

Report TR-TAPS-49-15

To: Chair Barfoot and Members of the Transportation and Public Safety Committee
From: M.J. Kelly, Director
Meeting Date: May 21, 2015
Subject: Wayfinding Sign Tab Agreement with Blue Mountain Resorts
Status: Recommendation adopted by Committee as presented per Resolution TAPS78-15; Endorsed by County Council June 2, 2015 per Resolution CC79-15;

Recommendation(s)

WHEREAS wayfinding signs providing information to Blue Mountain Resorts' visitors were installed on Grey Road 19 a number of years ago;

AND WHEREAS Blue Mountain Resorts was given permission to install tabs on these signs providing information and directions to annual events;

AND WHEREAS the County requires third parties to sign an agreement when completing work on the County right-of-way to ensure that the applicable work is completed in a manner suitable to the County and has regard for safety, sign specifications and other conditions as required;

NOW THEREFORE BE IT RESOLVED THAT Report TR-TAPS-49-15 regarding an agreement between the Blue Mountain Resorts and Grey County for the installation of wayfinding sign tabs be received;

AND THAT the Warden and Clerk be authorized to execute an agreement between Grey County and the Blue Mountain Resorts to install way finding signs.

Background

Approximately ten (10) years ago, Blue Mountain Resorts purchased eleven (11) way finding signs from Grey County. Grey County installed these signs on Grey Road 19 in the vicinity of Blue Mountain Resorts. These signs provide information to Blue Mountain Resorts visitors. In addition, Grey County provided verbal permission at the time for Blue Mountain Resorts to place tabs on these signs to advertise and provide directions

for annual events such as the “Turkey Tent Event”. Three (3) years ago, a formal agreement was established identifying each party’s responsibilities and requirements. Through the Delegation of Duties Policy, it was determined that this agreement be executed by the Warden and Clerk.

For legal, safety and insurance permits, the County has an agreement with third parties wishing to undertake work on its right-of-way.

Financial / Staffing / Legal / Information Technology Considerations

There was some legal cost to review this agreement. The agreement defines the work to be completed and each party’s responsibilities for such items as insurance, safety, indemnification and traffic management.

Link to Strategic Goals / Priorities

5.2 Collaborate with public, stakeholders and governments to improve delivery of county services.

Attachment

Blue Mountain Resort LP (BMR) Wayfinding Signs Agreement

Respectfully submitted by,

M.J. Kelly
Director of Transportation Services

THIS AGREEMENT made this _____ day of _____, 20____

between:

The Corporation of the County of Grey

a municipality within the meaning of the Municipal Act, 2001 (hereinafter referred to in this Agreement as “the County”),

-And-

Blue Mountain Resorts Limited Partnership

(hereinafter referred to in this Agreement as “BMR”);

WHEREAS BMR wishes to install certain event wayfinding sign tabs (the “Signs”) at specific locations along certain County roads, and the County wishes to allow BMR to do so;

NOW THEREFORE in consideration of the mutual terms and covenants herein contained, the parties covenant and agree as follows:

1.0 Definitions

- 1.1 “Agreement” means this agreement and its appending schedules.
- 1.2 “Plan” means the Event Wayfinding Signage Plan submitted by BMR and attached hereto as Schedule “B”.
- 1.3 “Schedule “A”” means a map showing the area and the existing BMR signage on County and municipal roads in the area, plus illustrations of the existing signage.
- 1.4 “Schedule “B”” means the 2015 Event Wayfinding Signage Plan submitted by BMR.
- 1.5 “Schedule “C”” means the template for the Signs.
- 1.6 “Sign(s)” means a certain event wayfinding sign tab(s) that BMR will place along certain County roads according to the terms of this Agreement.

2.0 Term

- 2.1 This Agreement shall be effective as of the date of execution and run for a period of five (5) years (the “Term”).
- 2.2 The Agreement shall be automatically renewed for successive periods of one (1) year each, unless one party gives to the other at least sixty (60) days’

written notice prior to the end of the Term or any renewal period thereof, of its wish to negotiate a new Agreement, or if the Agreement is terminated as per the terms in Section 8.0.

3.0 Responsibilities of BMR

- 3.1 BMR shall annually submit an updated Schedule "B" by January 1st and updated Schedules "A" and "C" as changes occur for approval by the County.
- 3.2 BMR agrees that the Signs will contain no branding associated with the subject event. In addition, the "Signs" will have a blue border with a white background and blue text. The name of each event will be accompanied with the relevant entrance number. The sign size and lettering shall conform to Schedule C, or be approved at the discretion of the County's Transportation Services Director.
- 3.3 BMR will be responsible for installing and removing the Signs in accordance with the Plan. The Signs shall be installed underneath C1, C4, C5, C7, C9, and/or C13 noted in the Plan.
- 3.4 No Sign shall be installed more than twenty-four (24) hours before any event. All Signs shall be removed within twenty-four (24) hours following each event or on the Monday immediately following a weekend event.
- 3.5 BMR will ensure that traffic control and related signage is performed in accordance with the Ontario Traffic Manual Book 7 Temporary Conditions.
- 3.6 BMR shall not close any portion of the County road.
- 3.7 BMR shall repair all damage related to its work activity under this Agreement to current County standards. All road repairs will be the financial responsibility of BMR.
- 3.8 BMR is responsible for obtaining all approvals necessary for its works under this Agreement, which may include the utilities, local municipalities, Ministry of Natural Resources, local conservation authorities, etc. Further, BMR will submit all such permits required and obtained to the County.
- 3.9 BMR shall obtain approval in writing from the Grey County Transportation Services Department for all changes and/or deviations from the terms of this Agreement prior to such work taking place.
- 3.10 BMR will contact the County for approval at least one (1) week before BMR wishes to begin any work on the County road(s) under this Agreement.

- 3.11 It is understood that all works will be constructed, altered, maintained or operated at the expense of BMR and that the work must not begin before this Agreement is executed.
- 3.12 At the sole discretion of the County, if any Sign(s) is causing a safety concern, BMR shall remove the Sign(s) immediately upon being so notified.
- 3.13 This Agreement does not relieve BMR of the responsibility to comply with relevant municipal by-laws, provincial or federal laws.

4.0 Responsibilities of the County

- 4.1 The County shall review the terms of this Agreement to ensure compliance throughout the Term of the Agreement and any renewal periods thereof.

5.0 Indemnification

- 5.1 BMR shall indemnify and hold harmless the County, its officers and employees from and against any and all liabilities, claims, demands, loss, cost, damages, expenses, actions, suits or other proceedings by whomsoever made, directly or indirectly arising out of the project attributable to bodily injury, sickness, disease or death or to damage to or destruction of tangible property caused by any acts or omissions of BMR, its officers, agents, servants, employees, customers, invitees or licensees, and/or in any way related to and/or as a result of activities under this Agreement.

6.0 Insurance

- 6.1 BMR shall, at its expense, obtain and keep in force during the Term of this Agreement, Commercial General Liability Insurance satisfactory to the County, including the following and underwritten by an insurer licensed to conduct business in the Province of Ontario:
 - a) A limit of liability of not less than \$5,000,000/occurrence.
 - b) The County shall be named as an additional insured;
 - c) The policy shall contain a provision for cross liability in respect of the named insured and severability of interests;
 - d) Non-owned automobile coverage with a limit of at least \$2,000,000 including SEF 96 (contractual liability);
 - e) Products and completed operations coverage with an aggregate limit not less than \$5,000,000;
 - f) That 30 days' prior notice of an alteration, cancellation or material change in policy terms which reduces coverage shall be given in writing to the County.

- 6.2 BMR shall also obtain and keep in force, during the Term of this Agreement, automobile insurance under a standard automobile policy with limits of no less than \$2,000,000 in respect of each owned or leased vehicle.
- 6.3 BMR shall, on its own behalf, provide a certificate of insurance annually to the County as proof of the coverage required under this Agreement.

7.0 Health and Safety, WSIB

- 7.1 BMR confirms that it has Health and Safety policies and procedures in place with respect to the performance of the specific services which it is responsible to perform under this Agreement, and agrees to provide those policies and procedures to the County upon request.
- 7.2 BMR is responsible for all costs associated with its workplace accidents and all premiums or assessments owing to the Workplace Safety and Insurance Board (WSIB), or insurance company if applicable for its own employees. BMR shall, throughout the Term of the Agreement, provide the County with evidence of coverage for itself, its employees, subcontractors and subcontractors' employees under the Workplace Safety and Insurance Act or insurance policy.
- 7.3 BMR shall comply with the Occupational Health and Safety Act (Ontario), the Workplace Safety and Insurance Act (Ontario), the Human Rights Act (Ontario), and applicable regulations under such legislation as well as the County's workplace health and safety policies and all other legal obligations with respect to worker health, safety and treatment and BMR hereby agrees to indemnify and hold the County, its elected officials, officers, employees, representatives and agents harmless from and against any and all liabilities, claims, demands, suits, losses, fines, surcharges, damages, costs and expenses (including legal fees and disbursements) arising out of BMR's failure to comply with such laws, regulations, policies and obligations.

8.0 Termination

- 8.1 Either party may terminate this Agreement upon giving to the other sixty (60) days' written notice of intention to terminate.
- 8.2 In addition to section 8.1, the County may terminate this Agreement without notice in the event of the breach of any provision herein by BMR.

9.0 Notice

- 9.1 Any notice required to be given, served or delivered must be in writing and sent to the other party at the address indicated below, or to such other address as may be designated by notice provided by either party to the other.

For the County:

County Clerk
County of Grey Administration Building
595 9th Avenue East
Owen Sound, ON N4K 3E3
Fax Number: 519-376-8998
Email: countyclerk@grey.ca

For BMR:

Alvin Weatherall, Vice-President, Mountain Operations
Blue Mountain Resorts Limited Partnership
190 Gord Canning Drive
Blue Mountains, ON L9Y 3Z2
Phone Number: 705-445-0231 ext.6601
Fax Number: 705-445-8437
Email: aweatherall@bluemountain.ca

- a) Any notice to be given by either party to the other shall, in the absence of proof to the contrary, be deemed to have been received by the addressee if
- b) delivered personally on a business day, then on the day of delivery;
- c) sent by prepaid registered post, then on the second day following the registration thereof;
- d) sent by ordinary mail, then on the fifth business day following the date on which it was mailed; or
- e) sent by facsimile or email, upon confirmation of successful transmission of the notice.

10.0 Force Majeure

- 10.1 The County shall not be held responsible for any damages or delays as a result of war, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, human health emergency, strikes and generally as a result of any event that is beyond the reasonable control of the County.

11.0 Governing Law

11.1 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

12.0 Severability

12.1 Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

13.0 Entire Agreement

13.1 This Agreement constitutes the entire agreement between the parties with respect to the event wayfinding signage and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the event wayfinding signage except as provided in this Agreement and its attached Schedules.

14.0 Amendment of Agreement

14.1 None of the terms, conditions or provisions of this Agreement shall be held to have been changed, waived, varied, modified or altered by any act of statement of either party, their respective agents, servants or employees unless done so in writing signed by both parties.

15.0 Successors and Assigns

15.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

15.2 Neither party may assign all or any part of this Agreement without the written approval of the other party.

16.0 No Partnership

16.1 Nothing in this Agreement gives rise to a partnership or joint venture between the County and BMR or to an employment relationship between the County and the employees or volunteers of BMR in the provision of service under this Agreement.

17.0 No Waiver

- 17.1 No term, agreement, provision, obligation or condition of this Agreement shall be deemed to have been waived by either party, unless such waiver is in writing and signed by both parties.
- 17.2 No waiver of any provision of the Agreement shall be deemed to or shall constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless expressly provided.

18.0 Dispute Resolution

- 18.1 A dispute between the parties relating to the interpretation or implementation of this Agreement will be addressed through good faith negotiation, with or without the assistance of a mediator. The parties agree that in the event that they are not able to reach a resolution of all the matters in dispute after mediation, then the matters remaining in dispute will be finally determined by arbitration in accordance with the provisions of the *Ontario Arbitrations Act*.
- 18.2 The location for any such arbitration hearing will be within the County of Grey at a location to be determined by the County.

IN WITNESS WHEREOF THE PARTIES hereunto attested by the hands of the proper officers duly authorized in that behalf as of the day and year first written above.

The Corporation of the County of Grey

Kevin Eccles, WARDEN

Sharon Vokes, CLERK

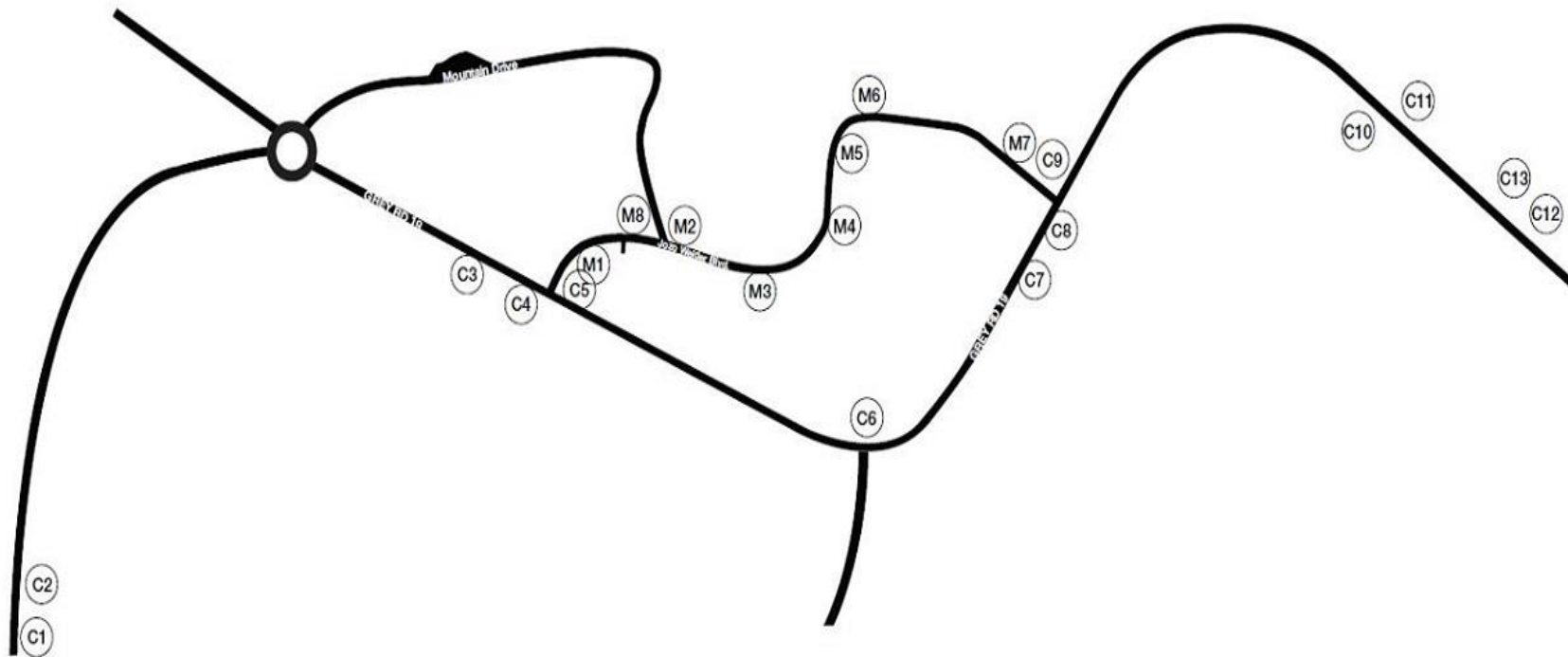
We, together, have the authority to bind the County.

**Blue Mountain Resorts Limited Partnership, by its General Partner,
Blue Mountain Resorts GP Inc.**

Alvin Weatherall, VICE-PRESIDENT, MOUNTAIN OPERATIONS
I Have the Authority To Bind Blue Mountain Resorts Limited Partnership

Schedule "A"

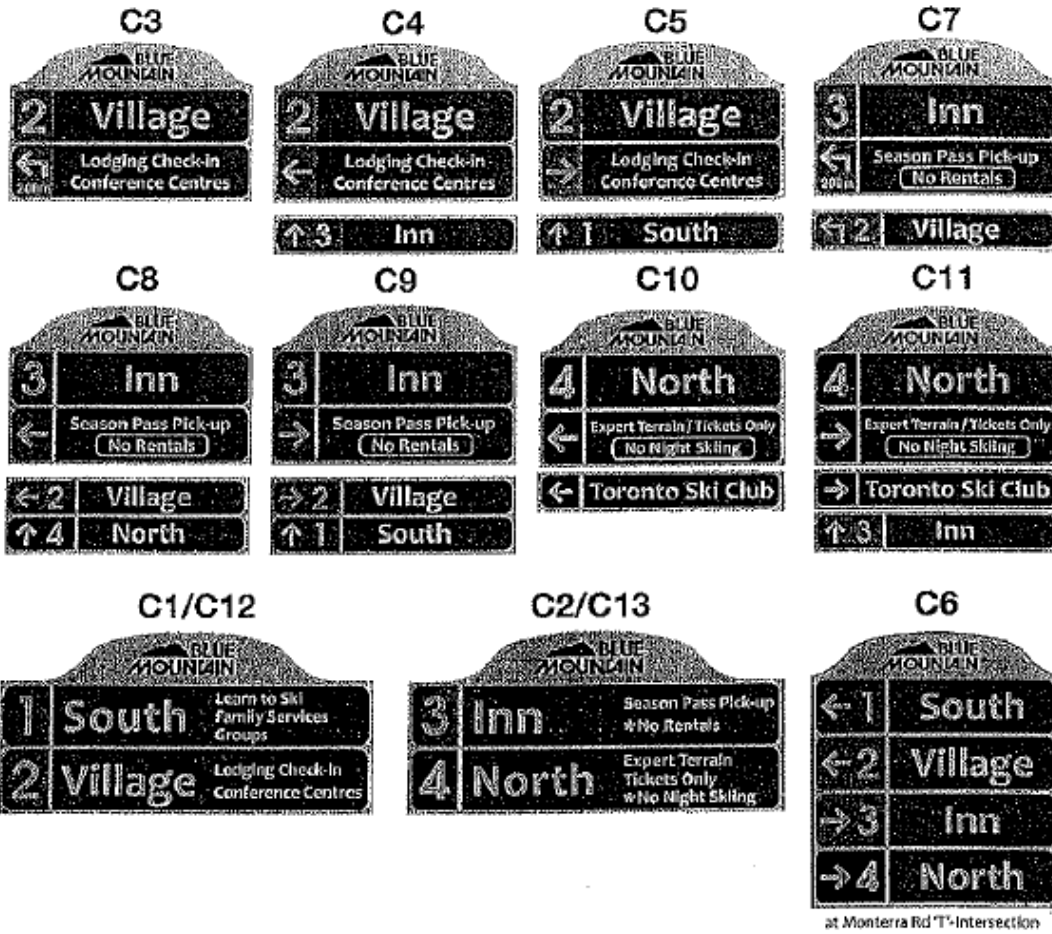
Map showing subject area and existing BMR signage on County and Municipal roads



LEGEND
C- County
M - Municipal

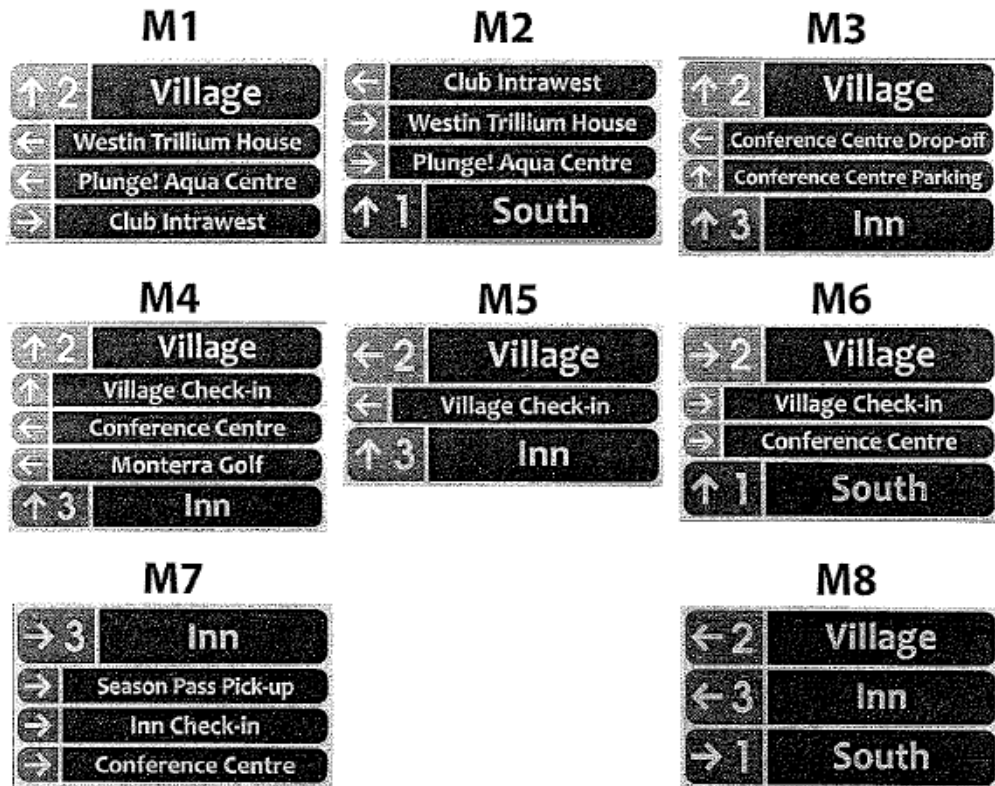
Schedule "A" (continued)

Illustrations of existing BMR signage on County roads



Schedule "A" (continued)

Illustrations of existing BMR signage on municipal roads



Schedule "B"

2015 Event Wayfinding Signage Plan

Event Name	Location	Date	Signs to be Used
Met Con Blue Race	South/Inn (Parking)	June 13	C1, C4, C9, C13
Jazz on the Mountain	Inn	July 4-5	C1, C4, C9, C13
The North Face Endurance Challenge	South/Inn (Parking)	July 18, 19	C1, C4, C9, C13
Centurion Cycling	South/Inn (Parking)	September 19-20	C1, C5, C7, C13
Turkey Tent Event	South	October 8-12	C1, M6

Schedule "C"

Template for Event Wayfinding Sign Tabs (the "Signs")

10mm coroplast, printed



18" x 96"



14" x 72"