

The Corporation of the Municipality of Brockton



By-Law 2021-124

Being a By-Law to Authorize the Signing of an Agreement With Barry's Construction and Insulation Ltd. for the Purpose of Entering into an Payment Extension Agreement for the Proposed Subdivision in the Municipality of Brockton.

Whereas Section 9 of the *Municipal Act, 2001, S.O. 2001, c 25*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

And Whereas Section 11 of the *Municipal Act, 2001, S.O. 2001, c 25*, as amended, provides that Sections 10 and 11 shall be interpreted broadly so as to confer broad authority on Municipalities to enable municipalities to govern their affairs as they consider appropriate

And Whereas the Council for the Corporation of the Municipality of Brockton entered into a Payment Extension Agreement with Barry's Construction and Insulation Ltd. for the proposed subdivision in the Municipality of Brockton on September 8, 2020 as per By-Law 2020-100;

And Whereas the Council for the Corporation of the Municipality of Brockton deems it expedient to enter into new Agreement with Barry's Construction and Insulation Ltd. with respect to entering into a Payment Extension Agreement for the proposed subdivision in the Municipality of Brockton;

Now Therefore the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That The Corporation of the Municipality of Brockton Council hereby enter into a Payment Extension Agreement with Barry's Construction and Insulation Ltd. which is attached as "Schedule A" which is attached and forms part of this By-Law.
- 2.0 The execution by the Mayor and Clerk, between the Corporation of the Municipality of Brockton and Barry's Construction and Insulation Ltd. is hereby authorized, ratified, and confirmed.
- 3.0 That By-Law 2020-100 be hereby superseded and replaced by this By-Law.
- 4.0 This By-Law shall come into full force and effect upon final passage.
- 5.0 This By-Law may be cited as the "Barry's Construction and Insulation Ltd. Payment Extension Agreement By-Law".

Read, Enacted, Signed and Sealed this 14th day of September, 2021.

Mayor – Chris Peabody

Clerk – Fiona Hamilton

PAYMENT EXTENSION AGREEMENT

THIS PAYMENT EXTENSION AGREEMENT is made as of the _____ day of September, 2021,

BETWEEN:

BARRY'S CONSTRUCTION AND INSULATION LTD.
(hereinafter referred to as "Barry's")

OF THE FIRST PART

-and-

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON
(hereinafter referred to as "Brockton")

OF THE SECOND PART

WHEREAS Barry's and Brockton executed an Agreement dated April 5, 2013 (the "2013 Agreement"), a copy of which is attached hereto and marked as **Schedule "A"**; and amended that Agreement (the "2018 Amending Agreement"), a copy of which is attached hereto and marked as Schedule "B";

AND WHEREAS Section 12 of the **2018 Amending Agreement** specified that that Barry's would be required to pay Brockton the sum of \$10,000.00 if it was required to request an additional extension from the Corporation of the County of Bruce of the September 12, 2020 draft approval deadline;

AND WHEREAS Barry's and Brockton entered into a Payment Extension Agreement dated September 8, 2020 (the "**2020 Payment Extension Agreement**");

AND WHEREAS Barry's has shown good faith by submitting an Application for a red-line revision to the Draft Plan of Subdivision that was received by the Corporation of the County of Bruce on August 6, 2020, and filed an application to extend the lapsing date for Draft Plan of Subdivision 41T-89008 and has been in communication with the municipal engineers to coordinate the design details for the redlined revision of the red line revision;

AND WHEREAS the Covid-19 pandemic resulted in extensive shutdowns and logistical challenges that impacted Barry's ability to submit the Application for a red-line revision and extension to the lapsing date prior to that time;

AND WHEREAS the parties, by this agreement, wish to outline their mutual understanding of the obligations of each party with respect to the \$10,000.00 payment described above:

NOW THEREFORE in consideration of the terms, conditions and mutual covenants contained herein set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the parties. The parties hereby covenant and agree as follows:

1. Brockton does hereby agree to extend the date specified in the **2018 Amending Agreement** by which Barry's must obtain draft approval of the Plan of Subdivision to be September 12, 2022 and that all references to September 12, 2020 shall be extended to September 12, 2022.
2. The parties agree that paragraph 12 of the **2018 Amending Agreement** shall be amended such that Barry's shall pay to Brockton the sum of \$10,00.00 should

Barry's be required to request an additional extension from the Corporation of the County of Bruce for draft plan approval beyond September 12, 2022, unless Brockton Council, by resolution, agrees to wave this payment.

- 3. The parties acknowledge and agree that the **2013 Agreement**, save and except for the amendments referred to in the **2018 Amending Agreement** which has subsequently been amended by this the **2021 Payment Extension Agreement** shall remain in full force and effect and if there is conflict between this **2021 Payment Extension Agreement** and the **2013 Agreement** or the **2018 Amending Agreement**, the terms of this **2021 Payment Extension Agreement** will prevail.
- 4. The parties acknowledge and agree that the **2020 Payment Extension Agreement** shall be superseded and replaced by this **2021 Payment Extension Agreement**.
- 5. This **2021 Payment Extension Agreement** shall be governed by, and be construed and interpreted in accordance with, the laws of Ontario and the laws of Canada applicable in Ontario.
- 6. This **2021 Payment Extension Agreement** may be executed by facsimile or PDF transmission and in one or more counterparts, all of which shall be considered one and the same Agreement.
- 7. This **2021 Payment Extension Agreement** and the rights granted hereunder shall extend to, benefit and bind the parties hereto, their respective successors and permitted assigns.

The Parties have, by their duly authorized representatives who each have the authority to bind the Parties, executed this **2021 Payment Extension Agreement** on the Date referred to herein.

BARRY'S CONSTRUCTION AND INSULATION LTD.

Per: 
Name: Barry Kruisselbrink
Title: President

I have authority to bind the Corporation.

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

Per: _____
Chris Peabody – Mayor

Authorized by By-Law _____
passed the _____ day of _____
_____ 2021.

Per: _____
Fiona Hamilton – Clerk

We have authority to bind the Corporation