



Staff Report

Infrastructure & Public Works

Report To: Committee of the Whole
Meeting Date: September 11, 2017
Report Number: CSPW.17.087
Subject: Town of The Blue Mountains/Meaford Boundary Road Maintenance Agreement
Prepared by: Jim McCannell, Manager of Roads and Drainage

A. Recommendations

THAT Council receive Staff Report.17.087 entitled, "Town of The Blue Mountains/ Meaford Boundary Road Maintenance Agreement";

AND THAT Council authorize the Mayor and Clerk to sign the Boundary Road Maintenance Agreement, upon the recommendation of the Director of Infrastructure and Public Works and the Town's Solicitor.

B. Overview

The Ontario Municipal Act, under Section 20(1) allows municipalities to enter into an agreement with an adjoining municipality to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries. In the case of boundary roadways where two municipalities share joint jurisdiction, this allows municipalities to share the responsibility in order to reduce the duplication of maintenance and repair services between adjoining municipalities.

The Municipality of Meaford and the Town of The Blue Mountains have had a long-standing informal agreement for the routine maintenance and winter control maintenance of The Blue Mountains/Meaford boundary (Townline) Road to the mutual benefit of both parties.

The Town of The Blue Mountains and The Municipality of Meaford would like to formalize the agreement for the routine maintenance and winter control maintenance of the Townline Road for a period of 10 years. The purpose of this report is to outline the proposed agreement.

C. Background

The Town of The Blue Mountains and The Municipality of Meaford have had an informal agreement for the routine maintenance and winter control maintenance of The Blue Mountains/Meaford Townline Road since the early 1970s. The proposed Agreement divides responsibility for the routine maintenance and winter control maintenance of the Townline

Road between The Town of The Blue Mountains and The Municipality of Meaford for a period of 10 years.

The proposed agreement states that:

- The Town of The Blue Mountains is to perform routine maintenance and winter control maintenance of the Townline Road year round from the 7th Sideroad South to the 30th Sideroad;
- The Municipality of Meaford is to perform routine maintenance and winter control maintenance of the Townline Road (Christie Beach Road) year round from Highway 26 North to Georgian Bay; and,
- The Blue Mountains and Meaford will share responsibility for the maintenance of the Townline (Deviation) Road from Highway 26 South to the 7th Sideroad with The Blue Mountains performing winter control maintenance and Meaford performing routine maintenance during the rest of the year (April 16th—November 1st).

See Attachments #1 and #2.

Furthermore, the proposed Agreement states that each party will be responsible for the necessary expenditures related to the works carried out on the above mentioned roadways with no billing back and forth for costs of routine maintenance.

Finally, the proposed Agreement states that no new construction or major maintenance work (as distinguished from routine maintenance) of any kind shall be undertaken on the Townline Road without having first been approved by the Councils of both municipalities and it is anticipated that the cost for all new construction or major maintenance work shall be shared equally between municipalities.

D. Analysis

The proposed Boundary Road Agreement clearly defines each party's responsibilities for routine maintenance and winter control maintenance, for legal responsibilities, and for cost sharing of major maintenance or construction works for a period of 10 years.

Consequently, the proposed agreement enables the Town to work more efficiently with adjacent municipalities to deliver cost effective and efficient services to respective residents by defining the respective responsibilities of each party and reducing the duplication of maintenance and repair services.

Therefore, it is the recommendation of Staff that the proposed Boundary Road Maintenance Agreement with The Municipality of Meaford be approved by Council. It is further recommended that the Mayor and Clerk be authorized to execute the Agreement and any related documents, upon the recommendation of the Director of Infrastructure and Public Works and the Town's Solicitor.

E. The Blue Mountains Strategic Plan

Goal #5: Ensure Our Infrastructure is Sustainable

F. Environmental Impacts

Staff are monitoring the use of salts as de-icing agents through better record keeping and reporting. Annual reports are filed with Environment Canada. Increased training of staff and contractors have made Operators aware of alternative methods and products which have decreased the overall volume of salt being used.

Contractors will be asked to participate in the Town's anti-idling initiative and to take reasonable steps to reduce their energy consumption.

G. Financial Impact

There will be no additional financial impact to the budget as the current maintenance costs have been included in past budgets. The annual maintenance cost will continue to be funded from the Roads and Drainage Operating budget.

H. In consultation with

John Metras, Solicitor
Serena Wilgress, Manager of Purchasing and Risk Management

I. Attached

1. Boundary Road Maintenance Agreement
2. Schedule "A" – location Map.

Respectfully submitted,

Jim McCannell
Manager of Roads and Drainage

Reg Russwurm, MBA, P.Eng
Director of Infrastructure and Public Works

For more information, please contact:
Jim McCannell

519-599-3131 extension 271

BOUNDARY ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT made in duplicate this _____ day of _____ 2017

BETWEEN

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

Hereinafter referred to as "The Blue Mountains"

PARTY OF THE FIRST PART

AND

THE CORPORATION OF THE MUNICIPALITY OF MEAFORD

Hereinafter referred to as "Meaford"

PARTY OF THE SECOND PART

WHEREAS the parties to this agreement are adjoining municipalities and are desirous of entering into an agreement under the provisions of subsection 29.1 (1) of the *Municipal Act*, S.O. 2001, c.25, as amended (the "Act"), dealing with maintenance and repair of boundary highways and bridges between such municipalities;

AND WHEREAS pursuant to subsection 29.1 (2) of the *Municipal Act*, S.O. 2001, c.25, as amended (the "Act"), each municipality has jurisdiction over that part of the highway that it has agreed to keep in repair and is liable for any damages that arise from the failure to keep the highway in repair and the other municipality is relieved from all liability in respect of the repair of that part;

NOW THEREFORE in consideration of the premises, covenants and promises hereinafter expressed, the parties hereto agree each with the other as follows:

A. DEFINITIONS

1. In this Agreement:

Bridge means a public bridge forming part of a highway or on, over or across which a highway passes.

Highway means a common or public highway, any part of which is intended for or used by the public for passage of vehicles and pedestrians and includes the areas between the lateral property lines thereof.

Joint Jurisdiction means the local municipalities on either side of a boundary line between municipalities have joint jurisdiction over any highway or bridge forming the boundary line.

Level of Service means the level of service as adopted by the council of the municipality for repair of a highway.

Roadway means that part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder.

Routine Maintenance means those activities completed in the maintenance and repair of a highway or bridge and as described as follows:

- a. *Hardtop surface maintenance* includes frost heave repair; base repair; utility cut repair; hot and cold mix patching; shoulder maintenance including crack sealing, slurry sealing and spray patching; surface sweeping; surface flushing and; routine patrolling.
- b. *Roadside* includes vegetation management including roadside mowing, weed control, tree planting and removal, tree trimming; sidewalk

maintenance; debris collection including debris and leaves; curb and gutter, guiderail and fence maintenance.

- c. *Shoulder* means the area adjacent to a roadway, where there is no curb, that may be paved or unpaved but does not include a sidewalk.
- d. *Stormwater management* includes roadside ditching; entrance culvert maintenance; maintenance and cleaning of maintenance holes, storm sewers and catch basins and; video camera inspection.
- e. *Structures* includes washing and component repairs for concrete and steel culverts, bridges of all types and pedestrian bridges.
- f. *Traffic operations* includes pavement markings, illumination, signals, signs, safety devices, bike path maintenance, railroad crossing maintenance.

Winter Control Maintenance includes snowplowing, combination plowing/ice control, ice control, de-icing, sanding, winging back, snow fencing, snow removal, standby, winter patrol, spring clean-up, sidewalk plowing and de-icing.

- 2. Where words or phrases used in this Agreement are defined in the Act, but not defined in this Agreement, the definitions of the Act shall apply to such words and phrases.

B. INTERPRETATION

Where there is any conflict between the provisions of this Agreement and the provisions of the Act, as amended, the provisions of the Act shall prevail.

C. MAINTENANCE AND REPAIR OF HIGHWAYS

- 1. THE BLUE MOUNTAINS hereby covenants and agrees to maintain and keep in repair, in accordance with the Town's Level of Service, which is hereby declared to form part of this Agreement, for the whole width thereof the highways as follows:

To perform Routine Maintenance and Winter Control Maintenance upon the road sections from 30/31 Sideroad to 36/37 Sideroad in The Blue Mountains.

The Blue Mountains - Road Section #1168
Meaford – Road Section # 2000
Road Classification for Minimum Standards of Maintenance: 4

The Blue Mountains - Road Section # 1170
Meaford – Road Section # 2001
Road Classification for Minimum Standards of Maintenance: 4

The Blue Mountains - Road Section # 1171
Meaford – Road Section # 2001
Road Classification for Minimum Standards of Maintenance: 4

To perform Winter Control Maintenance upon the road sections from 36/37 Sideroad to Provincial Highway No. 26 in The Blue Mountains and Meaford.

The Blue Mountains - Road Section #1172
Meaford – Road Section # 2002
Road Classification for Minimum Standards of Maintenance: 4

- a. During each Winter Control Period throughout the term of the Agreement, THE BLUE MOUNTAINS shall be responsible for winter control maintenance activities which shall mean:
 - i. patrolling with respect to winter maintenance;
 - ii. removing snow from the roadway (which for the purposes of this agreement mean one lane in each direction);
 - iii. application of materials to counteract icy roadways; and,

- iv. removal of snow banks on portions of the traveled highway beyond the roadway (i.e. the shoulders) and around traffic control devices (i.e. stop and yield signs) as required.

All of the foregoing will be completed in accordance with the level of service standard set out in Schedule "A" hereto and in the same manner as THE BLUE MOUNTAINS provides the foregoing winter control maintenance activities on the same class of road under its jurisdiction.

- b. In addition to the foregoing, outside of the Winter Control Period (being the period April 16th through November 1st inclusive), THE BLUE MOUNTAINS shall undertake the activities listed in subsections (a)(i) and (ii) in response to winter events in the same manner as THE BLUE MOUNTAINS responds to such winter events on the same class of road under its jurisdiction. Both parties acknowledge and agree that the foregoing activities may occur at a lower level of service than during the Winter Control Period, but that the response is intended to meet the Common Law test of reasonableness as it relates to the specific activities set out in subsections (a)(i) and (iii).
 - c. The obligations set out above shall not include any obligation or responsibility to make capital improvements to the road. Furthermore, the Town acknowledges and agrees that the physical condition of the subject road may affect the manner in which winter control maintenance services are delivered by THE BLUE MOUNTAINS. The parties agree to conduct a mutual inspection of the condition of the roadway prior to August 31st each year and to make a record of the existing conditions.
 - d. THE BLUE MOUNTAINS will be responsible for rectifying any damages which the parties agree was caused by the operations of its equipment during the Winter Control Period. This includes but is not limited to the replacement of signs, guide rails or other Town infrastructure at THE BLUE MOUNTAINS' expense. The Town shall give notice of the occurrence of such damage and where THE BLUE MOUNTAINS agrees that it caused such damage it shall have the option of repairing such damage or paying MEAFORD for the cost of such repairs.
2. MEAFORD hereby covenants and agrees to maintain and keep in repair, in accordance with the Municipality of Meaford's Level of Service, which is hereby declared to form part of this Agreement, for the whole width thereof the highways as follows:

To perform Routine Maintenance and Winter Control Maintenance upon the road sections from Provincial Highway No. 26 in The Blue Mountains and Meaford northerly to the Georgian Bay.

The Blue Mountains - Road Section # 1300
Meaford – Road Section # 2003
Road Classification for Minimum Standards of Maintenance: 4

The Blue Mountains - Road Section #1302
Meaford – Road Section # 2003
Road Classification for Minimum Standards of Maintenance: 4

To perform Routine Maintenance upon the road sections from 36/37 Sideroad to Provincial Highway No. 26 in The Blue Mountains and Meaford.

The Blue Mountains - Road Section #1172
Meaford – Road Section # 2002
Road Classification for Minimum Standards of Maintenance: 4

- a. During each Winter Control Period throughout the term of the Agreement, MEAFORD shall be responsible for winter control maintenance activities which shall mean:

- i. patrolling with respect to winter maintenance;
 - ii. removing snow from the roadway (which for the purposes of this agreement mean one lane in each direction);
 - iii. application of materials to counteract icy roadways; and,
 - iv. removal of snow banks on portions of the traveled highway beyond the roadway (i.e. the shoulders) and around traffic control devices (i.e. stop and yield signs) as required.
- b. All of the foregoing will be completed in accordance with the level of service standard set out in Schedule "A" hereto and in the same manner as MEAFORD provides the foregoing winter control maintenance activities on the same class of road under its jurisdiction.
- c. In addition to the foregoing, outside of the Winter Control Period (being the period April 16th through November 1st inclusive), MEAFORD shall undertake the activities listed in subsections (a)(i) and (ii) in response to winter events in the same manner as MEAFORD responds to such winter events on the same class of road under its jurisdiction. Both parties acknowledge and agree that the foregoing activities may occur at a lower level of service than during the Winter Control Period, but that the response is intended to meet the Common Law test of reasonableness as it relates to the specific activities set out in subsections (a)(i) and (iii).
- d. The obligations set out above shall not include any obligation or responsibility to make capital improvements to the road. Furthermore, the Municipality acknowledges and agrees that the physical condition of the subject road may affect the manner in which winter control maintenance services are delivered by MEAFORD. The parties agree to conduct a mutual inspection of the condition of the roadway prior to August 31st each year and to make a record of the existing conditions.
- e. MEAFORD will be responsible for rectifying any damages which the parties agree was caused by the operations of its equipment during the Winter Control Period. This includes but is not limited to the replacement of signs, guide rails or other ~~Municipal-Municipal~~ infrastructure at MEAFORD'S expense. The Municipality shall give notice of the occurrence of such damage and where MEAFORD agrees that it caused such damage it shall have the option of repairing such damage or paying THE BLUE MOUNTAINS for the cost of such repairs.

D. MAINTENANCE AND REPAIR OF BRIDGES

1. THE BLUE MOUNTAINS and MEAFORD hereby mutually acknowledge and agree that at the time of this agreement there are no bridges along the boundary.

E. GENERAL

1. Each party will be responsible for the necessary expenditures related to the works carried out on all highways and bridges listed in this agreement and in accordance with paragraph 2 of the GENERAL section of this agreement with no billing back and forth for costs of routine maintenance.
2. No new construction or major maintenance work (as distinguished from routine maintenance) of any kind on highways and bridges shall commence or be charged by one party to this agreement to the other unless such construction or major maintenance work has first been approved by the Councils of both municipalities.
3. It is anticipated that the cost for all new construction or major maintenance work shall be shared 50/50 between municipalities.

4. The total reconstruction of bridges with a 3 metre span or more is the responsibility of Grey County to reconstruct. The maintenance of the bridges are a municipal obligation.

5. Indemnification

a. MEAFORD agrees to defend, indemnify and save and hold harmless THE BLUE MOUNTAINS from all claims, lawsuits, losses, expenses and costs, or any other liability imposed by statute or common law in any way connected to or in any way arising out of any actual or alleged breach, default or neglect of duty in respect of the winter control maintenance and routine maintenance of the roads referred to in this agreement as being the responsibility of MEAFORD.

b. THE BLUE MOUNTAINS agrees to defend, indemnify and save and hold harmless MEAFORD from all claims, lawsuits, losses, expenses and costs, or any other liability imposed by statute or common law in any way connected to or in any way arising out of any actual or alleged breach, default or neglect of duty in respect of the winter control maintenance and routine maintenance of the roads referred to in this agreement as being the responsibility of THE BLUE MOUNTAINS.

6. Insurance

a. Each party shall, at its own expense, obtain and keep in force during the term of this Agreement, liability insurance satisfactory to the other party, including the following terms and minimum coverage and underwritten by an insurer licensed to conduct business in the Province of Ontario:

- Municipal General Liability insurance on an occurrence basis for an amount of not less than Fifteen Million Dollars (\$15,000,000);
- inclusion of the other party as an Additional Insured with respect to the operations covered under this Agreement of the named insured;
- Cross Liability and Severability of Interest clauses;
- non-owned automobile coverage with a limit of at least Ten Million Dollars (\$10,000,000) including contractual non-owned coverage;
- Products and completed operation coverage with an aggregate limit of not less than Fifteen Million Dollars (\$15,000,000);
- Automobile liability insurance for an amount not less than Ten Million Dollars (\$10,000,000) on forms meeting statutory requirements covering all licensed vehicles used in any manner in connection with the performance of the terms of this Agreement; and
- a thirty day written notice of cancellation, termination or material change.

b. Each party shall provide the other party proof of insurance, each year, in the form of an insurance certificate.

c. Both parties agree to immediately notify the other party of any occurrence, incident or event which may reasonably be expected to expose either party to material liability of any kind in relation to the Road.

7. Notice of Claim

In the event that either party receives a Statement of Claim, notice of claim or other information regarding a pending or possible claim by a third party with respect to liability for failure to keep the Road in repair or for damages or injuries sustained relating thereto such party shall immediately notify and provide to the other party such claim or notice of claim.

8. This agreement comes into force on the day of its signing by both and shall continue in force for a period of ten (10) years and may be renewed at the end of the term by both parties to this agreement.

9. No amendment or variation to this Agreement or any of the terms hereof shall be binding upon the parties hereto, unless the same is in writing and authorized by further by-law of both parties to this Agreement and signed by all parties hereto.

10. Force Majeure

- a. Neither MEAFORD nor THE BLUE MOUNTAINS shall be held responsible for any damage or delays as a result of war, invasions, insurrection, demonstrations, or as a result of decisions by civilian or military authorities, fire, flood, human health emergency, strikes and generally as a result of any event that is beyond MEAFORD or THE BLUE MOUNTAINS' reasonable control.
- b. MEAFORD and THE BLUE MOUNTAINS agree that in the event of a disaster or FORCE MAJEURE the parties will co-operate and each party will make all reasonable efforts to provide temporary replacement service until permanent service is completely restored.

11. Governing Law

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.

12. Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

13. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the winter maintenance of the Roads and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to winter maintenance for the Roads, except as provided in this Agreement and the attached Schedule A.

14. Waiver and Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver, even if similar in nature, unless otherwise expressly provided.

15. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Neither party may assign all or any part of this Agreement without the written approval of the other party.

16. Notice

Any notice required to be given by MEAFORD to THE BLUE MOUNTIANS shall be in writing and shall be sufficiently delivered if given to the Town Clerk by personal delivery or prepaid post, c/o Town Clerk, to:

Town of The Blue Mountains
32 Mill Street
PO Box 310
Thornbury, ON N0H 2P0

Any notice required to be given by THE BLUE MOUNTAINS to MEAFORD shall be in writing and shall be sufficiently delivered if given to the Clerk by personal delivery or prepaid post, c/o Clerk, to:

Municipality of Meaford
21 Trowbridge Street West
Meaford, ON N4L 1A1

Notice delivered by mail shall be deemed to have been received on the fifth (5th) business day following the date of such mailing.

IN WITNESS WHEREOF the Corporate Seals of each of the parties hereto have been affixed duly attested to by the respective officers authorised in that behalf.

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS:

John McKean, Mayor

Corrina Giles, Town Clerk

THE CORPORATION OF THE MUNICIPALITY OF MEAFORD

Barb Clumpus, Mayor

Matt Smitt, Clerk


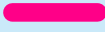

Schedule "A"

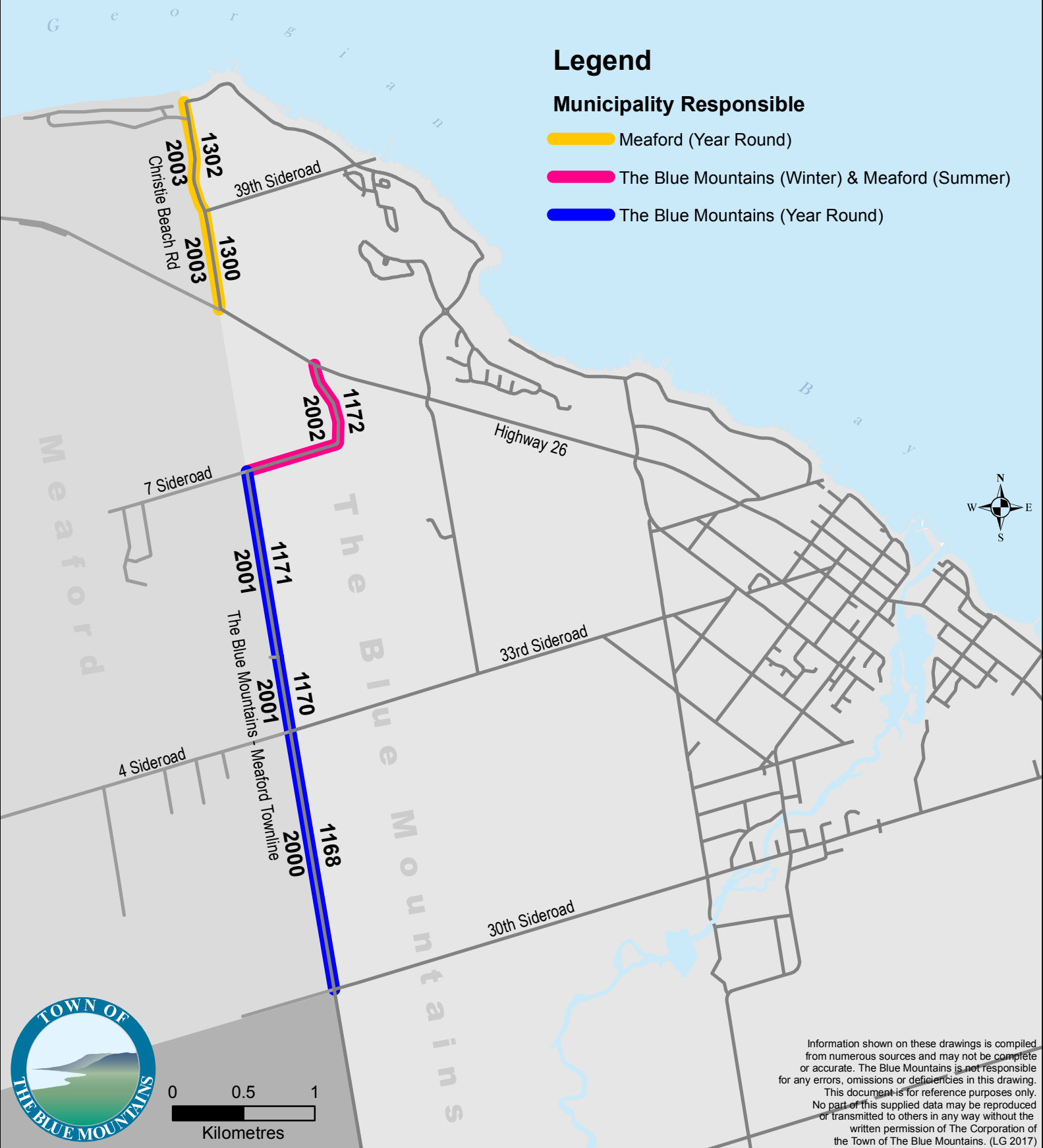
Town of The Blue Mountains and Municipality of Meaford

Townline Agreement

Legend

Municipality Responsible

-  Meaford (Year Round)
-  The Blue Mountains (Winter) & Meaford (Summer)
-  The Blue Mountains (Year Round)



Information shown on these drawings is compiled from numerous sources and may not be complete or accurate. The Blue Mountains is not responsible for any errors, omissions or deficiencies in this drawing. This document is for reference purposes only. No part of this supplied data may be reproduced or transmitted to others in any way without the written permission of The Corporation of the Town of The Blue Mountains. (LG 2017)