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**THE CORPORATION OF THE TOWNSHIP OF ESSA**

**BY-LAW 2010 - 02**

**A By-law authorizing the Mayor and the Clerk to enter into an Agreement with Brookvalley Developments (Angus) Ltd. to plow and maintain the roads within the Subdivision – located at Part of the West Half of Lot 31 Concession 4, Plan 51M-935.**

WHEREAS a Subdivision is being developed on Part of the West Half Lot 31 Concession 4 in the Township of Essa, in the County of Simcoe, being the lands registered as Plan No. 51M-935; and

WHEREAS pending completion of the work that will be required under the Subdivision Agreement and the assumption of the roads by the Township, the Owner wishes to have the roads within the Subdivision plowed, sanded and maintained by the Township during the winter; and

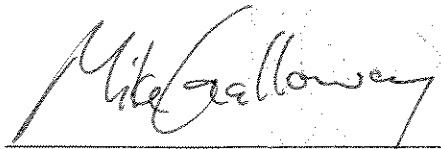
WHEREAS the Council of the Corporation of the Township of Essa deems it advisable to enter into an Agreement with Brookvalley Developments (Angus) Ltd. to provide this service on a charge back basis;

NOW THEREFORE the Council of the Corporation of the Township of Essa enacts as follows:

1. That the Agreement attached hereto and forming part of this By-law is hereby approved by Council.
2. The Mayor and Clerk are hereby authorized to execute the subject Agreement.
3. That this By-law shall come into force and take effect upon final passing thereof.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this Twentieth day of January, 2010.

  
 \_\_\_\_\_  
 David Guergis, Mayor

  
 \_\_\_\_\_  
 Mike Galloway, Clerk

10a

THIS AGREEMENT made in triplicate the 14<sup>th</sup> day of December, 2009

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF ESSA  
(Hereinafter called "Essa")

- and -

BROOKVALLEY DEVELOPMENTS (ANGUS) LTD.  
(Riverview Subdivision Phase 2)  
(Hereinafter called the "Developer")

WHEREAS the Developer is developing a subdivision on Part of the West Half of Lot 31, Concession 4, in the Township of Essa, in the County of Simcoe, being the lands registered as Plan No. 51M-935;

AND WHEREAS the Developer and Essa have entered into a Subdivision Agreement for the subject lands;

AND WHEREAS pending entering into and the completion of the Subdivision Agreement and the assumption of the roads within the subdivision by Essa, the Developer wishes to have the roads within the subdivision plowed and maintained for reasonable passage during winter;

NOW THEREFORE, the parties hereto in consideration of the mutual covenants and promises expressed herein agree as follows:

1. Essa shall maintain regular snow plowing operations in the subdivision together with sanding, salting, and other routine winter maintenance operations, until the roads within the subdivision are assumed by Essa.
2. Winter maintenance conducted by Essa shall not include any road repair, curb maintenance, or similar work and is intended to be solely for the purpose of providing passage through winter snow and ice conditions.
3. The Developer shall indemnify Essa for all claims against Essa arising out of the winter maintenance operations conducted by Essa or the non-performance of winter operations conducted by Essa within the said subdivision.
4. No liability shall accrue to Essa for any failure to plow, sand, salt, or otherwise provide winter maintenance to the roads covered by this Agreement.
5. The Developer shall maintain the roads free and clear of its own vehicles, equipment and machinery and that of its agents, contractors and representatives, so as to allow safe passage to all road maintenance equipment (including graders, trucks and tractors) used by Essa in performing winter maintenance.
6. The Developer shall assist Essa in obtaining the co-operation of residents of the subdivision in removing vehicles and other obstructions from the streets during maintenance operations.
7. The Developer shall forthwith remove, from any of the roads covered by this Agreement, any obstruction that the CAO/Manager of Public Works and/or the Roads Supervisor of Essa considers necessary for safe passage of the winter maintenance vehicles.

64

10a

- 8. This Agreement may be terminated by Essa at any time without notice.
- 9. This Agreement may be registered against the lands owned by the Developer and against the roads and streets in the said development.
- 10. This Agreement covers only the road(s) named as Blanchard Crescent, Mount Crescent, Lions Court and Latimer Avenue.
- 11. The Developer agrees to pay to the Corporation of the Township of Essa, its charges for performing the said winter maintenance and agrees to pay the invoices of Essa in accordance with their terms.
- 12. Essa agrees that it will charge a reasonable charge based on its costs and the costs of winter maintenance charged to other Developers in the Township of Essa.
- 13. It is agreed by the parties that any invoice not paid by the Developer may be paid from any security deposits held by Essa pursuant to the aforementioned Subdivision Agreement or any amendment thereto. The Developer hereby agrees and authorizes Essa to apply any charges arising out of this Agreement against the said security deposit.
- 14. It is agreed by the parties that Essa shall not be held responsible for any damages that may occur to the streets such as, but not limited to curbs, manholes, pavement, utilities, etc., as a result of any winter maintenance operations being carried out in this subdivision by the Township.
- 15. This agreement shall be binding upon the successors and assigns of the parties hereto.

IN WITNESSETH WHEREOF the parties have hereunto set their corporate seals duly attested to by their proper signing officer in that behalf.

DATED at Essa this 20 day of January, <sup>2010</sup>~~2009~~.

**BROOKVALLEY DEVELOPMENTS (ANGUS) LTD.**

Per: [Signature]

*I have the authority to bind the Corporation*

**THE CORPORATION OF THE TOWNSHIP OF ESSA**

[Signature: David Guergis]

David Guergis - Mayor

[Signature: Mike Galloway]

Mike Galloway - Clerk

65