

Report to Municipal Services Committee
(GG/Finance)
Meeting Date: February 27 2023
**Report Title: Newboro Harbour Parks Canada
Parking Agreement**

Department: Facilities & Parks
Author's Name: Malcolm Norwood
Position: Manager of Facilities and Parks
File/Report # MSC-05



RECOMMENDATION:

That the Municipal Services Committee recommend to Council that the Township enter into a revised agreement with Parks Canada to collect Parking Fees for a 5-year term.

BACKGROUND:

The Township has historically maintained an agreement with Parks Canada to collect Parking Fees for the transient parking at the Newboro Harbour. This agreement was in effect through By-law 2018-05, and the Township renewed the agreement for an additional 2-years in 2020. Parks Canada is proposing to renew the agreement for another 5-year term, and thus staff are bringing forward this agreement for Council's review.

DISCUSSION:

The agreement with Parks Canada is the same as it has been in the past with a new clause allowing the Township to remit payment when a harbour master is not hired or did not complete their employment for the season.

The Township has had difficulties filling the harbour master position in the past, and even when filled it is common for the position to not be continuous throughout the summer (IE the employee leaves the position earlier than the end of summer). It is proposed that in those instances the parties can opt to take an average of the previous 3 years' remittance and use that for the parking amount owing from the transient parking payments. The agreement continues to stipulate that the Township remits 35% of the fees collected from the 19 transient Parks Canada Parking Spots at the Newboro Harbour.

Overall, it is important that the Township partner with Parks Canada to keep these parking spots transient. There are known parking issues in Newboro Harbour and if

these spots were to flip to being fully reserved and assigned to an individual person, this would exasperate the existing parking issues. Therefore it is important that the Township continue to work with Parks Canada to keep these spots open to the public for transient visitors which this agreement helps to facilitate.

FINANCIAL IMPLICATIONS:

The Township will continue to collect 65% of the Parks Canada revenue from their parking area.

ATTACHMENTS:

1. Proposed 5-year agreement with Parks Canada for Parking Fee Collection

E-signed

February 22, 2023

Malcolm Norwood
Manager Facilities and Parks

DATE

e-approved

February 22, 2023

Mike Dwyer
C.A.O

DATE

DUPLICATE
ORIGINAL

85-1920-606-1153

Parks Canada Agency

L I C E N C E P E R M I S

HIS MAJESTY THE KING
TO

THE CORPORATION OF THE TOWNSHIP OF RIDEAU LAKES

Date of Licence
Date du Permis -----

Public Work concerned Rideau Canal
Travail public touché -----

Description for the purpose of visitor parking at the Newboro lockstation

Term: 5 years From: January 1, 2023

Rental: 35% of the annual gross revenue collected from the Parks Canada daily parking

Departmental Reference File No C8606/R85-1153

MEMORANDA - NOTE

This licence replaces Licence No. 85-1920-606-1153 dated February 17, 2020 issued to The Corporation of the Township of Rideau Lakes

BETWEEN: **HIS MAJESTY THE KING**, in right of Canada, represented herein by the Minister of the Environment for the purposes of the Parks Canada Agency, ("His Majesty"),

AND: **THE CORPORATION OF THE TOWNSHIP OF RIDEAU LAKES** a body corporate, incorporated under the laws of the Province of Ontario and having its head office in the Village of Chantry in the said Province, ("**Licensee**"),

WITNESS that in consideration of the fees, covenants and agreements herein reserved and contained on the part of the Licensee to be paid, observed, performed and kept, His Majesty hereby gives permission to the Licensee to use and occupy on a non-exclusive basis for the purpose hereinafter mentioned and subject to the terms and conditions hereinafter contained, all that certain parcel or tract of land and premises situate, lying and being at the Rideau Canal National Historic Site, in the Province of Ontario, and being composed of: all that certain parcel of land as on the site plan annexed hereto and forming part hereof as Schedule "A", ("Premise"); for a five year term commencing on January 1, 2023 and ending on December 31, 2028 pleasure.

35% of the annual Gross Revenue from the Parks Canada daily parking, hereinafter called the “Licence Fee”.

1.01 In this Licence of Occupation:

- Licence ERPFIA Comm PGR

- (b) “*Bankruptcy and Insolvency Act*” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
- (c) “*Companies Creditors Arrangement Act*” means *Companies Creditors arrangement Act*, R.S.C. 1985, c. C-36;
- (d) “Contaminant” means:
 - (i) any pollutant or toxic, dangerous or hazardous substance or material as defined, listed, prohibited, controlled, or regulated by Applicable Environmental Law or any other formulation intended to define, list, prohibit, control, regulate or classify substances by reason of deleterious or harmful or potentially deleterious or potentially harmful properties such as ignitability, corrosivity, reactivity, radioactivity, or toxicity; or
 - (ii) any substance that when released in to the natural environment causes or is likely to cause harm, adverse impact, damage or degradation to, or impairment of, or the use of the environment, risk to or an adverse effect on human safety or health, injure or materially discomfort any person, or the normal conduct of business;
- (e) "Gross Revenue" means the total of the actual amount received or receivable for all merchandise sold, all rental sold and all services provided, whether for cash or credit or otherwise, on or from the Land by the Licensee or persons working on its behalf, including and without limiting the generality of the foregoing:
 - (i) sales to employees and agents of the Licensee and whether wholesale or retail merchandise and all other receipts whatsoever from all business conducted on or from the Land or by persons based on the Land, including amounts received for equipment rental and all deposits not refunded to a purchaser;
 - (ii) sales made by the Licensee on or from the Land or by persons working from the Land or operation on behalf of the Licensee; and all orders taken on or from the Land or on behalf of the Licensee, even if such orders are filled elsewhere or even though such orders are received by mail, telephone, fax, electronic information transfer or other similar method and are filled elsewhere than from the Land or are procured from the Land by house to house or other canvassing;
 - (iii) any commissions received by the Licensee for the collection of taxes and all other commissions resulting from sales and services at the retail level;
 - (iv) all receipts from coin-operated machines owned or operated by the Licensee, including vending machines and machines providing services or entertainment on the Land and in the case of coin-operated machines neither owned nor operated by the Licensee, all commissions and licence or other fees received by the Licensee with respect to such machines, including public telephones;
 - (v) any amount or credit received as settlement of a claim for compensation for lost revenue, and
 - (vi) any indirect tax included in the sales price.

In the determination of Gross Revenue, each sale upon credit whether by instalment payment or otherwise will be treated as a sale for the full sale price at the time such sale is made, no matter when payment whether full or partial will be received.

The term Gross Revenue will not include:

- (i) any sums required to be collected by the Licensee pursuant to any taxing legislation applicable to sales at the retail level. In the event that the direct retail sales tax is included in the sales price, the calculation of "Gross Revenue" shall be based on the net sales amount after deducting the direct retail sales tax;
- (ii) gratuities, service charges or other similar receipts collected for payment to and paid to employees;
- (iii) the exchange of goods and merchandise between the different outlets of the Licensee, if any, where such exchange of goods and merchandise is made in good faith and solely for the convenient operation of the business of the Licensee and not for the purpose of consummating a sale which has been made on or from the Land or operation or for the purpose of depriving His Majesty of the benefit of a sale which otherwise would be made on or from the Land;
- (iv) the amount of returns to suppliers or to manufacturers for the amount of merchandise sold when such merchandise or some part thereof is returned by the purchaser and accepted by the vendor thereof and a refund or credit is given to the purchaser;
- (v) the proceeds from any insurance policy paid to the Licensee by reason or account of or attributable to the use and occupation of the Land;
- (vi) any amount or credit received by the Licensee as settlement of a claim for loss, damages or injury, excepting any amount or credit received as compensation for lost revenue;
- (vii) any amount or credit received from the sale of chattels and fixtures after the use thereof in the conduct of the Licensee's business on the Land ;
- (viii) any amount or credit received from the sale of all or any of the capital assets of the Licensee's business on the Land;
- (ix) any amount received from investors for the purpose of the capitalization of the Licensee's business, whether such investment is in the form of equity, debt or a combination thereof;
- (x) any amount or credit received from the sale of the Licensee's accounts receivable;
- (xi) any interest or similar revenue earned by the Licensee on its funds or credits deposited or otherwise loaned to any chartered bank, trust corporation or other similar institution or any dividends or other yield earned by the Licensee on any of its invested funds;
- (xii) any grant received from any foundation or similar institution or association or from any government body or agency, whether federal, provincial or municipal, and

- (xiii) complimentary tickets or passes issued to fulfil operational requirements on the Land, and complimentary rooms, meals, tickets, passes and services issued for promotional or similar purposes.

Nothing in the foregoing definition of Gross Revenue will be construed as affecting or derogating from the covenant as to limitation and restriction of permitted use hereafter set out.

- (f) Licensee's Fiscal Year End" means the 31st day of December in each year of the Period;
- (g) "Minister" means the Minister of the Environment or such Minister designated by the Governor in Council as the Minister for the purposes of the *Parks Canada Agency Act*, or any person authorized to act in that behalf;
- (h) "Parks Canada Agency" means the Parks Canada Agency, a body corporate established under section 3 of the *Parks Canada Agency Act*, S.C. 1998, c. 31;
- (i) Site" means Ontario Waterways - Rideau Canal National Historic Site in the Province of Ontario;
- (j) Structures" means any buildings, erections, structures, fixtures and improvements existing on or under the Land from time to time; and
- (k) "Director" means the Director of the Site or any person authorized to act in that behalf.

- 1.02 Any reference in this Licence to a statute, regulation, by-law, declaration, directive, policy, approval, requirement, standard or order means the statute, regulation, by-law, declaration, directive, policy, approval, requirement, standard or order now in force, as it may be amended, revised, consolidated or substituted from time to time.

THE PARTIES COVENANT AND AGREE AS FOLLOWS:

ARTICLE 2.00 USE OF LAND

- 2.01
 - (a) The Licensee acknowledges and agrees that it is a condition upon which this Licence is granted that the Land shall be used only for the purpose of visitor parking with related facilities ancillary and all in accordance with applicable Site plans and guidelines;
 - (b) The Licensee shall obtain all permits, licences and authorizations required under all applicable statutes and regulations;
 - (c) The Licensee shall comply with, and the terms of this Licence shall be subject to all applicable statutes and regulations, and
 - (d) The Licensee covenants and agrees to comply with all of the terms and conditions contained in Schedule "B" titled "Operational Requirements" annexed hereto and forming part hereof.
- 2.02 The Licensee shall not create or permit or suffer any act or thing on the Land which is a nuisance.
- 2.03 The Licensee shall not cause, permit or allow the commission of any waste on or in the Land.

- 2.04 The Licensee shall, at its own expense, collect and dispose of all garbage resulting from the use and occupation of the Land, in a manner satisfactory to the Director.
- 2.05 The Licensee shall observe fire and safety precautions and shall comply fully with the instructions of the Director in relation thereto.

ARTICLE 3.00 ACCEPTANCE AND EXCEPTIONS

- 3.01 The Licensee covenants and agrees that:
- (a) it has inspected the Land or has caused it to be inspected on its behalf;
 - (b) it has entered into this Licence on reliance on that inspection and not on reliance on any representation, whether oral, written or implied, by whomsoever made;
 - (c) it will accept the Land in the condition existing on the date of this Licence on an "as is" basis, notwithstanding the existence of any Contaminant, known or unknown, on, in or under the Land;
 - (d) it has satisfied itself of everything and of every condition affecting the Land and any Structures including the environmental condition of same;
 - (e) that the use of the Land shall be consistent with the environmental condition of the Land, and
 - (f) no representation, warranty or inducement has been given by His Majesty or any of His servants, agents and contractors and relied upon by the Licensee respecting the condition of the Land.
- 3.02 This Licence operates solely as a licence and does not transfer any exclusive possessory right or interest to the Licensee.
- 3.03 The Licensee acknowledges and agrees that His Majesty may issue other licences of occupation with respect to the Land, or any portion thereof, or use the Land for Site purposes.
- 3.04 The Licensee shall permit His Majesty, His servants, agents, contractors, franchisees and the public at large to pass freely at all times over the Land.
- 3.05 Where the Land or any part thereof is required by His Majesty for the purpose of administration of the Site or for any other public purpose, His Majesty, His servants, agents, contractors and franchisees may enter and use the whole or any part of the Land, on the expiration of such notice as the Minister may deem expedient.
- 3.06 The Licensee shall give immediate notice to the Director if evidence of archaeological resources are encountered during any activity whatsoever on the Land, and await the Director's written instructions before proceeding with the activity on the Land.
- 3.07 The Licensee acknowledges and agrees that all archaeological resources in, on or under the Land are the property of His Majesty.

ARTICLE 4.00 TAXES AND OTHER CHARGES

- 4.01 The Licensee covenants and agrees to pay, in addition to the licence fee, all applicable taxes, rates, duties, assessments, levies, fees or other impositions whatsoever charged upon the Land in relation to the Licensee's use of the Land or upon the Licensee in respect thereof.

ARTICLE 5.00 ENVIRONMENTAL PROTECTION

- 5.01 The Licensee covenants and agrees that all activities on the Land shall be conducted in compliance with Applicable Environmental Law, and in accordance with environmental practices acceptable to the Minister if there is no Applicable Environmental Law.
- 5.02 The Licensee covenants and agrees that:
- (a) any required analysis of environmental impacts relating to its physical works and activities on the Land shall be conducted in accordance with any Applicable Environmental Law, regulations made thereunder, and any applicable policies, directives and procedures acceptable to the Minister; and
 - (b) it shall implement and comply with any specifications, mitigative measures and environmental protection measures as set forth in any analysis of environmental impacts referred to in (b) and shall become covenants which form part of this Licence.
- 5.03 The Licensee covenants and agrees to ensure that no Contaminant shall be used, emitted, discharged, stored or disposed of except in strict compliance with Applicable Environmental Law and in accordance with environmental practices acceptable to the Minister if there is no Applicable Environmental Law. The Licensee shall implement and comply with any specifications, mitigative measures and environmental protection measures as required by the Minister regarding the use, emission, discharge, storage or disposal of any Contaminant. Such specifications, mitigative measures and environmental protection measures shall become covenants which form part of this Licence.
- 5.04 The Licensee covenants and agrees to provide the Minister with written notice of any anticipated or actual adverse environmental impacts attributable to the use of the Land immediately upon discovery by the Licensee, and if the Minister considers remedial action to be necessary, the Licensee hereby agrees to undertake remedial action immediately using the appropriate technology, design or repair to the satisfaction of the Minister and pay the costs of such remedial action. Furthermore, the Licensee agrees that all such remedial action shall be undertaken in accordance with Applicable Environmental Law, and in accordance with environmental practices acceptable to the Minister if there is no Applicable Environmental Law, and in a manner so as to minimize any impact on the Land and elsewhere.
- 5.05 The Licensee covenants and agrees that should the Licensee fail to take any mitigative measures required by the Minister as set forth in Articles 5.02 and 5.03, or fail to commence and diligently complete the remedial action required in Article 5.04, the Minister may, upon written notice to the Licensee, carry out the specifications, complete the required mitigative measures or remedial action and charge the costs thereof to the Licensee and such costs, including reasonable costs for administration, shall constitute a debt due and owing to His Majesty and shall be payable upon demand.

ARTICLE 6.00 DUTY TO MAINTAIN AND RIGHT OF INSPECTION

- 6.01 The Licensee covenants and agrees that in relation to the Licensee's use of the Land:
- (a) it shall maintain or cause to be maintained the Land including any Structures thereon in a good state of maintenance and repair. If the Licensee fails to commence and diligently proceed to make such repairs or remedy such condition after receiving thirty (30) days notice in writing from the Director, the Director may enter the Land including any Structures thereon, make the said repairs, or remedy such condition, and charge the costs thereof to the Licensee and such costs, including reasonable costs for administration, shall constitute a debt due and owing to His Majesty and shall be payable upon demand; and
 - (b) the Director or his agents shall be entitled to enter and inspect the Land including any Structures thereon at all reasonable times for the purpose of inspecting and ascertaining the condition or state of repair thereof, or verifying that the covenants and other provisions of this Licence are being complied with.

ARTICLE 7.00 SUBMISSION OF PLANS AND SPECIFICATIONS

- 7.01 (a) The Licensee shall submit plans and specifications for any construction, additions and alterations to the Land including any Structures for the approval of the Director, in accordance with, but not limited to, the current development review process, site management plans, community plans, by-laws, guidelines, approvals, requirements, standards, orders, directives, zoning and such other regulations that are applicable to the Land and such other requirements specified by the Director.
- (b) Upon approval by the Director of the plans and specifications mentioned in (a), the Licensee shall obtain all necessary permits, licences and approvals and shall within one (1) year of the date of the issuance of all necessary permits, licences and approvals or such longer period of time as the Director may deem warranted, complete the construction, additions and alterations to the Land and any Structures including the remedying of any deficiencies.
- 7.02 With respect to any development pursuant to Articles 7.01, the Licensee shall, at the request of the Director, obtain a performance bond and labour and material payment bond or other form of security, in a form and such amounts to be determined by the Director. Such security shall remain in full force and effect for such reasonable period of time as the Director may deem warranted.

ARTICLE 8.00 DESTRUCTION AND RECONSTRUCTION

- 8.01 If any Structures on the Land should be destroyed by fire or an Act of God or other calamity, or be demolished, or by reason of any other occurrence become incapable of being satisfactorily utilized for the purpose permitted in this Licence, then subject to Article 8.02, the Licensee shall:
- (a) (i) within sixty (60) days of happening of any such event, give to the Director written notice whether or not it is the intention of the Licensee to rebuild, replace or reinstate any such Structures destroyed, demolished or rendered uninhabitable or unusable;
 - (ii) if it is the intention of the Licensee to rebuild, replace or reinstate any such Structures, the Licensee shall submit to the Director, at the request of the Director, within one (1) year of the written notice in (a)(i), plans and specifications therefore and obtain all

necessary permits, licences and approvals in accordance with the provisions of Article 7.00;

(iii) with respect to any reconstruction pursuant to (a)(ii), the Licensee shall comply with the terms and conditions of Article 7.00, and

(b) within one (1) year of the date of issuance of all necessary permits, licences and approvals to rebuild, replace or reinstate any such Structures destroyed, demolished or rendered uninhabitable or unusable, or to construct any new Structures in the place thereof, all as may be permitted under the Licence, or such longer period of time as may be permitted by the Director, complete the construction of any such Structures in respect to which the Licensee has given notice under (a)(i), including the remedying of any deficiencies, including without limitation, landscaping deficiencies. The Director may issue any subsequent permits, licences and approvals that may be required during the construction period.

8.02 In the event that the Licensee has not given notice under Article 8.01 (a)(i) to rebuild, replace or reinstate any such Structures destroyed, demolished or rendered uninhabitable or unusable, or to construct any new Structures in the place thereof or has indicated there is no intention to rebuild, replace or reinstate any such Structures, the Minister may terminate this Licence. In such a case, the Licensee shall, forthwith upon demand by the Director, restore the Land to a good state of maintenance and repair to the satisfaction of the Director and shall remove all damaged Structures and debris from the Land. Should the Licensee fail to effect clean up and restoration of the Land, then the Director may do so at the Licensee's expense, including reasonable costs for administration, which expense shall be a debt due and owing to His Majesty and shall be payable upon demand. The Director shall permit the Licensee access to such Land to perform its obligations set forth herein.

ARTICLE 9.00 ALIENATION

9.01 The Licensee shall not, at law or otherwise, assign, transfer, sublicense or otherwise alienate this Licence or any of the rights hereunder.

9.02 A transfer or issuance of the shares of a corporate licensee which would have the result of transferring effective control of the corporate licensee, or any other change in the corporate structure of the corporate licensee which would have the same result, shall not be deemed to be an assignment contemplated by Article 9.01; however, the Licensee must obtain the written consent of the Minister for any share transaction.

In the case of a corporate licensee, the shares of which are publicly traded, the consent of the Minister shall be obtained forthwith upon the corporate licensee receiving written notice that a share transaction has occurred, or will occur, that has resulted, or will result, in a change of control of the corporate licensee. The corporate licensee shall provide the Minister with any additional information and documentation that the Minister may require in order to determine whether to consent to the share transaction.

9.03 The Licensee or a legal representative of the Licensee shall provide to the Director, within thirty (30) days from the date of issuance, an original, duplicate original or certified true copy of any of the following documents relating to the Licensee or to the Land:

(a) evidence of change of name; and

(b) evidence of amalgamation or dissolution in the case of a corporate licensee.

ARTICLE 10.00 LIABILITY AND INDEMNITY

- 10.01 The Licensee shall not have any claim or demand against His Majesty or any of His servants, agents and all those for whom His Majesty is responsible at law, for detriment, damage, accident or injury of any nature whatsoever or howsoever caused to the Land or to any person or property thereon, except in the case of the negligence of His Majesty, His servants, agents and all those for whom His Majesty is responsible at law.
- 10.02 The Licensee shall at all times indemnify and save harmless His Majesty or any of His servants, agents and all those for whom His Majesty is responsible at law, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner based upon, arising out of, related to, occasioned by or attributable to:
- (a) the Licensee's use of the Land or the use of the Land by all those for whom the Licensee is responsible at law;
 - (b) the existence of any Contaminant in, on or under the Land, as a result of the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law;
 - (c) the existence of any Contaminant in, on or under other lands that has migrated from the Land, as a result of the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law;
 - (d) the remediation of any Contaminant referred to in (b) or (c); or
 - (e) any action taken or things done or maintained by virtue thereof, or the exercise in any manner of rights or fulfilment of any obligations arising hereunder.

ARTICLE 11.00 INSURANCE

- 11.01 The Licensee covenants and agrees that during the Period:
- (a) it shall, at its sole expense, obtain and maintain commercial general liability insurance in such amounts and on such terms as a prudent operator should maintain. Such insurance will provide that His Majesty is named as an additional insured and shall include coverage for bodily injury, including death, to any person, as well as the loss of or damage to any property, to the extent that liability for these things is connected with the Licensee's use of the Land. Furthermore, the Licensee shall increase the amount of such insurance and obtain such additional coverage as the Director may from time to time require, based on the prevailing limits and coverage for the type of land use described in Article 2.01 (a);
 - (b) it shall, at its sole expense, obtain and maintain fire insurance with extended coverage in such amounts and on such terms as a prudent operator should maintain. Such insurance will provide that His Majesty is named as an additional insured. Furthermore, the Licensee shall increase the amount of such insurance and obtain such additional coverage as the Director may from time to time require;
 - (c) it shall, at its sole expense, obtain and maintain, if applicable, broad form boiler and machinery insurance on a blanket repair and replacement basis, with limits for each accident in an amount not less than the value of all Structures located on the Land. Such insurance will provide that His

Majesty is named as an additional insured. Furthermore, the Licensee shall increase the amount of such insurance and obtain such additional coverage as the Director may from time to time require;

- (d) the insurance referred to in (a), (b) and (c) shall:
 - (i) be issued by an insurance company or companies which would be satisfactory to the Director and shall provide for a minimum of thirty (30) days notice in writing by such company or companies to the Licensee and to His Majesty of cancellation or amendment of such insurance;
 - (ii) shall contain a waiver of any subrogation rights the Licensee's insurers may have against His Majesty and against those for whom His Majesty is responsible at law except in the case of negligence of His Majesty, His servants and agents and all those for whom His Majesty is responsible at law;
 - (iii) provide for cross liability, that is to say, that the insurance shall indemnify each named insured and each additional insured in the same manner as though separate policies were issued in respect of any action brought against any of the insureds by any other insured;
 - (iv) protect the Licensee and His Majesty, as additional insureds, from loss or damage to any of His Majesty's property that is covered by this Licence, and to any of the Licensee's property that would become the property of His Majesty according to the provisions of this Licence on its expiration or termination. Such insurance shall provide that any proceeds payable under it will be made payable in favour of His Majesty and the Licensee jointly, and
 - (v) on the anniversary date for each year during the Period, it shall provide the Director with Certificates of Insurance or affidavits from the insurance company or companies confirming that the insurance referred to herein is in full force and effect.
- (e) it shall not do or omit to do or allow anything to be done or omitted to be done on the Land which will in any way impair or invalidate such insurance referred to herein.

ARTICLE 12.00 VESTING OF IMPROVEMENTS

- 12.01 All Structures that during the Period are affixed to the Land, whether at the expense of the Licensee or otherwise, howsoever, vest in His Majesty. Any items that are determined, at common law, to be trade fixtures or chattels may be removed by the Licensee within thirty (30) days following the expiration or termination of this Licence, provided that the Licensee shall immediately repair, at its expense, any damage caused to the Land and to any Structures by such removal. Any trade fixtures and chattels not removed within thirty (30) days following the expiration or termination of this Licence shall become forfeit to and vested in His Majesty.
- 12.02 Subsequent to the removal of all the Licensee's trade fixtures and chattels, in accordance with Article 12.01, the Licensee shall immediately repair, at its expense, any damage to the Land and to any Structures caused by such removal in accordance with the Director's instruction and to the satisfaction of the Director. If the Licensee fails to comply with this Article then the Director may repair any damage to the Land and to any Structures caused by such removal and charge the cost thereof, including reasonable costs for

administration, to the Licensee and such costs shall constitute a debt due and owing to His Majesty and shall be payable upon demand.

ARTICLE 13.00 CONDITION OF THE LAND UPON EXPIRATION OR TERMINATION

13.01 The Licensee covenants and agrees that upon the expiration or termination of this Licence, the Licensee shall at its own cost:

- (a) complete an analysis of environmental impacts as required by any Applicable Environmental Law and regulations made thereunder, and by any applicable policies, directives and procedures acceptable to the Minister;
- (b) leave any or all Structures on the Land in a good state of maintenance and repair, normal wear and tear excepted;
- (c) clean up the Land in respect to all Contaminants in accordance with Applicable Environmental Law;
- (d) clean up any Contaminant in, on or under the Land that has migrated from the Land as a result of the Licensee's use of the Land, or the use of the Land by all those for whom the Licensee is responsible at law, in accordance with Applicable Environmental Law, and in accordance with environmental practices acceptable to the Minister if there is no Applicable Environmental Law;
- (e) leave the Land free from all garbage and debris, and
- (f) restore the Land to a good state of maintenance and repair,

all to the satisfaction of the Director in his sole discretion.

13.02 If the Licensee fails to comply with the provisions of Article 13.01, the Minister may, upon written notice to the Licensee, complete the obligations of the Licensee and charge the costs thereof, including reasonable costs for administration, to the Licensee and such costs shall constitute a debt due and owing to His Majesty and shall be payable upon demand.

ARTICLE 14.00 DEFAULT AND TERMINATION

14.01 In respect to this Licence and in the event that:

- (a) any portion of the annual Licence Fee hereby reserved is unpaid for more than thirty (30) days after becoming due, whether formally demanded or not, and
- (b) the Licensee fails to continuously, regularly, duly and punctually perform, observe or keep any of the other covenants and provisions herein contained,

the Minister may, by notice in writing, require the Licensee to remedy any such default within such period of time as the Minister may deem warranted.

If in such case, the Licensee does not remedy such default within the time prescribed, it will be lawful for the Minister, in the Minister's sole discretion, without notice to the Licensee, to declare the Period ended and this Licence terminated and thereupon, these presents and everything herein contained and will absolutely cease, terminate and be void without re-entry or any other act or any suit or legal proceedings to be brought or taken, provided His Majesty will

nevertheless be entitled to recover from the Licensee the Licence Fee then accrued or accruing.

14.02 Notwithstanding anything herein contained, if the Licensee should at any time during the Period hereof:

- (a) make an assignment for the benefit of creditors pursuant to the *Bankruptcy and Insolvency Act*;
- (b) be adjudged bankrupt pursuant to the *Bankruptcy and Insolvency Act* provided that such order shall have remained in force for no less than thirty (30) days and shall not have been stayed;
- (c) file any petition or institute any proceedings under the *Bankruptcy and Insolvency Act*, *Companies Creditors Arrangement Act*, or similar legislation affecting the rights of creditors generally;
- (d) be subject to the appointment of a receiver or trustee who is not discharged within sixty (60) days from the date of such appointment;
- (e) abandons the Land, or demonstrate an intention to abandon the Land, or
- (f) shall attempt to sell, dispose of or remove its goods and chattels so that there would not, in the event of such sale, disposal or removal, be a sufficient distress on the Land for three (3) months' Licence Fee,

it will be lawful for the Minister, in the Minister's sole discretion, without notice to the Licensee, to declare the Period ended and this Licence terminated and thereupon, these presents and everything herein contained and will absolutely cease, terminate and be void without re-entry or any other act or any suit or legal proceedings to be brought or taken, provided His Majesty will nevertheless be entitled to recover from the Licensee the annual Licence Fee then accrued or accruing.

14.03 Termination of this Licence pursuant to any of the provisions herein shall be wholly without prejudice to the right of His Majesty to recover arrears of the annual Licence Fee or any other right of action by His Majesty in respect of any antecedent breach of covenant or other provision herein contained, and the rights shall survive the termination of this Licence, whether by act of the parties or by operation of law.

ARTICLE 15.00 OFFICIAL LANGUAGES

15.01 The Licensee shall endeavour to provide services to the public in both official languages of Canada and shall endeavour to provide signs, notices and printed materials used for the purpose of informing the public are written in both official languages, and the Licensee will upon the request of the Director obtain the approval of the Director prior to their being displayed or distributed.

ARTICLE 16.00 FINANCIAL RECORDS

16.01 (a) The Licensee shall, in each year of the Licence, maintain cash registers containing a cumulative total, sealed or locked, to the satisfaction of the Director, and keep or cause to be kept in accordance with generally accepted principles of accounting, records of Gross Revenue and of the expenses of the business operations conducted on the Land and based on such records, the Licensee shall submit to the Director, within one hundred and twenty (120) days of the close of the Licensee's Fiscal Year End, the financial statements based on such records, including a balance sheet, an income statement and a statement of Gross Revenue, all to the satisfaction of the Director.

- (b) If the financial statements referred to in (a) are not submitted within one hundred and twenty (120) days of the close of the Licensee's Fiscal Year End, the Director reserves the right to engage auditors to prepare such financial statements and audit report at the Licensee's costs, and such cost, including reasonable costs for administration, shall constitute a debt due and owing to His Majesty and shall be payable upon demand.
- (c) The Director shall have the right to prescribe or approve revenue gathering and cash control procedures and related equipment and the Director shall also have the right to investigate any irregularities in such procedures and use of related equipment.
- (d) The records required to be kept by the Licensee pursuant to (a) may be inspected or audited or both, at any time during normal business hours by any accredited representative or representatives of the Minister upon reasonable notice being given.
- (e) In the final five (5) years of this Licence and at any time after its termination, His Majesty may disclose the annual total of the Gross Revenue reported by the Licensee in each year of this Licence for the purpose of public tender information.

ARTICLE 17.00 DISPUTES

- 17.01 Any question or dispute that arises between the parties hereto over any of the covenants, terms, obligations, or provisions of this Licence or the interpretation thereof, shall be referred to a court of competent jurisdiction for determination.

ARTICLE 18.00 MISCELLANEOUS

- 18.01 Any notice, request or other communication required by or affecting this Licence may be served upon the parties hereto by sending it by mail, facsimile or other electronic message which provide a hard copy, postage or charges prepaid addressed to:

in the case of His Majesty
Minister of the Environment
c/o the Director
Ontario Waterways – Rideau Canal National Historic Site
34 Beckwith Street, S
Smiths Falls, ON K7A 2A8

and

in the case of the Licensee

the Licensee's last known address, or to the Land itself, or by leaving it at that address, or by personally serving it upon the party referred to therein.

Any notice addressed by mail to His Majesty or to the Licensee pursuant to this Article will be deemed to have been effectively given on the seventh (7th) business day following the date of mailing. Such addresses may be changed from time to time by either party giving notice as provided herein. In the event of any disruption of postal service, notices will be personally served upon the parties hereto.

- 18.02 A waiver, condonation, forgiveness or forbearance by either party hereto of the strict performance by the other of any covenant or provision of this Licence shall be in writing and shall not of itself constitute a waiver of any subsequent breach of that covenant or provision or any other covenant or provision thereof.

The failure of His Majesty to require the fulfilment of any obligation of the Licensee, or to exercise any rights herein contained shall not constitute a waiver or acquiescence or surrender of those obligations or rights.

- 18.03 If for any reason any covenant or provision contained in this Licence, or the application thereof to any party, is to any extent held or rendered invalid, unenforceable or illegal, then such covenant or provision shall be deemed to be independent of the remainder of this Licence and to be severable and divisible from this Licence. The invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of this Licence or any part thereof. The intention of His Majesty and the Licensee is that this Licence would have been executed without reference to any portion which may, for any reason and extent, be declared or held invalid, unenforceable or illegal. In the event that any covenant or condition is so determined, the Minister may, in the Minister's sole discretion, replace the covenant or condition with a new covenant or condition which would reflect the intention of the parties in the original covenant or condition.
- 18.04 The parties hereto specifically covenant and agree that no partnership, joint venture or any agency relationship is created or intended to be created between His Majesty and the Licensee pursuant to this Licence. The only relationship is that of licensor and licensee.
- 18.05 The Licensee hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of His Majesty for or with the view to obtaining this Licence, any bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure this Licence upon any agreement for a commission, percentage, brokerage or contingent fee.
- 18.06 Whenever the provisions of this Licence, unless the text expressly states otherwise, requires an approval of or consent to any action, request, document or plan by a party or require any party to be satisfied as to any of the foregoing, a party shall not arbitrarily or unreasonably withhold, delay or exercise such approval or consent. It shall be considered reasonable that in addition to anything set forth in this Licence, His Majesty, the Minister and the Director may consider applicable statutes and regulations thereunder, government policies and management plans as well as anything that may be necessary for the preservation, control or management of the Site or for the safety of the public. Furthermore, nothing herein shall limit any discretion of His Majesty, the Minister or the Director which discretion is set forth under any applicable statutes and regulations thereunder. In addition, the Licensee acknowledges and agrees that it shall be considered reasonable for His Majesty, the Minister and the Director to take the time for appropriate internal consultation as well as consultation with third parties as may be necessary for the granting of such approval or consent.
- 18.07 Time is of the essence of this Licence and all of the provisions hereof.
- 18.08 No implied terms or obligations of any kind on behalf of His Majesty shall arise from anything in this Licence or any improvements effected by the Licensee, and the express covenants and agreements herein contained and made by His Majesty are the only covenants and agreements upon which any rights against His Majesty are to be funded.
- 18.09 No exercise of any specific right or remedy of His Majesty shall prejudice or preclude His Majesty from exercising any other right or remedy provided by this Licence or allowed at law or in equity. No right or remedy provided to His Majesty by this Licence or at law or in equity shall be exclusive or dependent upon any other such right or remedy, and His Majesty may, from time to time,

exercise any one or more such rights or remedies independently or in combination.

- 18.10
- The captions and headings throughout this Licence are inserted for convenience of reference only and are not intended to describe, define or limit the scope, extent or intent of this Licence, or any provision thereof.
- 18.11
- Every provision herein contained shall enure to the benefit of and be binding upon His Majesty, His heirs, successors and assigns and the Licensee, its heirs, executors, administrators and permitted successors. Where there is more than one Licensee, all covenants and other provisions herein contained shall be construed as being joint and several, and when the context so requires or permits, the singular number shall be read as if the plural were expressed, and the masculine gender as if the feminine or neuter, as the case may be, were expressed.
- 18.12
- This Licence constitute the entire agreement between the Licensee and His Majesty with respect to the subject matter of this Licence. There are no collateral warranties or agreements.

IN WITNESS WHEREOF, the parties have executed this Licence.

Parks Canada Agency, on behalf of
His Majesty the King in right of Canada

Witness

David Britton, Director
Ontario Waterways
Rideau Canal National Historic Site

THE CORPORATION OF THE
TOWNSHIP OF RIDEAU LAKES

Witness

Arie Hoogenboom, Mayor

Witness

Mary Ellen Truelove, Clerk

Schedule “B” – Operational Requirements

- A. The Corporation of the Township of Rideau Lakes will conduct the collection of parking fees at the Newboro Lockstation for a term of three navigational seasons. Collection will occur each year from May 15 to October 15 for the years of 2017-2019. The fee is set out on page 1 of this licence.
- B. Collection of parking fees will be from the 22 daily Rideau Lakes parking spots and the 19 daily Parks Canada Agency spots.
- C. Parking fees will be collected five days per week, seven hours per day by the Harbour Master, who is employed by The Corporation of the Township of Rideau Lakes.
- D. The self-payment box will be used by the public, in the absence of the Harbour Master. The receipts will show if the parking is for The Corporation of the Township of Rideau Lakes or for the Parks Canada Agency. Collection from this box will be the Harbour Master’s responsibility.
- E. The Township shall make every effort to employ a Harbour Master for Newboro from May 15 – October 15. However, in the event that the Township is unable to fill this position or the position becomes vacant during the season, the parties agree to have the option to supply payment on the basis of the previous 3-year average of payments remitted to Parks Canada.