

**Attachment 2, PBS-2021-49**  
11945 Intersection Road  
Municipal Drain Access Culvert  
**Consent Agreement**

**CONSENT AGREEMENT**

Between:

**The Corporation of the Town of Tecumseh**

-and-

**Clement Lachance and Jeannette Laura Bernadette Lachance**

**PREPARED BY:**

**WOLF HOOKER PROFESSIONAL CORPORATION**

Barristers & Solicitors  
72 Talbot Street North, Suite 100  
Essex, Ontario  
N8M 1A2

# ***CONSENT AGREEMENT***

***THIS AGREEMENT*** made effective in triplicate this \_\_\_\_\_ day of \_October\_, 2021.

**B E T W E E N:**

***THE CORPORATION OF THE TOWN OF TECUMSEH,***  
hereinafter called the "**Municipality**" or "**Town**"  
**OF THE FIRST PART**

-and-

**Clement Lachance and Jeannette Laura Bernadette Lachance**  
hereinafter called the "**Owner**"  
**OF THE SECOND PART**

**HEREINAFTER** collectively referred to as the "Parties"

## ***RECITALS***

**WHEREAS** the Owners, own certain lands situated within the corporate limits of the Town, said lands being more particularly described in Schedule "A" hereto (the "Lands");

**AND WHEREAS** the Committee of Adjustment for the Town under file no. B-09/20 has given conditional consent to sever the lands described in Schedule "B" hereto (herein "the Severed Lot") from the Lands in accordance with Section 53 of The Planning Act, R.S.O. 1990, c.P13 and amendments thereto;

**AND WHEREAS** as a condition of consent the Committee of Adjustment for the Town has required as condition numbered 7. in its decision that the Owner, prior to the severance being finalized, install a new access culvert and driveway across the open municipal drain (Lachance Drain) in accordance with section 78 of the Drainage Act, RSO 1990, as amended, submit a Request for Improvements Form to the Town for the required new access culvert, and otherwise bear responsibility for all costs related thereto.

**AND WHEREAS** delays beyond the control of the Owner and otherwise arising by reason of the procedures required under the Drainage Act leave the Owner unable to complete all work within the one year time frame permitted under the Planning Act.

**AND WHEREAS** the Town and Owner wish to enter into this agreement as a Consent Agreement in accordance with Section 53(12) and 51(26) of the Planning Act, R.S.O. 1990, c.P13 and amendments thereto as an alternate means of fulfilling the condition and otherwise acknowledging the obligations remain outstanding to be fulfilled in the manner set forth below.

**WITNESSETH** that in consideration of these presents, and other good and valuable consideration, the Parties hereto mutually covenant, promise and agree as follows:

## ***ARTICLE I***

### **INSTALLATION OF ACCESS CULVERT**

#### **1.1 ACCESS CULVERT and DRIVEWAY**

The Owner agrees that before any building permit is obtained respecting any building or other structure is built upon the Severed Lot, the Owner shall:

- a) submit a Request for Improvements Form to the Town for the required new access culvert;
- b) install a new access culvert and driveway across the open municipal drain (Lachance Drain) abutting Intersection Road in accordance with section 78 of the Drainage Act, RSO 1990, as amended;
- c) comply with and adhere to the recommendations, conclusions, assessments and findings of any report issued by the Drainage Engineer appointed under the Drainage Act to facilitate item 1.1 b); and
- d) otherwise pay and bear responsibility for all costs related to items a), b), and c).

## **1.2 COSTS OF THIS AGREEMENT**

The Town shall pay the costs incurred in having its legal counsel prepare and following execution attend to the registration of this agreement over title to the severed lot prior to the creation of the lot and its transfer to the intended recipient who shall remain bound by the terms of this agreement for its compliance as if a party hereto and as a successor and assign within the meaning of section 3.6 below.

## **1.3 NO RELEASE**

The Owner acknowledges and agrees that the issuance of a final Consent does not release the Owner from their obligations to this Consent Agreement.

# ***ARTICLE 2***

## ***REGISTRATION AND CONSENTS***

### **2.1 REGISTRATION AND ENFORCEMENT**

Pursuant to Section 51(26) of the said Planning Act, R.S.O. 1990, c.P.13 and amendments thereto, this Agreement shall be registered against the Lands to which it applies, as a first charge, and the Town is entitled to enforce the provisions hereof against the Owners, who shall be jointly and severally liable for the Owners' covenants and obligations outlined herein, and, subject to the provisions of The Registry Act, R.S.O. 1990, c.R.20 and amendments thereto, and the Land Titles Act, R.S.O. 1990, c.L.5 and amendments thereto, against any and all subsequent owners of the Lands.

### **2.2 CONSENT**

The Owners hereby consent to the registration of this Agreement on the title of the Lands, said registration (as well as the preparation of this Agreement).

# ***ARTICLE 3***

## ***MISCELLANEOUS***

### **3.1 COMMUNICATION**

Subject to the express provisions of this Agreement, all communications provided for or permitted hereunder shall be in writing, personally delivered to an officer of the addressee or sent by registered and receipted mail, charges prepaid, or by facsimile transmission or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner.

Communications sent to the Town shall be addressed to:  
917 Lesperance Road, Tecumseh, Ontario N8N 1W9  
Attention: Clerk's Office

Communications sent to the Owner shall be addressed to:  
11945 Intersection Road Tecumseh, ON N8N 4P5

Any communication so personally delivered shall be deemed to have been validly and effectively given on the date of such delivery. Communications so sent by registered and receipted mail shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is received, as evidenced by the postal receipt. Communications so sent by facsimile transmission or other means of recorded telecommunication shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is sent. Any party may from time to time change his or its address for service on written notice to the others.

### **3.2 TIME OF ESSENCE**

Time shall be of the essence of this Agreement and of every part thereof.

### **3.3 WAIVER**

No waiver by any part of a breach of any of the covenants, conditions and provisions herein contained shall be effective or binding upon such party unless the same shall be expressed in writing and any waiver so expressed shall not limit or affect such party's rights with respect to any other future breach.

### **3.4 FURTHER ASSURANCES**

Each of the Parties covenants and agrees that he, his heirs, executors, administrators and assigns will sign such further agreements, assurances, waivers and documents, attend such meetings, enact such by-laws or pass such resolutions and exercise such votes and influence, do and perform or cause to be done and performed such further and other acts and things as may be necessary or desirable from time to time in order to give full effect to this Agreement and every part thereof.

### **3.5 HEADINGS**

The headings of the Articles of this Agreement are inserted for convenience only and do not constitute part of this Agreement.

### **3.6 SUCCESSORS AND ASSIGNS**

The covenants hereunder shall run with the land and this Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

### **3.7 GENDER**

All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case require and the verb shall be construed as agreeing with the required word and pronoun.

### **3.8 SEVERABILITY**

If any covenant or provision contained herein is determined to be in whole or in part, invalid or unenforceable by reason of any rule of law or public policy, such invalidity or unenforceability shall not affect the validity or enforceability of any other covenant or provision contained herein and, in the case of partial invalidity or unenforceability of a covenant or provision, such partial invalidity or unenforceability shall not affect the validity or enforceability of the remainder of such covenant or provision, and such invalid or unenforceable covenant or provision or portion thereof, as the case may be, shall be

severable from the remainder of this Agreement.

### **3.3 ENTIRE AGREEMENT**

This Agreement expresses the final agreement among the parties hereto with respect to all matters herein and no representations, inducements, promises or agreements or otherwise among the parties not embodied herein shall be of any force and effect. This Agreement shall not be altered, amended or qualified except by a memorandum in writing, signed by all the parties hereto, and any alteration, amendment or qualification thereof shall be null and void and shall not be binding upon any such party unless made and recorded as aforesaid.

### **3.10 EXECUTION IN COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same instrument.

### **3.11 JURISDICTION**

This Agreement and all other agreements, security and documents to be delivered in connection with this agreement shall be governed by and construed in accordance with the applicable laws of the Province of Ontario and of Canada.

### **3.12 ASSIGNMENT**

Subject to the terms of this agreement, this agreement is not assignable by the owner prior to completion of the works without the consent of the Town.

### **3.13 TRUE COPY**

All of the parties hereto acknowledge having received a true copy of this document.

**IN WITNESS WHEREOF** the Parties hereto have hereunto set their hands and seals.

**SIGNED, SEALED AND DELIVERED**

in the presence of

# THE CORPORATION OF THE TOWN OF TECUMSEH

Per: \_\_\_\_\_

**Gary McNamara - MAYOR**

**Laura Moy - CLERK**

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Clement Lachance

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Jeannette Laura Bernadette Lachance

**SCHEDULE "A"**

**THE LANDS**

PT LT 148 CON 3 SANDWICH EAST PT 3 12R13756;  
TECUMSEH

Being all of PIN 75241-0085

Known municipally as 11945 INTERSECTION RD TECUMSEH

**SCHEDULE "B"**

**THE SEVERED LOT**

PT LT 148 CON 3 SANDWICH EAST designated as  
Part 1 on Plan 12R-28528; TECUMSEH

Being part of PIN 75241-0085