

Staff Report to Council

Title: The Lindston Group Inc. -
subdivision

Report Number: Development Services-2023-
33

Director: Infrastructure &
Development

Manager: Development Services

Meeting Date:
Wednesday, October 11, 2023

Date to be considered by Council:
Wednesday, October 11, 2023

Recommendation:

That Council direct staff to execute the indemnification agreement with the Lindston Group Inc.

Executive Summary:

The Lindston Group Inc. and the Municipality have entered into an agreement for the construction of a subdivision off Golf Links Road in Kincardine. A component of the agreement requires the developer to post securities. The developer has successfully sought out a lending institution who requires the Municipality to confirm we will return securities directly back to them until all security has been returned. As the loan is between the lender and the developer, the Municipality has included an indemnification agreement to ensure our interests are covered. Staff are asking Council to support the ratification of this agreement between the parties.

Strategic Priorities:

A.2-Improve investment readiness

Financial Considerations:

There are no costs incurred by the Municipality, all costs vest with the developer.

Policy:

N/A

Context and Background Information:

As part of a subdivision agreement a developer is required to post securities for on-site and off-site works to ensure the Municipality has funds to draw from should the development be incomplete. The developer has secured a lending institution who requires the Municipality to confirm we will return all securities directly to them until their security has been released in full.

As this is different arrangement that is being sought by the developer, Staff reviewed the request and consulted with legal. The advice from the legal team that was received is to enter into an indemnification agreement to protect our interests. This agreement indicates clearly that should there be a default or issue between the lender and the developer that those issues are to be resolved privately and that our responsibility is to return the lender their security deposit.

Consultation Overview:

Staff have reviewed the request with legal Counsel. Through that review the indemnification agreement was advised to protect our interests. Legal has no concerns with the lending proposal presented by the developer otherwise.

Origin:

Development agreement

Implementation Considerations:

By approving the agreement, it will allow the developer to secure their financial securities and to commence with the development. By adding the indemnification agreement, the Municipality's concerns are addressed should there be a dispute between the developer and lending institution.

Risk Analysis:

Without the indemnification agreement, should the developer default and dispute arise between the lender and the developer, there is concern that the Municipality could be drawn into the dispute. By including the indemnification agreement, we will be removing ourselves of this concern.

Attachments:

Indemnification Agreement

Prepared by: Adam Weishar, Director of Infrastructure & Development

Submitted by: Adam Weishar, Director of Infrastructure & Development