THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 13-012

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF PETERBOROUGH AND OTONABEE REGION CONSERVATION AUTHORITY TO OPERATE BEAVERMEAD CAMPGROUND

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an agreement between the Corporation of the City of Peterborough and Otonabee Region Conservation Authority to assume the operation of Beavermead Campground, as a twenty four month pilot project, beginning with the 2013 campground season, in the form attached hereby as Schedule “A”, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 4th day of February, 2013.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk
BEAVERMEAD CAMPGROUND OPERATOR AGREEMENT made this _____ day of __________ 2013.

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the “City”)

and

THE OTONABEE REGION COSERVATION AUTHORITY
(the “Contractor”)

WHEREAS the City wishes to grant to the Contractor the right to manage the campground within Beavermead Park, in the City of Peterborough, as a pilot project upon the terms and conditions hereinafter contained for the 2013 and 2014 seasons;

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

1.00 GRANT OF RIGHTS

1.01 The City hereby grants to the Contractor the right to operate the campground for camping activity within Beavermead Park, during the term of this agreement, in accordance with the description of operations contained in Schedule "A" hereto and forming part of this agreement.

1.02 The Contractor shall operate within the limits shown on a map attached hereto as Schedule "B", and in accordance with any directions or specifications shown thereon.

2.00 TERM

2.01 This agreement shall commence on the 1st day of March 2013 and be fully complete on the 31st day of October, 2014.

2.02 The term of this agreement is in place to accommodate a two-season pilot project, which will be evaluated by the City and the Contractor, upon its completion. Renewal of this agreement will be contingent upon an assessment of the effectiveness of the operation and the feasibility and mutual desire to continue the provision of camping within Beavermead Park, beyond the 2014 camping season, and approval by City Council.

3.00 COMPENSATION AND RECORDS

3.01 The Contractor shall not be required to pay compensation to the City for operating the Beavermead Campground, during the term of this agreement, and shall fully assume all financial gains or losses associated with operating the campground.
3.02 The Contractor shall keep separate books of accounting, receipt book(s), and other financial and business records relating to the operation of the Beavermead Campground and shall provide access to or complete copies of the foregoing to the City’s Chief Accountant, or designate, upon completion of the operating seasons, in 2013 and 2014.

4.00 FEES
4.01 The Contractor shall, during the term of this agreement, not charge fees in excess of what is reasonable. The Contractor may refer to the fees the City charged in 2012 to help it determine the reasonable fees.

5.00 GENERAL CONDITIONS
5.01 The Contractor shall operate the campground in a safe, responsible and courteous manner, and in accordance with the provisions Schedule "A" attached hereto, including all routine maintenance of equipment and facilities as outlined therein. Specifically, the washroom located within the camp ground shall be maintained by the Contractor, and shall be available at all times for day users of Beavermead Park, including the sports fields. The Contractor acknowledges that Beavermead Park is a municipally owned public facility, and a consistently high standard of service and public relations must be provided by the Contractor and his or her staff at all times to day users of Beavermead Park. The Contractor also warrants that persons employed by the Contractor in the operation of the campground shall be of clean appearance, good deportment, satisfactory physical capacity, and able to deal courteously with the public. Any such person shall provide a current and clear police criminal record check, including a Vulnerable Sector screening. If, in the opinion of the Recreation Division Coordinator, any person employed by the Contractor is unsatisfactory, the Contractor shall, upon written notice to that effect from the City, ensure that such person does not perform any further services within the Beavermead Campground.

5.02 Notwithstanding paragraph 5.01, the City shall perform the following work, at no expense to the Contractor:
   a. Any necessary maintenance of trees;
   b. Turf Maintenance grass cutting once per week;
   c. Seasonal opening and closing the campground, including semi-annual servicing of water; electrical, and sewage systems;
   d. Any major capital repair necessitated to the water, electrical or sewage systems;
e. Provision of 105 picnic tables, additional tables may be requested on busy weekends, and will be provided if available;
f. Maintenance to park light standards (excluding replacement of luminaries);
g. Major repairs to the campground roadways, including patching of asphalt, adding gravel when required, and painting of directional arrows and stop bar;
h. Major painting and repairs to the washroom building and appurtenances.

5.03 The Contractor shall furnish any and all materials and equipment necessary for the satisfactory fulfilment of the operations, as outlined in Schedule "A" hereto.

5.04 The Contractor agrees that, at its expense, all employees of the Contractor shall be covered pursuant to the provisions of the Workplace Safety and Insurance Act of the Province of Ontario. The Contractor shall maintain his or her registration with the Workers Compensation Board in good standing, and shall provide to the City certificates of such registration at the commencement of and as requested throughout the term of this agreement.

5.05 The Contractor shall employ only properly trained personnel and shall comply with all fair wage practices and other employment standards prescribed by law.

5.06 The Contractor shall obtain any licences or approvals from the City or other regulatory agencies, which may be required for the carrying on of the Contractor's business within Beavermead Park.

5.07 The Contractor shall pay all utility charges for electrical and water services with respect to any of the Contractor's operations within Beavermead Park.

**6.00 CANCELLATION AND TERMINATION**

6.01 In the event of any breach or default of any of the covenants and agreements herein contained or any failure on the part of the Contractor to perform in a manner satisfactory to the City, the City may terminate this agreement forthwith upon written notice to the Contractor. On any such termination, the Contractor may be removed from possession without notice and shall not be entitled to any claim against the City for such removal nor to any refund or compensation therefore.
6.02 In the event of damage to the facilities by fire, lightning or tempest which makes repair of the facilities within thirty (30) days impossible, the City may terminate this agreement upon written notice to the Contractor, and each party shall be released from further obligations hereunder.

6.03 In the event of the bankruptcy or insolvency of the Contractor prior to the expiration of the term of this agreement, this agreement shall become null and void and the premises shall be delivered up to the City. Any amount paid or payable by the Contractor shall be apportioned to the date of bankruptcy or insolvency.

7.00 INDEMNITY

7.01 The Contractor shall indemnify and save harmless the City from all actions, suits, claims and demands whatsoever arising by reason of the injury or death of any person, or damage to any property, resulting from the operations of the Contractor in accordance with this agreement.

8.00 INSURANCE

8.01 The Contractor will be fully responsible for the operation of the Beavermead Campground and will ensure that the Beavermead Campground is organized and operated in accordance with all applicable standards and laws including, but not limited to, securing all necessary permits and licenses and carrying adequate insurance for which THE CORPORATION OF THE CITY OF PETERBOROUGH will be added as an additional insured. In the interest of clarity, the Contractor shall comply with all municipal by-laws, and all other laws and regulations of any public or private body having jurisdiction for the health and safety of persons or property or to protect persons from injury and accidents arising out of, linked with or occurring during their attendance at the Beavermead Campground.

8.02 The City requires that the Contractor provide the City with the following confirmations and/or documentation:

   a. certificates of insurance evidencing that the Contractor has obtained the following policies of insurance prior to commencement of the Events:

      i. commercial general liability with a combined limit of no less than $2,000,000.00 for bodily injury, death and property damage arising out of all operations of the Contractor in respect of the operation of the Beavermead Campground; and

      ii. automobile liability insurance with a limit of no less than $2,000,000.00.
Such certificates shall: (i) include THE CORPORATION OF THE CITY OF PETERBOROUGH as an additional insured but only with respect to commercial general liability; (ii) contain a cross liability endorsement; and (iii) contain 30 calendar days prior written notice of material change or cancellation to the City; and (iv) waive all rights of subrogation against the City, except for the City’s negligence or willful misconduct.

8.03 The Contractor shall indemnify and save harmless the City from and against any and all claims, losses, damages, costs and legal expenses, actions and causes of action arising out of or resulting from: (i) a breach of any provision of this Agreement; (ii) anything done or omitted to be done in connection with the operation of the Beavermead Campground or (iii) loss or damage to property or persons caused by acts or omissions of the Contractor, its employees, agents, affiliates or subcontractors (“Representatives”) or of anyone for whom the Contractor may be responsible or liable, save and accept any and all claims, losses, actions and causes of actions including all costs associated therewith resulting from the negligence or willful misconduct of the City and anyone for whom the City is responsible for in law.

8.04 The Contractor shall provide a certificate of insurance, confirming the above-mentioned coverage, within ten (10) business days of executing this contract.

9.00 ASSIGNMENT AND SUBLETTING

9.01 The Contractor shall not assign or sublet any part of this agreement without the prior written consent of the City, which may be denied, delayed, conditioned or withheld at the discretion of the City.

10.00 MISCELLANEOUS

10.01 This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings, undertakings, representations, warranties, terms, conditions and agreements, whether collateral, express, implied or statutory, between the Parties with respect thereto.

10.02 No amendment to this agreement will be valid or binding unless it is in writing and duly executed by all of the Parties hereto.

10.03 If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect.
10.04 All representations, warranties and indemnities given by each of the Parties, all outstanding payment obligations, shall survive indefinitely the termination of this Agreement.

10.05 The Contractor understands and agrees that this agreement and any materials or information provided to the City, relating to this agreement may be subject to disclosure under the Municipal of Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56, as amended, or as otherwise required by law.

10.06 The Parties are neither partners nor joint venturers; neither Party is the agent, representative or employee of the other Party and nothing in this Agreement will be construed to create any relationship between them other than an independent contractor relationship. As an independent contractor, the Contractor declares and warrants that it is responsible for making all deductions, contributions and payments prescribed by law, including those relating to its employees and any person acting on behalf of the Contractor. The Contractor also warrants that it will not hold the City responsible for deductions, contributions or payments of any nature whatsoever concerning the Contractor or its Representatives.

11.00 NOTICE AND DAY-TO-DAY CONTACT

11.01 All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to be properly given if hand-delivered, sent by confirmed facsimile and by registered mail postage prepaid, return receipt requested, or by courier, to the Parties at their respective addresses as set forth below, or to such other addresses as the Parties may advise by like notice. Such notices if sent by registered mail or courier shall be deemed to have been given when received.

Notice to the City shall be sent to:
City Clerk
City Hall
500 George Street North
Peterborough, ON K9H 3R9

E: clerks@peterborough.ca
T: 705.742.7777 ext 1799
F: 705.742.3947

Notice to the Contractor shall be sent to:
Otonabee Region Conservation Authority
250 Milroy Drive
Peterborough, ON K9H 7M9 Attention: Allan Seabrooke

E: aseabrooke@otonabee.com
T: 705.745.5791
F: 705.745.5791 ext. 222
11.02 The City's designated person for giving day-to-day direction or receiving day-to-day information concerning the Beavermead Campground is the Recreation Division Co-ordinator, Mr. Rob Anderson, or his designate.

11.03 The Contractor's designated person for giving day-to-day direction or receiving day-to-day information concerning the Beavermead Campground is Bruce Flemons, Beavermead Park Campground Supervisor.

12.00 CAPITAL FUNDS
12.01 The City has made available a maximum of $100,000 from the 2012 Capital budget to cover the costs of minor repairs and or upgrades to the Beavermead Campground. The Contractor is to identify work deemed necessary to successfully and safely operate the campground. The City will review the requests and facilitate the necessary work, in accordance with the City's Purchasing By-Law. All items purchased through the City's Capital budget are considered the property and assets of the City.

NOW THE PARTIES HERETO have set their hands and seals

SIGNED, SEALED AND DELIVERED in the presence of:

THE CORPORATION OF THE CITY OF PETERBOROUGH

Brian Horton, CAO

John Kennedy, City Clerk

THE OTONABEE REGION CONSERVATION AUTHORITY

Allan Seabrooke,
Chief Administrative Officer/Secretary-Treasurer

Terry Low,
Chair, Board of Directors
SCHEDULE “A”

1. **NATURE OF OPERATIONS**
   **CAMPING OPERATION**

   A total of 98 designated sites are available for camping activities, with one site designated for group camping, located at the northeast corner of the campground. Of this total, 52 are serviced with on site potable water and 30 amp electrical service. Campsites are to be managed so as to make available a mix of serviced and non-serviced campsites for transient occupation with the balance available for seasonal use.

   No camper units and no campers are to be permitted into the Park before May 1st or after the end of Thanksgiving weekend, in any year.

2. **MAINTENANCE REQUIREMENTS**
   a) **General**

      The Contractor shall maintain within the property (Schedule B), facilities, site amenities and grounds which include the following:
      - Campsites and campground common areas
      - Campground washroom
      - Campground administration building
      - Regular inspection, cleaning and minor repairs of Picnic tables

   c) **Garbage and Litter Removal**

      - site will require daily clean up of any and all garbage and litter including perimeter property boundary areas - including sweeping of all hard surface areas (weekly)
      - place litter and garbage in a designated central location to be disposed of by the Contractor
      - containers to be washed as required
      - containers to be serviced with sufficient frequency to avoid overfilling or spilling
      - conform with such recycling operating procedures as the City may direct

   d) **Campground Road**

      - provide a clean, well kept camping access road clear of any obstructions
      - sweep asphalt access road as required to clear away scattered or accumulated stone and dirt

   e) **Campground Washroom**

      - supply materials and services to provide a clean, serviceable washroom for both public and camper needs
      - washroom will require daily cleaning and disinfecting and restocking-floor areas will require daily sweeping and washing
      - light fixtures will require regular inspection and replacement of luminaries

   f) **Picnic Tables**

      - City will provide 105 picnic tables for the campground
      - inspect and make repairs to tables on a regular basis
3. **CAMPER CONDUCT**
The Contractor shall submit to the Recreation Division Coordinator a protocol outlining all rules and regulations pertaining to camper conduct. As a minimum, campers conduct shall conform to all Municipal by-laws and Provincial and Federal statutory regulations. Campers shall be entitled to only one registered vehicle per site. Additional vehicles must be parked on the day use parking area along the front of the Park, or at a location within the campground, as directed by the Beavermead Park Campground Supervisor.

4. **DAY USE ACTIVITIES**
Day/evening use for the accessible parking spaces for the athletic fields, and organizers of athletic events and picnics access the Park from the campground kiosk, and from time to time may be permitted vehicular access by authorized personnel. The Contractor shall enforce day use vehicle access protocol as directed by the Recreation Division Coordinator, or designate. Conduct in dealing with day uses shall be appropriate and courteous so as to establish a positive rapport between the Contractor and all patrons of the Park.

5. **COMMUNICATION**
The Contractor, or designated staff, shall at all times during the camping season (April to October) be accessible by way of cell phone for contact by the City. The Contractor, shall, as directed by the Director of Community Services, or designate, meet with the City to discuss the Contractor’s performance under the contract, but at a minimum at the end of each operating season.

6. **HOURS OF OPERATION**
Beavermead Campground is a twenty-four (24) hour seven (7) days per week public campground operation. As such, the Contractor shall keep up maintenance and surveillance services as required to support camping activities.

7. **RECORD KEEPING**
The Contractor shall maintain a record of the number of camper days for which camping permits are issued. For this purpose, camper days shall be counted as the number of days a campsite is occupied.

8. **FOOD SERVICES**
Food service provision in Beavermead Park is not included as part of the contract for campground operations. This is separately contracted by the City. However, the Contractor may provide snack services to the users of the campground.

9. **PROMOTIONS AND BOOKINGS**
The Contractor shall be responsible for all campground promotions, camper bookings, and receipt and processing of camper payments.
SHEDULE B