Subject: Application to Obtain a Gas Marketer’s License

Date of Meeting: March 30, 2004

From: J. Keech, President and C.E.O., Utilities Kingston

Prepared By: N. Taylor, Vice President, Utilities Kingston

RECOMMENDATION

It is recommended that Council authorize the Mayor and Clerk to sign and submit the required application to renew the required Gas Marketer’s license to the Ontario Energy Board.

ORIGIN/PURPOSE

The Corporation of the City of Kingston in its capacity as a gas distributor is required to hold a Gas Marketer’s License to provide the gas commodity to those customers that do not choose to receive gas from a competitive Gas Marketer. The current license expires on May 1 of this year. The purpose of this report is to request that Council authorize the Mayor and Clerk to sign and submit the required application to renew the license.

OPTIONS/DISCUSSION

In 1999 the province introduced legislation that required that the Ontario Energy Board (the “Board”) license Gas Marketers and Electricity Retailers. These are companies that provide competitive contracts for gas or electricity commodity to customers. Distributors of electricity and natural gas are required to make their system accessible to these parties.

As was the case in 1999 when the first application for the Gas Marketer’s license was made, the City of Kingston is a distribution company and as such offers only ‘system gas’ to its customers. This is the service that distributor’s offer to customers that do not choose to enter into an agreement with a Marketer or Retailer. The commodity pricing is separate from the Local Distribution and Transportation and Storage charges and is adjusted quarterly to reflect only the costs of providing system gas.

In 1999 when the first application was made section 48 of the Ontario Energy Board Act reads as follows:

48. (1) No person shall carry on business as a gas marketer unless the person holds a gas marketer’s license.
(2) A Gas marketer shall not carry on business in a name other than the name in which it is licensed unless authorized to do so in the license.

(3) This section does not apply to a gas distributor acting in accordance with an order of the Board.

As the City of Kingston that is exempted from section 36 of the Ontario Energy Board Act, the City does not have an ‘order from the Board’ and it was determined that the City required a Gas Marketer’s license. This application was made along with a request for several exemptions as a result of the fact that the City is not a Gas Marketer’s as contemplated by the Board, but is rather a Gas Distributor.

Recently section 48 of the Ontario Energy Board Act was amended to read as follows:

Requirement to hold licence

48. (1) No person shall carry on business as a gas marketer unless the person holds a gas marketer’s licence. 1998, c. 15, Sched. B, s. 48 (1).

Restriction on name use

(2) A gas marketer shall not carry on business in a name other than the name in which it is licensed unless authorized to do so in the licence. 1998, c. 15, Sched. B, s. 48 (2).

Exclusion

(3) This section does not apply to,

(a) a gas distributor acting in accordance with an order of the Board; or

(b) a gas distributor to whom section 36 does not apply pursuant to an exemption set out in the regulations. 2003, c. 3, s. 36.

The addition of section 3(b) seems to contemplate that municipalities such as Kingston would no longer be required to hold a Gas Marketer’s license for the purpose of providing system gas. However, the necessary amendments to Ontario Regulation 161/99 (amended to O. Reg. 41/04) DEFINITIONS AND EXEMPTIONS do not appear to have been made.

We will request that the Board review the intent of the amendment with the Ministry of Energy as part of the renewal process as it seems an anomaly that a municipality would have to be licensed as a Gas Marketer where other Gas Distributors are exempted.

If the Board determines, that the City continues to requires a Gas Marketer’s license the City will require a number of exemptions to the Code of Conduct for Gas Marketer’s. These exemptions relate to issues with respect to identifying ourselves as the distributor. This is a practice that the Board has attempted to address as on occasion Gas Marketers have implied to customers that they are the distributor. As the City is the distributor, the City must be able to identify itself as such. The required exemptions will be set out in a letter to the Board.
The application form (attached) did not contemplate an application from a municipal corporation and therefore some sections are incomplete. These issues will be identified to the Board in a covering letter.

EXISTING POLICY/BY-LAW
The City of Kingston currently holds a Gas Marketer’s License.

LINK TO STRATEGIC PLAN
None

FINANCIAL CONSIDERATIONS
None

CONTACTS
Nancy Taylor, Vice President, Utilities Kingston 546-1181 ext 2460
Ken Mundell, Rate Analyst, Utilities Kingston 546-1181 ext 2247

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED
Alan McLeod, Senior Legal Counsel, Legal Services

NOTICE PROVISIONS
Not Applicable

APPENDICES:
A - Completed application for Gas Marketer’ License
B – Code of Conduct for Gas Marketer’s
C – Sample License

J.A. Keech
President and C.E.O.
Utilities Kingston

Bert Meunier
Chief Administrative Officer
TO: Bert Meunier, Chief Administrative Officer

FROM: Lance Thurston, Commissioner, Department of Community Services

PREPARED BY: Ann Pappert, Manager, Cultural Services Division
Lynda Breen, Supervisor, Programs, Events & Aquatics
Bill Reason, Program and P.R.O. Kids Coordinator

DATE OF MEETING: 2004-03-30

SUBJECT: P.R.O. Kids (Positive Recreation Opportunity) Fundraising Campaign

RECOMMENDATION TO COUNCIL:
WHEREAS the P.R.O. Kids Program is an important recreational service for underprivileged children and youth in Kingston;

AND WHEREAS over 30 community agencies and professions that work with children, youth and families in Kingston are now making referrals to P.R.O. Kids;

AND WHEREAS 50 community recreational providers have partnered with P.R.O. Kids and contributed $23,630 in support through donated program spaces in the past year;

AND WHEREAS the need for additional financial support is required to continue to meet the needs of underprivileged children and youth in the Kingston area.

THEREFORE BE IT RESOLVED that Council hereby give the P.R.O. Kids Fundraising Committee permission to undertake a Fundraising Campaign in aid of the P.R.O. Kids Program, the campaign to be coordinated within the scope of other fundraising campaigns underway within the Cultural Services Division, Department of Community Services.

ORIGIN/PURPOSE:
The purpose of this report is to advise Council of the tremendous community support for the program entitled P.R.O. Kids and to request Council’s permission to allow the P.R.O. Kids Fundraising Committee to undertake a Fundraising Campaign to raise $100,000 in cash and in kind donations in 2004. Specifically, the campaign goal is to raise $61,000 in cash and $39,000 in kind program spaces, equipment and transportation. This will ensure that the financial assets of the program are built up to sustain our current and anticipated service levels for the next 2 years, and
build a solid base of community and corporate support for long term financial and in kind contributions.

The Cultural Services Division will coordinate this campaign to coincide with other community fundraising projects currently underway.

OPTIONS/DISCUSSION:
The P.R.O. Kids Program (Positive Recreation Opportunity) has operated as a municipal service since the fall of 2001 through the Department of Community Services, Cultural Services Division. During this period of time the program has been financed through community donations, one-time start up grants (Ontario Works, Community Foundation), community partnerships and participant donations. The Municipality has contributed staff resources and office support.

The P.R.O. Kids Program is a service dedicated to ensuring recreational opportunities exist for children and youth who would not ordinarily be able to afford the cost of their participation. Partnerships are formed with a wide range of community recreation providers, (both commercial and non-profit) which offer P.R.O. Kids a limited number of participant spaces in their programs at reduced cost. P.R.O. Kids offer these reduced cost spaces to parents who make application to the P.R.O. Kids program for financial support. In many cases, the reduced cost program fee enables parents to access programs they have not been able to afford in the past. In other cases, when the reduced cost of the program fee is still above the parents financial means, P.R.O. Kids makes up the financial difference between the program fee and what the parent is able to contribute. In the past year, the financial difference that P.R.O. Kids has paid out was $16,798.00.

Since the fall of 2001, P.R.O. Kids has received over 1000 applications for support. Currently, P.R.O. Kids has partnered with 50 community, sport, culture, arts and recreation organizations and received referrals from 30 plus community agencies and professionals who work with Kingston children, youth and their families. The P.R.O. Kids Program is rapidly reaching a financial and resource crossroads.

P.R.O. Kids program can only continue to be a viable community service to underprivileged Kingston children and youth, with the development of a long term plan to meet its growing financial needs. To this end a joint community and municipal committee (made up of community volunteers from Unity Savings Credit Union, a local accountant and Municipal staff representatives) has been formed to develop and launch a fundraising campaign in order to meet the program’s short and long term financial goals.

We are proposing that P.R.O. Kids undertake a fundraising campaign that will raise the cash and in-kind donated spaces necessary to alleviate our current financial situation. In addition the campaign will increase awareness of the P.R.O. Kids program to new Sport, Culture, Arts and Recreation Organizations as potential partners. Also the campaign will inform and promote, to the general community and potential donors, the positive effect of their financial support to the P.R.O. Kids program in subsequent years.
EXISTING POLICY/BY-LAW:
There are no existing Policies/Bylaws concerning this subject, on record, to date.

LINK TO STRATEGIC PLAN:
The strategic plan has identified Culture, Heritage, Parks and Recreation as one of the seven key priority areas in the City of Kingston. The P.R.O. Kids Fundraising campaign will ensure continued financial support for underprivileged children and youth to access the hundreds of sport, culture arts and recreation opportunities in Kingston.

FINANCIAL CONSIDERATIONS:
In the past year, P.R.O. Kids dispersed $16,798 in cash for program fees, as well as for other barriers to participation such as program equipment, supplies and bus tickets for its participants. The value of the spaces donated by community groups in the past year is $23,630.

The campaign goal is to raise $61,000 in cash and $39,000 in kind program spaces, equipment and transportation. This will ensure that the financial assets of the program are built up to sustain our current and anticipated service levels for the next 2 years, and build a solid base of community and corporate support for long term financial and in kind contributions.

CONTACTS:
Ann Pappert, Manager, Cultural Services 546-4291 ext. 1341
Lynda Breen, Supervisor, Programs, Events and Aquatics 546-7998 ext. 1705
Bill Reason, Program and P.R.O. Kids Coordinator 546-7998 ext. 1704

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:
Lesley Kimble, Special Events Coordinator, Cultural Services Division
Jeremy DaCosta, Business Analyst, Strategic Initiatives and Corporate Communications
Kim Jamieson Communications Officer, Strategic Initiatives and Corporate Communications
Brian Judge, Communications Officer, Strategic Initiatives and Corporate Communications
Kyle Hewitt, Ontario Works Placement
Dennis Hamilton, Unity Savings Credit Union, Committee Volunteer
Jim Weaver, Unity Savings Credit Union, Committee Volunteer
Gillian Moss, Chartered Accountant, Committee Volunteer

NOTICE PROVISIONS:
N/A

APPENDICES:
Appendix A: Number of children by activity
Appendix B: Number of children by referral agency and profession
Appendix C: Value of program space donations
Lance Thurston, Commissioner
Department of Community Services

Bert Meunier
Chief Administrative Officer
Number of Children by Activity - Total - 479

October 2002 - '03
### Number of Children Referred by Agency/Profession

**October 2002 - '03**

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<thead>
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<th>Agency/Profession</th>
<th>Count</th>
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<tbody>
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<td>Youth Diversion</td>
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<tr>
<td>Town Homes Kingston</td>
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<tr>
<td>Tipi Moza/Iron Homes</td>
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<tr>
<td>Street Health Centre</td>
<td>7</td>
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<tr>
<td>Sport Groups</td>
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<td>Pathways for Children and Youth</td>
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<td>Ontario Works</td>
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<td>Native Friendship Centre</td>
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<td>Kingston Health Unit</td>
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<td>KDIS</td>
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<td>Interval House</td>
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<td>Hotel Dieu Hospital</td>
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<td>Home Base Housing</td>
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<td>Employers</td>
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<td>Elizabeth Fry</td>
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<td>Doctors/Counsellors</td>
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<td>Day Care Centres</td>
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<td>Dawn House</td>
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<tr>
<td>Better Beginnings</td>
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0 10 20 30 40 50 60 70
## Value of Program Space Donations

**Total - $23,630**

*October 2002 - '03*

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<tr>
<th>Program</th>
<th>Value</th>
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<td>Theatre 5</td>
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<td>BMX Racing</td>
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<td>Basketball</td>
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</tr>
<tr>
<td>Ballet</td>
<td>$110</td>
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*Note: The total value is $23,630.*
TO: Bert Meunier, Chief Administrative Officer

FROM: Lance Thurston, Commissioner, Department of Community Services

PREPARED BY: Ann Pappert, Manager, Cultural Services Division
Kristine Hebert, Parks & Open Space Planning Coordinator

DATE OF MEETING: 2004-03-30

SUBJECT: Easement Agreement with the Limestone School Board Cataraqui North Neighbourhood School Site

RECOMMENDATION TO COUNCIL:
That Council authorizes Cultural Services Division staff to enter into an Easement Agreement with the Limestone School Board, satisfactory to Legal Services and related specifically to shared uses and responsibilities with respect to the parking lot to be used by both the City and the Limestone School Board on city land.

ORIGIN/PURPOSE:
The purpose of this report is to secure Council’s permission to strike an Easement Agreement with the Limestone School Board.

OPTIONS/DISCUSSION:
Background
The Cataraqui North Neighbourhood Plan (1997) allowed for the development of a future public school site in the western section of the subdivision. The Limestone School Board has been negotiating the acquisition of a final school site with the landowners in this portion of the subdivision. The property to be purchased by the school board has the majority of its parking located on the adjacent city parkland.

Issues
There are two issues being addressed by this report.

The first issue is that the school board site is too small to accommodate all the required parking for the school. The acquisition of the school site is subject to an agreement between the Board and the two affected major landowners in the area. Prior to entering into an agreement with these
landowners, the Limestone School Board requires written commitment from the city that the city will enter into an easement agreement with respect to shared parking on the park site. The Cultural Services Division is willing to permit some of the required parking to be located on the adjacent parkland.

The second issue is that the City and the Limestone School Board cooperate in an informal manner on a number of adjacent school-park sites. These informal and longstanding associations have, and continue to be, mutually beneficial to both parties.

By way of this report, for Council's information only, civic staff will seek to formalize these verbal agreements with a 'pilot' joint use agreement for this future school site once a plan has been prepared by the Board. The 'pilot' joint use agreement will set out development, construction, maintenance, and usage of shared site functions on both the school and the adjacent parkland.

**Nature of Current Negotiations**

The City and the Board have agreed, in principle, to draft an easement agreement that will set out the shared parking and access issues for the parking lot. The Board is in need of adequate and nearby parking for its school. The City will require vehicular access/parking for its future park site.

The Board has agreed to pay for the construction of the parking lot and the access from Crossfield Avenue. The Board will have use of the parking lot during the school day/evenings as required for their needs. The city/community will have access to the parking lot during the summer months and during the evenings for league play as required.

The city will acquire an easement over the Board lands to the parking lot. The Board will acquire an easement on the city land for the parking lot.

**Future Negotiations**

Both parties are interested in negotiating the 'pilot' joint use agreement that will define the roles and responsibilities for the construction, maintenance and use of the future playing fields both on school board lands and on city parkland. The joint use agreement will also ensure that insurance requirements for both public agencies are set out.

The city anticipates that it will benefit from this joint use agreement because it is in need of additional soccer pitches and playing fields for use by city/community soccer leagues. In return, the Board will benefit by having the use of the city playing field during the school year and for use by the students during school hours.

Cultural Services staff will refer the 'pilot' agreement with the Board to City Council should the joint use agreement have financial impact on Cultural Services operating or capital budgets in 2005.

**EXISTING POLICY/BY-LAW:**

The City and the Limestone School Board cooperate in an informal manner on a number of adjacent school-park sites. These informal and longstanding associations have, and continue to be, mutually beneficial to both parties.
There is a need, however, to formalize these verbal agreements with a standard joint use agreement which will set out development, construction, maintenance, and usage of shared site functions.

The prototypical agreement, being proposed after the easement agreement is procured, will define responsibilities and ensure that liability and insurance concerns are current to industry standards. As opportunities arise on new and existing Board-City projects, the city and the board will enter into joint use agreements. This opportunity in the Cataraqui North Neighbourhood is seen as a ‘pilot’ project for such an agreement.

**LINK TO STRATEGIC PLAN:**
City Council adopted eight strategic priorities from the Community Strategic Plan to focus on over the next few years. Among those eight was the area of Culture. Within the approved cultural strategy, Council adopted implementation plans within three broad categories, namely: Assets and Opportunities; Community Partnerships; and, Communities in Bloom.

The proposal to enter into a Joint Use Agreement with the Limestone School Board is in keeping with the Strategic plan as it will:
- Promote community involvement and growth.
- Promote an active and healthy community.
- Provide shared assets with another public agency for the mutual benefit of the community.

**FINANCIAL CONSIDERATIONS:**
There are no costs incurred under the terms of the easement agreement. The Limestone School Board will be assuming the costs of the construction, repair and maintenance to the parking lot and its access driveway.

**CONTACTS:**
Ann Pappert, Manager, Cultural Services Division 546-4291 ext. 1341
Kristine Hebert, Parks & Open Space Planning Coordinator 546-4291 ext. 1256

**DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:**
Planning Division
Legal Services

**NOTICE PROVISIONS:**
N/A

**APPENDICES:**
Appendix A - Letter to Limestone School Board Planner, John Clements
Appendix B - Subdivision Draft Plan with proposed school site and future parkland area
Appendix C - Draft Concept Plan of shared school and park sites
Appendix D - Draft Easement Agreement
Lance Thurston, Commissioner
Department of Community Services

Bert Meunier
Chief Administrative Officer
City of Kingston
216 Ontario Street
Kingston, Ontario
Canada K7L 2Z3

2004-01-21
Limestone School Board
Postal Bag 610
220 Portsmouth Avenue
Kingston, Ontario
K7L 4X4

ATT: John Clements, Planner Limestone School Board

Re: Kings Landing Limestone Board School Site

Dear John,

You have asked for a letter from Cultural Services Division, indicating that the city would be willing to enter into negotiations with the Limestone School Board for a joint use agreement regarding shared uses between the proposed school site in Kings Landing and the adjacent parkland. The intention is that a mutually agreed-to parking area could be used both for school activities as well as any organized activities occurring within for the proposed parkland which will be deeded to the city as part of the subdivision process. This portion of the subdivision is being developed by Braebury Homes.

Cultural Services is willing to enter into discussions for a joint use agreement on the proposed school-park sites subject to details being worked out in the agreement and both parties agreeing to the configuration of the shared spaces. The city has in the past entered into both written and verbal agreements with the Board on many school-park site ventures.

This particular proposal, on a new school site, would be a good opportunity for the city and the school board to revisit their joint use agreement template and bring it up to current legal standards agreeable to both organizations. Can you confirm back to me that the Limestone Board would be willing in conjunction with a joint use agreement process on the Kings Landing school site be willing to update and revisit the joint use agreements for future uses and projects?

Sincerely,

Kristine Hebert,
Parks and Open Space Planning Coordinator

c.c. Ann Pappert, Manager - Cultural Services
George Wallace, Acting Manager - Planning

Department of Community Services
Cultural Services Division
Fax: 546-3004 ● (613) 546-429 ext.1286 ●
e-mail: khebert@cityofkingston.ca
APPENDIX B
Draft Concept of Shared Schools and Park Sites

SOCCER PITCH

DEVELOPMENT CONCEPT
POTENTIAL SCHOOL SITE
PART OF LOTS 12 AND 13, CONCESSION 3
PART OF CATARAQUI NORTH NEIGHBOURHOOD
FORMERLY KINGSTON TOWNSHIP

- SCHOOL SITE
- TAYLOR LANDS
- SHARED SITE
- BALANCE OF TAYLOR LANDS
- SHARED LANDS
- SCHOOL LANDS

231.592 [59.6 1/2]
30.4154 [99.9 1/2]
70.000 [229. 8]
69.8717 [294.10 1/4]
APPENDIX C
Subdivision Draft Plan with Proposed School Site and Future Parkland Area
APPENDIX “D”
Draft Easement Agreement

EASEMENT AGREEMENT

This Agreement made in quadruplicate this ______ day of _____________, 2004

BETWEEN

[NAME OF PUBLIC BOARD OF EDUCATION]

(the “Transferee”)

and

THE CORPORATION OF THE CITY OF KINGSTON

(the “Transferor”)

WHEREAS the Transferor wishes to convey to the Transferee an easement over a portion of the Transferor’s lands for the purposes hereinafter set out;

IN CONSIDERATION OF good and valuable consideration now received by each of the parties from the other, the sufficiency of which is hereby acknowledged,

1. The Transferor hereby grants, conveys and transfers to the Transferee, the right, interest and easement on, over, under and through the portion of those lands of the Transferor described in Schedule “A” of this Agreement as “the Servient Lands” for the following purposes:

   a) To construct, install, operate, maintain, alter, replace, reconstruct and repair a parking lot and its appurtenances for the purpose of providing parking for the public school located on the Transferees’ lands;

   b) For each such purpose and all purposes necessary or incidental to the exercise of the rights hereby created, the Transferee shall have a right of temporary access to the Transferor’s adjacent lands at all times on reasonable notice by its servants, agents, contractors and its or their vehicles, machinery, supplies and equipment; and

   c) The easement granted by the Transferor is subject to the right of the Transferor to use the Servient Lands for the purpose of parking, on reasonable notice to the Transferee and provided such access does not materially interfere with the Transferee’s use of the Servient Lands.

2. The Transferee shall, after carrying out all work on the land, remove all surplus soil and debris and in all respects restore the Transferor’s lands so far as reasonably practical to their former state at the Transferee’s expense.

3. The Transferor covenants and agrees with the Transferee not to do or permit to be done any other thing that might damage or interfere with the normal operation and functioning of the easement for the purposes for which it was designed and constructed and without limiting the generality of the forgoing, the Transferor shall not excavate or drill, or permit to be excavated or drilled, any pit or well, or plant or place, or permit to be planted or placed any trees, shrubbery or fill, or erect, build or install, or permit to be erected, built or installed, any pavement, building, fence, structure, or other obstruction of any nature whatsoever on, over, through, or under the Servient Lands, without the prior written consent of the Transferee.
APPENDIX “D”
Draft Easement Agreement

4. It is understood and agreed by and between the Transferor and the Transferee that the burden of this indenture and of all covenants contained in this grant shall run with and burden the Servient Lands and all those having an interest therein from time to time and that the benefit of this indenture and of all the covenants contained in this grant shall run with and benefit the Dominant Lands, being those lands described on Schedule “A”.

5. This easement shall be binding upon and enure to the benefit of the Transferor and the Transferee and their respective successors and assigns.

IN WITNESS WHEREOF the Parties herein have hereunto affixed their corporate seals, duly attested by the hands of the properly signing officers in that behalf, and the said signing officers certify that they have the authority to bind their corporation.

SIGNED, SEALED AND DELIVERED

[BOARD]
Per:

Name:
Position:

Name:
Position:

I/We Have the Authority to Bind
the Corporation

THE CORPORATION OF THE CITY OF KINGSTON
Per:

Harvey M. Rosen, Mayor

Carolyn Downs, City Clerk