

STAFF REPORT: Financial & Information Services

REPORT TO: Council

MEETING DATE: Monday, November 9th, 2009

REPORT NO.: FIS.09.60

SUBJECT: 1382491 Ontario Limited Agreement to Authorize Pre-paid Development Charges

PREPARED BY: Elizabeth Thompson, Deputy Treasurer; Darcy Chapman, Capital Accountant

A. Recommendations

THAT Council receive Staff Report FIS.09.60, "1382491 Ontario Limited Agreement to Authorize Pre-paid Development Charges" and authorize the Mayor and Clerk to execute an agreement between 1382491 Ontario Limited and the Town to provide for payment by 1382491 Ontario Limited of the Capital Charges imposed by the Town under By-laws 2009-57 and 2009-58 on the Existing units; and

THAT Council authorize 1382491 Ontario Limited to apply the fully paid Capital Charges for the 26 existing units as pre-paid development charges when the existing unit is permanently removed, for another residential dwelling unit to be constructed on the Lands, in accordance with the agreement.

B. Background

The agreement pertains to the owner, 1382491 Ontario Limited, of Lot 1 and part of Lot 3, Plan 1032, Parts 1 and 2 on Plan 16R-9166 (the Lands), which has been given draft approval for draft plan of condominium. The Development Agreement entered into by 1382491 Ontario Limited provides for the existing residents to connect to the Town water and wastewater system and for 1382491 Ontario Limited to pay the Town for the Capital costs of providing water and wastewater to the existing units. Through By-law 2009-57 and 2009-58, the Town has imposed Capital Charges to 26 existing units within the Lands indicated above. The agreement has been prepared to provide 1382491 Ontario Limited a means to elect to apply the fully paid Capital Charges as pre-paid development charges to future residential dwelling units.

Each existing unit is permitted financing options available under Capital Charges By-law 2009-57 and 2009-58. In accordance with the agreement the existing unit must be permanently removed from the Lands and paid in full prior to the Capital Charge being applied as a pre-paid development charge.

The proposed By-law has been prepared for the Mayor and Clerk to endorse the agreement between 1382491 Ontario Limited Blevins Developments (Cove) Limited and the Town.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Environmental Impacts

N/A

E. Budget Impact

The existing residents within the Lands, and to be developed as Phase 5 under the Development Agreement, have been imposed with a Capital Charge under By-law 2009-57 and 2009-58. Each existing unit has been imposed with an amount pursuant to the Capital Charges By-laws and the Owner will be permitted to apply the fully paid units as pre-paid development charges when developing Phase 5.

F. Attached

1. Agreement between 1382491 Ontario Limited and The Corporation of the Town of The Blue Mountains, proposed for the Mayor and Clerk to endorse.

Respectfully submitted,

Signature

Elizabeth Thompson
Deputy Treasurer, Manager of
Accounting & Budgets

Signature

Darcy Chapman
Capital Accountant

AGREEMENT

Dated September 11, 2009

Between

**1382491 ONTARIO LIMITED
BLEVINS DEVELOPMENTS (COVE) LIMITED (the "Owner")**

and

**THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
(the "Town")**

Recitals

- (a) The Owner is the owner of Lot 1 and part of Lot 3, Plan 1032, designated as Parts 1 and 2 on Plan 16R-9166 (the "Lands") and has been given draft approval for draft plan of condominium 42CDM-2006-11, as revised (the "Draft Plan"); and
- (b) The Parties entered into a Development Agreement dated May 5, 2008 (the "Development Agreement") which provides for the development of the Lands in phases in accordance with the Draft Plan; and
- (c) The Owner, as required by the Development Agreement, has connected the Existing Units to the Town's sewage system and water system and the Development Agreement requires the Owner to remunerate the Town for the capital cost of providing sewer and water service to the Existing Units; and
- (d) The purpose of the By-laws is to provide for the payment on a per unit basis of a portion of the capital costs of the Town's sewage system and water system required to provide sewer and water service to the Existing Units

The Parties agree with each other as follows:

1. Recitals and Definitions

The parties agree that the recitals are true.

In this Agreement, including the recitals:

"By-laws" means By-law 2009 - 57 and By-law 2009 -58

"Capital Charges" means the Capital Sewer Charges and the Capital Water Charges;

"Capital Sewer Charges" means the capital sewer charges imposed on the Owner for 26 residential dwelling units by By- law 2009 - 58 enacted by the Town on August 11th, 2009;

"Capital Water Charges" means the capital waters charges imposed on the Owner for 26 residential dwelling units by By- law 2009 - 57 enacted by the Town on August 11th, 2009;

"Existing Unit" means an existing residential dwelling unit, be it a recreational vehicle, park model trailer or mobile home, situate, pursuant to a land lease, on that part of the Lands to be developed as Phase 5:

"Parties" mean the Owner and the Town;

Unless the context otherwise requires words importing the singular includes the plural and vice versa and words importing a gender include all genders and all other capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in this Agreement.

2. Purpose

The purpose of this Agreement is to provide for the payment by the Owner of the Capital Charges imposed by the Town on the Owner for 26 Existing Units in accordance with the By-laws passed by the Town pursuant to the Municipal Act, 2001, as amended, and to permit the Owner to elect, upon an Existing Unit being permanently removed from the Lands and when payment in full of the Capital Charges for that unit has been made, to apply the fully paid Capital Charges for that unit as pre-paid development charges for another residential dwelling unit to be constructed on the Lands.

3. Payment of the Capital Charges

The owner agrees to pay the Capital Charges imposed by the By-laws for 26 Existing Units in accordance with the provisions of the By-laws and the Parties acknowledge that the Owner may elect to pay the Capital Charges in accordance with the payment option set out in the By-laws. If an Existing Unit for which the Owner has elected to pay the Capital Charges in accordance with the payment option set out in the By-laws is permanently removed from the Lands the Owner shall continue to pay the Capital charges for that unit in accordance with the payment option until the Capital Charges for that unit are paid in full.

4. Prepaid Development Charges

- (a) The Parties acknowledge that this Agreement is also an agreement within the meaning of section 27 of the Development Charges Act, 1997, S.O. 1997, c.27 as amended (the "Act").
- (b) The Parties agree that, provided that the Capital Charges for an Existing Unit have been paid in full and that Existing Unit has been permanently removed from the Lands, the Capital Charges paid for that Existing Unit are a prepayment pursuant to section 27 of the Act of the development charges otherwise payable by the Owner under By-law 2009 -56 or any successor or replacement by-law thereto and a prepayment of the development charges for the Thornbury Sewage Treatment Plant and Town Wide Water Supply service categories otherwise payable by the Owner under By-law 2005 - 27 or any successor or replacement by-law thereto for one residential dwelling unit to be constructed on the Lands.
- (c) The Owner acknowledges and agrees that the development charges for the service categories other than the Thornbury Sewage Treatment Plant and Town Wide Water Supply service categories payable under By-law 2005 - 27 or any successor or replacement by-law thereto shall be paid in accordance with the requirements of the development charges by-law in force at the time of payment.

5. Successors and Assigns

This Agreement shall be binding on the Parties and their successors and assigns.

Signed and Sealed

1382491 ONTARIO LIMITED

Per J. Kitchen

Name Jill Kitchen

Title President

I have authority to bind the corporation

BLEVINS DEVELOPMENTS (COVE) LIMITED

Per J. Blevins

Name Jim Blevins

Title President

I have authority to bind the corporation

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

Ellen Anderson - Mayor

Stephen Keast - Clerk

JK