

USE AGREEMENT

THIS USE AGREEMENT made the day of , 2018,

BETWEEN:

THE CORPORATION OF HALDIMAND COUNTY
(the "County")

AND

SELKIRK BAPTIST CHURCH
(the "Baptist Church")

AND

SELKIRK CHAMBER OF COMMERCE
(the "Chamber")

WHEREAS by a Shared Driveway Agreement dated the 26th day of June, 2018, the County, the Baptist Church and the Chamber entered into an Agreement for use of a portion of certain lands located on Regional Road #3 (17 Kent Street North), Selkirk, ON, N0A 1G0, legally described in the Agreement as being PIN #38204-0308(LT) Lot 10, N/S Kent Street, 11 N/S Kent Street, 11 S/S Main Street, Plan 357 except Part 5 on 18R-1593; Haldimand County, to be used for access to a memorial-gated entrance and community park and the pertinent services and amenities related thereto (the "Purpose") for a term of ten (10) years more or less from June 26, 2018 to June 25, 2028 (the "Term"), upon and subject to the terms and conditions set forth in the Agreement;

AND WHEREAS the Baptist Church agrees to provide to the Chamber and the Selkirk Parks Committee reasonable year-round access to the memorial-gated entrance and Selkirk Park;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree with each other as follows:

1. That the term of the Use Agreement shall be for a period of ten (10) years, starting June 26, 2018 and expiring June 25, 2028 (the "Term"), upon and subject to the terms and conditions set forth in the Agreement, with an option of extension for a further five (5) years if agreed upon, in writing, by the parties.

In the event any of the parties wishes to terminate this Use Agreement prior to the termination date, sixty (60) days written notice is required.

2. Upon obtaining annual approval from the Council of The Corporation of Haldimand County, the Baptist Church shall benefit from seasonal driveway maintenance services from the County, annually from April 1 to November 30, and continuing until such time as the Agreement, including all Extensions, has expired or is terminated.

3. The Baptist Church agrees to provide seasonal (December 1 to March 31) driveway maintenance services annually and continuing until such time as the Agreement, including all Extensions, has expired or is terminated.
4. All capital work related to the driveway will be mutually agreed upon, in writing, prior to commencement of the work. All costs of capital work that has been mutually agreed upon shall be shared equally by the County and the Baptist Church.
5. The County, as owner of the Memorial Gates and related amenities at the driveway entrance to the Selkirk Park and Baptist Church, will be responsible for all maintenance and repairs to the gates; such repair to be undertaken in partnership with the Chamber and/or other community groups.
6. This Use Agreement shall be read together with the Shared Driveway Agreement, and the parties confirm that, except as modified herein, all covenants and conditions in the Agreement shall remain unchanged, unmodified and in full force and effect and the obligations of the parties hereunder shall be joint and several.
7. The Baptist Church shall indemnify the County and the Chamber against all manner of claims, damages, loss, costs and charges whatsoever, suffered by the County or the Chamber, either directly or indirectly, in respect of any matter or thing arising from the ownership, occupancy or use of the Lands. If the County and/or the Chamber shall be made party to any litigation commenced by or against the Baptist Church pertaining to the ownership, occupancy or use of the Lands, then the Baptist Church shall indemnify, defend and hold the County and the Chamber harmless and shall pay all costs, expenses and legal fees incurred or paid by the County or the Chamber in connection with such litigation. The Baptist Church shall also pay all costs, expenses and legal fees (on a solicitor and his client basis) that may be incurred or paid by the County and/or the Chamber in enforcing the terms, covenants and conditions of this Agreement.
8. The County and the Chamber shall indemnify the Baptist Church against all manner of claims, damages, loss, costs and charges whatsoever, suffered by the Baptist Church, either directly or indirectly, in respect of any matter or thing arising from the occupancy or use of the Lands. If the Baptist Church shall be made party to any litigation commenced by or against the County and/or the Chamber pertaining to the occupancy or use of the Lands, then the County and the Chamber shall indemnify, defend and hold the Baptist Church harmless and shall pay all costs, expenses and legal fees incurred or paid by the Baptist Church in connection with such litigation. The County and/or the Chamber shall also pay all costs, expenses and legal fees (on a solicitor and his client basis) that may be incurred or paid by the Baptist Church in enforcing the terms, covenants and conditions of this Agreement.
9. The Baptist Church shall maintain a General Liability insurance policy covering their respective ownership, occupancy or use of the Lands, in an amount not less than \$2,000,000 from an insurer licensed to conduct business in the Province of Ontario, and the County shall be named as an additional insured on the policy. The policy shall contain cross liability and severability of interest clauses and provide 30 days' prior written notice of cancellation to each and every party. Prior to the execution of this Agreement, the Baptist Church shall provide the County with a Certificate of Insurance evidencing the policies described herein. The insurance coverage must be maintained for the duration of the Agreement and any renewal shall include the provisions herein and will require a Certificate of Insurance to be provided to the County.

10. The County shall maintain a General Liability insurance policy covering their respective ownership, occupancy or use of the Lands, in an amount not less than \$2,000,000 from an insurer licensed to conduct business in the Province of Ontario, and the Baptist Church shall be named as an additional insured on the policy. The policy shall contain cross liability and severability of interest clauses and provide 30 days' prior written notice of cancellation to each and every party. Prior to the execution of this Agreement the County shall provide the Baptist Church with a Certificate of Insurance evidencing the policies described herein. The insurance coverage must be maintained for the duration of the Agreement and any renewal shall include the provisions herein and will require a Certificate of Insurance to be provided to the Baptist Church.
11. All of the terms of this Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and assigns.
12. This Agreement and its Schedules constitute the entire Agreement between the Parties and supersedes any prior understandings and agreements between the Parties with respect to the subject matter herein. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory between the Parties other than those expressly set forth in this Agreement.
13. This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract. The Parties hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.
14. No party is to be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any such right is to be deemed to be a waiver with respect to any other instance involving the exercise of the right or with respect to any other such right.
15. The representations, warranties and covenants contained in this Agreement survive the termination of this Agreement.
16. This Agreement is not assignable without the prior written consent of the County, which consent may be withheld by the County in its sole and absolute discretion. Any attempt to assign any of the rights, duties or obligations of this Agreement without written consent is void.
17. No change or modification of this Agreement is valid unless it is in writing and signed by each party.

18. In the event that any provision or term of this Agreement is deemed invalid or void in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their officers properly authorized in that behalf on the day and year first written above.

THE CORPORATION OF HALDIMAND COUNTY

Name: Ken Hewitt
Title: Mayor

Name: Evelyn Eichenbaum
Title: Clerk

We have authority to bind the Corporation.

SELKIRK BAPTIST CHURCH

Name:
Title:

Name:
Title:

I/We have authority to bind the Corporation.

SELKIRK CHAMBER OF COMMERCE

Name:
Title:

Name:
Title:

I/We have authority to bind the Corporation.

Selkirk Chamber of Commerce Memorial Gates Project - Location Map



Location:
19 MAIN ST WEST, SELKIRK
GEOGRAPHIC TOWNSHIP OF WALPOLE
WARD 1

Legal Description:
WAL PLAN 357 PT LOTS 10 AND 11
Property Assessment Number:
2810 332 009 01210 0000

Size:
0.80 Acres

Zoning:
IR (Rural Institutional)

HALDIMAND COUNTY, ITS EMPLOYEES, OFFICERS AND AGENTS ARE NOT RESPONSIBLE FOR ANY ERRORS, OMISSIONS OR INACCURACIES, WHETHER DUE TO THEIR OWN NEGLIGENCE OR OTHERWISE. DO NOT USE FOR OPERATING MAP OR DESIGN PURPOSES. ALL INFORMATION TO BE VERIFIED.



Selkirk Chamber of Commerce Memorial Gates Project - Detail Map



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