

BOUNDARY ADJUSTMENT AGREEMENT

AMONG:

THE CORPORATION OF THE TOWN OF TECUMSEH,

“The Town”

and

THE CORPORATION OF THE COUNTY OF ESSEX

“The County”

and

THE CORPORATION OF THE CITY OF WINDSOR

“The City”

INTRODUCTION:

The Town, the County and the City (“the municipalities”) have negotiated an agreement among them for the transfer of a parcel of land (“the annexed lands”), located in the Town and the County, to the City by way of a restructuring proposal pursuant to sections 25.2 and 25.4 of the *Municipal Act*, R.S.O. 1990, Chapter M45.

This document sets out the agreement among the municipalities.

THIS DOCUMENT WITNESSES that in consideration of the mutual covenants and agreements contained in it, and subject to the terms and conditions contained in it, the municipalities agree as follows:

1.0 EFFECTIVE DATE AND IMPLEMENTATION:

1.1 This agreement is deemed to constitute a restructuring proposal, which will be submitted to the Minister of Municipal Affairs and Housing (“the Minister”) for implementation, effective January 1, 2003 (“the effective date”). The Minister is authorized by the municipalities to implement those provisions of this agreement that the Minister has authority to implement. The municipalities agree that all of the provisions of the agreement are binding upon them, whether contained in the Minister’s Order or otherwise.

2.0 LANDS TO BE ANNEXED

2.1 This Boundary Adjustment Agreement concerns a proposed annexation of part of the Town, in the County to the City as follows:

The lands as offered by the Town of Tecumseh to the City of Windsor, generally described as being bounded by the easterly limit of the City of Windsor, the northerly limit of Highway 401, the north-south half lot line east of County Road 17 and the extension of that line, from the northerly limit of Highway 401 to the northerly limit of County Road 42, the northerly limit of County Road 42 from the north-south half lot line east of County Road 17 to the easterly limit of Farm Lot 141, the said easterly limit of Farm Lot 141 to the southerly limit of the CP railroad tracks, the southerly limit of the CP railroad tracks to a line 23 feet east of Banwell Road, the line 23 feet east of Banwell Road and parallel to Banwell Road, the curved line delineating the lands intended for the E.C.Row/County Road 22 at Banwell interchange to the line being the extension southerly of the easterly limit of the City of Windsor east of Banwell Road, the line being the extension southerly of the easterly limit of the City of Windsor from County road 22 to the intersection of the easterly limit of the City of Windsor with the southerly limit of the City of Windsor east of Banwell Road, as shown on the attached map.

which lands are referred to in this agreement as “the annexed lands”.

2.2 The municipalities agree as follows:

- i. that it is in their interest to create a common corridor for the purpose of installation and operation of municipal services and utilities of every nature and description;
- ii. the common corridor will be contained within the road allowance of Banwell Road (as same exists or as may be modified from time to time) beginning at the intersection of Banwell Road and Wyandotte Street and thence southerly within the Banwell Road road allowance to its intersection with County Road 42;
- iii. the common corridor will be common in the sense that the municipalities will each be entitled to access and use thereof for services and utilities as aforesaid as and when needed throughout the entire common corridor; and
- iv. the municipalities agree to enter into a written contract which will more particularly define the parameters of their relationship pertaining to the common corridor including, without limiting generality, such matters and things as mutual/common connections, common use of services and

obligations of with respect to one another for construction, maintenance and repair.

- v. The City agrees that with respect to that portion of Banwell Road situate between the southerly limit of County Road 22 and the southerly limit of the CP railroad tracks (the "Banwell Lands");
 - i. all upgrades, improvements and expansions, as identified in an approved Class Environmental Assessment report, shall be undertaken by the City at no cost to the Town or County;
 - ii. prior to construction of the upgrades, improvements and expansions noted in (i) above, the City agrees that:
 - a) the Town may connect roads to the Banwell Lands; and
 - b) improvements required to facilitate such connection of roads to the Banwell Lands and cost sharing amongst affected parties pertaining thereto shall be determined pursuant to a Traffic Impact Study.
 - iii the City shall provide the Town with access to the Banwell Lands via no fewer than three (3) intersections including Intersection Road and additional connections as justified by a Traffic Impact Study.

2.3 The County agrees that it will assume jurisdiction over the following:

- i. all of that portion of the Banwell Rd. road allowance (as expanded from time to time) situate south of the southerly limit of the CP railroad tracks; and
- ii. all of the 11th Concession Road from the southerly limit of County Road 42 to the northerly limit of County Road 46;

and the County agrees that:

- iii the County will proceed with a Class Environmental Assessment when the level of service at either or both of the Banwell Road and County Road 42 intersection and the 11th Concession Road and County Road 42 intersection reaches Level D as determined in a Traffic Impact Study or at such earlier time as mutually agreed upon by the Town and the County;
- iv it will pay for and undertake all upgrades, improvements, expansions and re-alignments so that Banwell Road and 11th Concession Road form a single, continuous North/South roadway, understanding that a final determination of

the roadway configuration is subject to the results of the Class Environmental Assessment;

- v the County agrees to assemble all necessary lands and undertake said works within the earlier to occur of 5 years from the date that said Initial Class Environmental Assessment is completed or such earlier date as mutually agreed upon by the Town and the County; and
- vi the County will pass all necessary by-laws to give effect to the provisions above.

3.0 REPRESENTATION:

3.1 The annexed lands shall form part of Ward 4 in the City as of the effective date and the residents of the annexed lands shall be entitled to vote in the City in the regular municipal elections to be held in November 2003 in accordance with the *Municipal Elections Act, 1996*.

4.0 COMPENSATION:

4.1 In consideration of the transfer of the annexed lands from the Town to the City, the City will make payments totalling \$3,710,000.00 to the Town and the County, payable as follows:

| <u>YEAR</u> | <u>TOTAL</u> | <u>TECUMSEH</u> | <u>COUNTY</u> |
|-----------------|--------------------|--------------------|--------------------|
| January 1, 2003 | \$2,000,000 | \$1,300,000 | \$700,000 |
| January 1, 2004 | \$500,000 | \$325,000 | \$175,000 |
| January 1, 2005 | \$500,000 | \$325,000 | \$175,000 |
| January 1, 2006 | \$500,000 | \$325,000 | \$175,000 |
| January 1, 2007 | \$210,000 | \$135,000 | \$75,000 |
| | \$3,710,000 | \$2,410,000 | \$1,300,000 |

4.2 Interest at the rate of 1.25% per month shall be payable by the City to the Town or the County as the case may be on any amount of the above mentioned sums that are not paid on the due dates in question and interest shall accrue on any outstanding balance from the date the payment was due pursuant to this agreement until the balance is received by the Town or the County as the case may be.

5.0 TAX COLLECTION AND ASSESSMENT

5.1 The Town will issue, prior to January 9, 2003, a final notice of all real property taxes, charges or rates levied under any general or special Act in the annexed lands and uncollected as of

December 31, 2002 ("outstanding taxes") to each affected property owner, instructing them to remit all outstanding taxes to the City. The Town shall remit to the City within 30 days following receipt by the Town any payments on account of outstanding taxes remitted to the Town subsequent to the effective date.

5.2 The outstanding taxes shall be deemed to be taxes due and payable to the City and may be collected by the City.

5.3 Prior to January 16, 2003, the clerk of the Town shall prepare and furnish to the clerk of the City a special collector's roll showing all outstanding taxes and the persons assessed for them.

5.4 The City shall pay to the Town prior to February 1, 2003 an amount equal to the outstanding taxes.

5.5 The City shall have the authority to continue with any tax sale procedures in the annexed lands initiated by the Town pursuant to the provisions of the *Municipal Tax Sales Act* that have not concluded by the effective date. The proceeds of such tax sales, subject to the provisions of the *Municipal Tax Sales Act*, shall vest in the City subject to settlement pursuant to paragraph 5.4

5.6 If the Minister does not issue the restructuring Order for this proposal prior to the finalization of the assessment roll for the annexed lands for the year 2003, the Municipal Property Assessment Corporation (MPAC) shall be authorized to amend the assessment roll for the annexed lands for the taxation year 2003 to reflect the transfer of the annexed lands from the Town to the City. For the purposes of the assessment roll to be prepared for the City for taxation in the year 2003, the annexed area shall be deemed to be part of the City and shall be assessed on the same basis that the assessment roll for the City is prepared.

5.7 Any charges for local improvements that have been initiated by the Town pursuant to a by-law passed under the provisions of the *Local Improvement Act* in the annexed lands that are still in effect at the effective date ("local improvement charges") shall be collected by the City pursuant to such local improvement by-law and shall be paid to the Town annually on July 31 for the total amount levied in that year.

5.8 Prior to January 16, 2003, the clerk of the Town shall prepare and furnish to the clerk of the City in respect of the annexed land, a schedule detailing the local improvement charges, to facilitate billing of these by the City and payment of these amounts to the Town.

6.0 TAX PHASE-IN

6.1 Commencing January 1, 2003, any increase in the rate of taxes for municipal purposes for the annexed lands which would occur solely as a result of this annexation shall be phased in for the

municipal portion of the real property tax bill equally over a period of five years. Notwithstanding the foregoing, the municipalities agree that capping legislation will apply.

7.0 PROVISION OF MUNICIPAL SERVICES:

7.1 The City will assume all responsibility for the provision of municipal services including but not limited to roads, sewer, water, police protection and fire protection for the annexed lands and the said municipal services shall become the responsibility of the City as of the effective date or as otherwise agreed to by the municipalities. Municipal services will include the cost of the supply and maintenance or repair of any appurtenances or other equipment that may be necessary for the operation of the service in question.

8.0 STUDIES, PLANS, RECORDS:

8.1 The Town and the County will transfer to the City any studies, plans, records, designs or similar material that it has prepared and that are public in nature and relate to the annexed lands.

8.2 The Town and the County agree that after the effective date they will continue to cooperate with the City by providing such supporting information and documentation that is in their possession or under their control that is requested by the City to enable the City to respond to court actions or appeals brought to the Ontario Municipal Board by residents of the annexed lands.

8.3 The Town and the County agree to provide to the City the information and documentation on hand with respect to the municipal drains located in the annexed lands that may be the subject of assessments under the *Drainage Act*.

9.0 EMPLOYEES:

9.1 There will be no transfer of employees or other staff from the Town or the County to the City as a result of this restructuring.

10.0 PROPERTY:

10.1 Subject to paragraph 10.2, the Town will transfer, as of the effective date to the City any pipes, pumping stations and related appurtenances for any public utilities in the annexed lands.

10.2 The Town agrees to transfer ownership of water mains and services identified in Schedule "A" to the Windsor Utilities Commission or its successor municipal services board ("WUC") as of the effective date. The Town agrees to enter into an operating agreement with WUC whereby the

Town continues to operate this infrastructure until such time as City/WUC services are extended to the annexed lands.

10.3 There will be no transfer of any property from the City to the Town or to the County other than as provided for in this proposal.

10.4 All real property, including but not limited to any roadways, bridges, street fixtures, easements and restrictive covenants running with Town land located in the annexed lands, vests in the City which will assume ownership and control and responsibility for the maintenance and repair of these as of the effective date or as otherwise agreed to by the municipalities.

10.5 All real property, including but not limited to any roadways, bridges, street fixtures, easements and restrictive covenants running with County land located in the annexed lands, vests in the City which will assume ownership and control and responsibility for the maintenance and repair of these as of the effective date or as otherwise agreed to by the municipalities.

10.6 The municipalities acknowledge that the maintenance, repair and construction of the municipal road system located within the annexed lands shall remain at the same level of service currently provided by the Town or the County until the City assumes responsibility for the maintenance, repair and construction of the roads on the effective date or as otherwise agreed to by the municipalities.

10.7 Any securities, letters of credit or similar instruments that are held in trust by the Town with respect to any Site Plan Agreements, Subdivision Agreements or any other development agreements in the annexed lands shall vest with the City as of the effective date and documentation related thereto shall be transferred to the City prior to February 1, 2003.

10.8 The Town and County agree to transfer their rights in any utility franchise agreements or contracts for natural gas, telephone, telecommunications and cable television installations in the annexed lands to the City as of the effective date.

11.0 LIABILITIES:

11.1 Except as specifically provided for in this agreement, any liabilities, obligations or responsibilities that the Town or the County may have that relate to the annexed lands shall be transferred to the City as of the effective date. The Town and the County are not aware of any litigation that relates to the annexed lands.

11.2 Any litigation commenced prior to the effective date, or after the effective date with respect to matters that occurred prior to the effective date with respect to the annexed lands, remains the obligation of the Town or the County, as the case may be.

12.0 MUNICIPAL BY-LAWS AND OFFICIAL PLANS:

12.1 Any comprehensive zoning By-law or amendments thereto, or site plan control bylaws, passed pursuant to section 34 or 41 or predecessor of those sections of the *Planning Act*, or any Official Plan or amendments thereto of the Town that have been approved or adopted for the annexed lands pursuant to the provisions of the *Planning Act* shall be deemed to be part of the zoning By-law and Official Plan for the City as of the effective date and shall remain in full force and effect in the annexed lands until amended or repealed or otherwise replaced by the City pursuant to the provisions of the *Planning Act*.

12.2 The Town's Development Charges By-law as it affects the annexed lands shall continue to apply to the annexed lands as if it were a By-law of the City and shall remain in full force and effect in the annexed lands until amended or repealed or otherwise replaced by the City pursuant to the provisions of the *Development Charges Act*.

12.3 Any part of an Official Plan of the County pertaining to the annexed lands ceases to apply to the annexed lands as of the effective date.

12.4 Any application to amend the Comprehensive Zoning By-law or the Official Plan for the Town that was initiated prior to the effective date for the annexed lands shall be continued by the City having regard for the zoning By-law and Official Plan for the Town.

12.5 Save and except as provided for in Sections 12.1 and 12.2, and this paragraph, any By-laws and Resolutions of the City shall come into force and take effect in the annexed lands as of the effective date save and except for the Town By-laws and County By-laws passed pursuant to the *Highway Traffic Act* or the *Municipal Act*, that regulate the use of highways by vehicles or pedestrians, which establish speed limits or parking restrictions within the annexed lands or that regulate the encroachment or projection of buildings or any portion thereof upon or over highways, by-laws of the Town or the County passed under section 45, 58, or 61 or a predecessor of those sections of the *Drainage Act*, by-laws passed under section 10 of the *Weed Control Act*, and by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of the Town or the County, as the case may be, which By-laws shall be deemed to be By-laws of the City and shall remain in force and effect until amended or replaced by the Council for the City.

12.6 The Town will circulate to the City any application that may be made to the Town prior to the effective date for an Official Plan Amendment, zoning By-law Amendment, Consent for Severance, Minor Variance, Site Plan Agreement, Plan of Subdivision or Plan of Condominium for the annexed lands.

12.7 All residents in the annexed lands shall, as of the effective date, be residents of the City and all non-resident charges assessed against these residents for the use of facilities in the City or services of the City shall cease to apply as of the effective date.

13.0 **MORATORIUM:**

13.1 Subject to Article 13.3, the municipalities agree that none of them will seek any further changes to the boundary separating the City from the County until the earlier to occur of the following two dates:

- (a) January 1, 2023; or
- (b) at a date prior to January 1, 2023, when the City has demonstrated, acting reasonably, that there is an insufficient inventory of employment land and residential land to accommodate the City's projected growth for a time horizon of up to twenty years. The City shall demonstrate the insufficiency of said inventory by utilizing and conforming with the *Projection Methodology Guidelines of the Ministry of Municipal Affairs and Housing – 1995* (the "Guidelines"), and by conforming with the *Provincial Policy Statement* issued under section 3 of the *Planning Act of Ontario*, which came into effect by Order in Council No. 746-96 on May 22, 1996.

Notwithstanding the generality of Article 13.1 (b) above, when utilizing the *Guidelines* in the calculation of the Total Land Requirements of the City, there shall be included in the calculation of "designated vacant lands" the total area of all lands in the City which have not been fully developed in accordance with applicable zoning and/or official plan provisions, regardless of ownership.

13.2 For greater certainty, the municipalities agree that any disagreement arising among them concerning implementation or interpretation of Article 13.1 (b) above shall be referred to mediation and then arbitration in accordance with the provisions of Article 14 below.

13.3 Notwithstanding Article 13.1 or any other provision of this agreement, the municipalities agree that minor boundary changes between the City and County may be required from time to time and may be effected by a mutual agreement of the City, the County and the affected County municipality requesting a restructuring order to be signed by the Minister of Municipal Affairs and Housing or by such procedure as the Province of Ontario may in future enact for these purposes.

14.0 **DISPUTE RESOLUTION:**

14.1 **Mediation:** A dispute arising out of the interpretation of this agreement may be resolved through mediation by way of a mediator agreed to by the municipalities to this agreement. If the municipalities cannot agree on a mediator or the dispute is not resolved through the mediation, the matter in dispute shall be referred to arbitration as set out in section 14.2 below.

14.2 **Arbitration:** An dispute arising out of the interpretation of this agreement may be referred to arbitration to resolve the dispute in accordance with the provisions of the *Arbitrations Act, 1991*. The appointment of the arbitrator and the conduct of the arbitration will be governed by the provisions of the *Arbitrations Act, 1991*.

14.3 Where a dispute is referred to arbitration under subsection 2, the decision of the arbitrator shall be final.

14.4 The costs associated with mediation or arbitration proceedings under this section shall be shared equally between the municipalities if only two municipalities are parties to the mediation or arbitration, and shall be paid fifty percent by the City and the balance of the costs shared equally between the Town and the County if the three municipalities are parties to the mediation or arbitration.

15.0 **AMENDMENTS:**

15.1 The Town, the County and the City all agree that the municipalities may at any time amend any provision of this Agreement which does not become incorporated into and form part of the Minister's Order, provided that all municipalities agree to the amendment in writing.

16.0 **OTHER PROVISIONS**

16.1 This Agreement is conditional upon the issuance of an Order by the Minister implementing the restructuring proposal submitted by the municipalities.

16.2 This Agreement contains the entire agreement among the municipalities, and it is acknowledged and agreed that there are no other representations, warranties, conditions, collateral agreements, inducements or promises, oral or otherwise, affecting the relationship of the municipalities except as set out in this agreement.

16.3 The invalidity, illegality or unenforceability of any particular provision, article or sub-article in this Agreement shall not affect any other provisions of this Agreement, and the balance of this Agreement shall remain valid and in full force and effect notwithstanding any such invalidity, illegality or unenforceability.

16.4 The failure of a municipality or municipalities to require performance by the other or others of any provision of this Agreement shall in no way affect its right thereafter to enforce such provision, nor shall the waiver of a breach of any provision by a municipality or municipalities be taken or be held to be a waiver of any further breach of the same provision or the breach of any other provision of this Agreement.

16.5 The municipalities recognize and agree upon their respective autonomous jurisdictions and their right to self-governance and undertake to work cooperatively on issues of mutual concern. The municipalities agree that they will not object to, cause delay of or otherwise involve themselves with regulatory approval or implementation of any transportation, water and wastewater servicing solutions chosen for implementation by the respective municipalities, so long as such are identified in the municipalities' master plans as these exist from time to time and approved by the appropriate regulatory authority.


17.0 **BINDING AGREEMENT**

17.1 The municipalities agree that all provisions of this agreement, whether or not they are contained in the Minister's restructuring order, are binding among the municipalities.

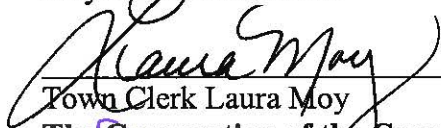
18.0 **SIGNATURES:**

18.1 The municipalities, by the respective persons authorized by the Town, the County and the City, are executing this agreement under seal.

The Corporation of the Town of Tecumseh




Mayor Edward Renaud




Town Clerk Laura Moy

The Corporation of the County of Essex

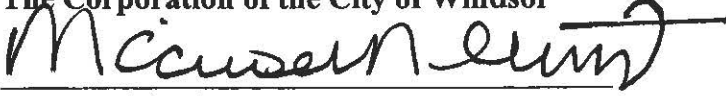


Warden Patrick O'Neil



Clerk Mary Brennan

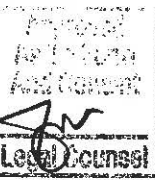
The Corporation of the City of Windsor



Mayor Michael Hurst



City Clerk John Skorobohacz



TOWN OF TECUMSEH - WATER DEPARTMENT

Watermains Within Proposed Boundary Adjustment

| Street | From/To | Watermain Approximate Length (metres) | | | | | Approximate # of Customers | | | # of Fire Hydrants |
|--|------------------------------|---------------------------------------|-------|-------|-------|--------|----------------------------|-----|-------|--------------------|
| | | 50mm | 150mm | 200mm | 250mm | Total | Residential | ICI | Total | |
| Under Town of Tecumseh Operation | | | | | | | | | | |
| Banwell Road | 2325 Banwell to Intersection | 415 | | | | 415 | 3 | | 3 | 0 |
| Baseline Road | 6690 to 9000 Baseline | 693 | | 675 | | 1,369 | 11 | | 11 | 7 |
| County Road 42 | Tenth to 8421 C.R. 42 | | | 607 | | 607 | 10 | 3 | 13 | 3 |
| Lauzon Road | 3700 Lauzon to C.R. 42 | | 1,147 | | | 1,147 | 14 | 1 | 15 | 10 |
| Tenth Conc. (C.R. 17) | C.R. 42 to 4715 Tenth | | | 2,580 | | 2,580 | 21 | | 21 | 13 |
| Total | | 1,108 | 1,147 | 3,862 | 0 | 6,117 | 59 | 4 | 63 | 33 |
| | | | | | | | | | | |
| Under Windsor Utilities Commission Operation | | | | | | | | | | |
| Baseline Road | CoW to 4745 Baseline | 216 | 1,708 | | | 1,924 | | | 0 | 8 |
| County Road 42 | 4325 C.R. 42 to Ninth | | 1,633 | | 63 | 1,696 | | | 0 | 5 |
| Eighth Concession | C.R. 42 to K.H. 401 | | 444 | 1,895 | | 2,339 | | | 0 | 5 |
| Joy Road | Eighth to 5175 Joy | | 683 | | | 683 | | | 0 | 1 |
| Ninth Concession | C.R. 42 to K.H. 401 | | 3,082 | | | 3,082 | | | 0 | 14 |
| Ray Road | Eighth to 5185 Ray | | 679 | | | 679 | | | 0 | 1 |
| Seventh Concession | Baseline to 4145 Seventh | | | 311 | | 311 | | | 0 | 5 |
| Total | | 216 | 8,229 | 2,206 | 63 | 10,714 | 0 | 0 | 0 | 39 |

TOTAL FOR AREA**1,324****9,376****6,068****63****16,831****59****4****63****72**