



The Municipal Corporation of the Town of Fort Erie

By-law No. 119-2016

Being a By-law to Authorize the Entry into an Amending Agreement for the Sale of Lands in the Fort Erie Business Park on the South Side of Commerce Parkway (1956792 Ontario Inc. – Bruce Ward & Scott Marsh)

Whereas By-law No. 89-2016 passed by the Municipal Council of the Town of Fort Erie on July 28th, 2016, authorized the entry into an Agreement of Purchase and Sale (the "Agreement") with 1939555 Ontario for 5 acres of land in the Fort Erie Business Park, and

Whereas By-law No. 89-2016 further authorized the Town Solicitor, or in his absence, the Chief Administrative Officer, to execute all documentation necessary to complete the transaction, and

Whereas the Purchaser subsequently assigned the Agreement to 1956792 Ontario Inc., and

Whereas the location of the 5 acres of land to be sold was changed at the Purchaser's request, and

Whereas the Purchaser requested to extend both the date for "Site Plan Agreement" and "construct and occupy" date by 12 months, as contained in the Right to Re-Conveyance Agreement attached as Schedule "B" to the Agreement, and

Whereas the Municipal Council of the Town of Fort Erie considered the request in a Closed Session Meeting held on October 24, 2016, and approved the request, as well as an extension of the Closing Date to November 9, 2016, and

Whereas it is deemed desirable to enter into an Amending Agreement to effect the extended dates in the Right to Re-Conveyance Agreement, and to amend the legal description and Closing Date;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** the entry into an Amending Agreement with 1956792 Ontario Inc. to amend the terms of the Right to Re-Conveyance Agreement attached as Schedule "B" to the Agreement of Purchase and Sale dated July 29, 2016, the legal description of the 5 acre parcel of land, and the Closing Date, substantially in the form attached hereto as Schedule "A", is authorized and approved.
2. **That** the Chief Administrative Officer, or his designate, is authorized and directed to execute the Amending Agreement and to affix the corporate seal thereto.

3. **That** the Clerk of the Town is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 7th day of November, 2016.

Mayor

Clerk

I, Laura Bubanko, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 119-2016 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

Schedule "A" to By-law No. 119-2016

THIS AMENDING AGREEMENT made this day of November, 2016.

BETWEEN:

1956792 ONTARIO INC.
(hereinafter called the "Purchaser")

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF FORT ERIE
(hereinafter called the "Vendor")

OF THE SECOND PART

WHEREAS:

1. The 1939555 Ontario Inc. and the Vendor entered into an Agreement of Purchase and Sale dated July 29, 2016 (the "Agreement"), wherein 1939555 Ontario Inc. agreed to purchase from the Vendor 5 acres of land in the Fort Erie Business Park, and
2. 1939555 Ontario Inc. assigned its interest in the Agreement to the Purchaser identified above, and
3. The Municipal Council of the Town passed By-law No. 119-2016 on November 7, 2016 to authorize the entry into an Amending Agreement with the Purchaser to amend the terms of the Right to Re-Conveyance Agreement attached as Schedule "B" to the Agreement, the legal description due to a change in the location of the 5 acre parcel of land, and the Closing Date;

NOW THEREFORE in consideration of the mutual covenants contained in the Agreement and this Amending Agreement, and other good and valuable consideration, the parties covenant and agree as follows:

1. The legal description contained in Section 1 of the Agreement is deleted and replaced with the following:

"Part of Lot 6, Concession 5, Niagara River, Bertie, Parts 1, 2 & 3, 59R-15664, Fort Erie, being part of PIN 64238-0100 (LT), and
Part of Lot 6, Concession 5, Niagara River, Bertie, Parts 4, 5 & 6, 59R-15664; Fort Erie, being all of PIN 64238-0066 (LT), and
Part of Lot 6, Concession 5, Niagara River, Bertie, Parts 7, 8 & 9, 59R-15664, all subject to an Easement in favour of The Bell Telephone Company of Canada registered as Instrument Number BE43910".
2. The Closing Date of September 30, 2016 in Section 9 of the Agreement is deleted and replaced with "November 9, 2016".
3. Subsection 3(a) of the Right to Re-Conveyance Agreement attached to the Agreement as Schedule "B" is deleted and replaced with the following:

- “(a) The Purchaser hereby grants to the Town the irrevocable right to a re-conveyance of the entire Property in the event the Purchaser fails to:
- (i) enter into a Site Plan Agreement with the Town for the development of the Property including a 15,000 square foot industrial building for the manufacture of steel framed expanded polystyrene resin (EPS) injected building panels under the Greenstone Structural Solutions trade name, within two (2) years of registration of the Transfer of the Property from the Town to the Purchaser, and which Agreement shall be registered on the title to the Property at the Purchaser’s expense;
OR
 - (ii) construct and occupy the industrial building on the Property within three (3) years of registration of the Transfer of the Property from the Town to the Purchaser.

Notwithstanding the foregoing, the time limits set out in Subsections (i) and (ii) above may be extended to a mutually agreed upon date in the event that it cannot be completed due to circumstances beyond the control of the Purchaser, all of which is at the reasonable discretion of the Town.”

- 4. The Purchaser, as the assignee of the Agreement, covenants and agrees with the Vendor that it is bound by the terms in all respects of the Agreement and this Amending Agreement, as if it were the original Purchaser to the Agreement in place of 1939555 Ontario Inc.
- 5. All other terms and conditions of the Agreement dated July 29, 2016 to remain the same mutatis mutandis.

IN WITNESS WHEREOF the parties have affixed their corporate seals, attested by the hand of its duly authorized officers.

1956792 ONTARIO INC.

Per: _____
Bruce Ward, President

c/s

Per: _____
Scott Marsh, Secretary-Treasurer
We have authority to bind the corporation.

**THE CORPORATION OF THE
TOWN OF FORT ERIE**

Per: _____ c/s
Tom Kuchyt, Chief Administrative Officer
I have authority to bind the corporation.