

**TOWN OF AMHERSTBURG**

**BY-LAW NO. 2006-30**

Being a by-law to authorize the signing of a Memorandum of Understanding and Agreement with Bob-lo Developments Inc. And to rescind By-law #2002-83 being a by-law to establish a new water rate to recover a portion of the cost of construction of water works in the Town of Amherstburg.

**WHEREAS** the Developer is the registered owner, by virtue of a Vesting Order of Mr. Justice Quinn of the Ontario Superior Court of Justice, dated the 25<sup>th</sup> day of November, 2004 (the "Vesting Order"), and the Agreement of Purchase and Sale dated November 23, 2004 made between the Court Appointed Receiver and the Developer, of the lands being described in Schedule "A" annexed hereto (the "Lands"), which were vested in the Developer;

**AND WHEREAS** the Town and the Developer have agreed to resolve all outstanding issues and liabilities of the Developer arising from any previous Development Agreements, Undertakings, Public Works and Property Taxes,

**AND WHEREAS** some of the outstanding issues have been resolved through a Development Agreement; (By-law 2006-25)

**AND WHEREAS** a memorandum of understanding and agreement that resolves certain other issues has been drafted, a copy of which is attached to and forms part of this by-law.

**AND WHEREAS** the Corporation of the Town of Amherstburg and Bob-lo Development Inc. have agreed to the terms and conditions of the Memorandum of Understanding and Agreement in the form annexed hereto.

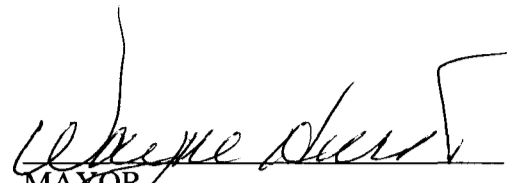
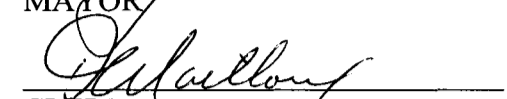
**AND WHEREAS** the Corporation of the Town of Amherstburg and Boblo Developments Inc. are in agreement that upon execution of the attached agreement, By-law #2002-83 being a by-law to establish a new water rate to recover a portion of the cost of construction of water works in the Town of Amherstburg, be rescinded.

**NOW THEREFORE THE CORPORATION OF THE TOWN**

**OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:**

1. That the foregoing Recitals are true in substance and in fact and are hereby incorporated by reference.
2. That the Mayor & Clerk be and they are hereby authorized to execute the original and copies of the Memorandum of Understanding and Agreement in the form annexed hereto and affix the Corporate Seal thereto.
3. That By-law #2002-83 being a by-law to establish a new water rate to recover a portion of the cost of construction of water works in the Town of Amherstburg, be rescinded upon the execution of the Memorandum of Understanding & Agreement in the form attached hereto.
4. This by-law shall come into force and effect upon the date of final passage hereof.

Read a first, second and third time and finally passed this 27<sup>th</sup> day of March, 2006.

  
\_\_\_\_\_  
MAYOR  
  
\_\_\_\_\_  
CLERK

1<sup>st</sup> Reading – March 27, 2006

2<sup>nd</sup> Reading – March 27, 2006

3<sup>rd</sup> Reading – March 27, 2006

**MEMORANDUM OF UNDERSTANDING AND AGREEMENT**

BETWEEN;

**BOBLO DEVELOPMENTS INC.**  
hereinafter called the "Developer"

OF THE FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF  
AMHERSTBURG**  
hereinafter called the "Town"

OF THE SECOND PART

**RECITALS:**

**WHEREAS** the Developer is the registered owner, by virtue of a Vesting Order of Mr. Justice Quinn of the Ontario Superior Court of Justice, dated the 25<sup>th</sup> day of November, 2004 (the "Vesting Order"), and the Agreement of Purchase and Sale dated November 23, 2004 made between the Court Appointed Receiver and the Developer, of the lands being described in Schedule "A" annexed hereto (the "Lands"), which were vested in the Developer;

**AND WHEREAS** the Town and the Developer have agreed to resolve all outstanding issues and liabilities of the Developer arising from any previous Development Agreements, Undertakings, Public Works and Property Taxes, in the manner outlined herein;

**NOW THEREFORE IN CONSIDERATION** of the premises and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Recitals

The foregoing Recitals are true in substance and in fact and are hereby incorporated herein by reference.

2. Payment of Water Line from Mainland to Bob-lo Island

Pursuant to **By-law 2002-83**, the Town is to recover the municipal share of the cost of the waterline from the mainland of the Town to Boblo Island in the approximate amount of \$606,000.00 repayable with interest at eight per cent (8%) per annum, over twenty (20) years. The said by-law was passed on December 16, 2002 and will be repealed upon execution of this agreement.

The Town and the Developer now therefore agree as follows:

(a) The Developer will pay the said cost of \$606,000.00 in four (4) payments payable on the following dates:

(1)	September 1, 2006	\$152,000.00
(2)	May 1, 2007	\$152,000.00
(3)	September 1, 2007	\$152,000.00
(4)	May 1, 2008	the balance of all outstanding capital and carrying costs.

(b) Provided, however, the Developer agrees to accelerate payment of the said costs of \$606,000.00 if all thirty-seven (37) units in the condominium building currently under construction have agreements of purchase and sale executed on or before September 1, 2006, and will thereupon pay to the Town the sum of \$304,000.00 and the balance of all outstanding capital and carrying costs by May 1, 2007.

- (a) The Town will enact a new by-law in accordance with sub-paragraph (a) after execution of this Agreement.

**3. Repair and Completion of Existing Roads on Boblo Island**

The Developer agrees to reconstruct and upgrade the existing road network on Boblo Island in accordance with such design criteria, detailed plans and work schedules to be filed in the Office of the Clerk of the Town, in a good and workmanlike, and timely manner, in accordance with good and accepted engineering practices and to the satisfaction of the Town and, in all cases, the Town Engineer, acting reasonably. The Town and the Developer will share equally in such cost of repair and completion of the said existing road network which is estimated to total \$170,000.00. The Town will have final approval of the estimated costs for these works prior to the commencement thereof, and failing agreement, the Town may tender the works. In any event and notwithstanding anything hereinbefore contained, the municipality's one-half share of such costs shall not exceed \$85,000.00.

**4. Outstanding Invoices for Operating and Maintenance Costs and Costs of Capital Improvements Relating to Water Treatment Plant and Sewage Treatment Plant**

- (n) The Developer agrees to pay for all operating and maintenance costs incurred to date relating to the Water Treatment Plant and the Sewage Treatment Plant estimated to be in the amount of \$300,000.00.
- (o) The Town agrees to share equally in the capital improvements costs incurred to date relating to the Water Treatment Plant and the Sewage Treatment Plant estimated to be in the amount of \$200,000.00.
- (p) The Town and the Developer agree therefore that the Developer will pay the balance outstanding for the operating and maintenance costs of \$300,000.00 and one-half of the capital improvement costs in the amount of \$100,000.00, for a total of \$400,000.00, as follows:

(1)	September 1, 2008	\$150,000.00
(2)	May 1, 2009	\$150,000.00
(3)	September 1, 2009	the balance of all outstanding amounts and carrying charges.

**5. Outstanding Taxes**

Pursuant to agreements reached on appeals of assessment values consistent with the guidelines contained in the *Ontario Municipal Act* S.O. 2001, c. 25, appropriate credits including penalties and interest have been provided to the Developer and all outstanding issues have been resolved. The Developer therefore agrees to pay the balance of approximately \$500,000.00 in property taxes which remain outstanding within thirty (30) days of execution of the Development Agreement of even date between the Town and the Developer. All outstanding taxes require payment of penalties and interest pursuant to the provisions of the *Ontario Municipal Act* S.O.2001, c. 25 and Town policy relating thereto.

**6. Water Treatment Plant Lands**

With the construction of the watermain to the mainland, the Boblo Island Water Treatment Plant has been decommissioned and the lands upon which the plant was located are vacant and owned by the Town.

The Developer agrees to obtain a reference plan at its expense in order to quantify the acreage of the said lands and an appraisal of the said lands at its expense in order to establish fair market value to the satisfaction of the Town. The Developer agrees to convey a parcel of land of similar quantity and value to the Town in exchange for the said Water Treatment Plant lands from the Town.

In the event of failure to reach agreement with respect to a substituted parcel within a reasonable time, the Town may proceed with disposition of the Water Treatment

Plant lands in accordance with the terms and requirements of the *Ontario Municipal Act* S.O. 2001, c. 25.

**7. Sewage Treatment Plant Lands**

The Certificate of Approval issued by the Ministry of the Environment for the Province of Ontario for the Sewage Treatment Plant on Boblo Island requires the Developer to convey title to the Town, which the Developer shall do upon execution of this Agreement. In the event that a long-term sanitary sewage treatment alternative to the existing Sewage Treatment Plant on Boblo Island is approved by the Town within a reasonable time, the said lands currently occupied by the Sewage Treatment Plant may be determined to be surplus and, in that event, the Sewage Treatment plant shall be decommissioned by the Town.

In such event, the Town agrees with the Developer to exchange property in a similar location and of comparable market value as the Sewage Treatment Plant lands. The Developer will obtain a Reference Plan and an appraisal for such purposes at its expense. In the event that agreement is not reached within a reasonable time, the Town may proceed with disposition of the Sewage Treatment Plant lands in accordance with the terms and requirements of the *Ontario Municipal Act* S.O. 2001, c. 25.

**8. Development Charges By-law Appeal**

The Developer agrees to discontinue its appeal of the Town's Development Charges By-law No.2004-64 currently before the Ontario Municipal Board, upon execution of this Agreement.

**9. Street Lights**

The Town currently owns six street lights on Boblo Island which street lights shall be replaced and upgraded at the Developer's entire cost and to the satisfaction of the Town.

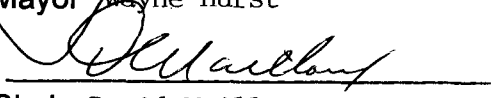
**IN WITNESS WHEREOF** the Town has hereunto affixed their seals attested by the signatures of their proper signing officers and the Developer has hereunto affixed its seal attested by the signature of its proper signing officer in that regard.

**BOBLO DEVELOPMENTS INC.**

Per:   
Dominic Amicone, President

**THE CORPORATION OF THE TOWN  
OF AMHERSTBURG**

  
Mayor Wayne Hurst

  
Clerk David Mailloux

## SCHEDULE "A"

### REAL PROPERTY DESCRIPTION

- PIN: 01569-0005 (LT)  
DESCRIPTION: Part of Bois Blanc Island (Bob-Lo Island), Amherstburg; Parts 1 & 2, Plan 12R17660 save and except Part 1 on Plan 12R20127
- PIN: 01569-0006 (LT)  
DESCRIPTION: Part Bois Blanc Island (Bob-Lo Island) & Part water lot adjoining thereto (CLS 58410), Geographic Township of Malden, Now in the Town of Amherstburg, County of Essex, Designated as Parts 1 to 6 inclusive, Plan 12R16059, Excepting Parts 10, 11 & 12, Plan 12R16260, Parts 1 & 2, Plan 12R16199 & Part 1, Plan 12R16226, Subject to Easement over Part 2, Plan 12R16059 as in No. R1372165, Subject to Easement over Parts 13 & 14, Plan 12R16260 as in LT236525, Subject to the Navigable Waters Protection Act, over Part 5, Plan 12R16059 as in No. R261597.
- PIN: 01569-0007 (LT)  
DESCRIPTION: Part Bois Blanc Island (Bob-Lo Island), Part water lot adjoining thereto (CLS 58410), Geographic Township of Malden, Now in the Town of Amherstburg, County of Essex, Designated as Parts 10, 11 & 12, Plan 12R16260, Parts 1 & 2, Plan 12R16199, Part 1, Plan 12R16226, Subject to Easement over Part 12, Plan 12R16260 as in LT236525.
- PIN: 01569-0049 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 48, 12R14224; Amherstburg
- PIN: 01569-0051 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 46, 12R14224; Amherstburg
- PIN: 01569-0055 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 43 & 106, 12R14224, Subject to R1343018, R1382349E; Amherstburg
- PIN: 01569-0121 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part water lot adjoining Bois Blanc Island Malden, Part 15, 12R14574, Parts 8 & 28, 12R15216, Part 20, 12R16149, Subject to the interest of the Crown, Subject to R1343019; Amherstburg
- PIN: 01569-0130 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part water lot adjoining Bois Blanc Island Malden, Part 1 to 9, 12R16260, Subject to the interest of the Crown, Subject to R1438082; Amherstburg
- PIN: 01569-0262 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 1 & 2, Plan 12R20116; Amherstburg save and except Part 3 on Plan 12R20127
- PIN: 01569-0264 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 27 to 53 inclusive & Part 55, Plan 12R16199, Parts 2 to 14 inclusive, Plan 12R16226; Amherstburg

PIN: 01569-0270 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part water lot adjoining Bois Blanc Island Malden, Parts 63 to 90, Plan 12R14224, Parts 37 & 38, Plan 12R15216, Subject to R1355586; Amherstburg: T/N Amended 2003/08/08 by Anita Barnes

PIN: 01569-0271 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part water lot adjoining Bois Blanc Island Malden, Parts 1 & 2, Plan 12R15365 and as in R1354629; Amherstburg

PIN: 01569-0031 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 22, 12R14224; Amherstburg

PIN: 01569-0017 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 3 & 4, 12R07385, Subject to R1343018, R1432460E; Amherstburg

PIN: 01569-0084 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 18 to 29, 12R16141; Amherstburg

PIN: 01569-0085 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 15 to 20, 12R16134; Amherstburg

PIN: 01569-0090 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 1, 12R16141; Amherstburg

PIN: 01569-0102 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 11 to 22, 12R16124 & Parts 9 to 12, 12R16129; Amherstburg

PIN: 01569-0115 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 1, 2, 32 to 36, 12R15216, Part 1, 12R15771, Part 1 & 2, 12R16129 lying East of 12R15343, 12R15666, 12R16124, 12R16129, Subject to R1343019; Amherstburg

PIN: 01569-0144 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 1 to 12, 12R16134, Subject to R1343019; Amherstburg

PIN: 01569-0275 (LT)  
DESCRIPTION: Part Bois Blanc Island Malden, Part 61, 12R14224, part 1, 12R15216 lying North of Part 31, 12R16141 & West of Part 9, 12R16124, Part 3, 12R15166, Part 3, 12R15343 Except Parts 1 & 30, 12R16141 & Parts 27 & 28, 12R16124 & Parts 1 to 3, 12R15667; Amherstburg

PIN: 70566-0001 (LT)  
DESCRIPTION: Part Lot 3, Concession 1, Malden (Amherstburg), Part 2, 12R1841; Amherstburg

PIN: 70555-0162 (LT)  
DESCRIPTION: Part Lot 1, E/S Dalhousie Street, Plan 1, Amherstburg, part Block A, Plan 4, Amherstburg, Part 1, 12R1841; Amherstburg

PIN: 70555-0163 (LT)  
DESCRIPTION: Part Block A, Plan 4, Amherstburg as in R1139348; Amherstburg

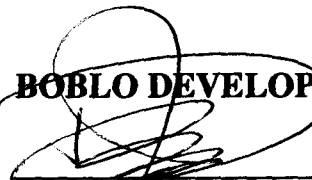
PIN: 70555-0031 (LT)  
DESCRIPTION: Part Lot 1, E/S Dalhousie Street, 2 E/S Dalhousie Street, Plan 1, Amherstburg, as in R1210626, Subject to R1238382; Amherstburg

PIN: Part of 01569-0119 (R)  
DESCRIPTION: Part Bois Blanc Island Malden, Parts 16 to 40, inclusive and Parts 42 to 50, inclusive on Plan 12R-16226, Save and Except Part 11 on 12R16149 all in the Town of Amherstburg, County of Essex

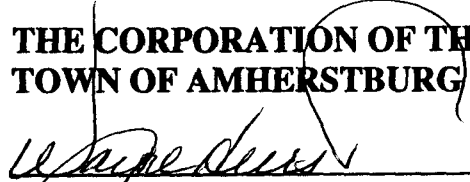
PIN: 01569-0124 (R)  
DESCRIPTION: Part Bois Blanc Island, Part water lot adjoining Part of Bois Bland Island, Being Parts 1 to 5, inclusive, on Plan 12R-14788, all in the Town of Amherstburg

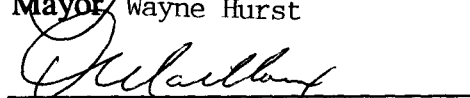
PIN: Part of PIN 01569-0087, Part of PIN 01569-0082 & Part of PIN 01569-0013 (R)  
DESCRIPTION: Firstly: Part of Bois Blanc Island, Being Parts 1, 2, 3 & 11 on 12R15216, lying South of Whitewood Ridge Boulevard and West of 12R16129, Except Parts 5 to 14 on 12R15373, Parts 1 to 21 on 12R16134 and Parts 18 to 29 on 12R16141, Being Part of PIN 01569-0087 (R);  
Secondly: Part of Bois Blanc Island, Being parts 15 & 16 on 12R16129, Being Part of PIN 01569-0082 (R); and  
Thirdly: Part Bois Blanc Island, Being Parts 19 to 22 on 12R16129, Being Part to PIN 01569-0013 (R)  
All in the Town of Amherstburg (formerly Malden), County of Essex

**BOBLO DEVELOPMENTS INC.**

  
\_\_\_\_\_  
Dominic Amicone, President

**THE CORPORATION OF THE  
TOWN OF AMHERSTBURG**

  
\_\_\_\_\_  
Mayor Wayne Hurst

  
\_\_\_\_\_  
Clerk David Mailloux