

MEMORANDUM OF UNDERSTANDING FOR DUNDALK MEDICAL CLINIC SITE

THIS AGREEMENT made this _____ day of March, 2021, between:

The Corporation of the County of Grey

(referred to in this Agreement as the "County"),

-And-

The Corporation of the Township of Southgate

(referred to in this Agreement as the "Southgate");

WHEREAS the County is the registered owner of certain lands situated in the Township of Southgate (geographic township of Proton and geographic village of Dundalk) in the County of Grey shown as Parts 1, 2, 3, and 5 to 16 inclusive, and 32 to 36 inclusive on the draft plan of survey attached as Schedule "A" (the "Draft Survey") (the "Property");

AND WHEREAS Southgate is the registered owner of certain lands in close proximity to the Property shown as Parts 4, and 17 to 27 inclusive, on the Draft Survey (the "Southgate Lands");

AND WHEREAS Southgate intends to permit the development of the property shown as Parts 17 and 18 on the Draft Survey (the "Clinic Site") by the South East Grey Community Health Centre ("SEGCHC") for use as a community medical clinic facility (the "Medical Clinic");

AND WHEREAS the Clinic Site does not have sufficient area to provide the number of parking spaces required by the Medical Clinic pursuant to the requirements of the applicable zoning by-laws of Southgate;

AND WHEREAS the County wishes to donate a portion of the Property approximately 0.64 acres in size shown as Part 2 on the Draft Survey (the "Donated Lands") to Southgate in support of its use as a parking facility with a portion being used as overflow parking for the Medical Clinic;

AND WHEREAS those portions of the Property Shown as Parts 5 to 12, 13 to 16, and 32 to 36, all inclusive, comprise a portion of a recreational trail established by the County for the use of pedestrians, human-powered vehicles, snowmobiles and ATVs known commonly as the "CP Rail Trail" (the "CP Rail Trail");

AND WHEREAS the County intends to develop that part of the Property shown as Part 1 on the Draft Survey for use as a parking facility for users of the CP Rail Trail in conjunction with the development of the Medical Clinic;

AND WHEREAS Southgate intends to lease the Donated Lands to SEGCHC for the purpose of developing a parking facility to be used as overflow parking for the Medical Clinic under terms and conditions satisfactory to them;

AND WHEREAS Southgate and the County intend to enter into various final agreements to facilitate the transfer of lands and to establish terms related to trail crossings, trail improvements, maintenance responsibilities, and shared access to the parking facility in relation to the CP Rail Trail users and the Medical Clinic;

NOW THEREFORE in consideration of the covenants contained herein, the Parties mutually agree as follows:

1.0 Definitions

1.1 In this Agreement:

- a) "Agreement" means this Memorandum of Understanding and all attached schedules, including all future written amendments to the Agreement and all renewals of this Agreement;
- b) "Clinic Parking Area" means the area of land shown as Part 2 on the Draft Survey;
- c) "Final Agreement(s)" means as contemplated in section 3.2 of this Agreement;
- d) "Parties" means the parties to this Agreement, being The Corporation of the County of Grey and The Corporation of the Township of Southgate collectively, each being a "Party";
- e) "Pedestrian Crossing" means portions of the CP Rail Trail, shown as Parts 6 and 7 on the Draft Survey, to be used for pedestrian access between the Clinic Site and the Clinic Parking Area;
- f) "Pedestrian Easement" means an easement for pedestrian access as well as any potential utility crossing over the Pedestrian over the Pedestrian Crossing;
- g) "Trail Improvements" means alterations to the CP Rail Trail near the Pedestrian Crossing such as lighting, benches, landscaping, signage and other design features to improve pedestrian safety;

- h) "Trail Parking Area" means property shown as Part 1 on the Draft Survey which is to be developed as an area for vehicle parking for users of the CP Rail Trail;

and each term defined in the recitals above shall have the same meaning in this agreement as if set out here at length.

2.0 Term

- 2.1 Subject to section 6.4 below, this Agreement shall be effective as of the date of execution up to the entry into the Final Agreements as contemplated in section 3.2.

3.0 Intent

- 3.1 The Parties intend that this Agreement will set out with enough particularity the nature of the relationship between the parties with respect to the Donated Lands, Clinic Parking Area, Trail Parking Area, Pedestrian Crossing, Trail Improvements and Pedestrian Easement.
- 3.2 The Parties will negotiate among themselves, as appropriate, those formal agreements called for in this Agreement (each being a "Final Agreement" and collectively the "Final Agreements").
- 3.3 Except for those matters specifically set out in section 6.1– Binding Provisions, this Agreement is not a binding agreement and neither this Agreement nor any subsequent conduct of the parties shall give rise to, evidence, or create any legally binding obligation of any Party or thereby create any liability on the part of any Party to any other Party hereto, and any binding agreement will result only from execution and delivery of one or more Final Agreements.
- 3.4 This Agreement has been prepared based upon the limited information provided to date by the Parties to each other and expressly identifies such further information as may be required to prepare the Final Agreements. To the extent such information identifies further issues that the Parties will need to address in order to prepare the Final Agreements, this Agreement will necessarily need to be amended or a supplemental Memorandum of Understanding will need to be entered into.

4.0 Process for the Clinic

- 4.1 The Parties agree to work together in good faith and a spirit of collaboration to:
 - a) Obtain a survey of the Donated Lands;

Schedule 'A' to By-law 5111-21

- b) Prepare and execute a Land Donation Agreement whereby the County donates the Donated Lands to Southgate, and obtain a County By-Law authorizing the transfer of the Donated Lands;
- c) Prepare and execute an agreement whereby the County grants the Pedestrian Easement to Southgate appurtenant to the Clinic Site and the Clinic Parking Area;
- d) Develop agreements for cost-sharing, access, and maintenance in respect of the Trail Parking Area and Pedestrian Crossing;
- e) Address the existing facilities on the Southgate Lands which encroach on the lands owned by the County and identified herein as the CP Rail Trail; and
- f) Obtain such by-laws of their respective municipal Councils as may be necessary to give effect to these actions.

4.2 Southgate shall:

- a) Work with the County and more specifically the Director of Planning or his/her designate to ensure that construction of the building(s), parking facilities and walking path for the Medical Clinic will not interfere with any operations on the CP Rail Trail and will maintain safety for trail users;
- b) Improve the Pedestrian Crossing by paving, and adding trail markings, and signage and to improve certain portions of the CP Rail Trail near the Pedestrian Crossing by installing improvements such as lighting, benches, landscaping, signage and other design features to improve pedestrian safety;
- c) Provide the County with Insurance satisfactory to the County and Indemnify the County in respect of all claims against the County arising from the work being conducted in respect of the development of the Medical Clinic, the Parking Area, the Pedestrian Crossing, and the Trail Parking Area;
- d) Develop the Trail Parking Area, the Pedestrian Crossing, and the Trail Improvements in conjunction with the development of the Medical Clinic and the Clinic Parking Area, in accordance with the reasonable requirements of the County; and
- e) Provide to the County all documentation reasonably required by the County in satisfaction of the due diligence investigations required of the County as a municipality.

4.3 The County shall:

- a) Draft the Land Donation Agreement and land transfer documents from the County to Southgate and any other documents required pertaining to easements and/or encroachments affecting the CP Rail Trail;
- b) Transfer ownership of the Donated Lands to Southgate at a nominal cost (e.g. two dollars (2.00));
- c) Grant the Pedestrian Easement to Southgate at a nominal cost (e.g. two dollars (2.00));
- d) Grant the Pedestrian Easement to Southgate at a nominal cost to be appurtenant to the Clinic Site and the Clinic Parking Area on such terms to permit Southgate to improve the Pedestrian Crossing as part of the development of the Medical Clinic, but provided that the easement shall cease if the Medical Clinic is not built on the Clinic Site within five years, or if the Medical Clinic ceases to operate on the Clinic Site after it is constructed;
- e) Permit improvements on areas of the CP Rail Trail outside of the Pedestrian Crossing to provide for the establishment and safe use of the Pedestrian Crossing; and
- f) Permit improvement of the Trail Parking Area as part of the overall development of the Medical Clinic facility.

5.0 Financial and Contractual Arrangements

- 5.1 Southgate shall pay all costs associated with the preparation of a legal survey of the Property in order to complete a severance of the Donated Lands.
- 5.2 Southgate will assume operational, legal and financial responsibility for the development, construction, use, and maintenance of the Trail Parking Area, Trail Improvements and the Pedestrian Crossing. The County will contribute financially to the costs of maintenance for the Trail Parking Area.
- 5.3 Southgate shall pay all outside legal costs incurred by the County in relation to completing the land transfer, finalizing the Memorandum of Understanding and entering into the Final Agreements as contemplated in section 3.2 of this agreement.
- 5.4 Southgate represents and warrants to the County that SEGCHC is not a "manufacturing business or other industrial or commercial enterprise" within the meaning of section 106 of the Municipal Act, 2001, S.O. 2001 c. 25.

6.0 General

- 6.1 Binding Provisions

Schedule 'A' to By-law 5111-21

- a) This Agreement is not intended to create a binding agreement or enforceable obligations between the Parties, save and except the following provisions which shall be binding:
 - i) Section 1.0 Definitions, including all subsections thereunder;
 - ii) Section 2.0 Term, including all subsections thereunder;
 - iii) Section 5.0 Financial and Contractual Arrangements, including all subsections thereunder; and
 - iv) Section 6.0 General, including all subsections thereunder;(collectively, the "Binding Provisions").
- 6.2 Nothing in this Agreement means that a partnership, joint venture or employment relationship exists between the County and Southgate.
- 6.3 Privacy and Confidentiality
- a) The Parties will not publish, release, disclose or permit to be published, released or disclosed, private or confidential information supplied to, obtained by, or which comes to their knowledge as a result of the Agreement except as necessary, to enable them to fulfill their obligations under the Agreement, or as required or permitted by law.
 - b) The Parties acknowledge that any personal information that is provided for the purpose of creating records is given to them in confidence and is protected by privacy legislation.
- 6.4 Termination
- a) Either the County or Southgate may terminate this Agreement upon giving to the other Parties six months' written notice of intention to terminate.
- 6.5 Notice
- a) Any notice ("Notice") required to be given, served or delivered must be in writing and deemed delivered or sent or transmitted to its recipient by prepaid mail, ordinary mail, fax, or email 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 Ave East
Owen Sound, ON N4K 3E3

Fax Number: 519-376-8998

Email: countyclerk@grey.ca

For Southgate:

Township Clerk

Township of Southgate

185667 Grey County Road 9

Dundalk, ON N0C 1B0

Fax: 519-923-9262

Email: lgreen@southgate.ca

- b) Any Notice 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:
- i) if delivered personally on a Business Day, then on the day of delivery, and if delivered personally on a day other than a Business Day, then on the first Business Day following the day of delivery;
 - ii) if sent by prepaid registered mail, then on the second Business Day following the mailing thereof;
 - iii) if sent by ordinary mail, then on the fifth Business Day following the mailing thereof; and
 - iv) if transmitted by facsimile or email on a Business Day, then on the day of sending, and if sent on a day other than a Business Day, then on the first Business Day following the day of sending, provided that if the sender knows or ought to have known that such transmission was not received or would not be received by its intended recipient, then it shall be deemed not to have been given.
- 6.6 This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada. The Parties submit to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.
- 6.7 Neither the County nor Southgate shall be held responsible for any damage 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 or Southgate.
- 6.8 Each of the clauses in this Agreement is distinct and severable. A declaration of invalidity or unenforceability of any clause will not affect the validity or enforceability of the other clauses in this Agreement.

- 6.9 This Agreement is the entire agreement between the Parties with respect to the Clinic and replaces all prior written or verbal agreements, understandings, negotiations or discussions in connection with or incidental to the Clinic.
- 6.10 This Agreement can only be changed by a written document signed by signing authorities for each of the Parties.
- 6.11 The Parties agree to follow all applicable federal and provincial laws in carrying out the terms of this Agreement.
- 6.12 Successors and Assigns
- a) Neither party may assign all or any part of this Agreement voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner without the written approval of the other Parties.
 - b) This Agreement benefits and binds the Parties and their respective successors and permitted assigns.
- 6.13 No Waiver
- a) For any party to release any of its rights under this Agreement, it must be in writing and signed by the Parties.
 - b) A waiver of a breach of one clause of the Agreement does not apply to any other clause.
 - c) A failure or delay in enforcing an obligation in the Agreement does not prevent the enforcement of that obligation at a later date.
- 6.14 Dispute Resolution
- a) 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.
 - b) The location for any such arbitration hearing will be within the County of Grey at a location to be determined by the County.
- 6.15 In the event of the expiration, termination, or suspension of this Agreement for any reason whatsoever, the provisions of this Agreement that by their nature extend beyond the expiration, termination, or suspension of this Agreement will survive and remain in effect until all obligations are satisfied

6.16 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together shall constitute one and the same instrument.

The Parties, intending to be legally bound, have executed this Agreement on the date first written above.

The Corporation of the County of Grey

Selwyn Hicks, Warden

Heather Morrison, Clerk

We have authority to bind the County.

The Corporation of the Township of Southgate

John Woodbury, Mayor

Lindsay Green, Clerk

We have authority to bind Southgate.

SCHEDULE "A"

