

THIS FRONT-ENDING AGREEMENT made this 28th day of November, 2011

BETWEEN:

DIGREGORIO INVESTMENTS LIMITED
a company incorporated under
the laws of the Province of Ontario

(hereinafter referred to as "DIL")

OF THE FIRST PART

and

THE CORPORATION OF THE TOWN OF CALEDON

(hereinafter referred to as "the Town")

OF THE SECOND PART

WHEREAS Block A is a term by which the industrial area outlined on the map attached hereto as Schedule "A" is known;

AND WHEREAS the Town had a report entitled "Storm Water Management Master Servicing Plan – Bolton Industrial Park – Block A (hereinafter referred to as "the SWM MSP") prepared by a professional consulting engineer in 1997;

AND WHEREAS the SWM MSP is based on the premise that the owners of the properties within Block A will be required to install storm water quality swales on their properties as and when they develop them;

AND WHEREAS the Town required the owners of those properties within Block A that are identified on Schedule "A" attached hereto and listed in Schedule "B" attached hereto as Corner, Bruno, Value Woodworking, First DiGregorio, Donne, MJJJ and Second DiGregorio to install storm water quality swales on their properties as they developed them;

AND WHEREAS the property that is identified on Schedule "A" attached hereto and listed in Schedule "B" attached hereto as Tout was partially developed prior to 1997 and, as such, did not have any storm water quality swales installed on it at that time;

AND WHEREAS, if the Tout property is developed further in the future, the Town will require the owner thereof to install a storm water quality swale or swales on it;

AND WHEREAS the storm water quality swales that have been installed on the Corner property, the Bruno property, the Value Woodworking property, the First DiGregorio property, the Donne property, the MJJJ property and the Second DiGregorio property carry storm water from those properties to a storm sewer that was installed along Coleraine Drive by DIL in 2000;

AND WHEREAS it is anticipated that, if and when the Tout property is further developed in the future, the storm water quality swale or swales that are installed on it will carry storm water to the storm sewer;

AND WHEREAS the cost incurred by DIL to install the storm sewer, including engineering design and supervision, restoration and GST, was \$135,533.25;

AND WHEREAS DIL or a corporation or corporations related to DIL were the owners of the First DiGregorio property, the Donne property, the MJJJ property and the Second DiGregorio property at the time that the storm sewer was installed;

AND WHEREAS it was always intended that the cost incurred by DIL to install the storm sewer would be attributed to and recovered from the owners of the properties within Block A from which storm water flows or will flow to the storm sewer based on the respective areas of those properties;

AND WHEREAS DIL and the Town accordingly entered into an agreement dated December, 2001 in which the Town undertook to use its best efforts to collect the proportionate shares of the cost of installing the storm sewer from the owners of the properties served by the storm sewer if and when the owners of such properties made applications for any development approvals under the Planning Act;

AND WHEREAS the administrative costs incurred by the Town in conjunction with the installation of the storm sewer, including approvals and inspections, and in conjunction with the preparation, processing and administration of agreements and by-laws related to the installation of the storm sewer are in the total amount of \$22,330.00;

AND WHEREAS the area of each of the properties within Block A from which storm water flows or will flow to the storm sewer and the contribution to the cost incurred by DIL to install the storm sewer and the administrative costs of the Town attributable to each of those properties is shown on the chart attached hereto as Schedule "B";

AND WHEREAS the Town has received the sum of \$20,000.00 from a previous owner of the Corner property, the Bruno property and the Value Woodworking property with respect to the contributions attributable to those properties;

AND WHEREAS the Town has paid the full amount of the said \$20,000.00 over to Aquafor Beech Limited as directed by DIL, without deduction for the Town's administrative costs;

AND WHEREAS the outstanding amount of the contributions attributable to each of the properties within Block A from which storm water flows or will flow to the storm sewer are shown on Schedule "B" attached hereto;

AND WHEREAS DIL and the Town have agreed to enter into this front-ending agreement pursuant to the Development Charges Act, 1997 so that the outstanding amount of the contributions attributable to each of the properties within Block A from which storm water flows or will flow to the storm sewer can be collected by the Town and paid, in part, to DIL and retained, in part, by the Town;

AND WHEREAS the Council of the Town has enacted a development charge by-law pursuant to the Development Charges Act, 1997 that is applicable to the properties from which storm water flows or will flow to the storm sewer and that imposes a development charge for the storm sewer;

WITNESSETH that, in consideration of other good and valuable consideration and the sum of Two (\$2.00) Dollars of lawful money of Canada now paid by each of the parties hereto to the other party hereto (the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto), each of the parties hereto hereby covenants, promises and agrees with the other party hereto as follows:

1. The parties hereto hereby acknowledge and agree that the foregoing recitals are true and accurate.
2. DIL represents that it has all requisite power and authority to enter into this Agreement and that it has voluntarily done so, and DIL acknowledges that it has received independent legal advice with respect to entering into this agreement.
3. The Development Charges Act, 1997 requires that the following information be included in this agreement:
 - (a) the work that has been done is the installation of a storm sewer along Coleraine Drive;
 - (b) the area of the municipality that has or will benefit from the work that has been done consists of the properties identified on Schedule "A" attached hereto and listed in Schedule "B" attached hereto;
 - (c) the cost of the work that has been done is \$135,533.25 for the installation of the storm sewer plus \$22,330.00 in related administrative costs for a total of \$157,863.25;
 - (d) DIL has borne the cost of installing the storm sewer or 85.85% of the total cost of the work that has been done and the Town has borne the related administrative costs or 14.15% of the total cost of the work that has been done;
 - (e) the part of the cost of the work that has been done that is to be reimbursed by the owners of the properties from which storm water flows or will flow to the storm sewer has been determined on the basis of the relative areas of those properties;
 - (f) the amount of DIL's non-reimbursable share of the cost of installing the storm sewer is \$70,030.02;
 - (g) none of the related administrative costs is non-reimbursable;
 - (h) 85.85% of any amount collected from the owners of the Corner property, the Bruno property, the Value Woodworking property and the Tout

property will be allocated to DIL and 14.15% of any such amount will be allocated to the Town;

- (i) all of any amount collected from the owners of the First DiGregorio property, the Donne property, the MJJJ property and the Second DiGregorio property will be allocated to the Town.
4. Prior to entering into a subdivision agreement pursuant to Section 51 of the Planning Act with the owner or owners of any of the properties within Block A from which storm water flows or will flow to the storm sewer or prior to entering into a consent agreement pursuant to Sections 51 and 53 of the Planning Act with the owner or owners of any of the properties within Block A from which storm water flows or will flow to the storm sewer or prior to a building permit being issued for the construction of a building that exceeds 50% of the gross floor area of any existing building on any of the properties within Block A from which storm water flows or will flow to the storm sewer or the construction of an addition to a building on any such property that exceeds 50% of the gross floor area of any existing building on such property, the Town shall collect the outstanding amount of the contribution attributable to that property, as shown on Schedule "B" attached hereto from the owner thereof.
5. If and when the Town collects any monies pursuant to Section 4 of this agreement, the Town shall forthwith pay part of such monies to DIL in accordance with Subsections (h) and (i) of Section 3 of this agreement.
6. In carrying out its obligation under Section 4 of this agreement the Town shall not be obliged to commence or respond to any litigation before any court or tribunal.
7.
 - (a) The obligation of the Town to collect any contributions from the owners of the properties from which storm water flows or will flow to the storm sewer shall cease twenty (20) years from the date upon which DIL and the Town enter into this agreement.
 - (b) The obligation of an owner of a property within Block A from which storm water flows or will flow to the storm sewer to make any payment or payments under this agreement shall cease twenty (20) years from the date upon which DIL and the Town enter into this agreement.
8. DIL agrees that the Town shall not pay to DIL or reimburse DIL at any time the amount of development charges represented by the statutory deduction for existing development as required by the Development Charges Act (the 'non-growth share') in the amount of \$15,925.00.
9. The Town agrees that no deduction will be made for the Town's administrative costs from or in relation to the \$20,000 amount paid to the Town by the previous owners of the Corner property, the Bruno property and the Value Woodworking property and subsequently paid by the Town to Aquafor Beech at DIL's direction.
10. DIL acknowledges and agrees that the Council of the Town, employees of the Town and the Committee of Adjustment of the Town are obliged to consider

applications made under the Planning Act on the merits of such applications and to hear and consider any objections, comments and concerns with respect thereto, and that the Council of the Town, employees of the Town and the Committee of Adjustment of the Town are required to make determinations on such applications in their unfettered discretion in accordance with the provisions and procedures of the Planning Act and the relevant municipal and provincial planning documents, without regard to this agreement. DIL further acknowledges and agrees that the Council of the Town, employees of the Town and the Committee of Adjustment of the Town under no obligation by virtue of this agreement, or otherwise, to grant any approvals whatsoever for any proposed development.

11. (a) Any notices given under this agreement may be delivered in person or by courier, email, fax or mail, and, if mailed, shall be deemed to have been validly given at 9:00 a.m. of the third day, not being a Saturday or a Sunday, following the day upon which the notice was posted by prepaid registered mail.

(b) All notices shall be given at the following addresses, unless and until notice of a different address is given:

(i) for DIL:

DiGregorio Investments Limited
Units 8 and 9
4 Holland Drive
Bolton, ON L7E 1G1

Attention: Sam DiGregorio

and

Agueci & Calabretta
Barristers & Solicitors
200-12 Morgan Avenue
Thornhill, ON L3T 1R1

Attention: Lee Guarino

(ii) for the Town:

The Corporation of the Town of Caledon
6311 Old Church Road
Caledon, ON L7C 1J6

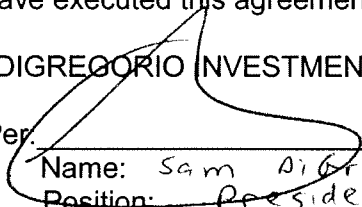
Attention: Town Clerk

10. This agreement may be registered upon the title to the properties within Block A from which storm water flows or will flow to the storm sewer by either of the parties hereto.

11. The schedules attached hereto shall be deemed to be a part of this agreement.
12. This agreement shall be read with such changes in gender and number as the context may require.
13. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
14. References in this agreement to any statute or any provision thereof shall include such statute or provision thereof as amended, revised, re-enacted and or consolidated from time to time and any successor statute or provision;
15. The invalidity of any provision of this agreement shall not affect any other provision of it, and, if any provision of this agreement is declared to be invalid by a court or tribunal of competent jurisdiction, this agreement shall be construed as if the invalid provision had been omitted.
16. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
17. The parties hereto shall from time to time do such further acts and things and execute such further documents and instruments as may be reasonably required to carry out and implement the true intent and meaning of this agreement.

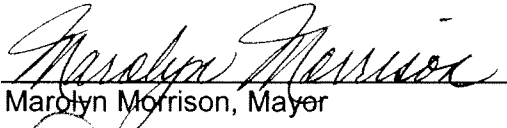
IN WITNESS WHEREOF the parties hereto have executed this agreement under seal.

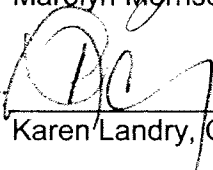
DIGREGORIO INVESTMENTS LIMITED

Per: 
 Name: Sam DiGregorio
 Position: President

I have authority to bind the corporation.

THE CORPORATION OF
 THE TOWN OF CALEDON

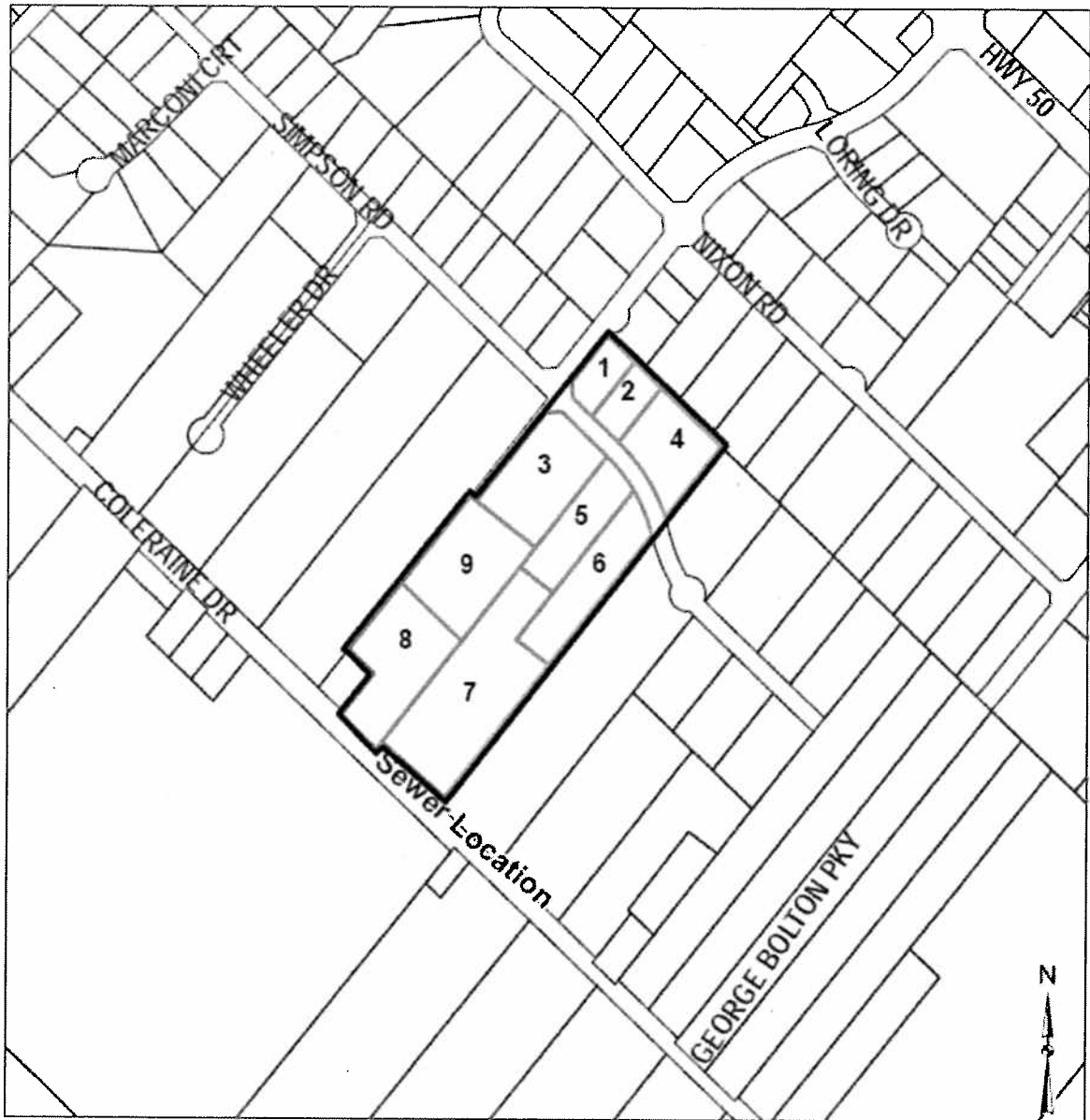
Per: 
 Marilyn Morrison, Mayor

Per: 
 Karen Landry, Clerk

We have authority to bind the corporation.

AUTHORIZATION BY-LAW No. <u>2011-149</u> PASSED BY TOWN OF CALEDON COUNCIL ON THE <u>15th</u> DAY OF <u>NOVEMBER</u> 20 <u>11</u>
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**SCHEDULE A
TO FRONT-ENDING AGREEMENT**



**SCHEDULE B
TO FRONT- ENDING AGREEMENT**

Property No. (see Schedule A)	Current Property Owner	Development Charge Amount (\$)
1	1537316 Ontario Limited	2967.00
2	Joe Bruno Holdings Inc. ("Bruno")	3020.00
3	1245107 Ontario Limited ("Value Woodworking")	2,607.00
4	DiGregorio Investments Ltd. ("First")	0.00
5	C.D. Donne Holdings Ltd. ("Donne")	267.00
6	M-J-J-J Developments Inc. ("MJJJ")	344.00
7	DiGregorio Investments Ltd. ("Second")	786.00
8	541904 Ontario Limited ("Tout")	38,100.00
9	541904 Ontario Limited ("Tout")	27,928.00