

THE CORPORATION OF THE TOWN OF TECUMSEH

BY-LAW NUMBER 2006-27

Being a by-law to authorize the execution of an Amending Agreement between The Corporation of the Town of Tecumseh, The Windsor Utilities Commission and The Corporation of the City of Windsor

WHEREAS The Windsor Utilities Commission, The Corporation of the Town of Tecumseh and The Corporation of the City of Windsor entered into a Contract dated November 10, 2004, for the purpose of establishing the terms and conditions upon which water would be supplied by the Commission to Tecumseh;

AND WHEREAS the Ministry of the Environment has written a letter dated October 31, 2005, indicating its concerns regarding the firm dates for completion of this joint project;

AND WHEREAS the parties desire to amend the Contract on the terms and conditions set forth in this Amending Agreement to establish dates for the completion of the terms;

AND WHEREAS under Section 5 of the *Municipal Act* 2001, S.O. 2001 c.25, the powers of a municipality shall be exercised by its Council by by-law;

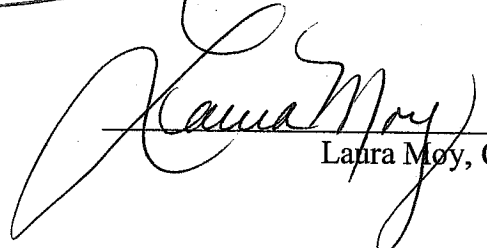
NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF TECUMSEH HEREBY ENACTS AS FOLLOWS:

1. **That** the Mayor and the Clerk be and they are hereby authorized and empowered on behalf of The Corporation of the Town of Tecumseh, to execute an Amending Agreement between The Corporation of the Town of Tecumseh, The Windsor Utilities Commission and The Corporation of the City of Windsor dated the 16th day of January, 2006, a copy of which Amending Agreement is attached hereto and forms part of the by-law and to do such further and other acts which may be necessary to implement the said Amending Agreement.
2. **That** this by-law shall come into force and take effect upon on the date of the third and final reading thereof.

READ a first, second and third time and finally passed this 11th day of April, 2006.

“SEAL”


Gary McNamara, Mayor


Laura Moy, Clerk

This Amending Agreement
dated this 16th day of January, 2006

BETWEEN

THE WINDSOR UTILITIES COMMISSION

“the Commission”

-and-

THE CORPORATION OF THE TOWN OF TECUMSEH

“Tecumseh”

-and-

THE CORPORATION OF THE CITY OF WINDSOR

“Windsor”

WHEREAS the Windsor Utilities Commission, the Corporation of the Town of Tecumseh and The Corporation of the City of Windsor (the “Parties”) entered into the Contract (the “Contract”) dated November 10, 2004 for the purpose of establishing the terms and conditions upon which water would be supplied by the Commission to Tecumseh;

AND WHEREAS the Ministry of the Environment has written a letter dated October 31, 2005 indicating its concerns regarding the firm dates for completion of this joint project;

AND WHEREAS the parties desire to amend the Contract on the terms and conditions set forth in this amending agreement (the “Agreement”) to establish dates for the completion of the terms.

AS SUCH, in consideration of the Parties agreeing to amend their obligations in the existing Contract, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all Parties agree to keep, perform, and fulfill the promises, conditions and agreements as set out below.

Amendments

The Contract is amended as follows:

- a) Article 1, item 1.1 (c) **“Effective Date”** means the date on which the commission first supplies water to Tecumseh in accordance with the provisions of Article 2 hereof, which Effective Date is projected to be no later than the 31st day of March, 2006.
- b) Article 2, item 3 (e) **“Operation of the system within lands annexed by Windsor, currently under Tecumseh control will continue under the current arrangement until connection to the Commission supply system is completed. Final connections are expected to be completed by March 31, 2006.”**
- c) Article 2, item 3 (g) **“The Commission acknowledges that certain metering upgrades, supply piping and pump installation, as set out in Schedule “C” to this Agreement, will be required in the short term to supply Tecumseh and covenants and agrees to proceed with construction and installation of these items in 2005-2006. The Commission also acknowledges that construction of the Banwell Road Reservoir and Booster Pumping Station is required to meet the future servicing needs of Tecumseh and agrees to proceed in 2005 with the Class Environment Assessment, following which the Commission will employ its best efforts to commence construction of this project, for completion prior to the future needs being required.**
- d) Article 2, item 4, **“Effective Date”** **“The parties acknowledge and agree that the Effective date of this Agreement is projected to be the 31st day of March, 2006. The parties undertake and agree to apply all reasonable efforts and energy to fulfill or achieve the Effective date projection. The parties also agree to use their best efforts to prepare and execute the Deactivation Agreement by May 31, 2006 .”**

The following provisions are hereby added immediately following Article 1, Item 14 MISCELLANEOUS (j):

- (k) Provision of bi-monthly joint progress reports to the Ministry beginning November 30, 2005 and continuing until the deadline date of the agreement (January 31, March 31 and May 31, 2006).
- (l) Joint written confirmation to the Ministry by both the Commission and Tecumseh immediately following the deadline date that the connections are in place and water is being delivered to Tecumseh.

- (m) By November 30, 2005, Tecumseh will document amendments to Tecumseh's existing Environmental Study report through consultation with Ministry Environmental Assessment staff and confirm that a Schedule B project is proceeding, with abandonment of the previous proposal.
- (n) Prior to May 31, 2006, Tecumseh will coordinate the decommissioning schedule for the Tecumseh Water Treatment Plant with the City of Windsor and the Windsor Utilities Commission.

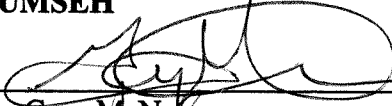
IN WITNESS WHEREOF the parties hereto have hereunder affixed their Corporate Seals duly attested by the hands of their proper respective signing officers duly authorized on their behalf.

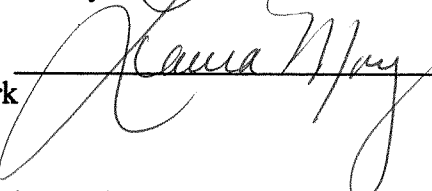
THE WINDSOR UTILITIES COMMISSION

Per: 
 Chairman Eddie Francis

Per: 
 Secretary ~~Jacki Merlo~~ Helga Reidel.

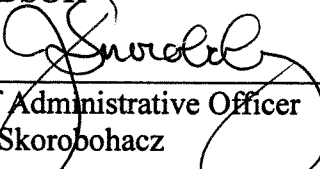
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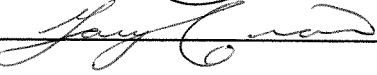
Per: 
 Mayor Gary McNamara

Per: 
 Clerk

In addition to being a party to this Amendment, by executing this Amendment, Consent in accordance with the *Municipal Act, 2001* is hereby granted.

THE CORPORATION OF THE CITY OF WINDSOR

Per: 
 Chief Administrative Officer
 John Skorobohacz

Per: 
 D/Clerk
 Gary Cian

