

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2020 - 14

**Being a By-law to enter into an easement agreement with Philip David Weddel
for the property at 4855 Highway 520**

WHEREAS Section 5(3) of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, requires a municipal Council to exercise a municipal power, including a municipality's capacity, rights, powers and privileges under Section 9, by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS, the Council of the Corporation of the Municipality of Magnetawan has entered into an agreement of Purchase and Sale with Philip David Weddel for the property known as 4855 Highway 520;

AND WHEREAS, Philip David Weddel requires access over Municipal lands to access the property;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. **THAT** the Corporation of the Municipality of Magnetawan is hereby authorized to enter into an easement agreement with Philip David Weddel substantially as attached and;
2. **THAT** the Mayor and CAO/Clerk are hereby authorized to execute the Agreement on behalf of the Corporation.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 12th day of February, 2020.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk

1. Grant of Easement

The Transferor does hereby grant and transfer unto the Transferee, its successors and assigns, a right and easement in, under and through the Tract, described as Part 2, Plan 42R-21335 for pedestrian and vehicular access along the existing driveway to and from the Transferee's Lands described as Part 1, Plan 42R-21335.

2. Rights of Ingress and Egress

Such right of access from, in and over the Tract includes and shall extend to the Transferee, its servants, agents, contractors, sub-contractors with or without vehicles, including tractor-trailers, machinery and equipment for all purpose, useful and convenient in connection with or incidental to the exercise and enjoyment of the right and easement herein granted and transferred as and from the date hereof and continuing in perpetuity.

3. Terms & Conditions

The aforesaid right and easement is hereby granted and transferred on the following terms:

(a) Rights and Obligations of Transferor

- (i) The Transferor shall undertake the following maintenance of the existing driveway located upon the Tract:
 - a. Grading of the gravelled surface twice annually;
 - b. Filling of significant potholes on an as needed basis;
 - c. Snow removal, which shall be conducted when the Municipality is conducting snow ploughing operations upon public highways under its jurisdiction and in the vicinity of the Tract.
- (ii) Notwithstanding subsection (i), the parties acknowledge and agree that the Tract is not a public highway and is not subject to section 44 of the *Municipal Act, 2001 as amended* nor to any half load restrictions enacted under authority of section 122 of the *Highway Traffic Act, R.S.O. 1990 as amended*.

(b) New Municipal Public Highway Connection with Provincial Highway 520

The Transferee acknowledges that the Transferor will be developing the remainder of the Transferor's Lands currently described in PIN 52084-0213(LT) and that as part of such development, the Transferor intends upon creating an internal public highway as part of the proposed development of its remaining lands as an "employment park". Such public highway will intersect with Provincial Highway 520 and provide access to the Transferee's Lands. Such public highway will be designed and constructed to a full municipal standard and would not require application of any half load restrictions under section 122 *Highway Traffic Act, R.S.O. 1990 as amended*.

The Transferee agrees that upon the establishment of the aforementioned internal public highway on the Transferor's Lands, and for which the Transferee shall not be apportioned any of the costs of such construction, the Transferee shall release the easement herein. Each party shall be responsible for its own costs in relation giving effect to such transfer.

(c) Conveyance of Tract

The Transferee acknowledges that the proposed development of the remaining lands as an "employment park" by the Municipality referenced in subsection (b) may be subject to modification and/or may not occur. The parties agree that should such proposed development not occur and/or

(i) Indemnification

The Transferee hereby releases and forever discharges the Transferor, its officers, servants, officials and agents from any claim, demand, loss, cost, charge or expense which may arise as a result of the Municipality undertaking the maintenance activities under subsection 3(a)(i) save and except for any such claim, demand, loss, cost, charge or expense arising from the gross negligence of the Transferor while conducting the maintenance activities.

The Transferee further releases and forever discharges the Transferor, its officers, servants, officials and agents from any claim, demand, loss, cost, charge or expense which may arise as a result of the Transferee's use and occupation of the Tract and/or as a result of any activity undertaken under subsection 3(c) herein.

4. Covenants Running With The Land

The right and easement herein granted and transferred, and the burden herein set forth, shall be of the same force and effect to all intents and purposes as a covenant running with the Tract.

5. Successors and Assigns

This Indenture, including all the covenants and conditions herein contained, shall extend to, be binding upon and enure to the benefit of each and all of the heirs, executors, administrators, successors-in-title, and assigns of the parties hereto respectively and wherever the singular or masculine is used in this Indenture, it shall be construed as if the plural or the feminine or the neuter, as the case may be, had been used, where the context or the Party or Parties hereto so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

Properties

PIN 52084 - 0213 LT Interest/Estate Fee Simple ☒ Add Easement

Description DOMINANT LANDS: PART OF PT LT 1 CON 8 CROFT PT 1 42R4455; MAGNETAWAN;
DESIGNATED AS PART 1 PLAN 42R21335

SERVIENT LANDS: PART OF PT LT 1 CON 8 CROFT PT 1 42R4455; MAGNETAWAN;
DESIGNATED AS PART 2 PLAN 42R21335

Address 4855 HIGHWAY 520
MAGNETAWAN

Consideration

Consideration \$2.00

Transferor(s)

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

Name THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN
Acting as a company
Address for Service 4304 Hwy #520
P.O. Box 70
Magnetawan, ON P0A 1P0

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

This document is being authorized by a municipal corporation Sam Dunnett, Mayor and Kerstin Vroom, CAO/Clerk..

Transferee(s)**Capacity****Share**

Name 2732060 ONTARIO LTD. Registered Owner
Acting as a company
Address for Service 36 Ross Road, PO Box 104, Magnetawan, Ontario P0A 1P0

Statements

Schedule: See Schedules

Calculated Taxes

Provincial Land Transfer Tax \$0.00

File Number

Transferor Client File Number : 63-283-354
Transferee Client File Number : HN20-049

LAND TRANSFER TAX STATEMENTS

In the matter of the conveyance of: 52084 - 0213 DOMINANT LANDS: PART OF PT LT 1 CON 8 CROFT PT 1 42R4455;
MAGNETAWAN; DESIGNATED AS PART 1 PLAN 42R21335

SERVIENT LANDS: PART OF PT LT 1 CON 8 CROFT PT 1 42R4455;
MAGNETAWAN; DESIGNATED AS PART 2 PLAN 42R21335

BY: THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

TO: 2732060 ONTARIO LTD.

Registered Owner

1. WEDDEL, PHILIP DAVID

I am

- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
- ☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
- ☐ (c) A transferee named in the above-described conveyance;
- ☐ (d) The authorized agent or solicitor acting in this transaction for _____ described in paragraph(s) () above.
- ☒ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for 2732060 ONTARIO LTD. described in paragraph(s) (above) above.
- ☐ (f) A transferee described in paragraph () and am making these statements on my own behalf and on behalf of _____ who is my spouse described in paragraph () and as such, I have personal knowledge of the facts herein deposed to.

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

(a) Monies paid or to be paid in cash	\$2.00
(b) Mortgages (i) assumed (show principal and interest to be credited against purchase price)	\$0.00
(ii) Given Back to Vendor	\$0.00
(c) Property transferred in exchange (detail below)	\$0.00
(d) Fair market value of the land(s)	\$0.00
(e) Liens, legacies, annuities and maintenance charges to which transfer is subject	\$0.00
(f) Other valuable consideration subject to land transfer tax (detail below)	\$0.00
(g) Value of land, building, fixtures and goodwill subject to land transfer tax (total of (a) to (f))	\$2.00
(h) VALUE OF ALL CHATTELS -items of tangible personal property	\$0.00
(i) Other considerations for transaction not included in (g) or (h) above	\$0.00
(j) Total consideration	\$2.00

4.

Explanation for nominal considerations:

- o) Transfer of easement or right of way for no consideration.

5. The land is not subject to an encumbrance

6. Other remarks and explanations, if necessary.

1. The information prescribed for purposes of section 5.0.1 of the Land Transfer Tax Act is not required to be provided for this conveyance.
2. The transferee(s) has read and considered the definitions of "designated land", "foreign corporation", "foreign entity", "foreign national", "specified region" and "taxable trustee" as set out in subsection 1(1) of the Land Transfer Tax Act. The transferee(s) declare that this conveyance is not subject to additional tax as set out in subsection 2(2.1) of the Act because:
3. (a) This is not a conveyance of land that is located within the "specified region".
4. The transferee(s) declare that they will keep at their place of residence in Ontario (or at their principal place of business in Ontario) such documents, records and accounts in such form and containing such information as will enable an accurate determination of the taxes payable under the Land Transfer Tax Act for a period of at least seven years.
5. The transferee(s) agree that they or the designated custodian will provide such documents, records and accounts in such form and containing such information as will enable an accurate determination of the taxes payable under the Land Transfer Tax Act, to the Ministry of Finance upon request.

PROPERTY Information Record

A. Nature of Instrument: Transfer Easement
LRO 42 Registration No. Date:

B. Property(s): PIN 52084 - 0213 Address 4855 HIGHWAY 520 Assessment -
MAGNETAWAN Roll No

C. Address for Service: 36 Ross Road, PO Box 104, Magnetawan, Ontario P0A 1P0

D. (i) Last Conveyance(s): PIN 52084 - 0213 Registration No.
(ii) Legal Description for Property Conveyed: Same as in last conveyance? Yes ☐ No ☒ Not known ☐

1. Grant of Easement

The Transferor does hereby grant and transfer unto the Transferee, its successors and assigns, a right and easement in, under and through the Tract, described as Part 2, Plan 42R-21335 for pedestrian and vehicular access along the existing driveway to and from the Transferees Lands described as Part 1, Plan 42R-21335 and for the purposes of accommodating existing electricity supply and telecommunications infrastructure servicing the Transferee's Lands.

2. Rights of Ingress and Egress

Such right of access from, in and over the Tract includes and shall extend to the Transferee, its servants, agents, contractors, sub-contractors with or without vehicles, including tractor-trailers, machinery and equipment for all purpose, useful and convenient in connection with or incidental to the exercise and enjoyment of the right and easement herein granted and transferred as and from the date hereof and continuing in perpetuity.

3. Terms & Conditions

The aforesaid right and easement is hereby granted and transferred on the following terms:

(a) Rights and Obligations of Transferor

- (i) The Transferor shall undertake normal maintenance of the existing driveway located upon the Tract and shall undertake such maintenance in the same manner as it conducts maintenance upon its public highways which are classified (under the Minimum Maintenance Standards Regulations) as Class 5 roads.
- (ii) Notwithstanding subsection (i), the parties acknowledge and agree that the Tract is not a public highway and is not subject to section 44 of the *Municipal Act, 2001 as amended* nor to any half load or reduced axel restrictions enacted under authority of section 122 of the *Highway Traffic Act, R.S.O. 1990 as amended*.

(b) New Municipal Public Highway Connection with Provincial Highway 520

The Transferee acknowledges that the Transferor will be developing the remainder of the Transferor's Lands currently described in PIN 52084-0213(LT) and that as part of such development, the Transferor intends upon creating an internal public highway as part of the development of its remaining lands as an "employment park". Such public highway will intersect with Provincial Highway 520 and provide access to the Transferee's Lands in such a manner so as to facilitate access from the driveway existing (at the time of the registration hereof) on the Transferee's lands. Such public highway will be designed and constructed to a full municipal standard and would not require application of any half load or reduced axel restrictions under section 122 *Highway Traffic Act, R.S.O. 1990 as amended*.

The Transferee agrees that upon the establishment of the aforementioned internal public highway on the Transferor's Lands, and for which the Transferee shall not be apportioned any of the costs of such construction, the Transferee shall release the easement herein. Each party shall be responsible for its own costs in relation giving effect to such transfer.

Should the aforementioned public highway not be created or in existence on or before December 31st, 2030, the Municipality agrees to convey the Tract (being Part 2, 42R-21335) to the Transferee for two (2) dollars. Each

party shall be responsible its own costs in relation giving effect to such transfer.

(c) Supplementary Maintenance by Transferee

Notwithstanding the Transferor's obligation to maintain, the parties agree that the Transferee may, at its discretion, undertake maintenance activities and minor capital improvements to accommodate traffic to and from the conduct of its business on the Transferee's Lands. Such maintenance and/or improvements shall be at the sole cost and expense of the Transferee.

(d) Transferee's Rights Not To Be Interrupted

The Transferee performing and observing the covenants and conditions on its part to be observed and performed, shall and may peaceably hold and enjoy the right and easement herein granted and transferred without hindrance, molestation or interruption on the part of the Transferor or of any person claiming by, through, under or in trust for the Transferor.

(e) Additional Documents

The Transferor will, if so requested by the Transferee, execute such further and other documents of title and assurances in respect of the Tract as may be requisite and such documents shall be prepared at the expense of the Transferee.

(f) Notices

All Notices to be given hereunder may be given by registered letter addressed to:

Transferor at: its Main Municipal Office.

Transferee at the address for service listed on the registration document.

or such other address as the Transferor and the Transferee may respectively from time to time designate in writing, and any such Notice shall be deemed to have been given to and received by the addressee three (3) days after the mailing thereof, postage prepaid and registered.

(g) Transferee is Occupier

The parties agree that the Transferee is the occupier of the Tract for the purposes of the *Occupier's Liability Act*, R.S.O. 1990. The Transferee agrees to maintain a policy of insurance covering its use and occupation of the Tract. Such insurance policy shall name the Municipality as an additional insured.

(h) Indemnification

The Transferee hereby releases and forever discharges the Transferor, its officers, servants, officials and agents from any claim, demand, loss, cost, charge or expense which may arise as a result of the Municipality undertaking the maintenance activities under subsection 3(a)(i) save and except for any such claim, demand, loss, cost, charge or expense arising from the gross negligence of the Transferor while conducting the maintenance activities.

The Transferee further releases and forever discharges the Transferor, its officers, servants, officials and agents from any claim, demand, loss, cost, charge or expense which may arise as a result of the Transferee's use

and occupation of the Tract and/or as a result of any activity undertaken under subsection 3(c) herein.

4. Covenants Running With The Land

The right and easement herein granted and transferred, and the burden herein set forth, shall be of the same force and effect to all intents and purposes as a covenant running with the Tract.

5. Successors and Assigns

This Indenture, including all the covenants and conditions herein contained, shall extend to, be binding upon and enure to the benefit of each and all of the heirs, executors, administrators, successors-in-title, and assigns of the parties hereto respectively and wherever the singular or masculine is used in this Indenture, it shall be construed as if the plural or the feminine or the neuter, as the case may be, had been used, where the context or the Party or Parties hereto so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.