

THE CORPORATION TOWN OF MATTAWA

MOVED BY: COUNCILLOR FERN LEVESQUE

SECONDED BY: COUNCILLOR DEXTURE SARRAZIN

BE IT RESOLVED THAT Council of the Corporation of the Town of Mattawa adopt By-Law Number 23-12 which is a by-law authorizing the signing of the grant agreement with the Ministry of Fisheries and Oceans for the Waterfront Divestiture.

Recorded Vote – Yes ____ No ____

Recorded Vote Requested by:

	Yea	Nay
Mayor Bélanger	_____	_____
Councillor Gardiner	_____	_____
Councillor Sarrazin	_____	_____
Councillor Levesque	_____	_____
Councillor Mick	_____	_____
Councillor Ross	_____	_____
Councillor Thibert	_____	_____

R. Bélanger

MAYOR

Deferred ____ Tabled ____ Lost ____ Carried ____

Declaration of Pecuniary Interest:

Disclosed his/her/their interest(s), vacated he/her/their seat(s), abstained from discussion and did not vote

THE CORPORATION OF THE TOWN OF MATTAWA

BY-LAW NUMBER 23-12

BEING a by-law authorizing the signing of a Grant Agreement with His Majesty the King in Right of Canada as represented by the Ministry of Fisheries and Oceans regarding the Divestiture of the Mattawa Waterfront.

WHEREAS Subsection 8 of the Ontario Municipal Act 2001, S. O. 2001, c. 25 empowers and authorizes a municipality to enter into an agreement to enable them to govern their affairs as they consider appropriate;

AND WHEREAS the attached Grant Agreement, Schedule "A" outlines the funding agreement details and therefore forms part of this By-law.

NOW THEREFORE, the Council of the Corporation of the Town of Mattawa enacts as follows:

1. **THAT** the Mayor and Clerk are hereby authorized to execute the aforesaid Agreement on behalf of the Council of the Corporation of the Town of Mattawa, in accordance with the terms and conditions referred to in this agreement attached to this By-law and known as Schedule "A".
2. **THAT** this Agreement shall be effective and shall remain in effect and force in accordance with the terms of the agreement subject to any amendments thereto or the termination of said agreement.

READ A FIRST AND SECOND TIME, this 27th day of March, 2023.

READ A THIRD TIME AND FINALLY PASSED this 27th day of March, 2023.



Mayor



Clerk

GRANT AGREEMENT NUMBER :

FINANCIAL CODING :

Schedule "A"
to By-law 23-12

**GRANT AGREEMENT
FOR VOTE 10 DIVESTITURES**

THIS AGREEMENT, made this 27th day of March, 2023.

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF CANADA
(hereinafter called "His Majesty"), as represented by the
Minister of Fisheries and Oceans (the "Minister")

AND:

THE CORPORATION OF THE TOWN OF MATTAWA
(hereinafter called the "Recipient")

RECITALS:

WHEREAS pursuant to departmental objectives and the Harbour Disposal Program, the Minister wishes to transfer to the Recipient ownership of the Harbour at Mattawa as more fully described in the attached Appendix "A".

WHEREAS the Recipient has declared its intention (in a municipal resolution, letter, etc.) to assume ownership of the Harbour described in Appendix "A."

WHEREAS the Recipient agrees to continue to operate and maintain the Harbour for its current purpose as specified in the Transfer Document commencing from the date of the transfer of title of the Harbour to the Recipient.

WHEREAS the Recipient agrees to accept full responsibility and all future liabilities related to the Harbour in "as is" condition in return for a payment by the Minister "in lieu" of His Majesty performing repairs/improvements or demolition to the Harbour prior to or after the transfer of the Harbour.

AND WHEREAS the Minister and the Recipient wish to enter into this Agreement for a Grant to facilitate the transfer of the Harbour to the Recipient.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1: DEFINITIONS

- 1.1 **“Agreement”** means this Grant Agreement and Appendices “A”, and “B”
- 1.2 **“Audit”** means an examination of a Recipient’s accounts, records, or other evidence deemed, by the Minister, to be necessary.
- 1.3 **“Business Day”** means a day other than Saturday, Sunday or a statutory holiday in the Province of Ontario.
- 1.4 **“Department”** means the Department of Fisheries and Oceans Canada.
- 1.5 **“Grant”** means any payment by His Majesty to the Recipient that is the subject of this Agreement.
- 1.6 **“Harbour”** means the property and facilities described in appendix “A”.
- 1.7 **“Instrument of Grant”** means the executed conveyance document, as set out in s.5(7) of the *Federal Real Property and Federal Immovables Act*, that grants and conveys the harbour to the Recipient, its successors and assigns, in fee simple, and also includes the terms and conditions of the transfer of title.
- 1.8 **“Lawyer”** refers to the legal counsel of the Recipient.
- 1.9 **“Minister”** means the Minister of Fisheries and Oceans Canada and his authorized representative.
- 1.10 **“Transfer Agreement”** means the signed agreement between the parties wherein it is agreed that His Majesty will transfer title of the Harbour to the Recipient and which sets out the set of terms and conditions of the transfer of title.
- 1.11 **“Year”** means a period of 12 consecutive months commencing on April 1st, unless otherwise specified in this Agreement

SECTION 2: INTERPRETATION

2.1 Number and Gender

Words importing the singular shall include the plural and vice versa and words importing a particular gender shall include all genders. The necessary grammatical changes required to make the provisions of this Agreement apply shall, in all instances, be assumed as though fully expressed in each case.

2.2 Headings

The division of this Agreement into sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

2.3 Accounting Terms and Principles

All accounting and financial terms used in this Agreement shall, except where otherwise provided either expressly or by necessary implication in this Agreement, be interpreted and applied in accordance with generally accepted accounting principles and generally accepted auditing standards in Canada, as determined by the Canadian Institute of Chartered Accountants or any successor.

2.4 Business Day

If the day on which any act or payment is required to be performed or made under this Agreement is a day that is not a Business Day, then such act or payment shall be duly performed or made on the next following Business Day.

2.5 Appendix

Any document attached hereto as an Appendix forms part of this Agreement.

2.6 Statutes, Regulations and Rules

Any reference in this Agreement to all or any part of any statute, regulation or rule shall, unless otherwise stated, be a reference to that statute, regulation or rule as amended, substituted, replaced or re-enacted from time to time.

2.7 Governing Law

This Agreement shall be interpreted in accordance with the laws in force in the Province of Ontario, subject to any paramount or applicable federal laws. Nothing in this Agreement is intended to or shall be construed as limiting, waiving or derogating from any Federal Crown prerogative.

SECTION 3: TERM OF AGREEMENT

This Agreement shall come into effect on the date of its execution by the last of the parties and shall terminate on the date the Recipient receives payment of the Grant unless terminated earlier in accordance with the provisions of this Agreement.

SECTION 4: APPROPRIATIONS AND CHANGE IN FUNDING FROM PARLIAMENT

- 4.1 Payment of the Grant is subject to appropriations approved by Parliament. The Grant shall be cancelled or reduced in the event that funds are not available in the Year in which payment is to be made. Therefore, nothing herein contained obliges the Minister to make any payment under this Agreement unless and until the necessary funds have been voted by Parliament in that behalf.
- 4.2 Should the amount of the Grant be reduced as a result of this section, either party may terminate this Agreement by providing thirty (30) days written notice to the other setting out the reduction as the reason for the termination. In the event of termination under this section, each party shall be responsible for its own costs of any nature whatsoever associated with this Agreement and shall have no claim against the other for such costs.

SECTION 5: PAYMENT OF GRANT

Subject to the provisions of this Agreement, the Minister agrees to pay to the Recipient, and the Recipient agrees to accept, a total Grant in the amount of **SIX HUNDRED NINETY THOUSAND FOUR HUNDRED DOLLARS** (\$690,400). The Grant is payable, without interest, upon receipt by the Minister, of a copy of the original duplicate registered Instrument of Grant.

SECTION 6: STACKING OF FINANCIAL ASSISTANCE

- 6.1 The Recipient declares that at the time of executing this Agreement, the Grant is the only Government Financial Assistance it has applied for, received, or expects to receive for the repairs and improvements reasonably required to bring the Harbour to a condition where it can be operated to ensure safe public access for a minimum period of five years commencing from the date of transfer of title to the Recipient.
- 6.2 “**Government Financial Assistance**” means any financial assistance, including loan guarantees, forgivable, low interest or interest free loans, and investment tax credits provided by the federal, provincial or municipal government or agencies.
- 6.3 During the term of this Agreement, the Recipient shall immediately declare to the Minister, in writing, any Government Financial Assistance, excluding the amount of the Grant, that it has applied for, received, or expects to receive that was not declared under subsection 6.1, and the Recipient shall renew this declaration prior to release of the Grant.

- 6.4 Where the Minister determines that the amount of the Grant should be reduced because of any additional Government Financial Assistance referred to in this Article 6.0 and received by the Recipient, the Minister may reduce the amount of the Grant, and if the Grant has already been paid, the Recipient shall repay the excess amount immediately upon notice from the Minister. Interest shall accrue on the excess amount at the rate set out in the *Interest and Administrative Charges Regulations* enacted under the Financial Administration Act, and the excess amount and interest are recoverable as a debt due to the Crown.

SECTION 7: LONG TERM OBLIGATIONS

The Recipient shall have no claim of any nature whatsoever against His Majesty related to any loan, capital lease or long term obligation it enters into in relation to this Agreement.

SECTION 8: SPECIAL CONDITIONS

This Agreement is made pursuant to the Recipient's acceptance of the following conditions:

- 8.1 The Recipient has agreed to purchase the Harbour, on an "as is" basis for the sum of **ONE DOLLAR (\$1)** and has signed the Transfer Document, where applicable, and any other documents required to transfer title of the Harbour to the Recipient. His Majesty has agreed to sell the Harbour to the Recipient for the sum of **ONE DOLLAR (\$1)** and to sign the Transfer Document and any other documents required to transfer title of the Harbour to the Recipient. The Transfer Agreement requires the following conditions being completed to the satisfaction of the parties:
- Examination of aboriginal rights including aboriginal titles, if applicable;
 - Examination of title;
 - Preparation of a technical description of the Harbour by a certified land surveyor;
 - Completion of an environmental assessment required under the *Canadian Environmental Assessment Act*, if applicable, and compliance with any environmental standards; and
 - Conclusion of any agreement with the province, if applicable, such as the granting of permission to occupy the waterlot.
- 8.1.1 The costs of the above examinations, except for any waterlot agreements that must be negotiated directly between the province and the Recipient, will have been borne by the Minister. The Recipient will have paid all costs for any additional examinations, technical descriptions, assessments, agreements or requirements it may obtain in order to satisfy itself that the

above conditions have been met unless otherwise agreed to in writing by the parties.

8.1.2 If any of the above conditions have not been met to the reasonable satisfaction of a party, that party may terminate this Agreement on thirty (30) days written notice to the other setting out the condition(s) that has/have not been met and the reasons why. In the event of termination under this subsection, each party shall be responsible for its own costs of any nature whatsoever associated with this Agreement and shall have no claim against the other for such costs.

8.2 The Recipient agrees to continue to operate and maintain the Harbour for its current purpose as specified in the Transfer Document.

SECTION 9: DEFAULT AND REMEDY

The Minister may, in addition to any other remedies available to him, terminate this Agreement or any obligation of the Minister under this Agreement upon ten (10) days notice to Recipient, if during the term of this Agreement:

- 9.1 The Recipient fails to comply with any of the terms and conditions of this Agreement.
- 9.2 The Recipient becomes bankrupt or insolvent, goes into receivership or takes the benefit of any statute from time to time relating to bankrupt or insolvent debtors, or is required to wind up or dissolve by any order or resolution, or is unable to meet its liabilities as they become due;
- 9.3 The Recipient is convicted of any offence against a law, order or regulation, the conditions of any licence, or of being an accessory to any such offence, if such offence is committed in connection with the Harbour;
- 9.4 In the opinion of the Minister the Recipient has ceased carrying on business;
- 9.5 The Recipient has submitted false or misleading information to the Minister;
- 9.6 In the opinion of the Minister, a material adverse change in risk to His Majesty has or will occur.

SECTION 10: LOBBYIST REGISTRATION

The Recipient shall ensure that any person lobbying on behalf of the Recipient is registered pursuant to the Lobbyist Registration Act.

SECTION 11: NO PARTNERSHIP, JOINT VENTURE OR AGENCY

- 11.1 His Majesty and the Recipient expressly disclaim any intention to create a partnership, joint venture or agency. It is understood, acknowledged and agreed that nothing contained in this Agreement nor any acts of Her Majesty or of the Recipient shall constitute or be deemed to constitute Her Majesty and the Recipient as partners, joint venturers or principal and agent in any way or for any purpose. The Recipient shall not represent or hold itself out to be an agent of His Majesty. No party hereto shall have any authority to act for or to assume any obligations or responsibility on behalf of the other party hereto.
- 11.2 The Recipient agrees to indemnify His Majesty for any liability that His Majesty incurs by virtue of being found to be liable with the Recipient as a partner of, joint venturer with, or principal of the Recipient. For greater certainty, the foregoing indemnity shall not apply to any claim or liability arising as a result of an act or omission of His Majesty or His Majesty's agent other than those specific acts or omissions that are the basis for the finding that His Majesty or His Majesty's agent is a partner of, joint venturer with, or principal of the Recipient.

SECTION 12: INDEMNIFICATION

The Recipient shall indemnify and save harmless His Majesty and the Minister and His Majesty's officers and employees from and against all claims, including third party claims, losses, damages, costs, expenses, suits, actions, demands or other proceedings, made, sustained, brought, prosecuted, threatened to be brought or prosecuted in any manner based upon, occasioned by or attributable to any injury or death of a person or damage to or loss of property arising from any wilful or negligent act, omission or delay on the part of the Recipient, its employees or agents in relation to or arising from this Agreement.

SECTION 13: ARBITRATION

- 13.1 Any claim or dispute arising out of or in connection with this Agreement, other than any claim or dispute pertaining to a question of Public Law, shall be submitted by the parties hereto to binding arbitration pursuant to the federal *Commercial Arbitration Act*. The party requesting arbitration shall do so by thirty (30) days written notice to the other party. The arbitration shall take place in the City of Burlington, Province of Ontario before an arbitrator to be chosen by the parties. The costs of the arbitration, including the fees of the arbitrator shall be determined by the arbitrator. If the parties cannot agree upon the choice of arbitrator within thirty (30) calendar days of the written notice to submit to arbitration, then each party shall choose an arbitrator who in turn will then select a third arbitrator.
- 13.2 The arbitrator shall determine the procedure to be followed and shall issue

a written decision within thirty (30) calendar days of completion of the hearing. The decision shall be in a form enabling it to be entered for judgment in any court having jurisdiction.

SECTION 14: GENERAL PROVISIONS

- 14.1 This Agreement sets forth the entire agreement between the parties hereto concerning the subject matter hereof and supersedes and revokes all negotiations, arrangements or communications of any nature whatsoever, whether they be verbal or in writing, between the parties or their authorized representatives or any other person purporting to represent the Minister or the Recipient. No expression or warranty expressed, implied or otherwise is made by His Majesty to the Recipient or by the Recipient to His Majesty except as expressly set out in this Agreement. The parties each agree that:
- 14.1.1 It has not been induced to or coerced to enter into this Agreement nor has it relied upon any representations not set out in this Agreement; and
 - 14.1.2 It has conducted its own due diligence examinations in order to satisfy itself of the full, true and accurate disclosure of facts.
- 14.2 The Recipient consents to public announcements of its receipt of the Grant and related information, subject to the Access to Information Act and the Privacy Act, in a manner and at a time to be determined by the Minister in his sole discretion.
- 14.3 The Recipient shall comply with the requirements of all applicable federal and provincial government regulatory bodies and agencies.

SECTION 15: HOUSE OF COMMONS

No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit that arises therefrom.

SECTION 16: TIME OF ESSENCE

Time shall, in all respects, be of the essence of this Agreement.

SECTION 17: NOTICE

17.1 All notices or other communications necessary for the purposes of this Agreement shall be in writing and shall be delivered personally or shall be sent by registered mail, prepaid first class mail, facsimile, or e-mail to the following numbers and addresses:

17.1.1 In the case of His Majesty, to:

Small Craft Harbours Branch
Ontario and Prairie Region
Fisheries and Oceans Canada
867 Lakeshore Rd., Burlington, ON L7S 1A1
Attention: Annette Winter, Client Services Manager - East
Telephone: (905) 351-5286
E-mail: Annette.Winter@dfo-mpo.gc.ca

or to such other address, facsimile number, e-mail address or person as the Minister may designate in writing to the Recipient; and

17.1.2 In the case of the Recipient, to:

The Corporation of the Town of Mattawa
160 Water Street, PO Box 390
Mattawa, ON P0H 1V0
Attention: Francine Desormeau
Telephone: (705) 744-5611
E-mail: francine.desormeau@mattawa.ca

or to such other address, facsimile number, e-mail address or person as the Recipient may designate, in writing to the Minister.

17.2 Any notice or other communication shall be deemed to be received:

17.2.1 If delivered by facsimile or by e-mail, twenty-four (24) hours after the time of successful transmission to the other party;

17.2.2 If delivered by pre-paid first class mail, on the earlier of the day it was received or the fifth (5th) day after it was post-marked; and

17.2.3 If delivered personally or by registered mail, on the date of delivery.

17.3 If postal service is interrupted, threatened to be interrupted, or is substantially delayed, any notice shall be delivered personally, by facsimile transmission or by e-mail.

SECTION 18: AMENDMENT

This Agreement may be amended only by a written agreement signed by the Minister and the Recipient at any time during the term of this Agreement.

SECTION 19: WAIVER

The failure by any party hereto to insist upon the strict performance by the other party hereto or its obligations under this Agreement shall not constitute a waiver or relinquishment of any such obligations.

SECTION 20: SEVERABILITY

If any provision of this Agreement is rendered invalid, void, illegal or unenforceable for any reason whatsoever, that particular provision shall be deemed to be independent of and severed from the remainder of this Agreement and all other provisions of this Agreement shall continue in full force and effect.

SECTION 21: ASSIGNMENT, SUCCESSOR AND ASSIGNS

- 21.1 The Recipient shall not assign its rights or obligations hereunder to any person without the express written consent of His Majesty.
- 21.2 If the Recipient assigns its rights or obligations pursuant to Subsection 21.1 above, the Recipient shall be and remain jointly and severally liable for all obligations to His Majesty notwithstanding any assignment.
- 21.3 This Agreement shall be binding upon and shall ensure to the benefit of Her Majesty and His Majesty's successors, assigns, and of the Recipient and its successors and assigns.
- 21.4 No rights shall inure to the benefit of any transferee or assignees of the Recipient unless the transfer or assignment is consented to by His Majesty.
- 21.5 Nothing expressed or implied in this Agreement is intended to or shall be construed as conferring on or to give any person, other than the parties hereto, and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement or any other agreement.

SECTION 22: CONFLICT OF INTEREST AND POST EMPLOYMENT CODE

No individual for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Conflict of Interest and Post-Employment Code for the Public Service apply shall derive any direct benefit from this Agreement unless that individual is in compliance with the applicable post-employment provisions.

SECTION 23: OFFICIAL LANGUAGES ACT

In accordance with the Treasury Board Policy on Grants and Contributions - Official Languages and in relation to Part IV (Communications and Services) of the *Official Languages Act*, the Recipient agrees to:

- a) make any announcements to the public concerning the Grant in both official languages; and
- b) make available in both official languages any documents for the general public relating to the Grant.

IN WITNESS WHEREOF, His Majesty the King in Right of Canada has executed this Agreement at the City of Burlington, in the Province of Ontario this ____ day of _____, 2023 and the Recipient has executed this Agreement at the Town of Mattawa , in the Province of Ontario this 27th day of March, 2023.

HIS MAJESTY THE KING IN RIGHT OF CANADA, AS REPRESENTED BY THE MINISTER OF FISHERIES AND OCEANS

_____))
Witness

per: _____
Jennifer Thomas, A/Regional Director
Small Craft Harbours

RECIPIENT

B. Bélanger _____)
Witness

per: RA Bélanger _____
Authorized Signature

Mayor Raymond A. Bélanger _____
Printed Name of Signing Authority

B. Bélanger _____)
Witness

per: Amy Leclerc _____
Authorized Signature

Amy Leclerc, Clerk _____
Printed Name of Signing Authority

(NOTE: If the Recipient is a corporation, the authorized signature must be in accordance with the Resolution of the Board of Directors)

APPENDIX "A"

DESCRIPTION OF PROPERTY:

Firstly:

All of PIN 49100-0344 (LT)

Being Part of Hudson Bay Reserve Plan 2 Mattawan as in Instrument MA106 except Instrument MA3832, Part 8 NRD1985, and Part 1 NRD2249; Mattawa; District of Nipissing

Secondly:

Part of the Bed of the Ottawa River in front of the Road Allowance fronting the Hudson Bay Reserve and Part of the Road Allowance fronting the Hudson Bay Reserve, as in Instrument LT94205; Mattawa; District of Nipissing

APPENDIX “B”

DEBTS OWING TO HIS MAJESTY

NIL (no debts owing to His Majesty)