

# **MEMORANDUM OF UNDERSTANDING**

Dated this       day of January 2023.

BETWEEN:

**THE CORPORATION OF THE CITY OF ELLIOT LAKE**

OF THE FIRST PART

- and -

**NON-PROFIT RETIREMENT RESIDENCES OF ELLIOT LAKE INC.**

OF THE SECOND PART

- and -

**ELLIOT LAKE XC SKI & BIKE CLUB**

OF THE THIRD PART

## **RECITALS:**

- A.** Non-Profit Retirement Residences of Elliot Lake Inc. is the owner of the property described as PIN 31405-0021, PIN 31630-0942 and PIN 31630-0108;
- B.** The Corporation of the City of Elliot Lake is the owner of the property described as PIN 31630-0946 and PIN 31405-0022;
- C.** A cross country ski trail of an approximate width of 4 metres and an approximate length of 10 kilometres passes over both properties mentioned above for use by the general public, as set out generally in Schedule A attached hereto;
- D.** All three parties are desirous that the trail continue to be so enjoyed, subject to liability concerns by Non-Profit Retirement Residences of Elliot Lake Inc. and The Corporation of the City of Elliot Lake;
- E.** In furtherance of the foregoing, all three parties have indicated their desire to enter into this Memorandum of Understanding to set out the general terms upon which they will work together and collaborate with one another in support of the continued use of the cross country ski trail.

## **1. DEFINITIONS**

1.1 In this Memorandum of Understanding, the following definitions shall apply:

- (a) “City of Elliot Lake”, “the City”, or “the Municipality” means The Corporation of the City of Elliot Lake;
- (b) “Elliot Lake Retirement Living” means Non-Profit Retirement Residences of Elliot Lake Inc.;
- (c) “the Cross Country Ski Trail” or “the XC Ski Trail” means the approximately 4m wide trail that crosses the property described as PIN 31405-0021, PIN 31630-0942, PIN 31630-0108, PIN 31630-0946 and PIN 31405-0022 as depicted in Schedule A, attached hereto;
- (d) “MOU” means this Memorandum of Understanding, as amended from time to time;

## **2. SCOPE AND PURPOSE OF THIS MOU**

2.1 The purpose of this MOU is to formally acknowledge the commitment of the Elliot Lake Retirement Living, the City and Elliot Lake XC Ski & Bike Club to collaborate and work cooperatively with each other to realize the safe and appropriate use of the Cross Country Ski Trail, and to define the means by which that will occur. This MOU sets out all of the promises, agreements and understandings between the parties with respect to the use of the Cross Country Ski Trail.

## **3. TERM**

3.1 The term of this agreement shall be from the date of its signature until May 1, 2023. At that time, the agreement will be reviewed in order to address any changes which may need to be made in the location of the trail, or other issues which arise.

## **4. USE AND LOCATION OF THE CROSS COUNTRY SKI TRAIL**

4.1 During the term of this agreement, members of Elliot Lake XC Ski & Bike Club and the City shall have access to the trail for the purposes set out in this agreement and subject to the restrictions contained herein.

4.2 The sole use of the Cross Country Ski Trail shall be for the purposes of cross country skiing and walking. No motorized vehicles shall be allowed on the property other than for the purposes of trail maintenance, improvement, inspection and grooming. All members of the general public are entitled to use the Cross Country

Ski Trail in accordance with the term of this agreement, not solely members of the Elliot Lake XC Ski & Bike Club.

- 4.3 The present location of the Cross Country Ski Trail shall be maintained for the term of this agreement.

## **5. RETIREMENT LIVING'S OBLIGATIONS**

- 5.1 Elliot Lake Retirement Living agrees to allow access to and use of the property described as PIN 31405-0021, PIN 31630-0942 and PIN 31630-0108 to both the City and Elliot Lake XC Ski & Bike Club for the term of this agreement for the purposes outlined in this MOU.
- 5.2 Elliot Lake Retirement Living also agrees that it will negotiate in good faith to finalize such further agreements or documents as may be required in order to fulfil the objectives set out in this MOU.
- 5.3 Elliot Lake Retirement Living agrees in principle that the Cross Country Ski Trail will benefit the community of Elliot Lake. In acknowledgement of the sharing of common resources and the joint participation of the signed parties, Elliot Lake Retirement Living agrees that it shall forego any share of monies from any revenue generation arising from the Cross Country Ski Trail during the term of this MOU.

## **6 THE CITY OF ELLIOT LAKE'S OBLIGATIONS**

- 6.1 The City of Elliot Lake agrees that they will provide access to and use of the property described as PIN 31630-0946 and PIN 31405-0022 to Elliot Lake XC Ski & Bike Club for the term of this agreement for the purposes outlined in this MOU.
- 6.2 The City of Elliot Lake shall indemnify and save Elliot Lake Retirement Living harmless from any claim arising from the use of the said trail by anyone. It shall be responsible for responding to any claim or suit commenced with respect to the use of the trail subsequent to Elliot Lake XC Ski & Bike Club, and shall also be responsible for the legal costs incurred by Elliot Lake Retirement Living in defending any such claim, should Elliot Lake XC Ski & Bike Club not be able to do so.
- 6.3 In accordance with its obligations set out in 6.2 above, The City of Elliot Lake shall keep in force during the term of this Agreement public liability insurance with liability limits of not less than five million dollars (\$5,000,000.00) for bodily injury or property damage.
- 6.4 The City may assist the XC Ski & Bike Club in the maintenance of the trail as may be required from time to time to ensure the safety of users and the public, but

assumes no responsibility for the condition of the trail and the liability that may arise from its condition.

- 6.5 The City shall provide Elliot Lake XC Ski & Bike Club access to municipally owned buildings located at the property known as Spine Beach for the purposes of storage of trail maintenance and grooming equipment.
- 6.6 The City also agrees that they will negotiate in good faith and to seek approval from its municipal council and committees for authorization to finalize such further agreements or documents as may be required in order to fulfil the objectives set out in this MOU.
- 6.7 The City of Elliot Lake agrees in principle that the Cross Country Ski Trail will benefit the community of Elliot Lake. In acknowledgement of the sharing of common resources and the joint participation of the signed parties, The City of Elliot Lake agrees that they shall forego any share of monies from any revenue generation arising from the Cross Country Ski Trail during the term of this MOU.

## **7 ELLIOT LAKE XC SKI AND BIKE CLUB'S OBLIGATIONS**

- 7.1 Elliot Lake XC Ski & Bike Club agrees to act as stewards of the Cross Country Ski Trail and that they will work to ensure that the Cross Country Ski Trail is being used by its members and members of the general public in accordance with the terms laid out in this MOU during the term of this MOU.
- 7.2 Elliot Lake XC Ski & Bike Club shall be responsible for maintenance and grooming of the Cross Country Ski Trail during the term of this MOU and shall ensure that the trail is maintained and groomed to a standard that ensures the safety of its members and the general public.
- 7.3 Elliot Lake XC Ski & Bike Club shall indemnify and save Elliot Lake Retirement Living and the City of Elliot Lake harmless from any claim arising from the use of the said trail by anyone. It shall be responsible for responding to any claim or suit commenced with respect to the use of the trail, and shall also be responsible for the legal costs incurred by either Elliot Lake Retirement Living or The City of Elliot Lake in defending any such claim.
- 7.4 In accordance with its obligations set out in 7.3 above, Elliot Lake XC Ski & Bike Club shall keep in force during the term of this Agreement public liability insurance with liability limits of not less than five million dollars (\$5,000,000.00) for bodily injury or property damage. Elliot Lake Retirement Living and The City of Elliot Lake shall both be named as an additional insured in this policy, and shall be provided proof thereof upon request.

- 7.5 Elliot Lake XC Ski & Bike Club shall provide such signage as necessary to alert the public to the restrictions on use set out in this agreement.
- 7.6 Elliot Lake XC Ski & Bike Club shall be responsible for the security of the municipally owned buildings located at the property known as Spine Beach commensurate with their use, and shall ensure that the buildings are locked when not being accessed by Elliot Lake XC Ski & Bike Club or the City of Elliot Lake.
- 7.7 Elliot Lake XC Ski & Bike Club also agrees that they will negotiate in good faith and to seek approval from their board of directors for authorization to finalize such further agreements or documents as may be required in order to fulfil the objectives set out in this MOU.
- 7.8 Elliot Lake XC Ski & Bike Club agrees in principle that the Cross Country Ski Trail will benefit the community of Elliot Lake. In acknowledgement of the sharing of common resources and the joint participation of the signed parties, Elliot Lake Retirement Living agrees to use any share of monies from any revenue generation arising from the Cross Country Ski Trail during the term of this MOU for the purposes of promoting Cross Country Skiing in Elliot Lake and reinvestment into the Cross Country Ski Trail itself.

## **8. NOTICES**

- 8.1 Any written notice given pursuant to this MOU must be addressed as follows:

- (a) The Corporation of the City of Elliot Lake  
45 Hillside Drive North  
Elliot Lake, ON P5A 1X5
- (b) Non-Profit Retirement Residences of Elliot Lake Inc.  
289 Highway 108  
Elliot Lake, ON P5A 2S9
- (c) Elliot Lake XC Ski & Bike Club  
154 Ontario Avenue  
Elliot Lake, ON P5A 1Y3

Attention: Chief Administrative Officer

Attention: General Manager

Attention: Karla Dawn Mills/Norman John Peterson

- 8.2 If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the fax is sent; if sent by electronic mail, the notice is effective on the date sent; and if mailed, the notice is deemed to be effective on the fifth business day following the day of mailing.

## 9. GENERAL

- 9.1 Notwithstanding the terms and obligations of the Municipality under this MOU nothing herein shall be intended to operate to in any way fetter the discretion of the Municipality's municipal council from exercising their discretionary powers, duties or authorities at law.
- 9.2 This MOU shall be governed by and be construed in accordance with the laws of the Province of Ontario and the laws of Canada as applicable.
- 9.3 All provisions of this MOU shall be binding on and operate to the benefit of the Municipality and its successors and permitted assigns and transferees.
- 9.4 Should any provision(s) of this MOU be found to be void or unenforceable for any reason whatsoever, such provision(s) only shall be expunged and severed from the MOU and the balance of the provisions in the MOU shall remain in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have caused this Memorandum of Understanding to be duly executed as of the date first written above.

**SIGNED, SEALED & DELIVERED**

**THE CORPORATION OF THE  
CITY OF ELLIOT LAKE**

Mayor

CAO/Clerk

**NON PROFIT RETIREMENT  
RESIDENCES OF ELLIOT  
LAKE INC.**

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Chair

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General Manager

**ELLIOT LAKE XC SKI & BIKE  
CLUB**

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President

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Vice President

Schedule A Elliot Lake Spine Road Cross Country Ski Trail  
October 2018



Dec. 7, 2022

