



# The Municipal Corporation of the Town of Fort Erie

## By-law No. 19-2021

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### Being a By-law to Authorize the Execution of an Assumption Agreement for the Hagey Avenue Condominium with 1703385 Ontario Inc. (John Maletta) and Niagara South Standard Condominium Corporation No. 162 (John Maletta)

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File No. 350303-0004

**Whereas** Report No. PDS-02-2020 was considered and approved at the Council-in-Committee meeting of February 10, 2020 to authorize the entry into an Assumption Agreement with 1703385 Ontario Inc. and the new condominium corporation resulting from the split of the property; and

**Whereas** 1703385 Ontario Inc. has provided an undertaking confirming that the existing condominium agreement will remain in place; and

**Whereas** 1703385 Ontario Inc. has paid the necessary fee for the Assumption Agreement; and

**Whereas** Planning and Development Services staff have issued an exemption certificate pursuant to Subsection 9 (7) of the Condominium Act, 1998, dated November 30, 2020; and

**Whereas** it is deemed desirable to enter into an Assumption Agreement for the Hagey Avenue Condominium with Niagara South Standard Condominium Corporation No. 162 and 1703385 Ontario Inc. in order to control the development of lands as described in Schedule "A" of the Assumption Agreement which is attached hereto as Appendix "1" and forms part of this By-law; and

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

- 1. That** the entry into an Assumption Agreement with Niagara South Standard Condominium Corporation No. 162 and 1703385 Ontario Inc., substantially in the form attached as Appendix "1" and forming part of this by-law, is authorized and approved, subject to Niagara South Standard Condominium Corporation No. 162 and 1703385 Ontario Inc. first satisfying the provisions of the Agreement which are required to be satisfied prior to execution of the Agreement.
- 2. That** subject to Section 1 of this by-law, the Mayor and Clerk are authorized and directed to execute the said Assumption Agreement and affix the corporate seal thereto, and all other documentation necessary to effect the terms and conditions of the said Agreement.

- 3. **That** the Clerk of the Town is authorized to effect any minor modifications, corrections, or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

**Read a first, second and third time and finally passed this 22<sup>nd</sup> day of February, 2021.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 19-2021 of the said Town. Given under my hand and the seal of the said Corporation, this day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

**ASSUMPTION AGREEMENT**

**BETWEEN**

**THE CORPORATION OF THE TOWN OF FORT ERIE**

**- and -**

**1703385 ONTARIO INC.**

**- and -**

**NIAGARA SOUTH STANDARD CONDOMINIUM CORPORATION NO. 162**

**Date of this Agreement: \_\_\_\_\_, 20\_\_\_\_**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ as authorized by By-Law No. **19-2021** of The Corporation of The Town of Fort Erie (the "Agreement"),

B E T W E E N:

**1703385 ONTARIO INC.**  
(Hereinafter called the "OWNER")

of the FIRST PART;

- and-

**THE CORPORATION OF THE TOWN OF FORT ERIE,**  
(Hereinafter called the "TOWN")

of the SECOND PART;

- and-

**NIAGARA SOUTH STANDARD CONDOMINIUM CORPORATION NO. 162**  
(Hereinafter called the "CONDOMINIUM CORPORATION")

of the THIRD PART;

**WHEREAS** 1703385 Ontario Inc. represents that it is the owner of the lands described in Schedule "A" annexed hereto (hereinafter called the "Lands");

**AND WHEREAS** the Municipal Council of the Town of Fort Erie, on February 10, 2020 has issued an exemption certificate applicable to 252-254 Bertie Street and 67-73 Hagey Avenue from the requirement of draft plan of condominium for the purposes of dividing Niagara South Condominium Corporation No. 103 into two separate condominium corporations;

**AND WHEREAS** the Municipal Council of the Town of Fort Erie, on February 10, 2020, has authorized entering into a new Assumption Agreement with Niagara South Condominium Corporation No. 162;

**AND WHEREAS** the Parties acknowledge that the Lands will be developed as a Standard Condominium by 1703385 Ontario Inc.;

**AND WHEREAS** the Parties further acknowledge that by Agreement dated September 30<sup>th</sup>, 2009 registered in the Registry Office for the Land Titles Division of Niagara South No. 59 on October 8<sup>th</sup>, 2009 as Instrument No. SN260580 (hereinafter called the "Condominium Agreement"), 1703385 Ontario Inc. and Niagara South Condominium Corporation No. 103 did covenant and agree with the Town to perform certain Works on the lands and premises therein described upon the terms and conditions therein contained;

**AND WHEREAS** the Parties also acknowledge that in accordance with the terms and conditions of the said Condominium Agreement and in accordance with the plans and elevations filed in the office of the Director of Planning and Development Services, sixteen (16) townhouse units in four (4) separate blocks have been be constructed on the said Subject Lands;

**AND WHEREAS** by registration of a Declaration and Description on December 30, 2020 as Instrument No. 656047 in the Land Registry Office of the Land Titles Division of Niagara South No. 59, the Condominium was established;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises and the sum of ONE (\$1.00) DOLLAR now paid by the Owner to the Town (the receipt and sufficiency of which is hereby acknowledged), the parties hereto mutually covenant and agree as follows:

1. Definitions
  - 1.1 "Council" means the Council of The Corporation of the Town of Fort Erie.
  - 1.2 "Director of Public Works" means the Town's Director of Infrastructure Services from time to time or the holder of the office exercising the functions presently performed by the Director of Infrastructure Services.
  - 1.2 "Director of Finance" means the Town's Director of Corporate Services from time to time or the holder of the office exercising the functions presently performed by the Director of Corporate Services.

- 1.4 "Director of Planning" means the Town's Director of Planning and Development Services from time to time or the holder of the office exercising the functions presently performed by the Director of Planning and Development Services.
- 2. The Condominium Corporation covenants, warrants, acknowledges and agrees that every covenant, condition, proviso and stipulation contained in the said Condominium Agreement registered as Instrument No. SN260580 will apply to and bind the Condominium Corporation in the same manner and with the same effect as if the Condominium Corporation had been a party to the said Condominium Agreement and the Condominium Corporation covenants and agrees with the Town to do, observe, keep and perform every such covenant, condition, proviso and stipulation in respect of the property described in Schedule "A" attached hereto.
- 3. The Owner and the Condominium Corporation jointly and severally warrant and acknowledge that title to the lands described in Schedule "A" annexed hereto is free and clear of all claims, liens and encumbrances save and except an Easement registered on April 24, 2020 as Instrument No. SN67220; a Mortgage in favour of Royal Bank of Canada registered on March 21, 2013 as Instrument No. SN371209 and a Notice of Assignment of Rents-General in favour of Royal Bank of Canada registered on March 21, 2013 as Instrument No. SN371210.
- 4. This agreement and everything herein contained shall extend to and bind and enure to the benefit of the parties hereto, their respective successors, administrators and assigns.

**SIGNED, SEALED and DELIVERED in the Presence of:**

) **1703385 ONTARIO INC.**  
 )  
 ) Per:  
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 ) \_\_\_\_\_  
 ) John Maletta, President  
 )  
 ) I have authority to bind the corporation  
 )  
 ) Date: \_\_\_\_\_  
 )  
 ) **THE CORPORATION OF THE TOWN**  
 ) **OF FORT ERIE**  
 )  
 ) Per:  
 )  
 ) \_\_\_\_\_  
 ) Wayne H. Redekop, Mayor  
 )  
 ) Per:  
 )  
 ) \_\_\_\_\_  
 ) Carol Schofield, Town Clerk  
 )  
 ) Date: \_\_\_\_\_  
 )  
 ) **NIAGARA SOUTH STANDARD**  
 ) **CONDOMINIUM CORPORATION NO. 162**  
 )  
 ) Per:  
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 ) \_\_\_\_\_  
 ) John Maletta, President  
 )  
 ) I have authority to bind the corporation  
 )  
 ) Date: \_\_\_\_\_  
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**SCHEDULE "A"**

**Description of Lands**

Units 1 to 16, inclusive, Level 1, Niagara South Vacant Land Condominium Plan No. 162 and its appurtenant interest; Subject to Easements set out in Schedule A as in SN656047; Town of Fort Erie. Being all of PIN Nos. 64962-0001 to 64962-0016 inclusive.