

## **MEMORANDUM OF UNDERSTANDING**

Dated this 22nd day of May, 2023.

BETWEEN:

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

(the "City")

OF THE FIRST PART

- and -

### **ELLIOT LAKE XC SKI AND BIKE CLUB**

("XC Ski & Bike Club")

OF THE SECOND PART

## **RECITALS:**

- A.** The Corporation of The City of Elliot Lake ("the City") is a municipal entity that owns the trail system on which Elliot Lake XC Ski & Bike Club operates;
- B.** Elliot Lake XC Ski & Bike Club is a not for profit corporation overseen by a board of directors that seeks to facilitate the operation of the city owned trails within the municipality for the benefit of its membership, visitors and the wider community;
- C.** In furtherance of the foregoing, The City of Elliot Lake and Elliot Lake XC Ski & Bike Club 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 to ensure the successful operation of Elliot Lake XC Ski & Bike Club.

## **1. DEFINITIONS**

- 1.1** In this Memorandum of Understanding, the following definitions shall apply:
  - (a) "The City of Elliot Lake", "The Municipality", and "The City" all mean The Corporation of the City of Elliot Lake;
  - (b) "The XC Ski & Bike Club" or "The Club" both refer to Elliot Lake XC Ski & Bike Club;

- (c) "Municipal Trail System", "Multi-use Trail System", or "the trail system" all mean the approximately 4m wide trail corridor that crosses the property described on the trail map attached here in "schedule A" as identified by trail signage;
- (d) "Non-Mechanized Maintenance Services" refers to labour that is performed with the use of both powered or non-powered hand tools, but excludes work performed with powered earth moving equipment.
- (e) "Capital project" and "larger maintenance issues" refer to work that would exceed the scope of usual regular maintenance.
- (f) "Substantial changes to the trail system" refers to modifications of the trail corridor including trail re-alignment, trail features and improvements or changes to the trail surface.
- (g) "MOU" means this Memorandum of Understanding, as amended from time to time.

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

- 2.1 The purpose of this MOU is to formally document and acknowledge the ongoing working relationship and mutual commitment of both The City of Elliot Lake and The XC Ski & Bike Club to collaborate in order to promote the development and focus on multi-use shared trails. The collaboration will create an inner city and perimeter trail connection system and focus on the improvement of infrastructure through sports tourism and to improve the quality of life for the residents of the municipality.
- 2.2 Both The City of Elliot Lake and The XC Ski & Bike Club agree to work co-operatively with each other and to carry out their respective obligations under the MOU in good faith in order to facilitate the operation of the trail systems in their respective roles.

## **3. TERM**

- 3.1 This MOU shall be effective on the date of execution or such other date as mutually agreed between The City of Elliot Lake and The XC Ski & Bike Club or will be in force until 60 days after either party issues formal written notice to the other of its intent to forego the obligations outlined in this MOU. This MOU shall be reviewed on an annual basis in August of each calendar year.

## **4. THE CITY OF ELLIOT LAKE'S OBLIGATIONS**

- 4.1 The City agrees that it will work collaboratively and cooperatively with The XC Ski & Bike Club to support the continued operation of the Municipal Trail System. Without limiting the generality of the foregoing, The City of Elliot Lake shall:
- (a) Provide the use of the Elliot Lake Municipal Trail System to The XC Ski & Bike Club and members without fee or charge;
  - (b) Subject to Elliot Lake City Council's direction, availability of municipal budget funding, and on a project by project basis, realize and fund improvements to the trail system;
  - (c) Conduct annual joint review of identified capital projects for the multi-use shared trail system with The XC Ski & Bike Club.
  - (d) Review and approve appropriate substantial changes to the trail system proposed by The XC Ski & Bike Club;
  - (e) Conduct an annual joint review of policies and procedures with The XC Ski & Bike Club for the operation of the multi-use shared trail system.
  - (f) Provide municipal enforcement of by-laws applicable to the trail system and its users;
  - (g) Review and approval of appropriate advertising materials submitted by The XC Ski & Bike Club that identifies or defines Municipal Trail System names or routes;
  - (h) Advertise the trail system to local residents and visitors via funding set out in the annual Municipal budget of The City;
  - (i) Identify the XC Ski & Bike Club as a partner in The City's ongoing tourism and economic development promotional activities.
- 4.2 The City also agrees that it will negotiate in good faith and to seek approval from its municipal council for authorization to finalize such further agreements or documents with XC Ski & Bike Club as may be required in order to fulfil the objectives set out in this MOU.
- 4.3 The City agrees in principle that the Municipal Trail System benefits the community in alignment with its objectives to improve the economic

climate and to provide recreational facilities to its residents. In acknowledgement of considerable, ongoing effort that The XC Ski & Bike Club expends in the continued operation of the Municipal Trail System, The City of Elliot Lake agrees to forego any share of revenue arising from Municipal Trail System operations.

## **5. XC SKI & BIKE CLUB OBLIGATIONS**

5.1 XC Ski & Bike Club agrees that it will work collaboratively and cooperatively with The City of Elliot Lake to support the continued operation of the Elliot Lake trail system for cross country skiing and mountain biking. Without limiting the generality of the foregoing, XC Ski & Bike Club shall:

- (a) Allow access to and use of the Municipal Trail System to public regardless of membership status with The XC Ski & Bike Club;
- (b) Provide non-mechanized maintenance services for the Municipal Trail System;
- (c) Provide condition assessment reporting of the trail system to the City to identify larger maintenance issues required to be addressed by City staff or through collaboration between City staff and The XC Ski & Bike Club;
- (d) Provide The City any XC Ski & Bike Club maintenance scheduling, and notify The City when maintenance activities are occurring;
- (e) Refrain from implementing substantial changes to the trail system without review and approval by The City prior to execution;
- (f) Conduct annual joint review of identified capital projects for the multi-use shared trail system with The City;
- (g) Conduct an annual joint review of policies and procedures with The City for the operation of the multi-use shared trail system;
- (h) Provide to the City any advertising material that identifies or defines Municipal Trail System names or routes for review and approval;

- (i) Provide financial reporting and supporting documentation relating to the administration of the XC Ski & Bike Club as requested by The City.
- 5.2 The XC Ski & Bike Club also agrees that it will negotiate in good faith and to seek approval from its board for authorization to finalize such further agreements or documents with The City as may be required in order to fulfil the objectives set out in this MOU.
- 5.3 The XC Ski & Bike Club agrees in principle that the continued support of The City benefits the Municipal Trail System. In acknowledgement of the considerable, ongoing support that The City provides to the continued operation of the Municipal Trail System, XC Ski & Bike Club agrees to invest any excess revenues into working capital for future operations, equipment, and/or other capital expenditures to support the XC Ski & Bike Club.
- 5.4 The XC Ski & Bike Club shall carry public liability insurance, with an insurer satisfactory to the Treasurer of the Municipality, in an amount not less than Five Million Dollars (\$5,000,000.00) and shall provide to the Treasurer an insurance certificate indicating that the City is an additional insured. The XC Ski & Bike Club shall also provide any other such proof of insurance as the City may require when requested.

## **6. NOTICES**

- 6.1 Any written notice given pursuant to this MOU must be addressed to the Municipalities as follows:
  - (a) The Corporation of the City of Elliot Lake  
45 Hillside Drive North,  
Elliot Lake, ON  
P5A 1X5  
  
Attention: Chief Administrative Officer
  - (b) Elliot Lake XC Ski & Bike Club  
154 Ontario Ave.  
Elliot Lake, ON  
P5A 1Y3  
  
Attention: President – Jack Peterson

- 6.2 If hand delivered, the notice is effective on the date of delivery; 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.

**7. GENERAL**

- 7.1 Notwithstanding the terms and obligations of the parties under this MOU nothing herein shall be intended to operate to in any way fetter the discretion of either party's respective Municipal Council or Board of Directors from exercising any of their discretionary powers, duties or authorities at law.
- 7.2 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.
- 7.3 All provisions of this MOU supersede any agreement, verbal or otherwise between The City and The XC Ski & Bike Club with respect to the Municipal Trail System, and shall be binding on and operate to the benefit of the parties and their respective successors and permitted assigns and transferees.
- 7.4 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

\_\_\_\_\_  
City Clerk

*We have the authority to bind the  
corporation*

**XC Ski & Bike Club**

A handwritten signature in dark ink, appearing to be "N. S. [unclear]", written over a horizontal line.

President

A handwritten signature in dark ink, appearing to be "K. [unclear]", written over a horizontal line.

Witness

Schedule A

**Multi-use Trail System**



Subject Trails Are Represented In Red