

THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 19-2002

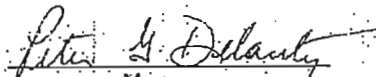
**A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH THE  
MINISTER OF FISHERIES AND OCEANS (COBOURG HARBOUR).**

WHEREAS pursuant to the Harbour Disposal Program The Minister of Fisheries and Oceans wishes to transfer ownership of the Cobourg Harbour to the Corporation of the Town of Cobourg;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

1. THAT the Mayor and Municipal Clerk are hereby authorized and instructed to execute on behalf of the Corporation an agreement with The Minister of Fisheries and Oceans regarding transfer of ownership of the Cobourg Harbour to the Corporation of the Town of Cobourg.

READ a first, second and third time and finally passed in Open Council this 4th day of March, 2002.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Municipal Clerk

Cobourg Harbour.wpd

**GRANT AGREEMENT  
F2930-01-004**

THIS AGREEMENT, made this 5<sup>th</sup> day of March, 2002.

**BETWEEN:**

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
(hereinafter called "Her Majesty"), as represented by the  
Minister of Fisheries and Oceans (the "Minister")

**AND:**

**THE CORPORATION OF THE TOWN OF COBOURG**  
(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 Cobourg, 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 ensure safe public access to the Harbour for a minimum of five (5) years commencing from the date of the transfer of title of the Harbour to the Recipient.

**WHEREAS** the Minister does not wish to undertake repairs/improvements to the Harbour at Cobourg prior to transfer of ownership.

**WHEREAS** the Recipient agrees to undertake repairs/improvements to the Harbour at Cobourg and 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 Her Majesty performing repairs/improvements 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”, “B”, “C”, and “D”. *(NOTE: if there are additional appendices, these must be listed here).*
- 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 Her Majesty to the Recipient that is the subject of this Agreement.
- 1.6 **“Grant Objective”** means the transfer of the title of the Harbour to the Recipient in “as is” condition and the Recipient undertaking repairs/improvements to the Harbour at Cobourg to the east breakwater system and accepting 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 Her Majesty performing repairs/improvements to the east breakwater system prior to or after the transfer of title of the Harbour to the Recipient.
- 1.7 **“Harbour”** means the property and facilities described in Appendix “A.”
- 1.8 **“In lieu”** means in lieu of Her Majesty making repairs/improvements to the Harbour.
- 1.9 **“Lawyer”** refers to the legal counsel of the Recipient.
- 1.10 **“Minister”** means the Minister of Fisheries and Oceans Canada and his authorized representative.
- 1.11 **“Transfer Agreement”** means the Transfer/Deed of Land that transfers title of the Harbour to the Recipient with the applicable terms and conditions of the transfer of title contained in a schedule to the Transfer/Deed of Land.
- 1.12 **“Year”** means a period of 12 consecutive months commencing on April 1<sup>st</sup>, 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**

- 5.1 In lieu of Her Majesty performing repairs/improvements to the Harbour prior to or after its transfer of title to the Recipient, and, 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 \$400,000.00. The Grant is payable by the Minister to the Recipient's lawyer "in trust" upon completion of the following:

- (1) execution of this Agreement by the parties;
- (2) the Minister's receipt of a written irrevocable direction, attached hereto as Appendix "C" or in a form acceptable to the Minister, signed by the Recipient and directing the Minister to make the Grant payment payable to the Recipient's lawyer "in trust";
- (3) the Minister's receipt of a copy of an irrevocable written direction, attached hereto as Appendix "D" or in a form acceptable to the Minister, signed by the Recipient and received by his lawyer in which he directs the lawyer to forthwith return the Grant in full, including any accumulated interest, to the Minister upon the Minister's demand. It is acknowledged and agreed that the Minister will not make such a demand unless the Transfer Agreement is not registered or the Minister does not receive the original duplicate registered Transfer Agreement; and
- (4) the Minister's receipt of written confirmation from the Recipient's lawyer in which he agrees to:
  - a) hold the Grant "in trust";
  - b) not release the Grant, including any accumulated interest, to the Recipient without the express written authorization of the Minister; and
  - c) forthwith return the Grant in full, including any accumulated interest, to the Minister upon his demand.

5.2 Subject to the above, the Minister's direction to the Recipient's lawyer authorizing the release of the Grant, including any accumulated interest, to the Recipient will be provided upon his receipt of the original duplicate registered Transfer Agreement.

**SECTION 6: STACKING OF FINANCIAL ASSISTANCE**

6.1 The Recipient declares that at the time of executing this Agreement, the Grant is the only Financial Assistance it has applied for, received, or expects to receive from any level of government or from any other source for the Harbour.

AMOUNT

SOURCE

\$

\_\_\_\_\_

\$

\_\_\_\_\_

- 6.2 During the term of this Agreement, the Recipient shall immediately declare to the Minister, in writing, any 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, or that is applied for, received, or expected to be received for the Harbour subsequent to making the declaration under subsection 6.1.
- 6.3 The Minister may, at his option, be entitled to require the Recipient to repay all or part of the amount of any Financial Assistance declared under subsection 6.2, up to the total amount of the Grant. The Minister shall provide the Recipient with written notice of the requirement for repayment and the Recipient agrees to repay the amount requested as a debt due to Her Majesty.
- 6.4 For the purposes of this Section, Financial Assistance means any monetary funds, including government assistance such as loan guarantees, forgivable or low interest/interest free loans, and investment tax credits, that have, will, or could be provided to the Recipient for the repairs/improvements for which the Grant is provided.

#### **SECTION 7: DEBTS OWING TO HER MAJESTY**

- 7.1 The Recipient declares that the attached Appendix "B" is a true and accurate declaration of all overdue amounts owing to Her Majesty under any legislation or contribution/grant agreements as of the date of its execution of this Agreement. During the term of this Agreement, the Recipient shall immediately declare to the Minister, in writing, any other debts owing to Her Majesty other than those referred to in Appendix "B".
- 7.2 Any debts owing to Her Majesty pursuant to subsection 7.1. above, may, at the sole option of the Minister, be set off against payments due to the Recipient under this Grant Agreement.

#### **SECTION 8: OVERPAYMENTS**

Any overpayment, including but not limited to debts arising under Sections 6 or 10 of this Agreement, shall constitute a debt due from the Recipient to Her Majesty which shall be repaid immediately upon the Recipient's receipt of notification, from the Minister, of the debt. Interest on such debt shall accrue in accordance with the federal government's Interest and Administrative Charges Regulations.

## **SECTION 9: LONG TERM OBLIGATIONS**

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

## **SECTION 10: AUDIT AND REPORTING**

- 10.1 For the purposes of auditing the Stacking of Financial Assistance pursuant to Section 6 and/or for Debts Owing to Her Majesty pursuant to Section 7, the books, records and ledgers and any other documents of the Recipient with respect to the Harbour and anything directly related to this Agreement shall be open for Audit by the Minister during usual business hours for the duration of this Agreement and for a period of one (1) year following the expiration or termination of this Agreement. The Minister may be entitled to take copies and extracts from such books, records and ledgers and the Recipient shall provide the Minister with any information as may be requested to complete the Audit.
- 10.2 The Recipient shall retain all books, records and ledgers for the Harbour in accordance with generally accepted accounting principles and shall keep such books, records and ledgers separate from any other books, records and accounts during the term of this Agreement and for a period of one (1) year after expiration or termination of this Agreement.
- 10.3 The Minister shall be entitled to forward any relevant information arising from an audit and inspection conducted pursuant to this Section to the Canada Customs and Revenue Agency for income tax purposes.



## SECTION 11: SPECIAL CONDITIONS

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

11.1 The Recipient agrees to purchase the Harbour, on an "as is" basis for the sum of **ONE DOLLAR (\$1)** and to sign the Transfer Agreement, where applicable, and any other documents required to transfer title of the Harbour to the Recipient. Her Majesty agrees to sell the Harbour to the Recipient for the sum of **ONE DOLLAR (\$1)** and to sign the Transfer Agreement and any other documents required to transfer title of the Harbour to the Recipient. The Transfer Agreement should be signed within thirty (30) days of the following conditions being accomplished 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.

11.1.1 The costs of the above examinations, except for any waterlot agreements that must be negotiated directly between the province and the Recipient, will be borne by the Minister. The Recipient will pay 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.

11.1.2 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.

11.2 The Recipient agrees to safely operate the Harbour and to ensure safe public access to the Harbour for a minimum of five (5) years commencing from the date of the transfer of title of the Harbour to the Recipient.

## SECTION 12: 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:

- 12.1 The Recipient fails to comply with any of the terms and conditions of this Agreement.
- 12.2 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;
- 12.3 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;
- 12.4 In the opinion of the Minister the Recipient has ceased carrying on business;
- 12.5 The Recipient has submitted false or misleading information to the Minister;
- 12.6 In the opinion of the Minister, the Grant Objective is not being met; or
- 12.7 In the opinion of the Minister, a material adverse change in risk to Her Majesty has or will occur.

### **SECTION 13: LOBBYIST REGISTRATION**

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

### **SECTION 14: NO PARTNERSHIP, JOINT VENTURE OR AGENCY**

- 14.1 Her 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 Her 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.

- 14.2 The Recipient agrees to indemnify Her Majesty for any liability that Her 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 Her Majesty or Her Majesty's agent other than those specific acts or omissions that are the basis for the finding that Her Majesty or Her Majesty's agent is a partner of, joint venturer with, or principal of the Recipient.

## **SECTION 15: INDEMNIFICATION**

The Recipient shall indemnify and save harmless Her Majesty and the Minister and Her 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 16: ARBITRATION**

- 16.1 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 within thirty (30) calendar 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.
- 16.2 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 17: GENERAL PROVISIONS**

17.1 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 Her Majesty to the Recipient or by the Recipient to Her Majesty except as expressly set out in this Agreement. The parties each agree that:

17.1.1 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

17.1.2 It has conducted its own due diligence examinations in order to satisfy itself of the full, true and accurate disclosure of facts.

17.2 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.

17.3 The Recipient shall comply with the requirements of all applicable federal and provincial government regulatory bodies and agencies.

## **SECTION 18: 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 19: TIME OF ESSENCE**

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

## **SECTION 20: NOTICE**

20.1 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:

20.1.1 In the case of Her Majesty, to:  
Small Craft Harbours Branch – Central and Arctic Region  
Department of Fisheries and Oceans  
P.O. Box 85120, 3027 Harvester Road, Suite 506  
Burlington, Ontario  
L7R 4K3  
Attention: Mr. Duane Blanchard  
Telephone: (905) 639-4330  
Facsimile: (905) 639-5975

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

20.1.2 In the case of the Recipient, to:  
The Corporation of the Town of Cobourg  
55 King Street West  
Cobourg, Ontario  
K9A 2M2  
Attention: Mr. Steven Robinson  
Telephone: (905) 372-4301  
Facsimile: (905) 372-7421

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

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

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

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

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

20.3 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 21: 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 22: 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 23: 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 24: ASSIGNMENT, SUCCESSOR AND ASSIGNS**

- 24.1 The Recipient shall not assign its rights or obligations hereunder to any person other than a mortgagee without the express written consent of Her Majesty.
- 24.2 If the Recipient assigns its rights or obligations pursuant to Subsection 24.1 above, the Recipient shall be and remain jointly and severally liable for all obligations to Her Majesty notwithstanding any assignment.
- 24.3 This Agreement shall be binding upon and shall enure to the benefit of Her Majesty and Her Majesty's successors, assigns, and of the Recipient and its successors and assigns.
- 24.4 No rights shall enure to the benefit of any transferee or assignees of the Recipient unless the transfer or assignment is consented to by Her Majesty.
- 24.5 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 25: 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 26: 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:

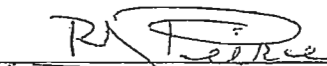
- a) make any announcements to the public concerning the Grant in both official languages; and
- b) make available in both official languages any documents for the general public relating to the Grant.

**IN WITNESS WHEREOF**, Her Majesty the Queen in Right of Canada has executed this Agreement at the City of Burlington, in the Province of Ontario this 21<sup>st</sup> day of

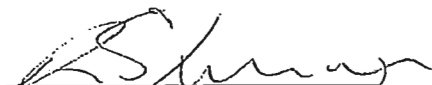
March, 2002 and the Recipient has executed this Agreement at the Town of Cobourg, in the Province of Ontario this March 5<sup>th</sup> day of 2002.

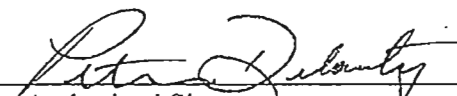
**HER MAJESTY THE QUEEN IN  
RIGHT OF CANADA**

  
Witness

per:   
Minister of Fisheries and Oceans

**RECIPIENT**

  
Witness

per:   
Authorized Signature

PETER DELANTY  
Print 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

DESCRIPTION OF PROPERTY:

(to be completed in accordance with the requirements of the transfer of each property)

Plan 392776.

Subject to easements.

APPENDIX "C"

IRREVOCABLE DIRECTION

TO: Department of Fisheries and Oceans

\_\_\_\_\_  
\_\_\_\_\_

The Recipient, \_\_\_\_\_ (*name of recipient*) of this Grant Agreement between the Recipient and Her Majesty in Right of Canada as represented by the Minister of Fisheries and Oceans, dated \_\_\_\_\_, hereby irrevocably directs the Minister to remit, to the Recipient's lawyer \_\_\_\_\_ (*name of lawyer*) "in trust" the full amount of the Grant (\$ \_\_\_\_\_) payable to the Recipient under this Agreement.

The Recipient further directs the Minister to remit the Grant to the Recipient's lawyer at the following address or such other address as the Recipient may further direct in writing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed, Sealed and Delivered on the

\_\_\_\_\_ day of \_\_\_, 200\_\_ at the City of \_\_\_\_  
Province of \_\_\_\_\_.

Affix Corporate Seal if Recipient  
is a Corporation

\_\_\_\_\_  
Name of Recipient or,  
I have authority to bind the Recipient (if  
Recipient is a joint venture, partnership or  
corporation)

\_\_\_\_\_  
Name of Recipient or,  
I have authority to bind the Recipient (if  
Recipient is a joint venture, partnership or  
corporation)

APPENDIX "D"

IRREVOCABLE DIRECTION

TO: *(name and address of Recipient's lawyer)*

I/We, \_\_\_\_\_ *(name of Recipient)* direct you to hold "in trust" the full amount of the Grant (\$ \_\_\_\_\_) payable to \_\_\_\_\_ *(name of Recipient)* by Her Majesty in Right of Canada, as represented by the Minister of Fisheries and Oceans, pursuant to the Grant Agreement between \_\_\_\_\_ *(name of Recipient)* and the Minister dated the \_\_\_ day of \_\_\_\_\_, 200\_\_.

I/We direct that you shall not release, to \_\_\_\_\_ *(name of recipient)* the said Grant, and accumulated interest, held "in trust" without the express prior written authorization of the Minister.

I/We direct that the said Grant and any accumulated interest shall forthwith be remitted to the Minister and payable as directed by the Minister upon your receipt of a written demand from the Minister.

I/We further direct that you execute and remit to the Minister written confirmation of your agreement to do the following:

- a) to hold the Grant "in trust"
- b) to not release the Grant, including any accumulated interest, to \_\_\_\_\_ *(name of Recipient)* without the express written authorization of the Minister; and
- c) to forthwith return the Grant in full, including any accumulated interest, to the Minister upon receipt of his written demand.

The written confirmation shall be forwarded to:

\_\_\_\_\_  
\_\_\_\_\_

Signed on the \_\_\_ day of \_\_\_\_\_, 200\_\_ at  
the City of \_\_\_\_\_, Province of \_\_\_\_\_.

\_\_\_\_\_  
*(name of Recipient)*

TEMPLATE TRUST LETTER TO LAWYER FOR RECIPIENT

*Date:*

*(name and address of recipient's lawyer)*

Re: Holding and Release of Trust Funds Pursuant to a Grant Agreement Between \_\_\_\_\_ *(name of recipient)* and Her Majesty the Queen in right of Canada, as represented by the Minister of Fisheries and Oceans, dated \_\_\_\_\_ *(date of Grant Agreement)*

Dear Sir/Madam:

Pursuant to the Irrevocable Direction executed by your client, \_\_\_\_\_ *(name of recipient)* a copy of which is attached and which forms part of the Grant Agreement dated \_\_\_\_\_ between the Minister of Fisheries and Oceans and \_\_\_\_\_ *(name of recipient)*, enclosed please find a cheque from the Receiver General in the amount of \_\_\_\_\_ *(write out the amount)* (\$ \_\_\_\_\_) payable to \_\_\_\_\_ in trust *(name of recipient's lawyer in trust - e.g. "ABC barristers & solicitors in trust")*. *It is important that the words "in trust" be included with the name of the recipient's lawyer on the cheque).*

The trust funds are remitted upon the following conditions:

- 1) the trust funds shall not be released to the \_\_\_\_\_ *(name of recipient)* without your receipt of the prior express written authorization of the Department of Fisheries and Oceans (DFO); and
- 2) the trust funds and accumulated interest shall be paid as directed by DFO within 72 hours of your receipt of a demand to do so from DFO.

Should you have any questions, please do not hesitate to contact me.

*(DFO's Signatory)*

APPENDIX "B"

DEBTS OWING TO HER MAJESTY

SOURCE OF DEBT

AMOUNT OF DEBT

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*(Put NIL if no debt is owing to Her Majesty)*

*(Add additional spaces if necessary)*

**PROPERTY DESCRIPTION:** WATER LT PL CADDY (FORMERLY LT 16 CON B HAMILTON) COBOURG; WATER LT IN COBOURG HARBOUR IN FRONT PL CADDY (FORMERLY LT 17 CON B HAMILTON) COBOURG; PT LT 17 CON B BROKEN FRONT COBOURG; PT WATER LT IN COBOURG HARBOUR IN FRONT PL CADDY (FORMERLY LT 18 CON B HAMILTON) COBOURG AS IN NC247915, PT 4 39R10426, PARTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 AND 15 39R9776 EXCEPT PT 3 39R10783; S/T NC335071E; COBOURG

**PROPERTY REMARKS:**

**ESTATE/QUALIFIER:**  
FEE SIMPLE  
LT CONVERSION QUALIFIED

**RECENTLY:**  
FIRST CONVERSION FROM BOOK

**PIN CREATION DATE:**  
2005/11/21

**OWNERS' NAMES**  
THE CORPORATION OF THE TOWN OF COBOURG

**CAPACITY SHARE**  
BENO

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2005/11/21 **						
CAD1	1878/11/17	PLAN SUBDIVISION				C
39R1569	1982/12/15	PLAN REFERENCE				C
39R2276	1986/09/19	PLAN REFERENCE				C
39R3056	1989/03/20	PLAN REFERENCE				C
39R7476	1995/11/28	PLAN REFERENCE				C
NC247915	1996/08/14	TRANSFER	\$200,000		THE CORPORATION OF THE TOWN OF COBOURG	C
39R8003	1997/06/03	PLAN REFERENCE				C
39R8111	1997/08/29	PLAN REFERENCE				C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
39R9776	2002/03/21	PLAN REFERENCE				C
NC335071	2003/10/07	TRANSFER	\$1		THE CORPORATION OF THE TOWN OF COBOURG	C
NC335071E	2003/10/07	TRANSFER EASEMENT			HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF FISERIES AND OCEANS	C
NC335071Z	2003/10/07	REST COV APL ANNEX				C
39R10426	2004/03/26	PLAN REFERENCE				C
NC351689	2004/10/26	TRANSFER	\$6,061		THE CORPORATION OF THE TOWN OF COBOURG	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



## Fisheries and Oceans Canada

[Home](#) > [Small Craft Harbours](#) > [About Small Craft Harbours](#) > [Divestiture](#)

### Divestiture

#### Highlights

- [Our Vision](#)
- [Bulletin](#)
- [Forum](#)
- [Transition Package](#)
- [Compendium](#)

The Divestiture Program strives to transfer ownership of designated harbours to a third party. Divestiture of recreational harbours and low-activity or derelict harbours allows [SCH](#) to focus its efforts and investments on core harbours that are critical to the fishing industry.

[SCH](#) will first provide the necessary harbour repairs and environmental clean-up. It does this by either undertaking this work prior to transfer or by providing a comparable grant to the recipient.

Harbours are offered in order of priority:

1. For a nominal fee to:

- ~~Other federal departments~~
- ~~Provinces~~
- ~~Municipalities~~
- ~~Local non-profit associations or First Nations~~

2. Through a tendering process to the private sector.

Municipalities have generally shown most interest in assuming responsibility for harbour facilities. They are often in the best position to make decisions about which services are most appropriate. When ownership of a harbour is transferred, the recipient must pay a nominal fee and maintain public access to the harbour and to its services for a minimum of 5 years.

Transfer or demolition only occurs after the communities concerned have been consulted and only when an agreement has been reached. Harbour structures are demolished only if there is no local interest in them.

To date, 713 recreational harbours and 400 fishing harbours have been divested. An additional 131 recreational disposals are in progress. For more details on this aspect of the [SCH](#) Program, please consult the [Divestiture Report](#).

Date modified: 2008-09-02