

## GRANT OF PARKING LOT IMPROVEMENTS EASEMENT

1. The Corporation of the Town of Wasaga Beach (hereinafter the "**Transferor**") is the registered owner of certain lands and premises, legally described as PT RDAL BTN CON 8 & 9 FLOS; PT LT 21 CON 9 FLOS; PT LT 22 CON 9 FLOS; PT LT 23 CON 9 FLOS; PT LT 24 CON 9 FLOS; PT S PT LT 25 CON 9 FLOS; PT RDAL BTN LT 25 & 26 CON 8 FLOS; PT RDAL BTN LT 25 & 26 CON 9 FLOS; PT N1/2 LT 21 CON 8 FLOS; PT N1/2 LT 22 CON 8 FLOS; PT N PT LT 23 CON 8 FLOS; PT LT 24 CON 8 FLOS; PT N1/2 LT 25 CON 8 FLOS PT 1, RO664868 & PT 1, RO1434712 BEING THE KING'S HWY 92, & RIVER ROAD W, FORMERLY KING'S HWY 92 W OF RDAL BTN LT 21 & 22 & E OF RDAL BTN LT 25 & 26 SAVE AND EXCEPT PART 1 ON 51R43273; TOWN OF WASAGA BEACH being PIN 58337-0265 (LT) (hereinafter the "**Lands**").

2. Simcoe Muskoka Catholic District School Board (hereinafter the "**Transferee**") is developing on lands adjacent to the Lands as a school as such term is currently defined in the *Education Act*, R.S.O. 1990, c. E.2 (the "**School**") which requires signage and additional parking facilities. The Transferee intends to install signage for the School and parking facilities for the School including landscaping improvements, parking lot lighting, electrical transformer and related wiring in accordance with the plan attached hereto as Schedule A (collectively, the "**Parking Lot Improvements**") and has requested an easement from the Transferor to facilitate the construction and maintenance of the Parking Lot Improvements.

3. The Transferor hereby grants and conveys to the Transferee, its successors and assigns, an exclusive easement or right in nature of an easement, in, over and along that portion of the Lands described as Part Lot 24, Concession 9 Flos being Part 24, Plan 51R-45190; Town of Wasaga Beach (hereinafter the "**Easement Lands**") for a term of ninety-nine years (the "**Term**") to construct, maintain, operate, repair and keep in good condition, and reconstruct, at all times the Parking Lot Improvements, all or any of which are herein individually or collectively called the "**Works**". Notwithstanding the foregoing, the Transferee shall have the right to terminate this Agreement upon the delivery of written notice to the Transferee in the event the Dominant Lands (as defined herein) cease to be use as a school as such term is currently defined in the *Education Act*, R.S.O. 1990, c. E.2.

4. Upon the expiration of the Term or earlier termination, the Transferee shall deliver the Easement Lands to the Transferor in the same condition as the Transferee is required to maintain the Easement Lands hereunder. The Transferee shall also consent, at no cost to the Transferor, to the registration of a release of the easement.

5. For the purposes described in Clause 3 the Transferee may conduct all engineering, legal surveys and make soil tests, soil compaction and environmental studies and audits of the Easement Lands as the Transferee in its discretion considers requisite, provided that prior notice is given for any destructive testing (including excavation for soil tests) and any resultant damage is repaired/rectified in accordance with Clause 9 and provided that the Transferor shall not be required to remedy or improve the condition of the Easement Lands nor shall the Transferee make any claim against the Transferor in consequence of the condition, including environmental condition, of the Easement Lands.

6. INTENTIONALLY DELETED

7.

(a) Notwithstanding any rule of law or equity, the Works installed by the Transferee shall, at all times, remain the property of the Transferee, notwithstanding that such Works are or may become annexed or affixed to the Easement Lands.

(b) The Transferor will execute such further assurances of the rights ("**Rights**") provide by virtue of this transfer and grant of easements as may be requisite.

(c) The Rights hereby granted:

(i) shall be of the same force and effect to all intents and purposes as a covenant running with the Lands; and

(ii) is declared hereby to be appurtenant to and for the benefit of the Works and undertaking of the Transferee described in Clause 3.

8. The Transferee covenants and agrees that except in the case of an emergency, no digging, drilling, excavation, construction or other work, other than the installation, maintenance, repair and replacement of the Parking Lot Improvements shall be carried out on or under the Easement Lands, or any portion thereof by the Transferee or anyone acting for or on behalf of the Transferee without the Transferee providing to the Transferor engineered drawings and obtaining the prior written approval of the Transferor, not to be unreasonably withheld or delayed.

9. The Transferee shall at all times, at its expense, keep and maintain the Works in a safe condition and good state of repair and shall from time to time, at its expense, repair any damage, erosion or deterioration of the Easement Lands caused by the existence, inspection, maintenance, repair, alteration or reconstruction of the Works; such repair to be completed to the satisfaction of the Transferor, acting reasonably. The Transferee covenants, acknowledges and agrees with the Transferor that it shall comply with all federal, provincial, municipal or other governmental laws, by-laws, regulations, policies, guidelines and directives with respect to the exercise of the easement rights and the presence of the Works on the Easement Lands.

10. The maintenance of the Easement Lands and the Parking Lot Improvements shall be the responsibility of the Transferee. The maintenance of the Works installed in or upon the Easement Lands by or on behalf of the Transferee shall be the responsibility of the Transferee who will, at all times, at its expense, keep and maintain the Works in a safe condition and good state of repair.

11.

(a) The Transferee shall at all times indemnify and save harmless the Transferor and its elected officials, directors, officers, employees, agents, representatives, successors and assigns and those for whom at law each of them is responsible from and against and all claims, demands, damages, losses, costs (including the costs of their respective solicitors of defending any such claims), charges, proceedings and actions (including those under or in connection with the Workplace Safety and Insurance Act or any successor legislation) which may be suffered, sustained or incurred arising from or as a result of the acts or omissions of the Transferee, its agents, servants, workers, employees, consultants or contractors or those others for whom at law each of them is responsible, or arising from or as a result of the exercise of the rights herein granted, or from any breach by the Transferee of its obligations under this grant of easement or relating to the Works or the Transferee's occupation or entry on the Easement Lands or the Lands, howsoever caused or occurring. Notwithstanding the foregoing the Transferee shall not be required to indemnify the Transferor to the extent such losses result from the negligence or wilful misconduct of the Transferor.

(b) The Transferor shall at all times indemnify and save harmless the Transferee and its officials, directors, officers, employees, agents, representatives, successors and assigns and those for whom at law each of them is responsible from and against and all claims, demands, damages, losses, costs (including the costs of their respective solicitors of defending any such claims), charges, proceedings and actions which may be suffered, sustained or incurred arising from or as a result of the acts or omissions of the Transferor, its agents, servants, workers, employees, consultants or contractors or those others for whom at law each of them is responsible, or arising from or as a result of the exercise of the rights herein granted, or from any breach by the Transferor of its obligations under this grant of easement. Notwithstanding the foregoing the Transferor shall not be required to indemnify the Transferee to the extent such losses result from the negligence or wilful misconduct of the Transferee.

**12.** The Transferee shall maintain or cause to be maintained, at its sole cost and expense, Commercial General Liability insurance with a limit of net less than Five Million Dollars (\$5,000,000.00) per occurrence, against claims for personal and bodily injury, death or property damage suffered by others arising in connection with or out of the operations of the Transferee on or about the Easement Lands, indemnifying and insuring the Transferee and its employees and all others for whom the Transferee is at law responsible. The Transferee shall deliver a certificate of insurance to the Transferor prior to the commencement of any work under this Transfer of Easement and forthwith upon the request of the Transferor from time to time. Prior to the expiration date of any policy of insurance, the Transferee shall, without being requested by the Transferor, provide the Transferor with evidence that the policy has been renewed. The certificate of insurance shall include the locations and description of operations to be conducted on the Easement Lands. Any and all policies of insurance shall be issued with an insurance company authorized by law to carry on business in the Province of Ontario. The Transferee shall cause any and all policies of insurance provided for to include the Transferor as an additional insured, and all policies of insurance shall contain cross-liability, waiver of subrogation, owner's and contractor's protective coverage, contingent employers' liability, non-owned automobile liability and severability of interest provisions and shall provide that the insurer shall give to the Transferor not less than thirty (30) days' prior written notice of cancellation or any material change in the policy coverage.

**13.** There are no representations, covenants, agreements, warranties and conditions in any way relating to the subject matter of this grant of Rights whether express or implied, collateral or otherwise except those set forth herein.

**14.** No waiver of a breach of any of the covenants of this grant of easement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

**15.** Any notice to be given to the Transferor shall be given in writing and delivered either personally, or by pre-paid registered post or by email, at the address noted below:

The Corporation of the Town of Wasaga Beach  
[insert address] 30 Lewis Street  
Wasaga Beach, L9Z 1A1

Attention: Clerk  
Email: [clerk@wasagabeach.com](mailto:clerk@wasagabeach.com)

and any notice to be given to the Transferee shall be given in writing and delivered either personally, or by pre-paid registered post or by recognized electronic means, at the address noted below:

Simcoe Muskoka Catholic District School Board  
 97 Ferndale Drive North  
 Barrie, ON L4N 9V5

Attention: Mark Connors, Superintendent of Policy, Finance and Business Services  
 Email: <\*> [insert e-mail address]

Such notice shall be deemed to have been given, in the case of personal delivery, on the date of delivery, and, where given by registered post, on the third business day following the posting thereof, and if sent by email, the date of delivery shall be deemed to be the date of transmission if transmission occurs prior to 4:00 p.m. (local time) on a business day and on the business day next following the date of transmission in any other case. It is understood that in the event of a threatened or actual postal disruption in the postal service in the postal area through which such notice must be sent, notice must be given personally as aforesaid or by facsimile, in which case notice shall be deemed to have been given as set out above. "Business day" shall mean any day which is not a Saturday or Sunday or a statutory holiday in the Province of Ontario.

**16.** The Transferee shall have the absolute right to assign or transfer its rights hereunder to a successor owner of the Dominant Lands provided the Dominant Lands continue to be operated as a school as such term is currently defined in the *Education Act*, R.S.O. 1990, c. E.2.

**17.**

(a) In the event of a material default (as determined by the Transferee acting reasonably) of any of the terms or obligations in this easement by the Transferee other than payment of any amount due hereunder, the Transferor may provide written notice to the Transferee specifying the default, and if the default is not remedied or if adequate and sufficient measures are not being taken to satisfactorily remedy the same within ninety (90) days of the delivery of the notice (or, where such default is not reasonably capable of remedy within such ninety (90) day period, then if the Transferee has not within such period commenced to remedy such default and/or has not thereafter completed such remedy within such longer period as may be reasonably required in the circumstances) then the Transferor may terminate this easement immediately upon expiration of such ninety (90) day (or longer) period (or such longer period as provided in this paragraph), aforesaid without any further notice.

(b) In the event of any default of the Transferee in performing any work, repairs, or other obligations of the Transferee under this easement or making any payments due or claimed due by the Transferee to third parties, which default has not been cured within the period set out herein, the Transferor may, but shall not be obligated to, perform any such work, repairs, or other obligations of the Transferee or make any payments due or claimed to be due by the Transferee to third parties, and without being in breach of any of the Transferor's obligations hereunder and without thereby being deemed to infringe upon any of the Transferee's rights pursuant hereto, and, in such case, the Transferee shall pay to the Transferor forthwith upon demand all amounts paid by the Transferor to third parties in respect of such default and all costs of the Transferor in remedying or attempting to remedy any such default.

(c) In the event of default in payment of any amount due by the Transferee hereunder, interest shall accrue and be payable on such amount at that rate of interest per annum posted and

charged from time to time by the Minister of Finance, compounded monthly until paid. Acceptance of any overdue payment or interest shall not constitute a waiver of any rights or remedies that the Transferor may have hereunder or at law.

(d) The failure of any party to exercise any right, power or option or to enforce any remedy or to insist upon the strict compliance with the terms, conditions and covenants under this Grant of Easement shall not constitute a waiver of the terms, conditions and covenants herein with respect to that or any other or subsequent breach thereof or a waiver by that party at any time thereafter to require strict compliance with all terms, conditions and covenants hereof, including the terms, conditions and covenants with respect to which the party has failed to exercise such right, power or option. Nothing shall be construed or have the effect of a waiver except an instrument in writing signed by a duly authorized officer of the applicable party which expressly or impliedly waives a right, power or option under this easement.

**18.** The Transferee has an interest in the land legally described as PT LT 24 CON 9 FLOS, WASAGA BEACH being Part 2 on Reference Plan 51R-45190, County of Simcoe being part of PIN 58337-0193 (LT) (hereinafter the "**Dominant Lands**"). The burden of the Easement shall run with the Easement Lands and each and every part thereof and the benefit thereof shall run with and be appurtenant to the Dominant Lands and each and every part thereof which shall be binding upon and enure to the benefit of the parties hereto and their respective successors, assigns and administrators.

**19.** This easement may be executed in counterparts and each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to bear date as of the date first written above. The parties agree that this easement may be transmitted by electronic transmission (scanned and transmitted by email) and that the reproduction of signatures by way of electronic means will be treated as though such reproductions were executed originals and each party undertakes to provide the other with a copy of this easement bearing original signatures within a reasonable time after request.

IN WITNESS WHEREOF the Parties have signed this Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_ .

**THE CORPORATION OF THE TOWN OF WASAGA BEACH**

Per: \_\_\_\_\_  
Name: Brian Smith  
Title: Mayor

Per: \_\_\_\_\_  
Name: Nicole Rubli  
Title: Clerk

We have authority to bind the Corporation.

**SIMCOE MUSKOKA CATHOLIC DISTRICT SCHOOL BOARD**

Per: \_\_\_\_\_  
Name: Kimberly Dixon  
Title: Director of Education

Per: \_\_\_\_\_  
Name: Mark Connors  
Title: Superintendent of Policy, Finance and Business Services

We have authority to bind the Corporation.

**SCHEDULE A**

ATTACH PLANS FOR PARKING LOT IMPROVEMENTS

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