

Corporation of the Municipality of West Grey

By-law Number 36 - 2016

Being a By-law to authorize the Mayor and CAO/Deputy Clerk to enter into a Development Agreement between the Municipality of West Grey and Cedarwell Excavating Ltd.;

Whereas the Council of the Municipality of West Grey deems it necessary and in the public interest to enter into a Development Agreement with the aforementioned property owner, being the owner of the property described as LT 24 CON 2 NDR BENTINCK; S/T GS100247, GS37319; SUBJECT TO AN EASEMENT IN GROSS OVER PT 2 16R9566; MUNICIPALITY OF WEST GREY; now being PIN 37200-0081 (LT);

Now therefore the Council of the Corporation of the Municipality of West Grey hereby enacts as follows:

1. **That** the Mayor and CAO/Deputy Clerk are hereby authorized to sign a Development Agreement with 2098554 Ontario Inc., a copy of which is attached hereto as Schedule "A", and is hereby declared to form part of this by-law.
2. **That** this by-law shall come into force and take effect on the date of its final passing.

* * * * *

Read a first and second time this 18th day of April, 2016.

Read a third time and finally passed this 18th day of April, 2016.

(Signed)
Kevin Eccles, Mayor

(Signed)
Larry Adams, CAO/Deputy Clerk

Schedule "A" to By-law Number 36 - 2016

Municipality of



2098554 Ontario Inc. (Cedarwell Excavating)
Gravel Pit
Development Agreement

Development Agreement

Between

2098554 Ontario Inc.
(Hereinafter referred to as the "Owner")
Being the Party of the FIRST PART

-And-

The Corporation of the Municipality of West Grey
(Hereinafter referred to as the "Municipality")
Being the Party of the THIRD PART

This agreement made in quadruplicate this 18th day of April, 2016.

Whereas the parcel affected by this Agreement is more particularly described as being LT 24 CON 2 NDR BENTINCK; S/T GS100247, GS37319; SUBJECT TO AN EASEMENT IN GROSS OVER PT 2 16R9566; MUNICIPALITY OF WEST GREY; now being PIN 37200-0081 (LT) (the "Subject Lands");

And whereas the *Planning Act* under Section 41(7)(c) enables a local municipality to require the owner to enter into one or more agreements;

And whereas the Municipality of West Grey also deems it necessary for the Owner to enter into a Development Agreement with the Municipality;

Now therefore this Agreement witnesseth that in consideration of the mutual covenants hereinafter contained, the parties hereto hereby covenant and agree as follows:

1. Covenants By The Owner

The Owner covenants and agrees as follows:

- a) The Owner is the registered owner of the subject lands described herein.
- b) Upon application to the Municipality for the preparation of this Agreement, the Owner shall deposit with the Municipality the sum of Five Thousand Dollars (\$5,000.00). The Owner agrees to pay the Municipality the cost of the Municipality's Planner, Lawyer and Engineer for all costs involved in the processing of the Development Agreement, for checking of Plans and specifications, and for supervision and inspection on behalf of the Municipality. As accounts are received from the Municipality's Planner, Lawyer and Engineer, they will be paid by the Municipality and then submitted to the Owner for reimbursement, so that the \$5,000.00 initial deposit will again be built up to enable the Municipality to pay the next accounts as they are received.
- c) This Agreement shall be registered against title to these subject lands, at the expense of the Owner, and shall take priority over any subsequent registrations against the title to the subject lands.
- d) That this Agreement shall be binding on the Owner and from time to time, its successors and assigns, including, without limitation, any subsequent chargee/mortgagee;

- e) The Owner shall obtain all necessary approvals to carry on an aggregate extraction operation on the Subject Lands from the Municipality and from all Ministries and Agencies.
- f) That all operations on the Subject Lands will occur in accordance with the Class 'A' Aggregate License, and the following plans:
 - Existing Features (August 18, 2015)
 - Operational Plan (August 18, 2015)
 - Progressive Rehabilitation and Final Rehabilitation Plans (August 18, 2015)All as prepared by William Bradshaw, P. Eng., all as annexed hereto as Schedules "B", "C" and "D", respectively.
- g) Hours of operation are to be from 7 am to 6 pm, Monday through Friday. Loading and shipping may occur on Saturdays between 8 am and noon. There will be no extractive operations or processing of materials on Saturdays, Sundays or statutory holidays.
- h) The maximum amount of disturbed land at any given time shall be limited to 50% of the licensed area (3.6 hectares).
- i) That access to and from the licensed site shall be from the existing operational pit to the west (Hanover Pit A). The haul route is west on Concession Road 2 to Grey County Road 28 County.
- j) Cedarwell Excavating Ltd. owns and operates Hanover Pit A to the west. The remaining resource in Hanover Pit A is approximately 5.5 million tonnes. Hanover Pit B contains approximately 2 million tonnes of resource. The applicant may excavate the equivalent of the tonnes remaining in Hanover Pit A (5.5 million tonnes) and this amount may be extracted from Hanover Pit A or between the Hanover Pit A and Hanover Pit B. Six months prior to the remaining resource being reduced to 2 million tonnes between Hanover Pit A and Hanover Pit B, the applicant will complete the required Road Assessment Study (by a professional engineer) to the satisfaction of the County of Grey and the Municipality of West Grey, however, the Municipality of West Grey, at its sole discretion, may opt to accept cash payment in lieu for the equivalent cost of the Road Assessment Study for Concession 2 NDR Road only. Cedarwell Excavating Ltd. shall only be financially responsible for any road impacts from Hanover Pit B, based on the tonnes being hauled and not for other road user's impacts or existing road deficiencies, as determined by the Road Assessment Study.
- k) The Owner covenants and agrees with the Municipality on behalf of itself, its successors and assignees, to indemnify and save harmless the Municipality, its servants and agents from and against any and all actions, suits, claims and demands whatsoever, which may arise either directly or indirectly by reason of any work performed. The Owner further covenants and agrees to release and forever discharge the Municipality from and against all claims, demands, causes of actions, of every nature and type whatsoever that may arise either as a result of the failure of the Municipality to carry out any of its obligations under this Agreement, or as a result of the Municipality performing any municipal work on the Subject Lands or the adjacent properties which may damage or interfere with the works of the Owner.
- l) The Owner agrees that this Agreement shall become null and void if the Municipality fails to pass the zoning by-law amendment on the Subject Lands to allow the extraction of aggregate.

5. Enforceability of Agreement

It is understood and agreed that the Owner shall not call into question, directly or indirectly, in any proceeding whatsoever, in law or in equity, or before any administrative tribunal, the right of the Municipality to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this Agreement may be pleaded as an estoppel against the Owner by the Municipality in any such proceeding.

6. Registration

The Owner hereby agrees that this Agreement shall be registered on the title of the lands described in this Agreement at the expense of the Owner and shall be binding on the successors and assigns of the Owner. As provided in Section 1(b), the Owner agrees to pay the Municipality's reasonable legal costs incurred by it in connection with the preparation and registration of this Agreement. Schedules "A", "B", "C" and "D" are attached hereto and form part of this Agreement.

In witness whereof the parties hereto have executed this Agreement and have hereunto caused to be affixed the corporate seals, duly attested to by the proper signing officers.

Signed, sealed and delivered this 18th day of April, 2016.

In witness thereof the parties hereto have executed this Agreement.

Signed, sealed and delivered

in the presence of

) **2098554 Ontario Inc.**

)

) Per: _____

) Joerg Weller, President

) I have authority to bind the Corporation.

**The Corporation of the
Municipality of West Grey**

)

) Per: _____

) Kevin Eccles

) Mayor

)

) Per _____

) Larry C. Adams

) CAO/Deputy Clerk

) We have authority to bind the Corporation

Schedule "A" to By-law Number 36 - 2016

Description of Lands

In the Municipality of West Grey (formerly in the Township of Bentinck)
being composed of:

LT 24 CON 2 NDR BENTINCK; S/T GS100247, GS37319; SUBJECT TO AN
EASEMENT IN GROSS OVER PT 2 16R9566; MUNICIPALITY OF WEST GREY;
Being PIN 37200-0081 (LT);

Also identified as 42-05-280-005-22600

Schedule "B" to By-law Number 36 - 2016

**Existing Features Plan
(August 18, 2015)**

**The Existing Features Plan dated August 18, 2015
is contained within the property file at the
Municipal Office of the Municipality of West Grey.**

Schedule "C" to By-law Number 36 - 2016

**Operational Plan
(August 18, 2015)**

**The Operational Plan dated August 18, 2015
is contained within the property file at the
Municipal Office of the Municipality of West Grey.**

Schedule "D" to By-law Number 36 - 2016

**Progressive Rehabilitation and Final Rehabilitation Plans
(August 18, 2015)**

**The Progressive Rehabilitation and Final Rehabilitation Plans
dated August 18, 2015
is contained within the property file at the
Municipal Office of the Municipality of West Grey.**