

THE CORPORATION OF THE MUNICIPALITY OF WEST GREY

BY-LAW NUMBER 81 - 2011

BEING a By-law to enter into a Durham Day Use Area Washroom/Storage Facility Agreement with the Saugeen Valley Conservation Authority;

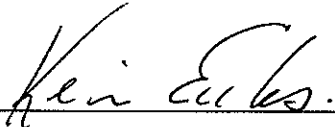
WHEREAS the Council of the Corporation of The Municipality of West Grey deems it desirable to enter into a Durham Day Use Area Washroom/Storage Facility Agreement with the Saugeen Valley Conservation Authority;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST GREY HEREBY ENACTS AS FOLLOWS:

1. That the Durham Day Use Area Washroom/Storage Facility Agreement be entered into between the Corporation of The Municipality of West Grey and the Saugeen Valley Conservation Authority.
2. That the Mayor and CAO be and are hereby authorized to execute the said agreement on behalf of the Corporation of The Municipality of West Grey.
3. The Schedule 'A' attached hereto shall form part of this by-law.

READ a first and second time this 19th day of December, 2011.

READ a third time and finally passed this 19th day of December, 2011.



Kevin Eccles, Mayor



Christine Robinson, CAO



SCHEDULE "A" TO BY-LAW NO. 81 - 2011

MUNICIPALITY OF

***West
Grey***

**DURHAM DAY USE AREA
WASHROOM/STORAGE FACILITY AGREEMENT**



DURHAM DAY USE AREA
WASHROOM/STORAGE FACILITY AGREEMENT

This Agreement dated this 19th day of ~~October~~ ^{December}, 2011, is made,

B E T W E E N:

The Saugeen Valley Conservation Authority
(Hereinafter called "the Authority")

OF THE FIRST PART

- and -

The Corporation of the Municipality of West Grey
(Hereinafter called "the Municipality")

OF THE SECOND PART

WHEREAS the Authority is the owner of the Durham Conservation Area (hereinafter called "the Property"), in the Town of Durham, in the Municipality of West Grey, County of Grey, in the Province of Ontario, being legally described as Part of Lots 14, 15, 18, and Lots 19 to 28, Plan 502, Municipality of West Grey (formerly the Town of Durham);

AND WHEREAS the Municipality wishes to refurbish and maintain a seasonal washroom / storage facility on the Property (called throughout "the Project") in its current location, for the use of campers on the Authority's Property, members of the public, and for the West Grey swimming program;

AND WHEREAS the Municipality and the Authority have agreed to enter into this agreement upon the terms, conditions and provisions hereinafter set forth for the purposes of providing approval for the aforementioned use of the Property;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

Rights of the Municipality

1. The Authority grants the Municipality the right to enter into and over the Property for the purposes of this Agreement.
2. The Authority grants the Municipality the right to repair / refurbish, operate, and maintain the washroom / storage facility located on the Property.

3. The Municipality shall be provided with a key to the gates of the Conservation Area located at the west end of the Property.

Responsibilities of the Municipality

4. The Municipality shall complete the refurbishment to the requirements of the Ontario Building Code Standards. The Municipality will use its best efforts to complete the refurbishment of the washroom/storage facility by June 29, 2012, but shall not be responsible for the delay or failure to complete same by the aforementioned date when the delay or failure is due to unusual rain, snow, or inclement weather, natural disaster, fire, flood, explosion, lack of or inability to obtain the necessary labour, materials or supplies, breakdowns, acts of God, war, or other circumstances which cannot be reasonably foreseen or provided against. In the event of such *force majeure*, the Authority shall allow the Municipality a reasonable period of time to complete the refurbishment of the washroom/storage facility, having regard to the applicable circumstances.
5. The Municipality shall complete the on-going and regular maintenance duties involved with operating the washroom / storage facility, which duties shall include undertaking litter removal on a regular basis from the area in the washroom / storage facility and any and all ongoing maintenance to the septic system which may be required from time to time during the term of this Agreement or any extension to the Agreement.
6. The Municipality shall be responsible for payment of the water bill and any sewage pumping costs directly related to the operation of the washroom / storage facility, for the portion of time since execution of this Agreement.

The Municipality will not invoice the Authority for the portion of the water bill associated with the washroom/storage facility for the duration of this Agreement. The Municipality will assume this cost directly.

The Authority will continue to receive the water billing for the McGowan Falls area only while this Agreement is in affect.

7. Any physical improvement made to the washroom / storage facility by the Municipality shall be the responsibility of the Municipality, and will be subject to the prior approval of the Authority.
8. The Municipality acknowledges that it accepts use of the washroom / storage facility on the Property in as "as is" condition.

Responsibilities of the Authority

9. The Authority shall be responsible for the payment of property taxes on the Property, the cost of which shall be included in the annual operating budget.

10. The Authority shall be responsible for the cost of any grass cutting required on the Property.

Indemnity

11. The Municipality covenants and agrees to indemnify and save harmless the Authority of and from any and all manner of claims, damages, loss, costs or charges whatsoever occasioned to or suffered by or imposed upon the Authority or its properties, either directly or indirectly, in respect of any matter or thing in consequence of or in connection with or arising out of the use, occupancy or development of the Property by the Municipality pursuant to this Agreement, or out of any Municipal operation connected therewith, or in respect of any accident, damage or injury to any person, animal or thing by, from or on account of the same. The Municipality covenants that the indemnity herein contained shall extend to all damages and claims for damages by reason of improper or faulty erection or construction of structures hereafter erected or installed on the said Property or in connection therewith by the Municipality, its servants or agents and by reason of any insufficiency in such structures and whether or not same have been approved by the Authority, its servants or agents.

Insurance

12. The Municipality agrees to take out and keep in force throughout the duration of the Agreement liability insurance in the amount of Five Million Dollars (\$5,000,000.00), naming the Authority as additional insured on the policy and to provide the Authority with a copy of same prior to undertaking any part of the Project.

Term

13. The Term of this Agreement will be five (5) years from the date this Agreement is executed.
14. After the initial five (5) year Term, the Term will be automatically extended for an additional five (5) years unless the Municipality provides the Authority with written notice to the contrary at least sixty (60) days prior to the expiry of the Term.
15. This Agreement may be further extended for five (5) year terms as the Municipality and the Authority agree.

Assignment

16. This Agreement is not assignable without the prior written consent of the other party. Any attempt to assign any of the rights, duties, or obligations of this Agreement without written consent is void.

Amendments

17. If at any time during the Term of this Agreement the parties deem it necessary or expedient to make any alteration or addition to this Agreement they may do so by means of a written agreement between them which shall be supplemental and shall form part of this Agreement.
18. Should any dispute arise between the parties with respect to this Agreement, the parties agree that they will use their best efforts and will act in good faith to reach an amiable settlement of the issue, failing which the parties agree to engage in an alternative dispute resolution ("ADR") process to resolve the issue.
19. Upon the termination of this Agreement pursuant to this provision, the Authority shall take ownership of any and all capital and physical improvements in "as is" condition; and the washroom / storage facility and subject Property shall be in a condition equal to or better than at the time of execution of the agreement.

Governing Law

20. This Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

Binding Effect and Enurement

21. This Agreement enures to the benefit of and binds the parties and their respective heirs, executors, administrators, successors, and permitted assigns.

Entire Agreement

22. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF the parties have set their hands and seals on the date first above written.

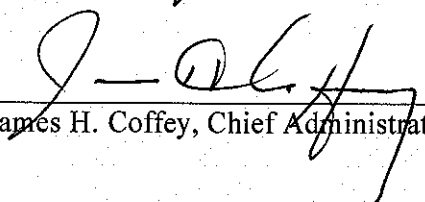
SAUGEEEN VALLEY CONSERVATION AUTHORITY

Per:


Bill Scriven, Chair

(c/s)

Per:


James H. Coffey, Chief Administrative Officer

**THE CORPORATION OF THE MUNICIPALITY OF
WEST GREY**

Per: Kevin Eccles
John A. Bell, Acting Mayor (c/s)
Kevin Eccles

Per: Christine Robinson
Christine Robinson, Chief Administrative Officer