ - NIL -
	d)	Curbs and Gutters (including subdrains) 490.0m @ \$45.00/m	22,050.00	22,050.00	\$ - NIL -
	e)	Final Roads			

		(gravel, asphalt base and surface asphalt) 2000.0m ² @ \$28.00/m ²	56,000.00	56,000.00	\$ - NIL -
	f)	Sidewalks 360.0m ² @ \$40.00/m ²	14,400.00	14,400.00	\$ - NIL -
	g)	Dead-end Barricade & Signs	\$ - NIL -	\$ - NIL -	\$ - NIL -
	h)	Street Lighting 6.0 @ \$1,500.00/ea.	9,000.00	9,000.00	\$ - NIL -
7.	PROVIDENT WAY <i>From: West limit of the subdivision</i> <i>To: Homestead Drive (incl. Connection to the existing sanitary sewers and watermains on Homestead Drive and to the existing box culvert on Highway No. 6.)</i>				
	a)	Sewers (including manholes) Sanitary – 300-450mm dia. and appurtenances. 675.0m @ \$200.00/m Storm – 300-1500mm dia. and appurtenances 475.0m @ \$450.00/m	135,000.00 213,750.00	135,000.00 213,750.00	\$ - NIL - \$ - NIL -
	b)	Watermains (including valves and hydrants) 300mm dia. and appurtenances 775.0m @ \$150.00/m	116,250.00	116,250.00	\$ - NIL -
	c)	Catch Basins and Connections 14.0 @ \$1,500.00/ea. 2.0 @ \$2,500.00/ea. Rear Lot Catch Basin 5.0 @ \$4,000.00/ea.	26,000.00 20,000.00	26,000.00 20,000.00	\$ - NIL - \$ - NIL -
	d)	Curbs and Gutters (including subdrains) 1300.0m @ \$45.00/m	58,500.00	58,500.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 6500.0m ² @ \$28.00/m ²	182,000.00	182,000.00	\$ - NIL -
	f)	Sidewalks 850.0m ² @ \$40.00/m ²	34,000.00	34,000.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 2.0 @ \$1,000.00/ea. Removal of Temporary Turning Circle 1.0 @ \$2,000.00/ea.	2,000.00 2,000.00	2,000.00 2,000.00	\$ - NIL - \$ - NIL -
	h)	Street Lighting			

		16.0 @ \$1,500.00/ea.	24,000.00	24,000.00	\$ - NIL -
8.	MALWOOD DRIVE <i>From: Provident Way</i> <i>To: North Limit of the Subdivision</i>				
	a)	Sewers (including manholes) Sanitary – 250mm dia. and appurtenances. 59.0m @ \$170.00/m	10,030.00	10,030.00	\$ - NIL -
		Storm – 525mm dia. and appurtenances 58.0m @ \$200.00/m	11,600.00	11,600.00	\$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 61.0m @ \$140.00/m	8,540.00	8,540.00	\$ - NIL -
	c)	Catch Basins and Connections 2.0 @ \$1,500.00/ea.	3,000.00	3,000.00	\$ - NIL -
	d)	Curbs and Gutters (including subdrains) 120.0m @ \$45.00/m	5,400.00	5,400.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 500.0m ² @ \$28.00/m ²	14,000.00	14,000.00	\$ - NIL -
	f)	Sidewalks 80.0m ² @ \$40.00/m ²	3,200.00	3,200.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 1.0 @ \$1,000.00/ea.	1,000.00	1,000.00	\$ - NIL -
	h)	Street Lighting 2.0 @ \$1,500.00/ea.	3,000.00	3,000.00	\$ - NIL -
9.	HOLLYBANK WAY <i>From: Rosebury Way</i> <i>To: Provident Way</i>				
	a)	Sewers (including manholes) Sanitary – 250mm dia. and appurtenances. 133.5m @ \$170.00/m	22,695.00	22,695.00	\$ - NIL -
		Storm – 675-750mm dia. and appurtenances 166.0m @ \$250.00/m	41,500.00	41,500.00	\$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 170.0m @ \$140.00/m	23,800.00	23,800.00	\$ - NIL -
	c)	Catch Basins and Connections 4.0 @ \$1,500.00/ea.	6,000.00	6,000.00	\$ - NIL -
	d)	Curbs and Gutters (including			

		subdrains) 350.0m @ \$45.00/m	15,750.00	15,750.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 1450.0m ² @ \$28.00/m ²	40,600.00	40,600.00	\$ - NIL -
	f)	Sidewalks 240.0m ² @ \$40.00/m ²	9,600.00	9,600.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 1.0 @ \$1,000.00/ea.	1,000.00	1,000.00	\$ - NIL -
	h)	Street Lighting 4.0 @ \$1,500.00/ea.	6,000.00	6,000.00	\$ - NIL -
10.	PENFOLD COURT <i>From: Provident Way</i> <i>To: The end of the cul-de-sac</i>				
	a)	Sewers (including manholes) Sanitary – 250-300mm dia. and appurtenances. 149.0m @ \$170.00/m Storm – 825-900mm dia. and appurtenances 150.5m @ \$300.00/m	25,330.00 45,150.00	25,330.00 45,150.00	\$ - NIL – \$ - NIL -
	b)	Watermains (including valves and hydrants) 200-300mm dia. and appurtenances 162.0m @ \$140.00/m	22,680.00	22,680.00	\$ - NIL -
	c)	Catch Basins and Connections 6.0 @ \$1,500.00/ea.	9,000.00	9,000.00	\$ - NIL –
	d)	Curbs and Gutters (including subdrains) 300.0m @ \$45.00/m	13,500.00	13,500.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 1550.0m ² @ \$28.00/m ²	43,400.00	43,400.00	\$ - NIL -
	f)	Sidewalks 240.0m ² @ \$40.00/m ²	9,600.00	9,600.00	\$ - NIL -
	g)	Dead-end Barricade & Signs	NIL	\$ - NIL -	\$ - NIL -
	h)	Street Lighting 3.0 @ \$1,500.00/ea.	4,500.00	4,500.00	\$ - NIL -
11.	STONEGLEN WAY <i>From: Penfold Court</i> <i>To: The East limit of the subdivision</i>				
	a)	Sewers (including manholes) Sanitary – 250mm dia. and appurtenances.	15,810.00	15,810.00	\$ - NIL –

		93.0m @ \$170.00/m <i>Storm – 370-450mm dia. and appurtenances</i> 93.0m @ \$190.00/m	17,670.00	17,670.00	\$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 100.0m @ \$140.00/m	14,000.00	14,000.00	\$ - NIL -
	c)	Catch Basins and Connections 4.0 @ \$1,500.00/ea.	6,000.00	6,000.00	\$ - NIL -
	d)	Curbs and Gutters (including subdrains) 270.0m @ \$45.00/m	12,150.00	12,150.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 1300.0m ² @ \$28.00/m ²	36,400.00	36,400.00	\$ - NIL -
	f)	Sidewalks 130.0m ² @ \$40.00/m ²	5,200.00	5,200.00	\$ - NIL -
	g)	Dead-end Barricade & Signs 1.0 @ \$1,000.00/ea.	1,000.00	1,000.00	\$ - NIL -
	h)	Street Lighting 3.0 @ \$1,500.00/ea.	4,500.00	4,500.00	\$ - NIL -
12.	BLOCK 180 <i>From: Penfold Court</i> <i>To: Strathearne Place</i>				
	a)	Sewers (including manholes) <i>Storm – 825mm dia. and appurtenances</i> 86.0m @ \$300.00/m	25,800.00	25,800.00	\$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 70.0m @ \$140.00/m	9,800.00	9,800.00	\$ - NIL -
	c)	Catch Basins and Connections	\$ - NIL -	\$ - NIL -	\$ - NIL -
	d)	Curbs and Gutters (including subdrains)	\$ - NIL -	\$ - NIL -	\$ - NIL -

	e)	Final Roads (gravel, asphalt base and surface asphalt) 300.0m ² @ \$25.00/m ²	7,500.00	7,500.00	\$ - NIL -
	f)	Sidewalks 150.0m ² @ \$40.00/m ²	4,600.00	4,600.00	\$ - NIL -
	g)	Dead-end Barricade & Signs	\$ - NIL -	\$ - NIL -	\$ - NIL -
	h)	Street Lighting	\$ - NIL -	\$ - NIL -	\$ - NIL -
13.	STRATHEARNE PLACE <i>From: East limit of the subdivision To: The end of the cul-de-sac (Incl. Connection to the existing sanitary sewers and watermains on Strathearne Place).</i>				
	a)	Sewers (including manholes) Sanitary – 250mm dia. and appurtenances. 107.5m @ \$190.00/m Storm – 525-825mm dia. and appurtenances 95.0m @ \$250.00/m	20,425.00 23,750.00	20,425.00 23,750.00	\$ - NIL - \$ - NIL -
	b)	Watermains (including valves and hydrants) 200mm dia. and appurtenances 150.0m @ \$130.00/m	19,500.00	19,500.00	\$ - NIL -
	c)	Catch Basins and Connections 2.0 Singles @ \$1,500.00/ea. 2.0 Doubles @ \$2,500.00/ea.	8,000.00	8,000.00	\$ - NIL -
	d)	Curbs and Gutters (including subdrains) 225.0m @ \$45.00/m	10,125.00	10,125.00	\$ - NIL -
	e)	Final Roads (gravel, asphalt base and surface asphalt) 1300.0m ² @ \$28.00/m ²	36,400.00	36,400.00	\$ - NIL -
	f)	Sidewalks	\$ - NIL -	\$ - NIL -	\$ - NIL -
	g)	Dead-end Barricade & Signs	\$ - NIL -	\$ - NIL -	\$ - NIL -
	h)	Street Lighting 3.0 @ \$1,500.00/ea.	4,500.00	4,500.00-	\$ - NIL -

14.	BLOCK 181 <i>From: Penfold Court</i> <i>To: West limit of subdivision</i>				
	a)	Sewers (including manholes) Sanitary – 300mm dia. and appurtenances. 44.0m @ \$170.00/m	7,480.00	7,480.00	\$ - NIL -
15.	PUMPING STATION <i>On the South side of Thames Way at</i> <i>Fulmar Way</i>				
	a)	Pumping Station, incl. All appurtenances	460,000.00	460,000.00	\$ - NIL -
16.	SWM FACILITY <i>From: East limit of the subdivision</i> <i>To: The end of the cul-de-sac (Incl.</i> <i>Connection to the existing sanitary</i> <i>sewers and watermain on</i> <i>Strathearne Place).</i>				
	a)	Sewers (including manholes) Storm – 150-675mm dia. and appurtenances 41.5m @ \$200.00/m	8,300.00	8,300.00	\$ - NIL -
	b)	Catch Basins and Connections Rip Rap 400.0m ² @ \$50.00/m ²	20,000.00	20,000.00	\$ - NIL -
	c)	Maintenance Access- Turfstone 400.0m ² @ \$20.00/m ²	8,000.00	8,000.00	\$ - NIL -
	d)	Topsoil and Seed 11000.0m ² @ \$1.50/m ²	16,500.00	16,500.00	\$ - NIL -
17.	STORM CHANNEL <i>From: White Church Road, under</i> <i>Hampton Brook Way</i> <i>To: Provident Way</i>				
	a)	River Stone 130.0 tonnes @ \$20.00/tonne	2,600.00	2,600.00	\$ - NIL -
	b)	Plantings Lump Sum	20,000.00	20,000.00	\$ - NIL -
	c)	Topsoil and Seed 10000.0m ² @ \$1.50/m ²	15,000.00	15,000.00	\$ - NIL -

18.	PRIVATE DRAIN CONNECTIONS Lots 1 to 178 incl. and future lots in Phase 2 216 lots @ \$600.00/each	\$129,600.00	\$129,600.00	\$ - NIL -
19.	WATER SERVICE CONNECTIONS Lots 1 to 178 incl. and future lots in Phase 2 216 lots @ \$600.00/each	\$129,600.00	\$129,600.00	\$ - NIL -
20.	DRIVEWAY APPROACHES For Lots 17-23, 26-28, 66-95 & 129-169 81 @ \$400.00/each	\$32,400.00	\$32,400.00	\$ - NIL -
21.	STREET TREES Lots 1 to 178 incl. 210 Trees @ \$300.00/ea.	\$63,000.00	\$63,000.00	\$ - NIL -
22	FENCING Block 180 - (1.5m Chainlink Fence) 135.0m @ \$50.00/m SWM Fac. - (1.5m Chainlink Fence) 450.0m @ \$50.00/m	6,750.00 22,500.00	6,750.00 22,500.00	\$ - NIL - \$ - NIL -
23.	SODDING (Road Allowance & Parklands) 28000m ² @ \$5/m ²	\$140,000.00	\$140,000.00	\$ - NIL -
24.	PRE-GRADING Lots 1 to 178 incl. 178 Lots @ \$ 1,000 per lot	\$178,000.00	\$178,000.00	\$ - NIL -
25.	FINAL GRADING (including sodding)	\$25,000.00	\$25,000.00	
26.	REMOVAL OF TEMP. SWM FACILITY	\$20,000.00	\$20,000.00	\$ - NIL -
27.	MAIN. & OPER. OF SWM FACILITY	\$20,000.00	\$20,000.00	\$ - NIL -
TOTALS FOR PART "A"		\$4,056,182.50	\$4,056,182.50	

SCHEDULE "F"

Continued

Summary Sheet

DESCRIPTION OF WORKS		Total Cost Of Works	Owner's Share	City's Share
A.	1. Sewers including Private Drains	\$1,284,637.50	\$1,284,637.50	\$0.00
	2. Catchbasins and Connections	\$174,000.00	\$174,000.00	\$0.00
	3. Watermains including Waterservice Connections	\$601,170.00	\$601,170.00	\$0.00
	4. Curbs and Gutters	\$232,425.00	\$232,425.00	\$0.00
	5. Final Roads	\$687,400.00	\$687,400.00	\$0.00
	6. Sidewalks including Driveway Approaches	\$198,900.00	\$198,900.00	\$0.00
	7. Dead-End Barricade & Sign	\$9,000.00	\$9,000.00	\$0.00
	8. Fencing (Chainlink)	\$6,750.00	\$6,750.00	\$0.00
	9. Streetlighting	\$105,000.00	\$105,000.00	\$0.00
	10. Sodding (Road Allowance & Parklands)	\$140,000.00	\$140,000.00	\$0.00
	11. Stormwater Management Fac.	\$115,300.00	\$115,300.00	\$0.00
	12. Pumping Station	\$460,000.00	\$460,000.00	\$0.00
	13. Storm Channel	\$37,600.00	\$37,600.00	\$0.00
	14. Remove Turning Circles	\$4,000.00	\$4,000.00	\$0.00
	Net Construction Cost (A) -	\$4,056,182.50	\$4,056,182.50	\$0.00
	7% G.S.T. on Net Construction Cost -	\$283,932.78	\$283,932.78	\$0.00
	Sub-Total (B) -	\$4,340,115.28	\$4,340,115.28	\$0.00
	Maintenance - (Greater of 10% Sub-Total (B) from Total Cost of Works OR \$10,000)	\$434,011.53	\$434,011.53	N/A
	Engineering - (8% Net Construction Cost (A))	\$324,494.60	\$324,494.60	\$0.00
	4% Construction Engineering Fee - (Net Construction Cost(A) from City Share)	\$0.00	N/A	\$0.00
	Total Construction Cost -	\$5,098,621.41	\$5,098,621.41	\$0.00.00
B.	Street Trees	\$63,000.00	\$63,000.00	
C.	Replace Damaged or Missing Survey Monuments and S.I.B.'s -	\$2,000.00	\$2,000.00	
D.	Pre-Grading -	\$178,000.00	\$178,000.00	
E.	Final Grading (including Sodding) -	\$25,000.00	\$25,000.00	
	Total Cost of Works -	\$5,366,621.41	\$5,366,621.41	\$0.00

Note:

N/A – indicates an item whose cost does not apply to either the City's share of the Total Cost, OR, does not apply to the Owner's share of the Total Cost.

SCHEDULE "F2"

of a subdivision agreement between the City of Hamilton and the Owner named in the Schedule "B".
Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER:

NAME OF SUBDIVISION OR CONDOMINIUM: SOUTHAMPTON ESTATES

CITY'S BEST EFFORT OBLIGATION

Submitted By: S. Llewellyn & Associates
Limited.

S. Llewellyn, P. Eng.

Date: _____

Approved By:

Manager,
Engineer Section – Development Division
Planning and Development Department
Date: _____

CITY'S BEST EFFORT OBLIGATION

A **SANITARY PUMP**
 STATION

1 **DESCRIPTION OF**
 SERVICES

Location of Services	Type, Length & Size of Service (estimated)	<u>Subdivider's Estimated Net Costs (Recoverable)</u>
Sanitary Pumping Station including forcemain on Fulmar Way	Sanitary Pumping Station and 280m of 250mm dia. forcemain	\$196,282.00
Total		<u>\$196,282.00</u>

2 **DESCRIPTION OF BENEFITING LANDS**

Lands to the west of Southampton Estates Phase I Subdivision, known as the Hotz property.

The benefiting area is 8.32 hectares.
The benefiting population is 700.

3 **CALCULATION OF BENEFITING OWNER'S SHARE**

The estimated calculation of the Benefiting Owner's share is based on a ratio of the benefiting to the total population draining to the pump station.

The benefiting population is 700.
The population draining to the pump station is 2055.
The benefiting property share is $700/2055 = 34\%$

TOTAL COST

INCLUDING FORCEMAIN, HYDRO,	\$577,300.00
ENGINEERING & ADMINISTRATION	

TOTAL BENEFITING OWNER'S SHARE	\$196,282.00
---------------------------------------	---------------------

B **STRATHEARNE PLACE**

1 **DESCRIPTION OF**
SERVICES

Location of Services	Type, Length & Size of Service (estimated)	<u>Subdivider's Estimated Net Costs (Recoverable)</u>
Storm and sanitary sewers, watermains, roads and sidewalks on Strathearne Place.	525-825 Stm., 250 San., 150 Wm., Road and sidewalks and private sewers.	\$60,303.13
Total		<u>\$60,303.13</u>

2 **DESCRIPTION OF BENEFITING LANDS**

North side of Strathearne Place.

3 **CALCULATION OF BENEFITING OWNER'S SHARE**

The estimated calculation of the Benefiting Owner's share is based on a frontage cost.

Frontage 84.756m

78.0m – 525-825 Stm. @ \$250.00/m	\$19,500.00
82.5m – 250 San. @ \$190.00/m	\$15,675.00
82.5m – 150 Wm. @ \$130.00/m	\$10,725.00
2 Single CB's @ \$1,500.00	\$ 3,000.00
2 Double CB's @ \$2,500.00	\$ 5,000.00
750.0m ² road @ \$30/m ²	\$22,500.00
167.5m curb & gutter @ \$35/m	\$ 5,862.50
167.5m subdrain @ \$15/m	\$ 2,512.50
920.0m ² top soil & seed @ \$5/m ²	\$ 4,600.00

\$89,375.00

Less 50% \$44,687.50

\$44,687.50

17.0m – 675 Stm @ \$ 4,250.00

\$250.00/m

Manhole @ \$3,500.00 \$ 3,500.00

Subtotal \$52,437.50

Engineering & Administration (15%) 7,865.63

Total **\$60,303.13**

C WHITE CHURCH ROAD

1 DESCRIPTION OF SERVICES

Location of Services	Type, Length & Size of Service (estimated)	Subdivider's Estimated Net Costs (Recoverable)
Watermain on White Church Road	250m – 300mm dia. watermain	\$66,125.00
Total		\$66,125.00

2 DESCRIPTION OF BENEFITING LANDS

Lands on the south side of White Church Road, known as addresses 9027, 9033, 9037, 9043, 9047, 9049, 9055, 9061, 9065, 9075, and 9087, and 3610 Highway #6. Lands on north side of White Church Road.

3 CALCULATION OF BENEFITING OWNER'S SHARE

The estimated calculation of the Benefiting Owner's share is based on a frontage cost.

Total cost of watermain installation on White Church Road is \$66,125.00. The share of the north and south side is 50% of total cost, or \$33,062.50.

a) South Side

The total frontage on the south side of White Church Road benefiting from the new watermain installation is 246.57m.

The frontages and share of construction of each individual property is as follows:

House No.	Frontage	Share
3610	47.80m	\$5,573.47
9027	12.65m	\$1,474.99
9033	12.65m	\$1,474.99
9037	14.17m	\$1,652.22
9043	14.17m	\$1,652.22
9047	12.50m	\$1,457.50
9049	12.50m	\$1,457.50
9055	14.02m	\$1,634.73
9061	14.02m	\$1,634.73
9065	22.86m	\$2,665.47
9075	45.72m	\$5,330.94
9087	23.47m	\$2,736.60

	Subtotal	\$28,750.00
	Engineering & Administration	4,312.50
Total		\$33,062.50

b) **North Side**

The total frontage on the north side of White Church Road is 215.0m.

Property	Frontage	<u>Share</u>
Cemetery	83.5m	\$11,165.70
Diocese	85.0m	\$11,366.28
Restaurant @ Hwy. #6	46.5m	\$6,218.02
	Subtotal	\$28,750.00
	Engineering & Administration	4,312.50
Total		\$33,062.50

SCHEDULE "G"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

FINANCIAL OBLIGATIONS OF OWNER**1. Summary of Cash Payments**

The Owner shall pay to the City, prior to the execution of this Agreement by the City:

- a) a cash payment in lieu of dedication of five percent (5%) of the lands in the Land for parkland, pursuant to Section 51.1 of the Planning Act R.S.O. 1990 Chapter P.13, which amount is calculated to be the sum of: \$ - NIL -
- b) an amount sufficient to pay or commute all costs of Works installed under the Local Improvement Act, under the Municipal Act, or under other applicable provincial legislation, together with accumulated interest, less any amounts referable to the oversizing of the City services and improvements, and all other charges and rates already assessed or imposed against the Land or against the owners or occupants thereof, in accordance with Section 6 of the Agreement and as set out in Part 1 of Schedule "H", attached to the Agreement, which actual amount is calculated to be the sum of: \$ - NIL -
- c) an amount sufficient to pay, the cost of street name signs, at a cost of \$ 250.00 per intersection, to be erected by the City for the streets established by the Plan or affected by the development of the Land, in accordance with Section 20 of the Agreement, which amount is calculated to be the sum of: \$ 1,650.00 ✓
- d) an administration fee for:
 - i) the City's review and supervision of the Owner's engineering services and administration of security in connection with the construction and installation of the Works in accordance with Section 7 of the Agreement, which amount is calculated to be the sum of: \$ 167,557.30
 - ii) for the City to administer the recovery of monies to be collected in accordance with Schedule "C" (Specific Provisions) and Schedule "F-2" (City's Best Efforts Provision), attached to the Agreement. The fee is calculated to be: \$ 1,000.00

TOTAL CASH PAYMENT required at the time of execution of the Agreement equals the sum of those amounts required by sections (a), (b), (c), and (d) above, which amount is calculated to the sum of:

\$ 170,207.30

SCHEDULE "G"
Continued

2. Summary of Security Deposits

The Owner shall deposit with the City prior to the execution of this Agreement a security in a form satisfactory to the Finance Department and to Corporate Counsel:

- a) Seventy five percent (75%) of the total estimated cost, including consulting engineering fees and maintenance fees, for Works to be installed by the Owner on highways and easements in accordance with Section 5 of the Agreement and as set out under Schedule "F", attached to the Agreement, which estimated amount is calculated to be the sum of: \$ 4,024,966.06
- b) The estimated cost of future City services and improvements to be installed by the City or other Owners or developers on highways and easements abutting or within the Land as set out in Part 2 of Schedule "H", attached to the Agreement, which estimated amount is calculated to be the sum of: \$ - NIL -

TOTAL SECURITY DEPOSIT required at the time of execution of the Agreement equals the sum of those amounts required by sections (a), and (b), above, which amount is calculated to the sum of: \$ 4,024,966.06

SCHEDULE "H"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

RECOVERY OF COSTS FOR EXISTING AND FUTURE SERVICES

PART 1 - Recovery of Costs for Existing Works

The amount of payments for local improvement charges, sewer rates, and other charges for existing services as referred to in Section 6 of the Agreement.

STORM AND SANITARY SEWERS

N/A \$ - NIL -

WATERMAINS

N/A \$ - NIL -

SUBTOTAL FOR SEWERS AND WATERMAINS \$ - NIL -

Adjustment to Recoverable Sewer and Watermain Costs
based on the "Canadata Construction Cost Index":

Adjustment period – (Index #) to (Index #) \$ - NIL -

ROADS

N/A \$ - NIL -

\$ - NIL -

LAND

N/A \$ - NIL -

TOTAL CASH PAYMENT FOR EXISTING WORKS \$ - NIL -

PART 2 - Recovery of Costs for Future Works

The estimated amount of payments for services and improvements the City proposes to install or proposes to have installed by other owners. The Owner shall pay in cash, the actual cost of those services and improvements noted below upon receipt of an invoice from the City.

STORM AND SANITARY SEWERS

N/A \$ - NIL -

WATERMAINS

N/A \$ - NIL -

ROADS

TOTAL SECURITY DEPOSIT FOR FUTURE WORKS \$ - NIL -

Date Schedule prepared: September 9, 2003

SCHEDULE "I"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement, to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

TRANSFER OF LANDS AND EASEMENTS

Descriptions of land(s) and easement(s) required from the Owner,

PART "A" - TRANSFER OF LANDS TO THE CITY

1. By Certificate on the Plan to the City

Dedication(s) of land(s) to the City, by the Owner's Certificate on the Plan:

Block(s): 196

2. By Transfer/Deed to City — Two categories of Transfers:

(a) To be transferred to City PRIOR to registration of this Agreement: namely,

- (i) where the required lands or easements to be dedicated to the City are located outside the limits of the Plan of subdivision or condominium, "external transfers", such external transfers shall be transferred to the City PRIOR to registration of the Plan of subdivision or of condominium; and,
- (ii) where this agreement is in respect of a Decision of the Committee of Adjustment, all of the required land(s) or easement(s) listed below shall be transferred to the City PRIOR to registration of this agreement.

(b) To be transferred to the City FOLLOWING registration of this Agreement: namely, where the required lands or easements listed below to be dedicated to City are located within the limits of a Plan of subdivision or of a plan of condominium, "internal transfers", such internal transfers shall be transferred and registered to the City FOLLOWING registration of the Plan and this Agreement,

Five Percent (5%) Park land Dedication:

- (i) Internal: Block 195 = 10,350.20 m²
5% of 147,911.91 m² = 7,395.60 m²
Remaining Credit for future phases = 2,954.605 m²
- (ii) External/COA: Part(s): N/A

Reserve(s):

- (i) Internal: Block(s): 179, 185 to 194 inclusive and 197 to 199 inclusive
- (ii) External/COA: Part(s): N/A

Other Land(s):

- (i) Internal: Block(s): 180 (Walkway),
- (ii) External/COA: Part(s): 1 (Pumping Station), 3 to 8 inclusive and 14 to 16 inclusive (Storm channel) on Reference Plan 62R-16650

PART "B" - TRANSFER OF EASEMENTS TO CITY

SCHEDULE "I"

Continued

Watermain(s):

- (i) Internal: Block(s): N/A
- (ii) External/COA: Part(s): N/A

Sewer(s):

- (i) Internal: Block(s): 181 (Sewer Easement)
- (ii) External/COA: Part(s): N/A

Other:

- (i) Internal: Parts: 2 to 11 inclusive and 15 on Reference Plan 62R-16650
- (ii) External/COA: Part(s): 1 and 2 (Temporary Turning Circle) on Reference plan 62R-16540

The Sanitary Sewer, Watermain or Storm Sewer Transfer of Easement to the City, where specified as a requirement in this Schedule, shall be prepared by the Owner and such Transfer of Easement shall have the following easement provisions attached as a **Schedule to the Transfer:**

1. The Transferor grants to the Transferee, its successors and assigns the free, uninterrupted and unobstructed right and easement in the land described in this transfer (hereinafter such land may be referred to as the "land") upon the following terms and conditions:
 - (a) This easement in favour of the Transferee is for the purpose of: watermain, storm and sanitary sewer systems, including all appurtenances necessary or incidental thereto (hereinafter may be referred to as the "easement").
 - (b) This easement includes the right of the Transferee to enter the land and lay down, install, construct, maintain, open, inspect, add to, alter, repair and keep in good condition, remove, replace, reconstruct, supplement and operate the easement on, in, across, under and through the land.
 - (c) This easement includes the right of the Transferee, its employees, agents, contractors, workers and other persons duly authorized by the Transferee, at all reasonable times and from time to time, as may be necessary or incidental to this easement, to pass and re-pass the land with all plant, machinery, material, vehicles, and equipment and to keep the land clear of obstructions necessary to permit the easement.
 - (d) The Transferor shall not, on, in, over or under the land (i) excavate, drill, install, erect or build; (ii) plant any tree, construct any pit, well, pavement, building or structure; and, (iii) alter the grading or any over-land drainage patterns approved by the City, without the prior written consent of the General Manager, Planning and Development Department. The foregoing is subject to the exception that the Transferor's building's footings and eaves may encroach into or over the land up to a maximum of 0.5 metres from the outer limits of the land. Subject to this and the other provisions of this easement in favour of the Transferee, the Transferor remains the owner of the land.
 - (e) Sewer or water pipe(s) and all other equipment and material brought onto the land by the Transferee (i) shall at all times remain the property of the Transferee notwithstanding same may be annexed or affixed to the land; and, (ii) may at any time and from time to time, be removed in whole or in part, by the Transferee.
2. The Transferee covenants to the Transferor that the Transferee is responsible for any damage caused by its agents or employees to the land and to the

SCHEDULE "I"

Continued

property of the Transferor, including any other land of the Transferor adjacent to the said land; and, without limiting the generality of the foregoing, that the Transferee shall, as far as possible, at the Transferee's expense, replace any soil, turf or ground coverings disturbed by the Transferee; restore the existing grading and any existing overland drainage patterns; and repair any damage caused by the Transferee, its agents or employees.

3. (a) In accordance with section 194 of the Municipal Act R.S.O., 1990, Chapter M.45, it is acknowledged that because this is a municipal public utility easement, this easement in favour of the Transferee does not have to be appurtenant to or annexed to or for the benefit of any specific parcel of land of the Transferee as its dominant tenement, to be valid.
- (b) The dominant tenement of this easement of the Transferee is the Transferee's municipal system of watermains, storm and sanitary sewers, including their related buildings and plant located in the City of Hamilton in the Province of Ontario.
- (c) This easement shall enure to the benefit of and be binding upon the Transferor, the Transferee and their respective successors and assigns.

TRANSFER OF SURFACE DRAINAGE EASEMENT TO THE CITY

- (i) A Surface Drainage Easement to the City to modify surface drainage to comply with the Detailed Grading Plan and the Overall Grading Plan shall be transferred by the Owner to the City on all Lots, Blocks, units or severed parcels within the Land, save and except:
 - those Lots or Blocks, (if any), on a plan of subdivision or plan of condominium which are to be dedicated by the Owner's Certificate on the Plan to the City for road widening or for walkways;
 - those Lots, Blocks, or other land (if any), intended to be the subject of a Transfer by the Owner to the City or to other authority, as the case may be.
- (ii) where a Site Plan Control Agreement is already registered on title to Land in which the City has a right to re-enter the Land to modify surface drainage, the City Engineer may not require a further surface drainage easement in respect of such Land.
- (iii) the surface drainage Transfer of easement which shall be prepared and granted by the Owner shall have the following easement provisions attached as a Schedule to the Transfer:
 1. The Transferor grants to the Transferee, its agents, successors and assigns, the right, interest and easement in, over, along and upon the land of the Transferor to which this Schedule is attached to be used as appurtenant to the Transferee's land described below, for the following purpose, in common with such further and other easements as the Transferor may grant from time to time,
 - (a) to enter, inspect and undertake, at any time, modifications to the surface drainage of the said land in accordance with the Detailed Grading Plan and the Overall Grading Plan approved in accordance with the registered Subdivision Agreement;
 - (b) to clear obstructions so as to permit the exercise and enjoyment of this easement;
 - (c) for the servants, agents, contractors, workers and other persons duly authorized by the Transferee at all reasonable times and from time to time to pass and re-pass with all plant machinery, material, vehicles and equipment

SCHEDULE "I"

Continued

which may be necessary or incidental to the exercise and enjoyment of this easement.

2. The easement hereby granted,
 - (a) shall be of the same force and effect to all intents and purposes as a covenant running with the land;
 - (b) is declared hereby to be appurtenant to and for the benefit of the land of the Transferee described below;
 - (c) shall enure to the benefit of the Transferee and be binding upon the Transferor, its successors, assigns and successors in title.
3. The Transferor shall register this transfer of easement on title to the land at the Transferor's expense in a form satisfactory to the Corporate Counsel prior to the first transfer of any lot, block, unit or severed parcel.
4.
 - (a) In accordance with section 194 of the Municipal Act R.S.O., 1990, Chapter M.45, it is acknowledged that because this is a municipal public utility easement, this easement in favour of the Transferee does not have to be appurtenant to or annexed to or for the benefit of any specific parcel of land of the Transferee as its dominant tenement, to be valid.
 - (b) The dominant tenement of this easement of the Transferee is the Transferee's municipal system of watermains, storm and sanitary sewers, including their related buildings and plant located in the City of Hamilton in the Province of Ontario.

Date Schedule prepared: September 9, 2003

SCHEDULE "J"

of a Subdivision Agreement between the City of Hamilton and the Owner named in Schedule "B" of the Agreement. Details of the Agreement to which this Schedule is attached, are set out below.

APPLICATION NUMBER: 25T-98002 and 25T200301

NAME OF SUBDIVISION OR CONDOMINIUM PLAN: "Southampton Estates Phase 1"
(where applicable)

LAND RESTRICTIONS

Lots, Blocks, Units and Severed Parcels listed in this Schedule are subject to the following notices and/or restrictions in accordance with Section 26 of the Agreement.

Blocks 182, 183 and 184 inclusive.

Date Schedule prepared: September 9, 2003