

Bill No. 394  
2017

By-law No. A.- \_\_\_\_\_

A by-law to approve the License Agreement between Her Majesty the Queen in Right of Canada as represented by the Minister of National Defense and The Corporation of the City of London; and to authorize the Mayor and the City Clerk to execute the Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The License Agreement attached as Schedule "A" to this by-law between Her Majesty the Queen in Right of Canada as represented by the Minister of National Defense and The Corporation of the City of London permitting the City to use a portion of property located at Wolseley Barracks for the purpose of installation of a permanent LAV III Monument is hereby approved.
2. The Mayor and the City Clerk are authorized to execute the License Agreement approved under section 1 above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on September 5, 2017.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – September 5, 2017  
Second Reading – September 5, 2017  
Third Reading – September 5, 2017

## Schedule "A"

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_ 2017

### LICENSE AGREEMENT

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA ("Her Majesty"),**  
as represented by the Minister of National Defence ("the Licensor")

AND

**THE CORPORATION OF THE CITY OF LONDON**  
300 Dufferin Avenue, PO Box 5035  
London, ON  
N6A 4L9  
(the "Licensee")

**WHEREAS** the **LICENSOR** is the owner of a property located at Wolseley Barracks 701 Oxford Street East, London ON (the "Premises");

**AND WHEREAS** the **LICENSEE** has requested permission from the Licensor to use a portion of the Premises for the purpose of installation of permanent LAV III Monument on the North Side of Wolseley Barracks, near Royal Canadian Museum entrance, parade square and Cenotaph, in the outdoor display area (the "Monument");

**AND WHEREAS** the **LICENSOR** has agreed to permit the Licensee to use a portion of the Premises for the installation of the Monument;

**NOW THEREFORE** this Agreement witnesses that in consideration of, and subject to, the terms and conditions set out herein, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereby agree as follows:

#### **TERM**

1. The term of this Agreement shall be for a period of five (5) years commencing on the day of June 2017 and terminating on the \_\_\_\_\_ day of 2022.
2. Subject to the provisions of this Agreement and provided that the Licensee is not in default hereunder, the Licensee shall, upon two (2) months prior written notice, have the option to extend the term of this Agreement for two (2) further terms of five (5) years each, with the same terms and conditions herein contained or as then amended by the parties hereto but in any event such renewed Agreement shall not require the Licensee to pay any fee, levy or charge for any extended term.

#### **USE OF PROPERTY**

3. The **LICENSOR** hereby grants to the **LICENSEE** a non-exclusive, non-transferable right, subject to the restrictions contained herein, to the area of the Premises outlined on Schedule "A" attached hereto (the "Licensed Area").

#### **LICENSE FEE**

4. As consideration for the use of the Licensed Area, the Licensee shall pay to the Licensor the sum of \$1.00 of lawful money of Canada hereby deemed to have been given and received.

## LICENSEE'S COVENANTS

5. The Licensee covenants with the Licensor as follows:
  - a. To use the Licensed Area only for the purpose of installation the Monument;
  - b. To settle any claims against the Licensor as a result of the Monument for use on the Property during the term of this Agreement;
  - c. Be responsible for all maintenance directly associated with its use of the Licensed Area and the Monument;
  - d. To safeguard, maintain and restore during periods of construction, maintenance, repair, operation, replacement or removal of the Monument, all existing utility services used by the Licensor upon the Premises including, but not limited to, water, sewer, fire alarm, hydro and telephone services;
  - e. To comply with all applicable federal, provincial and municipal laws, rules, regulations and by-laws and will hold the Licensor harmless from the consequences of its failure to do so;
  - f. To abide by all applicable orders, instructions and regulations issued by or under the authority of the Licensor;
  - g. To pay all rates, taxes, and payments in lieu thereof that may at any time during the existence of this Licence Agreement be lawfully imposed or become due and payable upon or in respect of the Licensed Premises;
  - h. Not to create any waste;
  - i. In the event that a deleterious substance or contaminant is discharged by the Licensee during the use of the Licensed Area, then the Licensee shall and it does hereby undertake and agree to take such remedial, restorative or reconstructive measures as may be necessary to retrieve and remove the deleterious substance or the contaminant and to restore the Licensed Area or any other part of the Premises thereby contaminated as a result of the discharge, to its former state, all at the sole cost and expense of the Licensee and in full compliance with any and all regulatory authorities; and,
  - j. Be responsible for providing the engineering drawings and/or scope of work to and receive approval from THE LICENSOR prior to installation of the Monument for approval of methods and material to be used for construction of the concrete pad, lighting, material used to weatherproof the Monument, landscape plans and wording on proposed plaques.

## GENERAL

6. The Licensee acknowledges that this Agreement is granted for the sole purpose of allowing the Licensee use of the Licensed Area to erect the Monument.

## LIABILITY AND INDEMNIFICATION

7. The Licensee shall at all times indemnify and save harmless the Licensor from and against any and all claims, demands, losses, costs, charges, expenses, actions and other proceedings made, brought against, suffered by or imposed on the Licensor or its property in respect of any failure by the Licensee to fulfill any of its obligations under this License Agreement or for any reason whatsoever or in respect of any loss, damage or injury (including injury resulting in death) to any person or property (including, without restricting the generality of the foregoing, employees, contractors, agents and property of the Licensor) directly or indirectly arising out of, resulting from or sustained by reason of the occupation or use of the Licensed Area, or any operation in connection therewith or any fixture or chattels thereon.
8. The Licensor shall not be liable, directly or indirectly, for any personal injuries that may be suffered or sustained by any person who may be on the Licensed Area or for any loss of or damage or injury to property belonging to the Licensee or any other person unless such injury, loss or damage is due to THE LICENSOR's negligence or default or the negligence or default of those for whom THE LICENSOR is in law responsible.

9. The Licensee shall provide and maintain commercial general liability insurance in the minimum amount of two million dollars (\$2,000,000.00) per occurrence with respect to its use of the Licensed Area during the full term of this Agreement and extensions or renewals thereof, naming THE LICENSOR as an additional insured and to provide a certificate evidencing same, prior to execution of this Agreement and as required by THE LICENSOR. Without limiting the generality of the foregoing, such public liability insurance shall contain provision for cross-liability, severability of interest, and to provide thirty (30) days written notice of cancellation, termination or alteration of such policy to THE LICENSOR.
10. The termination of the term by expiry or otherwise shall not affect the liability of either party to the other with respect to any obligation under this Licence Agreement which has accrued up to the date of such termination but not been properly satisfied or discharged.

## **RIGHT OF TERMINATION**

11. Either party may terminate this License Agreement upon giving the other party at least ninety (90) days prior written notice, subject to the Licensor's right to terminate the agreement forthwith and without advance notice in the event of the Licensed Area being required for public purposes by reason of circumstance that, in the opinion of the Minister, constitute an emergency. In the event of early termination, the Licensor shall refund pro-rata the portion of rent, if any, accruing due after the date of said termination and the parties shall be released from any further obligations with respect to any matter under this License.
12. The termination of the Term or any renewal term by expiry or otherwise shall not affect the liability of either party to the other with respect to any obligation under this License Agreement which has accrued up to the date of such termination but has not then been properly satisfied or discharged.
13. Upon termination or expiration of this Licence Agreement, the Licensee shall remove all structures, equipment and things attached thereon erected (the "Restoration Work") on the Licensed Area and restore the Licensed Area to substantially the same condition at the expiry or termination of this Licence Agreement as it was at the commencement of this Licence Agreement. Prior to the commencement of the Restoration Work, the Licensee shall provide a work plan to THE LICENSOR outlining how the Restoration Work will be undertaken and the proposed timeline for completion. If the Licensee fails to perform the Restoration Work within ninety (90) days of expiry or earlier termination of this Licence Agreement, THE LICENSOR may carry out such activity as is necessary to restore the site and the Licensee shall reimburse THE LICENSOR for all costs incurred as a result of such restoration.

## **NOTICE**

14. All notices, payments, consents, demands, or other documents required or which may be given under this Licence Agreement, shall be in writing, duly signed by the party giving such notice and delivered or transmitted by registered or certified mail, email or telecopier (with confirmation of transmission) to a receiver at the addresses below:

In the case of the Licensor:

Department of National Defence  
Denison Armoury  
1 Yukon Lane  
Toronto, ON  
Attn: Judy Collins, Property Officer

Or such other address as the Licensor may advise in writing.

In the case of the Licensee:

City of London  
City Managers Officer  
300 Dufferin Avenue, PO Box 5035  
London, ON  
N6A 4L9  
Attn: Robin Armistead, Manager of Culture

Or such other address as the Licensee may advise in writing.

15. A faxed or emailed notice will be deemed to be received on the date of the fax or email if received before 4 p.m. or on the next business day if received after 4 p.m., or in the case of mailing, 5 business days after it is delivered to the post office. The designation of the person to be so notified or the address of such person may be changed at any time by either party by written notice.

**ENTIRE AGREEMENT**

16. This Licence Agreement constitutes the entire agreement between the parties and it can be amended or supplemented only by a written agreement signed by the parties.

**GOVERNING LAW**

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

**HOUSE OF COMMONS**

18. Members of the House of Commons and Senate shall not be entitled to share any part of this Licence Agreement or to any benefit arising therefrom.

**SUCCESSORS AND ASSIGNS**

19. This Licence Agreement shall ensure to the benefit of, and be binding upon the parties and their respective successors.

**COUNTERPARTS**

20. This Agreement may be signed by two or more counterparts, any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement.

**IN WITNESS WHEREOF** this agreement has been executed by Her Majesty the Queen in Right of Canada, as represented by the Minister of National Defence, this \_\_\_\_ day of June 2017.

SIGNED, SEALED AND DELIVERED  
in the presence of

\_\_\_\_\_  
Judy Collins  
Property Officer,  
RP Operations Unit (Toronto)

**FEDERAL REAL PROPERTY AUTHORITY,  
PURSUANT TO THE *Federal Real Property  
and Federal Immovables Act***

Per: \_\_\_\_\_  
Major Dennis Slusar  
Officer Commanding  
RP Operations Unit (Toronto)

SIGNED, SEALED AND DELIVERED  
in the presence of

\_\_\_\_\_  
Witness:

**HER MAJESTY THE QUEEN IN  
RIGHT OF CANADA, AS REPRESENTED  
BY THE MINISTER OF NATIONAL DEFENCE**

Per: \_\_\_\_\_  
Col M. Misener  
Commander 4CDSG

SIGNED, SEALED AND DELIVERED

In the presence of

\_\_\_\_\_  
Witness:

**THE LICENSEE, AS REPRESENTED  
BY THE CORPORATION OF THE CITY OF LONDON**

Per: \_\_\_\_\_  
Matt Brown, Mayor

Per: \_\_\_\_\_  
Catharine Saunders, City Clerk

### SCHEDULE "A"

#### Proposed Project

The LAV III Monument display would be located on the north side of Wolseley Barracks, near The Royal Canadian Museum entrance, Parade Square and Cenotaph, in the outdoors display area:



Proposed Location for  
LAV III Monument

