

**CORPORATION OF THE TOWN OF AMHERSTBURG
BY-LAW NO. 2019-091**

**By-law to authorize the execution of a
Subdivision Agreement between Boblo Developments Inc. and
the Corporation of the Town of Amherstburg**

WHEREAS Boblo Developments Incorporated has proposed the subdivision and servicing of lands owned by it within Part of Bois Blanc Island (Malden Township)('Boblo Island'), Town of Amherstburg;

AND WHEREAS the Corporation of the Town of Amherstburg has settled with Boblo South Development Incorporated, the requirements for the provisions of Municipal Services within the area to be subdivided, which requirements are set out in the agreement hereto annexed, and which agreement is ratified and adopted by Boblo South Development Incorporated;

NOW THEREFORE the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. THAT the Corporation of the Town of Amherstburg enter into a Subdivision Agreement with Boblo Developments Incorporated in the form annexed hereto, and the Mayor and Clerk be and they are hereby authorized to sign the original and copies thereof and affix the Corporate Seal thereto.
2. THAT this By-law shall come into force and effect on the date of final passage hereof.

Read a first, second and third time and finally passed this 12th day of November, 2019.



MAYOR – ALDO DICARLO



CLERK – PAULA PARKER

Boblo Developments Inc.
SUBDIVISION AGREEMENT
(Boblo South End Development)

**BOBLO SOUTH END DEVELOPMENT
(Boblo Developments Inc.)**

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SUBDIVISION AGREEMENT

THIS AGREEMENT made in quadruplicate this ____ day of _____, 2019.

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;

WHEREAS the Developer proposes the subdivision, development, servicing and sale of lands within Part of Bois Blanc Island (Malden Township)('Boblo Island'), Town of Amherstburg, County of Essex which lands are more particularly illustrated on Schedule "B" annexed hereto;

AND WHEREAS this agreement pertains to the plan of subdivision prepared and certified by Brian Coad, O.L.S., dated September 20, 2016 that shows:

1. One hundred and twenty-four (124) lots for single detached residential units;
2. Forty-eight (48) lots for ninety-six (96) semi-detached residential units; and
3. Four (4) blocks;

AND WHEREAS the application for subdivision approval was heard by the Local Planning Appeal Tribunal (LPAT) in August of 2018. At the Tribunal Hearing, the County of Essex, the Town of Amherstburg and the Developer all agreed that in the event the Tribunal approved the plan of subdivision, conditions, as revised and submitted, should be attached to the approval. A decision from the LPAT Hearing was rendered November 29, 2018. The decision of the LPAT and conditions therein are attached to this Agreement as Schedule "A";

AND WHEREAS the decision of the LPAT was rendered November 29, 2018 and the conditions presented at the Tribunal Hearing and attached hereto included a provision that the Developer must enter into a subdivision agreement with the Town wherein the Developer agrees to satisfy all the requirements, financial and otherwise, of the Town concerning the payment of development charges, community benefit charges (if applicable), provision of roads, installation and capacity of services, sanitary sewerage collection system, water distribution system, utilities and stormwater management facilities for the development of the lands within the plan and transportation to and from the island. It is understood and agreed that this subdivision development will not proceed until all necessary approvals are in place;

AND WHEREAS the Developer represents and warrants to the Town that it is the registered owner of all the lands illustrated on Schedule "B" annexed hereto and that all of the right, title and interest of its predecessors in title and all the right and authority to complete the subdivision and to develop the lands is vested in it;

NOW THEREFORE IN CONSIDERATION of the premises and of the Town certifying to the County of Essex that the requirements of the Town have been met, 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. **Interpretation**

The meanings of various terms used within the Agreement are as indicated in the definitions contained with the attached Schedule "C".

3. **Installation of Services**

The Developer will design, construct and install Services at its own expense in the lands in accordance with such design criteria, detailed plans and work schedules to be filed in the office of the Clerk of the Town copying the Town of Amherstburg Engineering and Public Works Department, with good materials, in a good, 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. In addition, the road allowances included in the plan shall be shown and dedicated as public highways. Such streets shall be named to the Town's satisfaction and all streets that terminate shall contain a 0.3 metre reserve to be illustrated on the final plan and to be conveyed to the Town.

4. **Certificate of Liability Insurance**

The Developer will provide to the Town, on or before the commencement of any construction and installation of any of the Services called for herein, a certificate of liability insurance satisfactory to the Town, naming the Town as an additional insured party. The insurance shall protect the Developer and the Town against any liability that might arise out of the construction or installation of any of the Services herein referred to, and the said Developer shall continue such insurance in full force and effect so long as any Services are to be constructed or installed, and for a period of two (2) years after completion and Final Acceptance of the last of such Services. The limits of liability for public liability and property damage coverage under such insurance shall not be less than \$5,000,000.00. Before commencement of the installation of the Services, the Developer's consulting engineer shall provide satisfactory evidence to the Town that the said consulting engineer maintains a policy of public liability insurance and errors and omissions insurance satisfactory to the Town, which policy is to be maintained in full force and effect until the Services are completed and Final Acceptance occurs of the last of the Services.

5. **Save and Hold Harmless**

The Developer covenants and agrees to save the Town harmless from any and all claims, demands, loss, costs, or damages, including legal costs on a substantial indemnity basis in any way arising from or related to the subdivision and the proposed development thereof, arising or accruing to anyone up to two years after the completion and Final Acceptance of the last of the Services in the subdivision.

6. **Drawings and Tenders**

The Developer shall submit, in both electronic and hard copy form, all plans, design drawings, grading plans and specification lists, all of which shall carry the seal of the professional engineer who is responsible for such design and be signed by him, to the Town for examination by them and the Town Engineer. In the case of any Services to be constructed by contract, the Developer shall also submit, in both electronic and hard copy form, to the Town a copy of each set of "information for tenders" documents and each proposed contract together with the names of the proposed contractors and sub-contractors to be engaged. The Developer shall file with the Town work schedules for the construction and installation of all Services, whether by the Developer, the contractors, sub-contractors or others. The Developer shall obtain the approval in writing of the Town to all

of the foregoing, except the selection of contractors or sub-contractors before granting any contract or commencing any work. The design criteria contained in Schedule "D" hereto shall constitute the minimum conditions upon which tenders are made, contracts let, or work done. The Developer's consulting engineer or successor thereto, shall continue to be retained by the Developer until the Services are completed and Final Acceptance occurs of the last of the Services.

7. **Construction of Services by Contractors**

In case of construction of Services by contractors, the Developer shall comply with all of the holdback provisions of the Construction Lien Act. In the construction of all services the Developer shall indemnify and save the Town harmless from any and all claims, actions and demands resulting from the construction and installation of Services.

8. **Inspection**

The Town, and its authorized agents, including the Town Engineer, shall have the right at any time and from time to time to inspect all Services during and after construction and to inspect and test all materials proposed to be used in the construction of any of the services. The costs of such inspections and tests shall be paid by the Developer within 15 days of written demand by the Town. If at any time, the construction of any service or material is, in the opinion of the Town Engineer, not in accordance with the plans and specifications or not in accordance with good engineering practices or any of the provisions of this Agreement, the Town Engineer may order the materials to be replaced or the work to be placed in satisfactory condition within such time as he may specify, and in the event of the Developer failing to comply or obtain compliance with such order, the Town Engineer may stop work upon such services, or in his sole discretion upon all services. The Developer shall at all times provide all information requested by the Town, its authorized agents and the Town Engineer in relation to the various materials and services and shall at any time at his expense expose any municipal service for inspection by the Town Engineer. Notwithstanding the generality of the foregoing, the rights of the Town and its authorized agents including the Town Engineer hereunder shall be limited to a period of two years after the initial acceptance of the last of the services within or required to facilitate the servicing of lots where such inspection, testing or other action is proposed.

9. **Approval for Commencement of Work**

No work shall commence without the approval of the Town and any work requiring the approval or consent of any other governmental authority shall not commence until such approval or consent has also been obtained. No watermain, sanitary sewer, storm sewer or hydro line shall be connected to any existing system without the written approval of whichever of the Town or the approval of the Authority which has jurisdiction over such system.

Prior to undertaking construction or site alteration activities, any necessary permits or clearances must be received from the Essex Region Conservation Authority.

10. **Work Schedule/Quality of Work**

The Developer will prepare and submit to the Town, plans for the installation of services for each phase of the development and will request a pre-

construction meeting with the Town and its consultants in order to establish a work schedule acceptable to the Town and shall proceed with reasonable development procedures and in accordance with such work schedule. Subject to Force Majeure, if the Developer fails to proceed with reasonable development procedures and in accordance with the accepted work schedule or if in the opinion of the Town Engineer the Services are not being installed in accordance with the drawings, or specifications approved therefore, or in accordance with good engineering practices in a good, workmanlike manner, using good materials, then the Town shall give the Developer thirty (30) days to Cure any default following which and in addition to any other remedy the Town may have, the Town may, without further notice, enter upon the lands of the Developer and proceed to supply all materials and do all necessary work in connection with the installation of the Services, including the repair or reconstruction of faulty work, and replacement of materials not in accordance with the drawings or specifications and the Town shall charge the cost thereof, including all engineering and other fees to the Developer, who shall forthwith pay the same within thirty (30) days of a written demand therefor by the Town. In the event that the payment is not received within thirty (30) days of the written demand by the Town, the amount expended shall constitute and be a lien and charge upon the lands of the Developer and may be collected as real property taxes in accordance with the Municipal Act as amended from time to time.

11. **Development Phasing**

The Developer will prepare and submit a proposed phasing plan for the Boblo South End Development. The phasing plan shall be reviewed and approved by the Town prior to starting construction. The plan shall also provide information to the Town that estimates timing of anticipated phases within the subdivision.

Prior to final approval of any phase, the Town shall confirm and advise the County of Essex accordingly, that the phase complies with the Zoning By-law in effect and that sewage treatment conveyance capacity and water supply capacity is available for all lots in the proposed phase of development.

12. **Developer's Responsibilities Until Final Acceptance**

Until such time as the Town has finally accepted each of the Services, including roadways herein referred to, the Developer shall be responsible therefor. The responsibility of the Developer prior to Final Acceptance by the Town shall include liability for all types of maintenance in connection therewith. If the Developer should in the opinion of the Town or of its agents or employees fail to maintain any Service including roadways, prior to the Final Acceptance by the Town, the Town may without notice in case of emergency, or in any other case on 30 days' notice, if such default is not Cured by the Developer during the 30 day notice, maintain the same, but in so doing, the Town shall for all purposes be deemed to have acted as agent for the Developer, without in any way being deemed to have finally accepted such Service, or to have incurred any liability for future maintenance, and the Town shall be entitled to reimbursement for the cost of any such maintenance, within thirty (30) days of written demand therefor, and the Town shall further be relieved of liability for damages caused unintentionally, in the course of such maintenance. Snow removal, salting or sanding by the Town shall not constitute acceptance of the roads by maintenance thereof.

The Developer shall also be responsible for the cleaning and flushing of sewers throughout the development until such time as the maintenance period for the construction of the Services has expired. The Town shall

have the right to inspect the said sewers from time to time and, if deemed necessary, may require the Developer to clean and flush same immediately, and the Developer hereby agrees to perform such cleaning and flushing on demand to the entire satisfaction of the Town.

13. **Building Permits**

The Developer covenants and agrees on behalf of itself and its successors in title to any lot, not to apply for any building permit for the construction of any building on any lots covered by this agreement until:

- (i) **Initial Acceptance of Services**
All of the services relating to all of the lots therein have been installed and initially accepted by the Town with the exception of the final asphalt surface course of the roadway.
- (ii) **Model Homes**
The Developer may apply to the Chief Building Official for model home permits prior to the completion of all services provided the dwelling unit is connected to water, storm, and sanitary services and that the base coat of asphalt and concrete curbs and gutter (where required) have been installed, to the satisfaction of the Town Engineer.

Model home building permits shall not exceed ten (10) dwelling units in any particular phase or ten percent of the total dwelling units in any particular phase and shall adhere to all of the requirements in the Town's development manual.

For additional phases within the subdivision, the application(s) for model home permits by the Developer shall adhere to the Town's Development Manual.

14. **Tree Provisions/Mailbox Requirements**

The Developer shall:

- (i) **Tree Provision**
The Developer will provide to the Town, before the commencement of any construction or installation of any service, an irrevocable letter of credit (self-renewing and without burden of proof), or a certified cheque, satisfactory to the Town, the value of the trees to be planted (i.e. \$300 x the number of lots in the phase). The trees will be installed by the developer on the lots where homes have been constructed and the front and side yards have been seeded and sodded, once per year annually in the fall. The Town will review the number of trees planted annually and refund the tree deposits for those trees planted on a pro rata basis. The trees will be planted in accordance with the Town's Tree By-law on the municipal ROW, and at a minimum of 60 mm in caliper based on the Tree By-law.
- (ii) **Super Mailboxes:**
Contact Canada Post to determine the location of super mailboxes throughout the subdivision and shall provide notice in every agreement of purchase and sale advising purchasers of the location thereof and that mail delivery will be provided via community mailboxes. The location of super mailboxes shall also be to the satisfaction of the Town.

15. **Landscaping Requirements**

(i) **Front and Side Yards**

The front lawn and exterior side yard of each lot shall be sodded, seeded or otherwise landscaped within six months of the construction of a house thereon, and such sodding, seeding or landscaping shall be continued over the unpaved portion of the road allowance, including any lands between a sidewalk and the road, to the back of the curb and gutter in front of such lot. Such sodding, seeding or landscaping shall be maintained in perpetuity. The Developer shall impose a covenant to this effect in the transfer of each lot conveyed by it.

16. **Registration Requirements**

The Developer covenants and agrees to cause the local Land Registrar to register, immediately after registration of the proposed plan of subdivision, as annexed to each lot in the proposed plan of subdivision, a condition of restriction running with the lands, that such lot is not to be built upon unless the provisions of paragraph 13 of this agreement, limiting entitlement to building permits has been complied with.

17. **Financial Security**

The Developer will provide to the Town, before the commencement of any construction or installation of any service, an irrevocable letter of credit (self-renewing and without burden of proof), or a certified cheque to the Town, in an amount equal to 50% of the value set by the Town for all Services to guarantee satisfactory installation of all Services. This value will be established based on the prices in the tender. The Developer must provide the completed tender form from the contractor to the Town. If work is not tendered the Consulting Engineer must provide a tender form that provides an estimate of cost to establish the value of securities. If the provision of Services to the lots requires the construction or installation of any services outside the subdivision, the foregoing provisions as to the security equal to 100% of the value for Services shall extend to and be required in connection with any Service extending outside.

18. **Maintenance Security**

The Developer shall provide to the Town an irrevocable letter of credit, (self-renewing and without burden of proof), or a certified cheque satisfactory to the Town, in an amount equal to 25% of the value set by the Town upon initial acceptance thereof, for all servicing of lots within the subdivision, until Final Acceptance of services after completion and initial acceptance by the Town of the last service provided. If the Town agrees and/or requests that some of the work be delayed, Performance Securities for 100% of the outstanding works would be required in addition to the Maintenance Security.

19. **Iron Bars**

The Developer will file with the Town a surveyor's certificate dated within 30 days before the application for initial acceptance by the Town of asphalt surfacing on roadways, to the effect that all Standard Iron Bars shown upon the plan of subdivision have been located or replaced.

20. **Staking of Bars Prior to Construction**

Before the sale of any lot or the issue of any building permit within the subdivision, the Developer shall stake to the satisfaction of the Town, the locations of all Standard Iron Bars, and shall maintain such staking to the satisfaction of the Town, its respective servants and agents and the Town Engineer, in relation to each lot until the home foundation is installed and all services to the proposed home have been provided. The Developer will provide to the Town on request, and to any proposed builder, all usual information as to grades and levels for each lot within the subdivision.

21. **Developers Responsibilities in Regard to Damages**

The Developer undertakes and agrees to pay for any damage caused to any existing road, road allowance, structure or plant and any costs involved in the relocation of or repair or connection to any existing services arising in any way from or in connection with this agreement or the provision of services called for herein including the changing of grades of existing adjacent roads, and also any taxes or other charges levied or to be levied upon the lands to be subdivided, until such time as the lands have been assessed and entered on the collector's roll according to the proposed and presently registered plans.

22. **Stormwater Management**

The development of the subdivision requires measures to deal with stormwater management. The Developer agrees:

- (i) As part of the development of the site, the developer shall submit a Stormwater Management Plan based on the Windsor/Essex Regional Stormwater Management Standard Manual. The Developer will be required to install all of the stormwater management measures identified in the final approved stormwater management report. This work shall be to the satisfaction of the Town and ERCA.
- (ii) To continue to conduct regular inspections once every two weeks and after each sizeable storm event of all sediment and erosion control measures recommended in the approved stormwater management plan during the construction phase; Results of these inspections must be sent to the Town on a monthly basis.
- (iii) To maintain an inspection log, which shall be made available for review by the Ministry of the Environment, Conservation and Parks and Essex Region Conservation Authority upon request. These inspection logs must be sent to the Town on a monthly basis. The log shall state the name of the inspector, date of inspections and the rectification or replacement measures which were taken to maintain the sediment and erosion control measures. Inspections shall continue until the assumption of services by the Town or until site construction conditions warrant cessation of the visits.
- (vi) It is the intent that a permanent stormwater management pond be conveyed to the Town. A stormwater management facility is proposed to be constructed in the interior portion of the subdivision. The details regarding the pond will be finalized after the Ministry of the Environment, Conservation and Parks issues its permit for the development.
- (vii) That a copy of this Agreement be provided to ERCA to ensure that the wording contained herein is satisfactory to its requirements.

23. **Stormwater Management Issues: Catchbasin and Road Maintenance**

All catchbasins will have filter fabric placed under the lid to catch sediment. It will be the Developer's responsibility to ensure the filter fabric is changed periodically as required to allow drainage through the catchbasins. The Developer will also be responsible for ensuring the roads are kept in a clean manner during house construction.

24. **Design Drawings**

For all the works outlined herein and referred to in this Agreement, the Developer shall provide design drawings, specification lists and tender documents to the Town, in both electronic and hard copy format.

25. **Additional Work**

If at any time prior to Final Acceptance of the last of the services by the Town it is of the reasonable opinion that additional works are proven necessary to provide any of the public services specified in the schedules hereto, which were not reasonably foreseeable at the date of this Agreement then the Developer shall construct, install or perform such additional work at the request of the Town provided that, if the Developer disagrees that such additional works are necessary, the question shall be resolved by a single arbitrator if the parties can agree on one, otherwise by a panel of three arbitrators proceeding under the Arbitrations Act.

26. **Grading of Topsoil**

The Developer covenants and agrees that topsoil excavated for roadways shall be left and leveled within the subdivision, except as provided in paragraph 27 hereof. Any topsoil that is stockpiled shall be neat and sloped in such a manner that weed cutting can be carried out with mechanical equipment by the Developer to the entire satisfaction of the Town.

27. **Grading/Dumping/Removal of Material**

The Developer shall carry out all grading of all lands, in accordance with the grading plans to be filed in the office of the Clerk of the Town of Amherstburg copying the Chief Building Official of the Town, and shall forthwith carry out temporary or permanent drainage work that the Town Engineer may certify to be necessary to eliminate ponding erosion, channeling of underground water or other drainage problems. The Developer shall neither dump nor permit to be dumped any fill or debris, or remove or permit the removal of any soil or fill from any of the lands to be subdivided without the written consent of the Town Engineer. In seeking consent of the Town Engineer to the removal of topsoil the Developer shall establish that when final grades are established for all of the lots and blocks within the subdivision there will be topsoil to a depth of at least four inches (4") over the entire area not covered by buildings, roadways and driveways.

28. **Grass and Weeds Maintenance**

The Developer shall be responsible for the proper maintenance of grass and weeds throughout the subdivision under the direction of the Town until such time as a building permit is issued on a lot or the lot is transferred to a new owner. The Developer is required to place notice on title of this requirement on each lot conveyed by it.

29. **Rear Yard Drainage**

Rear lot drainage shall be installed on each lot, in connection with the construction of a house thereon, and shall be connected to the storm sewer system. The specifications, design and installation of such rear yard

drainage shall be acceptable to, and subject to the approval of the Town Engineer. On an application for a building permit on any lot within the lands to be subdivided, the builder shall produce a plan or sketch satisfactory to the Chief Building Official of the proposed rear yard drainage, which shall be in accordance with the Building Code. The installation of such rear yard drainage shall be subject to the same inspections as foundation drains and the Chief Building Official may issue work orders or stop work orders in relation thereto.

30. **Sump Pump Overflow**

All homes must be designed to include a sump pump overflow.

31. **Municipal Numbers**

The Developer shall ascertain from the Town the appropriate municipal numbers for each lot, and shall provide such numbers to prospective purchasers, builders and lenders.

32. **Interim Acceptance of Services**

The Developer shall apply for initial acceptance of the municipal Services by filing with the Town a certificate under the hand and seal of its project engineer that the construction and/or installation of such Services has been completed in accordance with the design criteria and the plans and specifications therefor approved and filed by the Town before construction, and by filing as-built drawings of such Service. The Town and its authorized agents, including the Town Engineer, shall carry out such inspections as they deem necessary, and such Service shall then be deemed to have received Interim Acceptance after the Town Engineer certifying that such Service has been completed in accordance with this Agreement, providing that all the covenants of this Agreement have been complied with to the date of such certificate.

33. **Final Acceptance of Services**

The Town shall have granted Final Acceptance of the Services in each phase upon the Town Engineer and the Town being satisfied that all covenants under this Agreement have been fully complied with and all repairs and replacement required during the maintenance period have been carried out within such phase, and then authorizing release of the maintenance securities or bonds. Immediately prior to requesting Final Acceptance of the Services, the Developer shall flush clean and camera inspect the sanitary and storm sewer system including all services. The Developer's consulting engineer shall certify that the Services have been inspected and the camera inspection has been reviewed, and that there are no slumps, cracks, blockages or other deficiencies within the system to the entire satisfaction of the Town. A copy of all sewer videos will be provided to the Town for their review.

34. **Town's Fees**

The Developer undertakes, covenants and agrees to pay any planning, engineering, legal, auditing or other fees or disbursements incurred by the Town relating in any way to the proposed subdivision, or the servicing thereof, or to this agreement, including negotiations and preparations prior to its execution and including the entire fees and disbursements of the Town Engineer when acting pursuant to the terms of this agreement, and any clerical or administrative expense of the Town relating in any way to or arising from this agreement, forthwith upon being invoiced therefor. The Developer agrees to deposit with the Town on or before the execution of

this agreement, the sum of \$2,000.00 to be applied against such fees as may be incurred from time to time, with such deposit to be renewed from time to time as used up, when requested by the Town, any unused balance to be returned to the Developer without interest, on the expiry of the maintenance period.

35. **Easements**

The Developer shall convey to Amherstburg or the appropriate authority, without cost and free of encumbrance, any and all easements as may be required by Amherstburg, the applicable hydro authority, the applicable telecommunications, cable TV and internet service provider(s), and any natural gas provider and/ or any other applicable utility provider. Such easements may be through, over or under the appropriate portion of the Subject Lands and may be required for drainage purposes, sewers, hydro, watermains, telephone, cable tv, natural gas or any other purpose as deemed necessary by Amherstburg. Where required by the Town, daylight corners and road reserves shall be shown on the final plan and conveyed in a form satisfactory to the Town.

36. **Environmental Impact Assessment- Implementation**

The Developer shall finalize the Environmental Impact Assessment Report prepared by BioLogic Incorporated, or other consultant working on behalf of the Developer, to evaluate and mitigate the potential impacts on natural features and their ecological functions of the subject lands to the satisfaction of the Town and ERCA. A copy of this Agreement shall be provided to ERCA to ensure that the wording contained herein is satisfactory to its requirements.

37. **Post-Construction Report (EIA Requirements)**

Prior to final approval of any phase of the subdivision, the Developer agrees to have a qualified professional prepare and submit a post-construction report certifying that the mitigation measures and recommendations of the final Environmental Impact Assessment Report have been implemented. The post-construction report will be prepared to the satisfaction of the Town and ERCA. A copy of this Agreement shall be provided to ERCA to ensure that the wording contained herein is satisfactory to its requirements.

38. **Endangered Species Act Permits/Letter of Advice/ERCA Clearances**

Prior to site alteration of any kind, and final approval of any phase by the County of Essex, the Developer shall obtain all required permits from the Province issued under the Endangered Species Act, 2007 (ESA), and complete and implement the recommendations contained in the permit or permits, along with any other letters/authorizations/directions from the Province. The Developer shall hire a certified biologist to confirm in writing that any site alteration has been completed in accordance with the requirements of such permits or any other letters/authorizations/directions issued under the ESA.

Prior to undertaking construction or site alteration activities of any kind the Developer shall also obtain all necessary permits or clearances from ERCA.

39. **Department of Fisheries and Oceans (DFO)**

Prior to site alteration of any kind, and prior to final approval by the County of Essex, the Developer will provide to the Town and the County a clearance letter from the Department of Fisheries and Oceans (DFO) confirming compliance with the requirements of the Fisheries Act and the Species at Risk Act (SARA).

40. **Archaeological Assessment**

The Developer shall comply with and implement the recommendations and conclusions contained in the archaeological assessments completed by Cultural Resource Management Group (CRM) dated March 2016, and the review letters prepared by the Ministry of Tourism, Culture and Sport, including but not necessarily limited to, those dated June 2, 2016, June 7, 2016, May 29, 2017, November 23, 2017 and July 20, 2018.

41. **Traffic Impact Study**

The Developer shall comply with all of the requirements identified within the Boblo Island Residential Subdivision Traffic Impact Study (Updated) prepared by Dillon Consulting, dated July 2018 and shall be responsible for constructing any roadway improvements identified in the final report as part of the development of the site.

42. **Heritage Impact Assessment**

The Developer shall comply with the conclusions and recommendations relating to mitigation, implementation and monitoring, as outlined in the Heritage Impact Assessment, prepared by MHBC Planning Limited (dated August 3, 2016).

43. **Parks Canada**

Prior to site alteration of any kind, and final approval of any phase by the County of Essex, the Developer shall follow, to the satisfaction of the Town, the recommendations contained within the document from Parks Canada entitled "Guiding Principles for the draft plan of subdivision for Bois Blanc Island Lighthouse and Blockhouse NHSC" dated August 7, 2014.

44. **First Nations Consultation**

Prior to site alteration of any kind, and final approval of any phase by the County of Essex, the Developer shall provide written confirmation, to the satisfaction of the Town, that Walpole Island First Nations, the Caldwell First Nations and the Can-Am Indian Friendship Centre have been consulted.

45. **Register Notice of Agreement**

The Developer covenants and agrees to cause the Local Land Registrar to register notice of this agreement against all of the lands affected hereby, immediately after registration of the proposed subdivision, and to obtain acknowledgement, consent and postponement agreements, from any and all encumbrances registered prior to registration of such notice.

46. **Development Charges**

The Developer acknowledges that the lands subdivided by this agreement are subject to Development Charges as established by the Town in its Development Charges By-law which may include community benefit charges. Once established, the said development charge shall be paid prior to the issuance of a building permit for each lot. The Developer undertakes and agrees to provide that all Offers of Purchase and Sale include information that satisfies Subsection 59(4) of the Development Charges Act including development charges for school purposes relating to any such lot pursuant to 59(4) of the Development Charges Act, 1997.

47. **Town Engineer**

Throughout this agreement the term "Town Engineer" shall mean the professional engineer or firm of professional engineers retained by the Town to carry out the duties referred to in this agreement. Notwithstanding the above, the Town may agree to the use of a single engineering firm. However, should any dispute arise and as a result of this agreement, the selected engineering firm shall be responsible to the Town, and the Developer shall be required to retain its own professional engineer.

48. **Use of General Terms**

Throughout this agreement the singular shall be deemed to include the plural, and the masculine, feminine and neuter genders shall be interchangeable as the context and applicable situations may require.

49. **Enforcement of Agreement**

The Developer will not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative or other tribunal the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition thereof and this provision may be pleaded by the Town in any such action or proceeding as a complete and conclusive estoppel of any denial of such right. If any provision of this agreement shall be found to be or deemed illegal or invalid, the remainder of the agreement shall not be affected thereby.

The rights of the Town to enforce this Agreement are cumulative and include all rights and remedies available in law or equity. Additionally, in the event of default of any payment required by the Developer to the Town, including the payment of the costs of the Town in remedying any default by the Developer, the Town may, after non-payment of the total amount owing continues for thirty (30) days from the date of written notice, register the amount owing on the tax rolls, which amount shall form a lien and charge upon the lands of the Developer and may be collected and have the same priority as municipal real property taxes in accordance with the provisions of the Municipal Act, 2001, or any similar legislation, as amended from time to time.

50. **No Waiver of Rights**

No indulgence or forbearance by the Town shall be deemed to constitute a waiver by the Town of its rights to insist on performance in a full and timely manner of all the covenants contained herein, and any such waiver, in order to be binding, must be in writing and duly authorized by the Town Council. No such waiver of any provisions, conditions or covenants shall be deemed to be a waiver of the right to later require full and timely compliance with the same terms, conditions or covenants, or with any other terms, covenants or conditions of this agreement at any time.

51. **Parkland Dedication**

In satisfaction of the requirement of the Planning Act with regard to parkland dedication, that the Developer convey up to 5% of the land included in the plan to the Town for park purposes, or cash-in-lieu thereof, the Developer covenants and agrees to pay the Town a cash value of 5% of the lands determined by an appraisal authorized by the Town as determined as of the day before the Draft Plan is approved as outlined in Sections 51.1(3) and (4) of the Planning Act.

52. **Schools**

In accordance with the requirements of the Greater Essex County District School Board and the Windsor-Essex Catholic District School Board, the Developer is required to place notice in every agreement of purchase and sale advising purchasers that students may not be able to attend the closest neighborhood school and could be bused to a distant school with available capacity or could be accommodated in temporary space (i.e. portables).

The Developer is further required to place notice in every agreement of purchase and sale advising purchaser that school busses will not be transported to the island and that the School Boards will designate pick up points on the mainland for students to meet the bus.

53. **Sidewalks**

If required, the Developer shall, at their own expense, construct all sidewalks and trails as per the approved engineering drawings. The sidewalks will be constructed in accordance with the approved Municipal Development Standards Manual with the minimum width of sidewalk to be 1.5m and must meet all AODA requirements, including the installation of tactile plates at intersections. The timing of the installation of the required sidewalks will be determined by the Town's Engineering and Public Works Department in conjunction with the Developer.

54. **Access to and From the Island**

Access to and from Bois Blanc Island (Boblo Island) for all residents and/or property owners on Bois Blanc Island (Boblo Island) is the sole responsibility of the Developer and any subsequent Transferees, other than Transferees which are government entities. The Developer, and any subsequent Transferees (other than government entities) shall provide a ferry service to and from Bois Blanc Island (Boblo Island) that meets the requirements of the Ministry of Transportation and the safety standards of Transport Canada, and if the dimension or weight of any vehicle or load exceeds the limits set out in the Highway Traffic Act, then the vehicle operator shall obtain the appropriate oversize/overweight permit.

The Town is not responsible in any way for access to or from Bois Blanc Island (Boblo Island), and the Developer and any subsequent Transferee acknowledge that the Corporation of the Town of Amherstburg will not provide access to Bois Blanc Island (Boblo Island), and the Developer and any subsequent Transferee shall not request or demand that the Town of Amherstburg provide such access.

The Developer and any subsequent Transferees (other than government entities) agree to make a motor vehicle ferry and operator available to the Town, at no cost to the Town, for administrative purposes, maintenance, emergency, police and fire personnel and their equipment, whenever required by the Town. The Developer and any subsequent Transferees (other than government entities) shall provide access to the ferry landing on the Mainland and back for all school children on Bois Blanc Island (Boblo Island).

A provision outlining the above specification shall be contained in every agreement of purchase and sale of any one or more of the lots in the development. The Developer shall provide access to and from Bois Blanc

Island (Boblo Island) from and to a municipal roadway or right of way to the Island and Mainland. The Developer shall provide an easement/right-of-way for access and egress in favour of the Bois Blanc Community Association from and to a municipal roadway or right-of-way, both on Bois Blanc Island (Boblo Island) and on the Mainland.

All of the above requirements for access to and from the Island shall apply for all residents and/or property owners of Bois Blanc Island (Boblo Island) upon such terms and conditions as are agreeable between the Developer and the residents and/or property owners.

55. **Emergency Response Plan & Fire Protection**

Prior to final approval of any phase by the County of Essex, the Developer is required to prepare, to the satisfaction of the Town, an Emergency Management Plan to address matters related to police and fire protection, Emergency Medical Services (EMS), and potential impacts due the proximity of the Fermi II nuclear facility, in all climatic conditions.

The Developer is also required, to the satisfaction of the Town, to notify purchasers in every agreement of purchase and sale to be aware that each residential dwelling shall be equipped with an automatic fire suppression system to the satisfaction of the Town's Fire and Building Departments, along with any other fire monitoring and response requirements deemed necessary by the Town.

56. **Emergency Management Plan**

It is noted that the Town of Amherstburg has an approved Emergency Management Plan that pertains to Boblo Island. The Amherstburg Fire Department strongly recommends that all dwellings be equipped with a residential sprinkler system. If a wet fire sprinkler is not available within the dwelling, at a minimum a dry system or fire extinguishers should be available at appropriate locations within the dwelling. All smoke alarms should be interconnected and monitored by an independent answering service.

57. **Streetlights**

The Developer shall install streetlights in accordance with the present design standards, all to be approved by the Town of Amherstburg. The Town requires the installation of LED fixtures. The Town shall provide specifications to the Developer based on the lighting required.

58. **Street Signs**

The Developer shall request that the Town install street signs at each intersection and where necessary, all to be done in accordance with present standards. If the Town undertakes the work and/or the signs, the Town will invoice the Developer accordingly.

59. **Sewage Allocation**

The Developer acknowledges that the development is within the sanitary sewer service area for the Boblo Sewage Treatment Plant, which is currently nearing its design capacity. The Town and Developer acknowledge that an Environmental Assessment has been completed which provides for the

inclusion of the Boblo Sewage Treatment Plant into the expanded and upgraded Amherstburg Wastewater Treatment Plant (AWWTP). An agreement to construct the required pump station and forcemain to send the sewage from Boblo Island to the AWWTP must be in place prior to or in conjunction with the installation of municipal services. The agreement shall include cost sharing arrangements, construction timing and additional allowable flows to accommodate new builds until the forcemain is constructed.

60. **Sewage Ejector Pumps**

All homes must be designed to include a sewage ejector pump. Gravity flow from the home will not be accepted.

61. **Cure Period**

Throughout this Agreement, where reference is made to the Town undertaking works on behalf of the Developer because of default or some other reason, it is agreed that the Developer will be given thirty (30) days to Cure any such deficiency, default or other problem or commence to Cure default and proceed diligently to remedy same prior to the Town undertaking the required works unless such deficiency, default or other problem is deemed to be an emergency.

62. **Notice**

- (a) Any notice, direction or other instrument required or permitted to be given by any party under this Agreement shall be in writing and shall be sufficiently given if delivered personally, sent by prepaid first-class mail or transmitted by telecopier or other form of electronic communication during transmission of which no indication of failure or receipt is communicated to the sender:

In the case of notice to the Developer:

c/o Dominic Amicone
Boblo Developments Inc.
2199 Blackacre Drive
Oldcastle, ON N0R 1L0

In the case of notice to the Town:

271 Sandwich Street South
AMHERSTBURG, ON N9V 2A5

Attention: The Clerk
Fax: (519) 736-5403

Manager of Planning Services
Fax: (519) 736-7111

Manager of Engineering
Fax: (519) 736-7080

- (b) Any such notice, direction or other instrument if delivered personally, shall be deemed to have been given and received on the date on which it was received at such address, or, if sent by mail, shall be deemed to have been given and received on the date which is five (5) days after which it was mailed, provided that if either such day is not a Business Day, then the notice shall be deemed to have been given and received on the Business Day next

following such day. Any notice transmitted by telecopier or other form of electronic communication shall be deemed to have been given and received on the date of its transmission provided that if such day is not a Business Day or it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been given and received at the opening of business in the office of the recipient on the first Business Day next following the transmission thereof. If normal mail service, telex, telecopier or other form of electronic communication is interrupted by strike, slowdown, Force Majeure, or other cause, a notice, direction or other instrument sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the notice shall utilize any other such service which has not been so interrupted to deliver such notice.

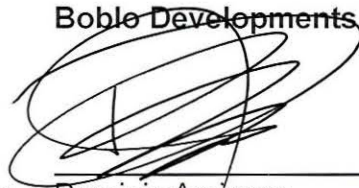
63. **Agreement Binding on Parties**

This agreement shall enure to the benefit of, and be binding upon the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

This agreement may be assigned by either party, subject to the written consent of the other party, which shall not be unreasonably withheld.

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

I have authority to bind the Corporation

**THE CORPORATION OF THE
TOWN OF AMHERSTBURG**



Per _____
Aldo DiCarlo, Mayor



Per _____
Paula Parker, Clerk

We have authority to bind the Corporation

SCHEDULE "A"
DRAFT PLAN CONDITIONS

The conditions and amendments to final plan of approval for registration of this Subdivision are as follows:

No. Conditions

1. That this approval applies to the draft plan of subdivision prepared and certified by Brian Coad, O.L.S., dated September 20, 2016 that shows:
 - One hundred and twenty-four (124) lots for single detached residential units;
 - Forty-eight (48) lots for ninety-six (96) semi-detached residential units; and
 - Four (4) blocks.

The lands comprising the draft plan of subdivision are legally described as Part of Bois Blanc Island (Malden Township), Town of Amherstburg, County of Essex.

2. That the Owner enters into a subdivision agreement with the Municipality wherein the Owner agrees to satisfy all the requirements, financial and otherwise, of the Municipality concerning the payment of development charges, provisions of roads, installation and capacity of services, sanitary sewerage collection system, water distribution system, utilities and stormwater management facilities for the development of the lands within the plan, and transportation to and from the island.
3. That the subdivision agreement between the Owner and the Municipality contain a provision requiring the owner to notify in writing each person who first offers to purchase any subdivided lot within the plan of subdivision of all approved development charges, including development charges for school purposes, relating to any such lot pursuant to Section 59(4) of the Development Charges Act, 1997.
4. That the subdivision agreement between the Owner and the Municipality, where required, contain a provision prepared to the satisfaction of the Municipality, regarding the phasing and timing of the development.
5. That the subdivision agreement between the Owner and the Municipality be registered against the lands to which it applies prior to the registration of any final plan of subdivision.
6. That the road allowances included in this draft plan shall be shown and dedicated as public highways.
7. That the streets shall be named to the satisfaction of the Municipality.
8. That all terminating streets shall contain a 0.3 metre reserve, to be illustrated on the final plan and be conveyed to the Municipality.
9. That the Owner convey to the Municipality for park or other recreational purposes up to 5% of the land included in the plan. Alternatively, the Municipality may require cash-in-lieu or some other form of conveyance acceptable to the Municipality, for all or a portion of the requirement.
10. That prior to final approval of any phase by the County of Essex, the County is to be advised by the Municipality that the proposed subdivision conforms to the Zoning By-law in effect.

11. That the Owner shall provide easements as may be required for services, utility or drainage purposes in a form satisfactory to the Municipality or utility, and where required by the Municipality, daylight corners and road reserves shall be shown on the final plan and conveyed in a form satisfactory to the Municipality.
12. That prior to final approval of any phase, the Municipality shall confirm that sewage treatment conveyance capacity and water supply capacity is available for all lots in the proposed development, or phase of development.
13. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the Essex Region Conservation Authority, that stipulate that the Owner finalize the Stormwater Management Report prepared by Stantec Consulting Inc., or other consultant working on behalf of the Owner, to the satisfaction of the Municipality and the Essex Region Conservation Authority, and install the stormwater management measures as identified in the finalized stormwater management report.
14. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the Essex Region Conservation Authority, that stipulate that the Owner finalize the Environmental Impact Assessment Report prepared by BioLogic Incorporated, or other consultant working on behalf of the Owner, to the satisfaction of the Municipality and the Essex Region Conservation Authority, and implement all recommendations contained in the final report.
15. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the Essex Region Conservation Authority, that prior to final approval of any phase, the Owner agrees to the requirement that a post-construction report be prepared and submitted by the appropriate qualified professional certifying that the mitigation measures and recommendations of the final Environmental Impact Assessment Report have been implemented.
16. That prior to final approval the Essex Region Conservation Authority shall require a copy of the fully executed subdivision agreement between the Owner and the Municipality, in wording acceptable to the Essex Region Conservation Authority, containing provisions to carry out the recommendations of the plans/reports and requirements noted above in Conditions 13, 14 and 15.
17. That prior to undertaking construction or site alteration activities of any kind, any necessary permits or clearances be received from the Essex Region Conservation Authority.
18. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Greater Essex County District School Board, the Windsor-Essex Catholic District School Board, and the Municipality, requiring notice in every agreement of purchase and sale advising purchasers of lots to be aware that school busses will not be transported to the island and that the School Boards will designate pick up points on the mainland for students to meet the bus.
19. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Greater Essex County District School Board, the Windsor-Essex Catholic District School Board, and the Municipality, requiring notice in every agreement of purchase and sale advising purchasers of lots to be aware that students may not be able to attend the closest neighbourhood school and could be bussed to a distant school with available capacity.
20. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of Canada Post Corporation and the Municipality, requiring notice in every agreement of purchase and sale advising purchasers of

lots to be aware of the locations of any community mailboxes within or serving the plan and that mail delivery will be provided via community mailboxes.

21. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County, that prior to site alteration of any kind, and final approval of any phase by the County of Essex, the Owner shall obtain all required permits from the Province issued under the Endangered Species Act, 2007 (ESA), and complete and implement the recommendations contained in the permit or permits, along with any other letters/authorizations/directions from the Province, and a certified biologist shall confirm in writing that any site alteration has been completed in accordance with the requirements of such permit or permits or any other letters/authorizations/directions issued under the ESA.
22. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County, that prior to site alteration of any kind, and prior to final approval by the County of Essex, the Municipality and the County shall be provided with a clearance letter from the Department of Fisheries and Oceans (DFO) confirming compliance with the requirements of the Fisheries Act and the Species at Risk Act (SARA).
23. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, that require that the Owner prepare a Traffic Impact Study, to the satisfaction of the Municipality, and to construct any highway improvements identified in the final report as part of the development of the site.
24. That the subdivision agreement between the Owner and the Municipality contain the following provision with regard to access to and from Bois Blanc (Boblo Island), or such other similar provision satisfactory to the Owner and the Municipality:

Access to and from Bois Blanc Island (Boblo Island) for all residents and/or property owners on Bois Blanc Island (Boblo Island) is the sole responsibility of the Owner and any subsequent Transferees, other than Transferees which are government entities. The Owner, and any subsequent Transferees (other than government entities) shall provide a ferry service to and from Bois Blanc Island (Boblo Island) that meets the requirements of the Ministry of Transportation and the safety standards of Transport Canada, and if the dimension or weight of any vehicle or load exceeds the limits set out in the Highway Traffic Act, then the vehicle operator shall obtain the appropriate oversize/overweight permit. The Town is not responsible in any way for access to or from Bois Blanc Island (Boblo Island), and the Owner and any subsequent Transferee acknowledge that the Corporation of the Town of Amherstburg will not provide access to Bois Blanc Island (Boblo Island), and the Owner and any subsequent Transferee shall not request or demand that the Town of Amherstburg provide such access. The Owner and any subsequent Transferees (other than government entities) agree to make a motor vehicle ferry and operator available to the Town, at no cost to the Town, for administrative purposes, maintenance, emergency, police and fire personnel and their equipment, whenever required by the Town. The Owner and any subsequent Transferees (other than government entities) shall provide access to the ferry landing on the Mainland and back for all school children on Bois Blanc Island (Boblo Island). A provision outlining the above specification shall be contained in every agreement of purchase and sale of any one or more of the lots in the development. The Owner shall provide access to and from Bois Blanc Island (Boblo Island) from and to a municipal roadway or right of way to the Island and Mainland. The Owner shall provide an easement/right-of-way for access and egress in favour of the Bois Blanc Community Association from and to a municipal roadway or right-of-way, both on Bois Blanc Island (Boblo Island) and on the Mainland. These requirements for access shall apply for all residents and/or property owners of Bois Blanc Island (Boblo Island) upon such terms and

conditions as are agreeable between the Owner and the residents and/or property owners.

25. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, and prior to final approval of any phase by the County of Essex, requiring the Owner to prepare an emergency response plan to address matters related to police and fire protection, Emergency Medical Services (EMS), and potential impacts due the proximity of the Fermi II nuclear facility, in all climatic conditions, and further that the subdivision agreement contain additional provisions, to the satisfaction of the Municipality, requiring notice in every agreement of purchase and sale advising purchasers of lots to be aware that each residential dwelling shall be equipped with an automatic fire suppression system to the satisfaction of the Municipality's Fire and Building Departments, along with any other fire monitoring and response requirements deemed necessary by the Municipality.
26. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County, requiring that the Owner comply with the recommendations and conclusions contained in the archaeological assessments completed by Cultural Resource Management Group (CRM) dated March 2016, and the review letters prepared by the Ministry of Tourism, Culture and Sport, including but not necessarily limited to, those dated June 2, 2016, June 7, 2016, May 29, 2017, November 23, 2017 and July 20, 2018.
27. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, that prior to site alteration of any kind, and final approval of any phase by the County of Essex, that the Owner provide written confirmation, to the satisfaction of the municipality, that Walpole Island First Nations, the Caldwell First Nations and the Can-Am Indian Friendship Centre have been consulted.
28. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, that prior to site alteration of any kind, and final approval of any phase by the County of Essex, that the Owner shall undertake to follow the recommendations contained in the document from Parks Canada entitled "Guiding Principles for the draft plan of subdivision for Bois Blanc Island Lighthouse and Blockhouse NHSC" dated August 7, 2014.
29. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, that require the Owner to comply with the conclusions and recommendations relating to mitigation, implementation and monitoring, as outlined in the Heritage Impact Assessment, prepared by MHBC Planning Limited (dated August 3, 2016).
30. That prior to final approval by the County of Essex, the Owner shall submit for review and approval by the Municipality and the County, a draft of the final 12M plan.
31. That prior to final approval by the County of Essex, the County is advised in writing by the Municipality how Conditions 1 to 15 inclusive, and 18 to 30 inclusive have been satisfied.
32. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 13 to 17 inclusive, have been satisfied.
33. That prior to final approval by the County of Essex, the County is advised in writing by the Greater Essex County District School Board how Conditions 18 and 19 have been satisfied.

34. That prior to final approval by the County of Essex, the County is advised in writing by the Windsor-Essex Catholic District School Board how Conditions 18 and 19 have been satisfied.
35. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Condition 20 has been satisfied.

SCHEDULE "B"
SUBJECT LANDS

Part of Bois Blanc Island (Malden Township), Town of Amherstburg,
County of Essex.

SCHEDULE "C"
DEFINITION OF TERMS

The following definitions shall apply in the interpretation of this Agreement:

"Cure" means that the Developer has commenced the works required to address the Event of Default that has been identified and for which notice in accordance with this Agreement has been provided and is proceeding diligently to remedy any deficiency or default.

"Event of Default" means if the Developer fails in the performance of an obligation under this Agreement, and the Town issues a notice of such failure or default and a demand for performance, observance or compliance has been given. In such cases, the Town must allow the Developer a minimum of thirty (30) days to Cure the default (Cure as defined herein) unless such default is determined to be an emergency by the Town in which case a minimum less than thirty (30) days can be established for the Developer to Cure the default.

"Final Acceptance" means the date, commencing no sooner than the expiry of the maintenance period wherein the Developer's Consulting Engineer has provided a declaration to the Town confirming that the works and Services have been completed in accordance with the terms of this Agreement and the Town Engineer formally accepts the Services in writing.

"Force Majeure" means and includes acts of God, terrorist attacks, weather conditions, labour disputes, shortage of labour and materials and any happening, condition or thing beyond the control of a person which could not reasonably have been anticipated and avoided by such person which delays or prevents such person from performing any of its obligations hereunder, financial inability excepted.

"Improvements" means modifications to the Town-owned infrastructure that may be reasonably required from time to time.

"Indemnifiers" means jointly and severally.

"Interim Acceptance" means when Services are placed on maintenance by the Town.

"Lands" means those lands as described in Schedule "B" attached hereto.

"Plan of Subdivision" means a registered plan of the lands where new, separate parcels of land have been created and can be legally used for the sale of lots.

"Services" means the storm sewers, sanitary sewers, waterlines, roads, curbs and hydro services, including those components of infrastructure described in Schedule "C".

"Substantial Performance" means the date that the Developer's Consulting Engineer has provided a declaration to the Town confirming that the works are ready for use or are being used for the purposes intended.

"Town's Infrastructure Work" means the infrastructure work being undertaken by or on behalf of the Town to the portions of the Lands not designated for private development.

SCHEDULE "D"
DESIGN CRITERIA

**FOR SERVICES TO BE PROVIDED IN THE
BOBLO SOUTH END DEVELOPMENT – Boblo Developments Inc.
TOWN OF AMHERSTBURG**

GENERAL

Sanitary and storm sewers, watermains, curbs and gutters, sidewalks, street lighting and electric service connections shall be constructed in accordance with plans and specifications prepared by a professional engineer, registered to practice in the Province of Ontario, and acceptable to the Town of Amherstburg. Criteria upon which these services are to be designed, are as described in this schedule.

STORM DRAINAGE

Storm sewers, together with catch waterbasins shall be installed in all streets in the development in accordance with the approved engineering drawings and as approved by the Ministry of the Environment, Conservation and Parks, E.R.C.A. and the Corporation. A copy of the design calculations shall be submitted to the Corporation.

Private service connections (including cleanouts) from the storm sewers to the front property line of each building lot shall be provided and the Developer shall install one private service connection for each unit. The minimum size of service connections shall be 150mm (6") diameter. Each storm sewer shall be provided with a clean out situated at the property line as per clean out detail on the approved engineering drawings. Private storm service connections and clean-outs shall not be constructed under future driveways.

Sewers shall be designed in accordance with the following criteria:

The developer shall submit a Stormwater Management Plan based on the Windsor/Essex Regional Stormwater Management Standard Manual.

Minimum Pipe Size	300 mm dia.
Minimum Velocity	0.76 m/s
Private Drain Connection	150 mm dia.
Minimum Cover	0.9 m
Maximum Manhole Spacing	122 m
Pipe Material	Concrete, PVC or HDPE

Restrictions imposed on the storm sewer outlet by the Town or by the Essex Region Conservation Authority shall be incorporated in the design of the storm sewer system. A stormwater management study shall be completed to the satisfaction of the Town and the Essex Region Conservation Authority. The study shall be in accordance with the Windsor/Essex Regional Stormwater Management Standard Manual. The Developer shall obtain a certificate of approval from the Ministry of the Environment, Conservation and Parks, Design Approval Branch.

SANITARY SEWERS

Sanitary sewers together with all necessary appurtenances and service connections from the appropriate sewer to the front property line of each building lot shall be constructed to the approved design of the Ministry of the Environment, Conservation and Parks, and the Corporation. Each building lot

shall be provided with access to an individual sanitary sewer service connection for each unit. The minimum sanitary service connection size shall be (5") 125mm in diameter. Each sanitary service shall be provided with a clean out situated at the property line as per clean out detail on the approved engineering drawings. The Developer shall be responsible for all costs associated with the construction of the system.

Sewers shall be designed in accordance with the following minimum design criteria:

Average Daily Flow	450 L/cap/day
Peaking Factor	Harmon formula
Population Density	3.5 ppl/lot
Minimum Pipe Size	200 mm dia.
Manning Coefficient	0.013
Minimum Cover	1.5 m
Private Drain Connection	125 mm dia.
Maximum Manhole Spacing	122 m
Pipe Material	PVC

The Developer shall obtain a certificate of approval from the Ministry of the Environment, Conservation and Parks, Design Approval Branch.

All homes must be designed to include a sewage ejector pump. Gravity flow from the home will not be accepted.

WATERMAINS

The Developer shall construct and install sufficient watermains including hydrants and valves to service the entire subdivision with connections to all lots in accordance with the approved engineering drawings. Each lot shall be serviced by a single water service connected to the mainline.

Minimum Cover	1.5 m
Maximum Hydrant Spacing	150 m
Maximum Valve Spacing	150 m and at intersections
Minimum Pipe Size	150 mm dia.
Lot Connection	19 mm dia.
Pipe Material	PVC
Mainline Services Pipe Material	Copper

Design and installation shall be in accordance with the Town's watermain specification to the satisfaction of the Town of Amherstburg.

ROADS

The Developer shall construct and install roadways and curbs and gutters upon all allowances for roads within the draft plan and upon the detail plans of services, in accordance with the following minimum design criteria:

(a) Roads within the Subdivision

The required road cross section shall be in accordance with the approved construction drawings.

Alignment:	
Minimum Turning Radius	9 m
Minimum Road Grade	0.30%
Cross Fall Grade	2.0% min. and design parameters recommended by the Ministry of Transportation

In general, any trenches crossing under pavement shall be backfilled with granular material acceptable to the Town Engineer and such trenches shall be mechanically compacted as required by the Town Engineer. Boulevards and other unpaved portions of the allowances for roads (except where forming part of the front lawn of residential lots) must be graded and sodded or seeded by the Developer.

SIDEWALKS

If required, the Developer shall, at their own expense, construct all sidewalks and trails as per the approved engineering drawings. The sidewalks will be constructed in accordance with the approved Municipal Development Standards Manual with the minimum width of sidewalk to be 1.5m and must meet all AODA requirements, including the installation of tactile plates at intersections. The timing of the installation of the required sidewalks will be determined by the Town's Engineering and Public Works Department in conjunction with the Developer.

STREETLIGHTS

The Developer shall install streetlights in accordance with the Town's Development Manual, all to be approved by the Town of Amherstburg. All new lights shall be LED fixtures. The Town will provide details on the fixtures to be used.

STREET SIGNS

The Developer shall request that the Town install street signs at each intersection and where necessary, all to be done in accordance with present standards. If the Town undertakes the work and/or the signs, the Town will invoice the Developer accordingly.

HYDRO SERVICE

The Developer shall construct and install a sufficient hydro distribution system to service the entire subdivision with connections to all lots therein and connect the same to the existing hydro distribution system. Individual lot services, where possible, shall be provided on common lot lines so that residential hydro meters face each other. The hydro distribution system within the subdivision shall be grounded to the water distribution system. All hydro service within the subdivision shall be underground and designed and installed in accordance with the requirements and criteria of the Town of Amherstburg and Hydro One.

TELEPHONE

The Developer shall arrange to provide underground telephone service to all of the lots within the subdivision. The Developer must confirm that sufficient wire-line communication/telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that the infrastructure is not available, the developer is hereby advised that the developer may be required to pay for the connection to and/or extension of the existing communication / telecommunication infrastructure.

The Developer will be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed subdivision to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services, i.e., 911 Emergency Services.

GAS

There is no access to natural gas on the island at this time.

CABLE T.V. SERVICE

The Developer shall, at its' own expense, make satisfactory provisions to accommodate the servicing for future cable T.V service for this development. The Developer shall provide to the Corporation, upon demand, confirmation from the said cable company that such arrangements have been made.

ADJUSTMENTS

The grade of any and all water service boxes, valve chambers, hydrants, manholes, drains and transformer boxes shall be adjusted by the Developer when and as may be required by the Department of Engineering and Public Works.

TEMPORARY SERVICES

Upon a connection of any type being made to the hydro or water services, a temporary meter or meters of a type and in a location or locations satisfactory to the Town shall be installed and continuously maintained until all hydro and/or water used within the subdivision, once the same is accepted by the Town, is metered through approved private connections. The Developer shall be responsible for, and will promptly pay or cause to be paid all charges for hydro and water supplied to the subdivision.

DRIVEWAY APPROACHES

Residential driveways and their approaches shall be constructed to a width that complies with the provisions of the Corporation's Zoning By-Law and the Town Bylaw 2017-81, Regulate Activity on Town Highways, Road Allowances and Right of Ways as amended from time to time. Residential approaches shall consist of 150 mm. (6") Granular "A" stone base with interlocking paving stone, concrete or asphalt paving from the back of the curb to the property line.

It is understood and agreed that under no circumstances will the Developer herein be permitted to install a new residential driveway approach within the corner radii of a curb constructed along any street in this development.

It is further understood and agreed that under no circumstances will the Developer or any other persons be permitted to install a new residential driveway approach over any private service connections from the storm or sanitary sewers or water system except where such connections cross driveways laterally (over the shortest possible distance) to enter the dwelling.

This provision is to be specifically brought to the attention of purchasers of lots at the time of purchase.

COMMUNITY MAILBOXES

The Developer will be responsible for negotiating specific locations within the subdivision with Canada Post for the location of community mailboxes. These locations must be to the satisfaction of the Engineering and Public Works Department.

It is a requirement to notify purchasers of lots to be aware of the locations of any community mailboxes within or serving the plan and that mail delivery will be provided via community mailboxes.

EASEMENTS

The Developer agrees that such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.

ROAD ALLOWANCES

All road allowances shown on the draft plan shall be dedicated as public highways and shall be not less than 20.00 m. (66') wide and shall be shown on the approved engineering drawings.

REAR YARD DRAINAGE

Rear yard drainage shall be provided for each building lot in the locations and according to the specifications prescribed by the approved engineering drawings and as approved by the Corporation. Rear yard drainage shall be installed contemporaneously with the construction of dwellings on each building lot. A separate rear yard drainage system, with 300 mm. diameter pre-fabricated polyethylene catch basins in accordance to the rear yard drainage detail shown on the approved engineering drawings, shall be provided for each building lot.

The Developer shall, at its' own expense, prepare a lot grading and rear yard drainage plan for each individual building lot within this development and shall file same with the Corporation. The final elevations of all dwellings and other buildings, minimum opening elevations, where applicable and the final lot grades relating thereto and the rear yard drainage shall conform to the proposed lot grading and rear yard drainage plan filed for that unit. The consulting engineer, or a certified Ontario Land Surveyor, shall certify upon completion of the construction of the dwelling and building on each lot that the said lot grading and rear yard drainage plan has been complied with, in accordance with the approved engineering drawings, and until such time as the said certification has been received by the Corporation.

SPECIAL SERVICING REQUIREMENTS

The construction of structures shall conform to the following requirements:

- a) Roof or rain water leaders shall **NOT** be connected to the storm sewer. They are to be discharged to ground on splashpads. Weeping tile drains from each respective building must be discharged to a storm sewer. A sump pump connected to the storm sewer must be provided for each building.
- b) Sump pump overflow piping must be installed
- c) Weeping tile drains shall not be connected to the sanitary sewers.
- d) Basement floor drains shall be connected to the sanitary sewers provided for each dwelling.
- e) All homes must be designed to include a sewage ejector pump. Gravity flow from the home will not be accepted.
- f) Rear yard drainage, including 300 mm. diameter pre-fabricated polyethylene catch basins, shall be provided for each building lot in the locations and according to the design and specifications as shown on the approved engineering drawings.
- g) A lot grading plan shall be included in the final set of plans approved for construction of the works. The consulting engineer or a certified land surveyor shall certify, upon completion of the works, that the lot grades

and catch basin elevation are in accordance with the design and that the lands abutting the subdivision are draining adequately. The Developer acknowledges that, until such time as the provisions of this paragraph have been complied with, no final inspection of any building shall be permitted and any and all securities delivered to the Corporation by the Developer herein shall be held to ensure the provisions of this paragraph are complied with.

