

Appendix D

RIGHT OF USE MAINTENANCE AGREEMENT

THIS AGREEMENT made as of the 7th day of May, 2015

BETWEEN:

**THE CORPORATION OF THE
CITY OF KAWARTHA LAKES**
(hereinafter called the "City")

OF THE FIRST PART

- and -

GANARASKA SNOWMOBILE CLUB
(hereinafter called the "User")

OF THE SECOND PART

WHEREAS the User is a member in good standing of the Ontario Federation of Snowmobile Clubs (OFSC);

AND WHEREAS the User intends to provide services from the Right of Way (ROW) owned by the City on the terms agreed between the parties, and have a right to use and maintain the City's ROW for that purpose;

AND WHEREAS the parties have negotiated and agreed as to the terms upon which said right to use and maintain will be granted to the User by the City.

THE PARTIES HERETO HAVE AGREED AS FOLLOWS:

KB
B.P.

1. Grant of User

1.1 The City hereby grants to the User permission to legally enter, establish, groom, maintain, enforce, sign and use that portion of the premises herein designated by the City for the exclusive purpose of allowing fully licensed snowmobiles and their riders to use said designated premises for snowmobiling, subject to the terms, conditions and covenants in this Agreement.

2. Term

2.1 The term of this Agreement shall terminate as of May 1st of every calendar year, unless earlier terminated as per Section 3. Following the expiry of the initial term, this Agreement will be automatically renewed from year to year commencing on November 1st of every calendar year. The User shall be given written notice of non-renewal of the Agreement by the City at least sixty (60) days prior to the November 1st start date.

3. Termination

3.1 Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that this Agreement shall terminate as per Section 2 or upon receipt of written notification of termination from either party with Sixty (60) days notice or in the Event of Default.

3.2 In this Agreement, an Event of Default includes any of the following:

- (i) if either party substantially fails to satisfy any of its undertakings and agreements herein and subsequently fails to remedy such default within a period of not more than Thirty (30) business days from delivery of notice by the non-defaulting party to cure or remedy such default;
- (ii) the User does not maintain membership in good standing of the OFSC and/or it is not able to verify this to the City with a current OFSC certificate within Fifteen (15) days of request.
- (iii) the User fails to secure, maintain or provide evidence of the insurance required as detailed in this Agreement.

3.3 Upon the occurrence of any Event of Default, the non-defaulting party shall have available to it the following remedies which shall be in addition to, and not in substitution for, any remedies generally available to it at law:

- (i) the non-defaulting party may claim and recover damages suffered by it by reason of such Event of Default; and

KB
B.P.

- (ii) the non-defaulting party may terminate the Agreement either with or without notice to the defaulting party, but in no event without providing any period of notice of default required under this Agreement.

3.4 No remedy granted herein or otherwise available to the non-defaulting party at law shall be exclusive of any other remedy and all remedies of the non-defaulting party shall be cumulative.

4. Ongoing Operation

4.1 All costs associated with the ongoing operation, maintenance, enforcement and use of the City's property (ROW) as designated herein shall be at the User's expense. The User shall be responsible for providing all needed Equipment, labour and materials to maintain the property to ensure safe conditions.

4.2 During the period of the agreement the User shall report to the City immediately any damage, unauthorized entry or unsafe condition at any of the City property(ies) (ROW) of which the User has knowledge, whether or not such damage, unauthorized entry or condition was caused by the User or is related to the Equipment of the Users.

4.3 The User shall comply with all applicable laws, regulations, City By-Laws or requirements.

4.4 The User shall undertake to post appropriate signage in compliance with all applicable laws, regulations and City requirements. All trail signage shall be installed in a manner as to not conflict with regulatory or warning signs controlling vehicular traffic traveling on the serviced roadway. The User shall provide the City with a copy of the last published OFSC sign placement protocol in use by the OFSC-member snowmobile clubs of Ontario. Trail signs found in conflict with serviced roadway signs shall be relocated immediately upon notification by the City Verbal or written.

4.5 In the event of damage to City property and premises separate from usual wear the User shall be responsible for restoring and repairing damage. The User is not responsible for damage caused outside the term of this agreement unless said damage is caused by the User.

KLB
B.P.

5. Covenants of the City of Kawartha Lakes

5.1 The City shall permit the User during the term of this Agreement, at only the property(ies) as specified in Appendix A and B herein and shall allow the User and its agents access to the City owned properties for such purpose.

5.2 Appendix A and B shall consist of a current attached map and list indicating the location of trails on City property(ies)(ROW) And shall be initialed by both parties hereto and attached to this Agreement.

5.3 At each approved City property (ROW) detailed in Appendix A and B, the City shall make access available to the User prior to and after the winter months for the purpose of opening and closing, upgrading and maintaining the property when there is no snow cover. It is understood that the User will provide a detailed scope of work to the City and shall obtain written approval and apply for any necessary permits prior to commencement of any work on an annual basis in a reasonable time frame.

6. Obligations of the User

6.1 Neither party to this Agreement shall be responsible or liable in any way for its failure to perform or delay in performance of its obligations under this Agreement during any period in which performance is prevented or hindered by conditions reasonably beyond its control, including but not limited to, acts of God, fire flood, failure of public utilities, war, embargo, strikes, labour, disturbances explosions, riots, and laws, rules regulations and orders of any governmental authority. Upon the occurrence of any such event, and notwithstanding same, the User shall:

- (i) use all reasonable efforts to notify the City of the nature and extend of any such conditions, and
- (ii) use all reasonable efforts to ensure continuity of service.

7. Insurance and Risk of Loss

7.1 The User shall provide and maintain during the term of this Agreement and any renewals thereof, Commercial General Liability Insurance including but not limited to bodily injury including death, personal injury and property damage, including loss of use thereof, contractual liability and contain a cross liability/severability of interest clause. This insurance shall be written with an insurance company authorized by law to underwrite such insurance in the Province of Ontario. The amount of insurance shall be not less than five million (\$5,000,000.00) dollars per occurrence and the Corporation of the City of Kawartha Lakes shall be named as an additional insured on the policy. The policy shall include a provision that the City shall be

KLB
B.P.

provided thirty (30) days written notice in advance by registered mail of any cancellation, expiration or variation in coverage provided by the policy.

7.2 The User agrees that it shall at all times indemnify and save harmless the City, its employees and Members of Council from and against any and all manner of claims, demands, losses, actions and other proceedings whatsoever made or brought against, suffered by, or imposed on the Owner in respect of any loss, damage or injury to any person or property, which are occasioned by or attributable to the establishment, operation or use of the recreational snowmobile trails or due to the existence of this Agreement, or any operations connected therewith except for the negligence or willful misconduct of the City.

7.3 The User shall provide the City with a Certificate of Insurance as well as a Workplace Safety and Insurance Board clearance certificate within 10 (Ten) days of signing the Agreement and any renewals thereafter. .

7.4 The User shall request approval to make any additions of new properties or deletions of approved City properties from the list of approved City properties (ROW) as specified in Appendix A and B.

8. End of Term

8.1 Upon expiration or termination of this Agreement, the User shall remove all Equipment (including signs and sign posts) owned by the User at any City owned property and shall restore or repair any damage to the property caused by such removal at the expense of the User and to the satisfaction of the City of Kawartha Lakes.

The User covenants that any properties owned by the City which are the subject of this Agreement shall, upon the expiration or termination of this Agreement, be left in the same condition in which they are found upon the commencement of this Agreement with the exception of any clearing or grading work previously approved by the City in writing. This includes but is not limited to the removal of all signage and any apparatus placed for trail use, restoring/replacing any gates or apparatus in place upon commencement of this agreement, removal of any litter, restore, repair or replace damaged property. The User further covenants that it shall be responsible for restoring the properties as is necessary to ensure compliance with this provision, and that such obligation shall survive the termination or expiration of this Agreement.

KIS
B.P.

9. Notice

9.1 Any notice or communications between the parties regarding this Agreement shall be in writing and forwarded to the addresses set out below. If forwarded by mail, notice will be deemed received on the third business day after mailing or if by fax or e-mail, the same business day:

The City of Kawartha Lakes
26 Francis Street
P.O. Box 9000
Lindsay, ON K9V 5R9
Contact Name: Oliver Vigelius
Tel: (705) 324-9411, ext. 1175
Fax: (705) 324-1155
e-mail: ovigelius@city.kawarthalakes.on.ca

Ganaraska Snowmobile Club
7577 White Rd, Kendal, ON
L0A 1E0
Contact Name: Ken Bright
Tel: (905) 983-8106
e-mail: president@ganaraskasnow.ca

OFSC District 3 Governor
Contact Name: Ken Bertrand
Tel: (905) 985-7865

10. Governing Law

10.1 This Agreement shall be governed by the laws of Ontario and the federal laws of Canada which are applicable therein. The User and the City shall comply with all applicable laws and regulations.

11. Severability

11.1 If any provision contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected except to the extent that such invalid or unenforceable provision is properly construed as a condition for the benefit of any party hereto or part of the fundamental consideration for the agreement herein contained, and, subject to the above, each provision of this Agreement shall be separately valid and enforceable to the fullest extent provided by law.

KB
B.P.

12. Assignment

12.1 The User agrees that it may not assign nor transfer their rights and status under

this Agreement without the prior written consent of the City, which consent may be withheld at the sole discretion of the City.

This Right of Use and Maintenance Agreement has been executed by the parties hereto as of the 5TH day of FEBRUARY, 2015.

In Witness Whereof, the parties hereto have signed and sealed by their proper officers this Agreement. If a seal is not affixed have witness date, print and sign name below.

Signed this 5TH day of FEBRUARY, 2015

The Corporation of the City of Kawartha Lakes

Andy Letham
Andy Letham, Mayor

c/s

Judy Currins
Judy Currins, Clerk

Ganaraska Snowmobile Club

Ken Bright
Signing Officer
Authorized to sign on behalf of the Ganaraska Snowmobile Club
Ken Bright, President

FEB 5TH, 2015
Date

BARRY PARKER 1ST VICE PRESIDENT.
Witness Name

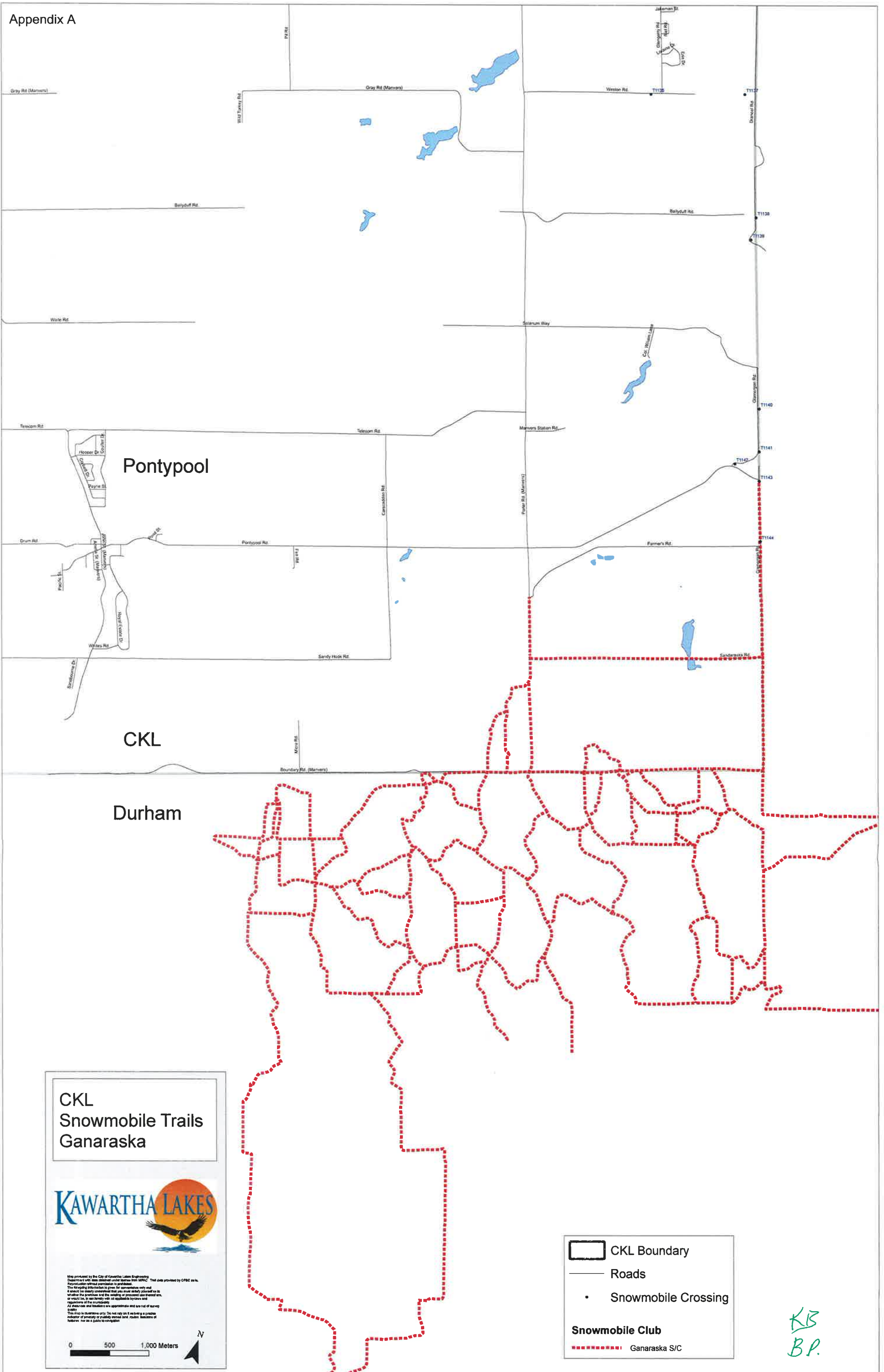
Barry Parker
Witness Signature

Appendix B

Snowmobile Trails On C.K.L. Road Allowances					
Road	Open/Unopen Road Allowance	From	To	Associated Club	Remarks
Glamorgan Rd	Open	CKL Rd12 (Pontypool Rd)	Sandaraska Rd	Ganaraska SC	
Sandaraska Rd	Open	Glamorgan Rd	1200m West to End of Road Allowance	Ganaraska SC	
Sandaraska Rd	Unopen	End of Road Allowance	1500m West to Open Road Allowance	Ganaraska SC	
Sandaraska Rd	Open	Porter Rd	280m East to end of Open Rd Allowance	Ganaraska SC	
Porter Rd	Open	Sandaraska Rd	Famer's Rd	Ganaraska SC	
Porter Rd	Unopen	Sandaraska Rd	Boundary Rd	Ganaraska SC	

KB
B.P.

Appendix A



KB
B.P.

**CKL
Snowmobile Trails
Ganaraska**

Map produced by the City of Kawartha Lakes Engineering Department with data provided by OFRC as is. Reproduction without permission is prohibited. The foregoing information is given for informational only and should be clearly understood that you must satisfy yourself as to whether the practices and the results of practice are correct and reliable in accordance with applicable bylaws and regulations of the municipality. All measurements and distances are approximate and are not of survey quality. This file is confidential and its use is restricted to the use of the City of Kawartha Lakes. It is not to be used for any other purpose without the written consent of the City of Kawartha Lakes. For more information, please contact the City of Kawartha Lakes Engineering Department.

0 500 1,000 Meters

N

CKL Boundary
 — Roads
 • Snowmobile Crossing
Snowmobile Club
- - - - - Ganaraska S/C