

February 19, 2019

FOI No: 2019-10

VIA E-MAIL – **Redacted**

Redacted

Dear **Redacted**

Re: Request for Records
Freedom of Information and Protection of Privacy Act

The City of White Rock has processed your request for access to the following records pursuant to the *Freedom of Information and Protection of Privacy Act (the Act)*:

- *Records from both the Nov 6, 2017 and Dec 11, 2017 Closed Meetings where staff reported to Council regarding the Harbour Board.*

Although the content of closed meeting deliberations is generally excepted from the disclosure requirements of the Act under [Section 12\(3\)\(b\)](#), City Council has approved the public release of the attached excerpts from the relevant closed meeting minutes.

Please contact our office if you have any questions or concerns.

Sincerely,



Ken Overton
Manager, Property, Risk Management, and FOI
604-541-2104

Att.

Corporate Administration
P: 604.541.2212 | F: 604.541.9348

City of White Rock
15322 Buena Vista Avenue, White Rock BC, Canada V4B 1Y6

WHITE ROCK
City by the Sea!

www.whiterockcity.ca

If you believe that the City of White Rock has been unreasonable in its handling of your request, you may ask the Information and Privacy Commissioner to review our response. You have 30 days from receipt of this notice to request a review by writing to:

Office of the Information and Privacy Commissioner
3rd Floor, 756 Fort Street
Victoria BC V8W 1H2

Should you decide to request a review, please provide the Commissioner's office with:

1. your name, address and telephone number;
2. a copy of this letter;
3. a copy of your original request sent to the City of White Rock; and
4. the reasons or grounds upon which you are requesting the review.

Minutes of a Closed Meeting of
City of White Rock Council held in the
City Hall Boardroom
November 6, 2017

[...]

4. UPDATE RE: HARBOUR BOARD AGREEMENT

The Chief Administrative Officer informed that he was aware the Harbour Board recently conducted their Annual General Meeting but no new information has been relayed to the City. Staff will inquire and Council will be updated as soon as possible.

Minutes of a Closed Meeting of
City of White Rock Council held in the
City Hall Boardroom
December 11, 2017

[...]

6. WHITE ROCK HARBOUR BOARD OPERATION AND MANAGEMENT AGREEMENT [Community Charter Section 90(1) (k)]

Corporate report dated December 11, 2017 from the Director of Engineering and Municipal Operations titled "White Rock Harbour Board Operation and Management Agreement".

The draft agreement favours the City; any changes must have City approval. It was reported that the City will have one (1) representative (staff from Engineering) and One (1) member of Council as voting members on the board.

There have been noted issues in regard to "waiting lists", some non-residents seems to have been able to "jump the line". In the past the Harbour Board rules have circumvented the agreement and things were not always done correctly. The new agreement with the City being an active part of the Board will address these concerns.

There is a "waiting list" that was broken down between "power" and "sail" both having resident and non resident lists.

2017-IC-086

It was MOVED and SECONDED

THAT Council directs the proposed Harbour Board Agreement be amended for the following practice to now be in effect thus allowing for a fair process to obtain a slip at the marina and that residents of White Rock will be considered first as opportunities arise:

There will be two (2) waiting lists as follows regardless of vessel type (power or sail):

- 1) Residents of White Rock; and
- 2) Non White Rock Residents.

CARRIED

2017-IC-087

It was MOVED and SECONDED

THAT Council:

1. Receives for information the corporate report dated December 11, 2017 from the Director of Engineering and Municipal Operations, titled "White Rock Harbour Board Operation and Management Agreement;"
2. Approves the White Rock Harbour Board Operation and Management Agreement as amended between the City of White Rock and White Rock Harbour Board; and
3. Authorizes the Mayor and Director of Corporate Administration to sign the White Rock Harbour Board Operation and Management Agreement.

CARRIED

THE CORPORATION OF THE
CITY OF WHITE ROCK
CLOSED CORPORATE REPORT



DATE: December 11, 2017

TO: Mayor and Council

FROM: Jim Gordon, Director, Engineering & Municipal Operations

SUBJECT: White Rock Harbour Board Operation and Management Agreement

RECOMMENDATIONS

THAT Council:

1. Receive for information the corporate report dated December 11, 2017 from the Director of Engineering and Municipal Operations, titled “White Rock Harbour Board Operation and Management Agreement;”
 2. Approve the White Rock Harbour Board Operation and Management Agreement between the City of White Rock and White Rock Harbour Board; and
 3. Authorize the Mayor and City Clerk to sign the White Rock Harbour Board Operation and Management Agreement.
-

INTRODUCTION

The existing Agreement between the City and White Rock Harbour Board (WRHB) is outdated. In addition, recent updates made in the *Societies Act of BC*, of which the WRHB is a member, were required in order to ensure the WRHB complies with the new Act.

ANALYSIS

The City engaged Lidstone & Company to draft a new agreement with the WRHB to address concerns of the City. The new agreement between WRHB and the City has been agreed to in principle by the WRHB and the City’s representative, Dustin Abt, Manager, Public Works.

The new agreement between the City and the WRHB includes:

- a five (5) year term - the original agreement did not include a term;
- White Rock resident priority for boat slips and the waiting list. Current slip allocation is represented by the following:

# of Slips	Percentage	
17	55%	White Rock residents
9	29%	Co-Op Yacht Clubs, residence unknown, approximately 190 members in two Co-Ops
4	13%	Non-residents
1	3%	Semiahmoo First Nation

- a City Council member will now play a role on the executive for the WRHB and will be a voting member;
- no increase in the moorage rates;
- transfer of accrued WRHB savings to the City for capital projects and an ongoing process for transferring the difference between collected fees and the budget to the City for capital projects;
- mechanism for clear City oversight of WRHB operation of the marina;
- WRHB to act as a Manager of the facility – not as an agent for the City; and
- Agreement may be terminated by either party with sixty (60) days written notice.

The WRHB, in consultation with City staff, also prepared new Bylaws, Constitution, Rules and Regulations, and Moorage Agreement and Waiver documents. These four (4) documents have been reviewed by the City's representative and Lidstone & Company, form part of the Agreement and are attached to as appendices:

- Bylaws - The WRHB to recommend Bylaw approval to its members at the next AGM and filing with the register as per the *Societies Act of BC*. The Agreement stipulates that the Directors shall not recommend to its members any changes to the Bylaws without prior approval of the City representative;
- Constitution - The WRHB to recommend Constitution approval to its members at the next AGM and filing with the register as per the *Societies Act of BC*. The Agreement stipulates that the Directors shall not recommend to its members any changes to the Constitution without prior approval of the City representative;
- Rules and Regulations – The WRHB shall not alter or amend the Rules and Regulations without prior approval of the City representative;
- Moorage Agreement and Waiver – The WRHB shall not alter or amend the Moorage Agreement and Waiver without prior approval of the City representative.

BUDGET IMPLICATIONS

The Agreement provides for the transfer of WRHB savings to the City for investment in the Marina and an ongoing mechanism for the transfer of the difference between collected fees and the budget to the City for Marina investment. Approximately \$300,000 will be transferred to the City subsequent to approval of this Agreement.

OPTIONS

The following options are available for Council's consideration:

1. Council approve the new agreement with the White Rock Harbour Board and authorize;
2. Council not approve the new agreement and provide notice to the WRHB and terminate the existing agreement.

Staff recommends Option 1, which is reflected in this corporate report.

CONCLUSION

City staff and City legal representatives have been working cooperatively with the current WRHB executive and their legal representatives to establish a new agreement that addresses concerns raised by the City. Staff recommends approval of the Agreement.

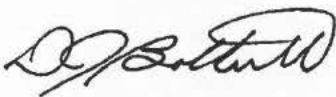
Respectfully submitted,



Jim Gordon
Director, Engineering and Municipal Operations

Comments from the Chief Administrative Officer:

I concur with the recommendations of this corporate report.



Dan Bottrill
Chief Administrative Officer

- Appendix A: Management Agreement
- Appendix B: Moorage Agreement
- Appendix C: Constitution
- Appendix D: Bylaws
- Appendix E: Rules and Regulations

CONFIDENTIAL

APPENDIX A
Management Agreement

CONFIDENTIAL

APPENDIX B
Moorage Agreement

CONFIDENTIAL

APPENDIX C
Constitution

CONFIDENTIAL

APPENDIX D

Bylaws

CONFIDENTIAL

APPENDIX E
Rules and Regulations

CONFIDENTIAL

WHITE ROCK HARBOUR BOARD OPERATION AND MANAGEMENT AGREEMENT
dated for reference the 31st day of July, 2018
(the "**Management Agreement**")

BETWEEN:

THE CORPORATION OF THE CITY OF WHITE ROCK

A City incorporated under the laws of the Province of British Columbia, and
having a mailing address at:

15322 Buena Vista Avenue,
White Rock,
BC, V4B 1Y6

(the "**City**")

AND:

WHITE ROCK HARBOUR BOARD

A society incorporated under the laws of the Province of British Columbia, and
having a mailing address at:

15216 North Bluff Road
Suite #552
White Rock
BC V4B 0A7

(the "**Harbour Board**")

(collectively, the "**Parties**")

WHEREAS:

- A. The City has entered into a lease agreement with the Province of British Columbia, (the "**Lessor**"), dated for reference the 30th day of March 2001 (the "**Lease**") to lease the area of the White Rock Wharfhead and Float, as outlined in black on the Legal Description Schedule of the Lease Agreement (the "**Leased Area**") and attached as Schedule A to this Management Agreement;
- B. This Management Agreement covers a portion of the Leased Area, namely the West Float, as outlined in the cross-hatched area of the plan attached as Schedule B to this Management Agreement; and
- C. The Harbour Board desires to provide suitable permanent moorage facilities for its members.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, and of the sum of \$1.00 paid by the Parties to each other, and subject to the terms and conditions hereinafter set out, the Parties hereto agree as follows:

1. ARTICLE – INTERPRETATION

1.1 Wherever used in this Management Agreement, including the recitals and schedules, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the respective meanings ascribed to them as follows:

- (a) **“Act”**: the *Societies Act*, SBC 2015, c. 18, as amended from time to time;
- (b) **“Board of Directors”**: the board of directors of the Harbour Board, elected or appointed, as the case may be, in accordance with the Act and the Bylaws;
- (c) **“Budget”**: the budget for the Harbour Board’s anticipated expense for the upcoming year, presented in a format acceptable to the City’s Representative, acting reasonably;
- (d) **“Budget Amount”**: the total amount of the Harbour Board’s anticipated expenses as set out in the Budget;
- (e) **“Bylaws”**: the Bylaws of the Harbour Board as amended from time to time;
- (f) **“Capital Improvements”**: capital projects that the City determines are required for upgrading or renovating the Marina, or both, and such other related improvements, works or projects as the City deems beneficial to the greater community of White Rock including but not limited to any projects related to improving the use of or access to the Marina;
- (g) **“City Executive”**: a member of City Council who is appointed by the City as a director on the Board of Directors and is a voting member of the Board of Directors, or the alternate member of City Council who is appointed by the City to act in the place of the first appointee, if the first appointee is unable to perform his/her duties.
- (h) **“City’s Representative”**: an individual appointed by the City to be a non-voting member of the Board of Directors and to act as a liaison between the City and the Harbour Board; the individual who acts as the City’s Representative may be replaced at the sole discretion of the City; the City may appoint an alternate individual to act in the place of the first appointee as the City’s Representative, if the first appointee is unable to perform his/her duties.
- (i) **“Commencement Date”**: July 31, 2018;
- (j) **“Constitution”**: means the constitution of the Harbour Board, and any alterations to the constitution;

- (k) **“Directors”**: those individuals who have been designated, elected or appointed, as the case may be, in accordance with the Act as a member of the Board of Directors, regardless of the title by which the individual is called;
- (l) **“Facility”**: that portion of the Leased Area that covers the West Float shown cross-hatched on the plan attached as Schedule B to this Management Agreement;
- (m) **“Fees”**: the membership fees collected by the Harbour Board from its members, the fees collected by the Harbour Board for moorage and wharfage fees from transient vessels using the Facility, any other rents collectable in accordance with the terms of the Moorage Agreement and Waiver and all other monies collected and received by the Harbour Board in the operation of the Facility.
- (n) **“Lease”**: the lease agreement described in Recital A;
- (o) **“Leased Area”**: that area that is described in Recital A;
- (p) **“License”**: has the meaning set out in section 3.1;
- (q) **“Management Agreement”**: this Management Agreement entered into between the City and the Harbour Board, dated for reference July 31, 2018 and including all attached schedules;
- (r) **“Marina”**: the area comprised of the Leased Area, as outlined in black on the plan attached as Schedule A to this Management Agreement;
- (s) **“Moorage Agreement and Waiver”**: the agreement for moorage rental entered into between the Harbour Board and each and every owner of a boat or vessel moored in the Marina;
- (t) **“Term”**: the term commencing on the Commencement Date and terminating on the 5th anniversary of the Commencement Date, unless terminated sooner as provided for in this Management Agreement;
- (u) **“The Lower Mainland Yacht Co-op”**: an co-operative association incorporated pursuant to the *Cooperative Association Act of British Columbia*, SBC 1999, c. 28, having a business office located at: 952 Lee Street, White Rock, British Columbia, V4B 4N8.
- (v) **“Waterline Sailing Yacht Co-op”**: an co-operative association incorporated pursuant to the *Cooperative Association Act of British Columbia*, SBC 1999, c. 28, having a business office located at: 7887 117A Street, Delta, British Columbia, V4C 6C4.

- (w) **“Wharfinger”**: a wharfinger appointed by the Harbour Board to oversee the operation of the Facility in accordance with the duties and responsibilities of the Harbour Board as set out herein.
- 1.2 It is agreed that the singular number shall include the plural and vice versa, the number of the verb shall be construed as agreeing with the word so substituted, words importing the masculine shall include the feminine and neutral gender, and words importing person shall include firms and corporations and vice versa.
- 1.3 The captions and headings contained in this Management Agreement are for conveniences only and do not define or in any way limit the scope or intent of this Management Agreement.
- 1.4 This Management Agreement will be interpreted according to the laws of the Province of British Columbia and the Parties to this Agreement submit and attorn to the jurisdiction of the courts of the Province of British Columbia.
- 1.5 Time is of the essence in this Management Agreement.
- 1.6 Reference to any enactment includes any regulations, orders or directives made under the authority of that enactment.
- 1.7 Reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.
- 1.8 Reference to a “day”, “month”, “quarter” or “year” is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided.
- 1.9 Where the word “including” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “including.”
- 1.10 All schedules attached to this Management Agreement form part of the Management Agreement.
- 2. ARTICLE – HARBOUR BOARD INVESTMENT**
- 2.1 In the interest of building a better Marina, including but not limited to the Facility, and investing in the future of the Marina, including but not limited to the Facility, to the mutual benefit of the Harbour Board, the City and the residents of the City, the Harbour Board will invest in the Capital Improvements by providing to the City, on a date to be determined by the Parties that is between November 18, 2017 and July 31, 2018, a sum equal to the following:
- a) three hundred thousand dollars (\$300,000.00); minus

- b) the expenses incurred by the Harbour Board to date; minus
- c) the Budget Amount.

3. ARTICLE – LICENSE

- 3.1 Subject to the terms and conditions of the Lease, for the Term of this Management Agreement, the City grants to the Harbour Board the non-exclusive right and license (the “License”) to access and occupy the Facility as is necessary for:
- a) the management and operation of the Facility, including issuing the Moorage Agreement and Waivers in accordance with section 3.3;
 - b) access to and egress from the Facility; and
 - c) such other purposes as the City and the Harbour Board may, from time to time, agree to in writing.
- 3.2 Nothing in this Management Agreement grants to the Harbour Board exclusive possession of the Facility.
- 3.3 The Harbour Board may issue the Moorage Agreement and Waivers provided that such Moorage Agreement and Waivers are subject to the following terms and conditions:
- a) The Moorage Agreement and Waivers shall expressly state that it does not convey to the owner any more rights or privileges than the Harbour Board has under this License;
 - b) The Moorage Agreement and Waivers must not be indefinite and, in any event, must expire as soon as the Term expires or this License is terminated due to the earlier termination of the Management Agreement; and,
 - c) The Moorage Agreement and Waivers shall be structured as sub-licenses and are subject to the License granted under section 3.1.
- 3.4 The Harbour Board shall take all necessary step to ensure that any and all pre-existing moorage agreements comply with section 3.3 and, without limiting Article 9 of this Management Agreement, shall indemnify and save harmless the City from and against, any and all manner of liability, claims, damages, losses, costs or expenses arising from the Harbour Board failing to comply with this Article 3.
- 3.5 Nothing in this Agreement will constitute the Harbour Board as the agent, joint venture, or partner of the City or give the Harbour Board any authority to bind the City in any way.

4. ARTICLE – CONDITIONS PRECEDENT

4.1 The obligations of the City under this Management Agreement are subject to the following condition precedent, all of which shall be satisfied or waived on or before July 31, 2018, or such other date agreed in writing by the Parties:

- a) the municipal council of the City, in its sole discretion, will have adopted all resolutions and bylaws necessary to carry out the terms of this Agreement;
- b) the City shall have otherwise complied with all of its statutory obligations in connection with this Agreement.

The Parties agree that these conditions precedent are for the benefit of the City and may only be declared waived or satisfied by written notice given by the City's Representative to the Harbour Board.

5. ARTICLE – CITY REPRESENTATION AND WARRANTIES

5.1 The City warrants and represents to the Harbour Board that:

- a) the City has all necessary power and authority to enter into this Management Agreement; and
- b) the execution of this Management Agreement by the City will not cause the City to be in breach of any agreements to which the City is a party.

6. ARTICLE – HARBOUR BOARD REPRESENTATIONS, COVENANTS AND WARRANTIES

6.1 The Harbour Board covenants, represents and warrants to the City that:

- a) the Harbour Board is a Society duly organized, validly existing and legally entitled to perform its obligations under this Agreement and is in good standing with respect to filings of annual reports according to the records of the registrar, as set out in the *Societies Act*;
- b) the Harbour Board has the power and capacity to enter into this Agreement, and any other agreement contemplated by this Agreement, and to comply with every term and condition of this Agreement;
- c) all necessary proceedings have been taken to authorize the Harbour Board to enter into this Agreement, and any other agreement contemplated by this Agreement, and to execute and deliver this Agreement;
- d) this Agreement has been properly executed by the Harbour Board and is enforceable against the Harbour Board in accordance with its terms;

- e) any statement, representation or information, whether oral or written, made, furnished or given by the Harbour Board, its directors, officers, legal counsel or anyone acting on behalf of the Harbour Board, to the City in connection with this Agreement is materially correct and accurate;
- f) the Harbour Board has no knowledge of any fact that materially adversely affects or, so far as is it can be foreseen, might materially adversely affect its ability to fulfill its obligations under this Agreement; and
- g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by the Harbour Board or a default by it under any statute, regulation or bylaw of Canada, or of the Province of British Columbia applicable to or binding on it, its constating documents or any contract or agreement to which it is a party.

6.2 In the event of emergency related to the Facility, the Harbour Board shall immediately contact the City's Representative at the City's Representative's **24-hour emergency number: 604-541-2181** and shall immediately take any and all reasonable steps as directed by the City's Representative; this emergency contact number may be changed in accordance with the Notice provisions in this Agreement. The Harbour Board shall ensure that the emergency contact number is known and available to all members of the Harbour Board and the Wharfinger, and that the members and the Wharfinger are aware of the obligation to immediately report emergencies.

7. ARTICLE – MUTUAL COVENANTS AND AGREEMENTS

- 7.1 The Harbour Board agrees to act as manager for the City in the operation of the Facility, in accordance with the terms and conditions of this Management Agreement.
- 7.2 As manager for the City, the Harbour Board shall collect the Fees on behalf of the City. The Harbour Board shall hold the Fees in trust for the City until such time as the Fees are remitted to the City. The City's Representative shall advise the Harbour Board of the manner in which the Fees are to be held in trust.
- 7.3 The Harbour Board agrees that each and every year of the Term, the Harbour Board shall submit the previous year's financial records, in a format acceptable to the City acting reasonably, and the Budget Amount, no later than March 31, or such later date as approved by the City's Representative, for receipt by the City's Representative.
- 7.4 Each and every year of the Term, the Harbour Board shall remit to the City's Representative no later than March 31, or such later date as approved by the City's Representative, the costs of those utilities supplied to the Harbour Board by the City, such amount to be determined annually by the City's Representative.
- 7.5 Subject to the approval of the City's Representative, which approval will not be unreasonably withheld, the Harbour Board shall retain the Budget Amount, or such other amount as determined by the City's Representative, annually from the Fees. The Harbour

- Board shall not spend, transfer to itself, or in any other way reduce or use the Fees without the prior approval of the City's Representative.
- 7.6 Each and every year of the Term, the Harbour Board shall remit to the City's Representative the Fees, minus the Budget Amount, no later than April 30, which the City may apply to the Capital Improvements, in whatever amount the City determines appropriate, for the benefit of the City, the Harbour Board, and the residents of the City.
 - 7.7 The Harbour Board shall keep an account of the Fees for inspection by accredited officers of the City or appointed officials of the Lessor.
 - 7.8 The books of the Harbour Board shall be open for audit and inspection at all times during business hours by accredited officers of the City or the Lessor. Each and every year of the Term, the Harbour Board shall supply to the City's Representative an annual financial report by March 31, which may be distributed to City Council for information, provided that the City Council maintains confidentiality over the report and will not disclose the report to any person unless required under applicable law.
 - 7.9 The Harbour Board acknowledges that the City is subject to legislative disclosure requirements under the *Community Charter*, the *Local Government Act*, and the *Freedom of Information and Protection of Privacy Act*, as amended.
 - 7.10 Each and every year of the Term, the Harbour Board shall submit in writing the names of the Directors for the following year to the City's Representative no later than March 31, or such other date as approved by the City's Representative, for receipt by the City's Representative.
 - 7.11 The Harbour Board shall deposit with the City's Representative a copy of the Bylaws, the constitution of the Harbour Board, and the Moorage Agreement and Waiver.
 - 7.12 If requested by the City's Representative, the Harbour Board shall prepare a presentation to the City, or to the City's Representative or both, the content of the presentation to be determined by the City or the City's Representative or both.
 - 7.13 The Harbour Board shall not alter or amend any portion of the Moorage Agreement and Waiver without the prior consent of the City's Representative, acting reasonably.
 - 7.14 The Harbour Board shall not alter or amend any portion of the Harbour Board Rules and Regulations without the prior consent of the City's Representative, acting reasonably.
 - 7.15 The Harbour Board shall be responsible for all costs of operating the Facility including payment of fees and other compensation payable to a Wharfinger.
 - 7.16 The Harbour Board shall, at all times, appoint a Wharfinger.

- 7.17 The Harbour Board shall not appoint any person as a Wharfinger under section 7.16 until that person has been approved by the City's Representative, such approval not to be unreasonably withheld.
- 7.18 The Harbour Board will provide to the City the address and phone number of the Wharfinger to enable the City to contact the Wharfinger at all times in the event of an emergency arising regarding the Facility.
- 7.19 The City will, at no cost to the Harbour Board, provide one parking pass for the exclusive use of the Harbour Board.
- 7.20 Subject to section 7.27, the Harbour Board shall control access to the Facility, except in emergency circumstances.
- 7.21 The Harbour Board shall not make any Capital Improvements to the Facility without the approval of the City's Representative, which approval will not be unreasonably withheld.
- 7.22 The Harbour Board shall keep the Facility clean and tidy and free from all litter at all times.
- 7.23 The Harbour Board shall be responsible for the costs of all minor maintenance and upkeep and the City shall be responsible for major repairs only. For the purposes of this Management Agreement, "major repairs" means any maintenance, upkeep, repair or replacement work in relation to the Facility that will cost \$1,500.00 or more to complete.
- 7.24 The Harbour Board shall immediately notify the City's Representative of the need for major repairs pursuant to the notice provisions in this Management Agreement, and, if the situation is an emergency or is likely to result in an emergency, at the emergency contact number.
- 7.25 The Harbour Board shall not allow any live-in vessels to use the Facility at any time.
- 7.26 The Harbour Board shall not allow any commercial vessels including commercial fishing vessels to use the Facility at any time, unless approved by the City's Representative.
- 7.27 The Harbour Board shall allow the City's agents, employees, and contractors and the Lessor full and free access to any and every part of the Facility at all times.
- 7.28 In accordance with the transitional provisions of the Act, the Board of Directors will recommend to its members that the new Bylaws and constitution, in the form attached as Schedule C and Schedule D to this Management Agreement, be approved and be filed with the registrar pursuant to the requirements of the Act. The Harbour Board shall bear all costs, including applicable taxes, associated with the drafting and filing of the new Bylaws.

- 7.29 The Directors shall deposit a copy of any and all proposed additions, alterations or amendments to the Bylaws, or of any other changes to the Bylaws, with the City's Representative for approval prior to recommending the addition, alteration or amendment to the members of the Harbour Board and the City's Representative's approval will not be unreasonably withheld.
- 7.30 The Directors shall not recommend to the members of the Harbour Board any additions, alterations or amendments to the Bylaws that have not received the prior approval of the City's Representative, such approval not to be unreasonably withheld.
- 7.31 The City shall appoint a member of City Council to be the City Executive, who shall be a voting member and director on the Board of Directors. In addition, the City may appoint an alternate member of City Council to act in the place of the first appointee as the City Executive, if the first appointee is unable to perform his/her duties.
- 7.32 The City shall appoint an individual to be the City's Representative, who shall be a non-voting member and director of the Board of Directors. In addition, the City may appoint an alternate individual to act in the place of the first appointee as the City's Representative, if the first appointee is unable to perform his/her duties.
- 7.33 The Board of Directors shall deposit a copy of any proposed alterations to the Constitution with the City's Representative for approval prior to recommending the alteration to the members of the Harbour Board.
- 7.34 The Directors shall not recommend to the members of the Harbour Board any alterations to the Constitution that have not received the prior approval of the City's Representative.
- 7.35 Upon alteration, amendment or other change to the Bylaws, the Constitution, the Rules and Regulations or the Moorage Agreement and Waiver, the Harbour Board shall deposit a copy of the altered, amended or otherwise changed Bylaws, Constitution, Rules and Regulations or Moorage Agreement and Waiver, as applicable, with the City's Representative.

8. ARTICLE – MOORAGE PRIORITY

- 8.1 The Harbour Board shall give priority to residents of White Rock when granting moorage at the Facility. A non-resident shall be admitted only if there is no acceptable application for moorage from a resident of White Rock. New moorage tenants shall be chosen from a waiting list of applicants prepared, managed and updated by the Harbour Board in accordance with the Bylaws. Residency shall be determined by the applicant's driver's license (or other government issued identification acceptable to the City's Representative, if a driver's license is unavailable) plus a statutory declaration acceptable to the City's Representative.
- 8.2 The Harbour Board shall provide an updated waitlist to the City's Representative no later than March 31, or upon the request of the City's Representative. The Harbour Board shall

provide the City's Representative the opportunity to review all the applications for moorage prior to any non-resident of White Rock being offered moorage.

9. ARTICLE – INSURANCE AND INDEMNITY

- 9.1 The City shall provide and maintain in force public liability insurance for the benefit of the City and the Harbour Board in such amount that is deemed reasonable by the City's Representative in respect of commercial liability, property loss and economic loss and personal injury including death to any one or more persons or property damage occurring on or about the Facility, or any other insurance determined to be necessary by the City. The costs of this coverage, and the deductibles, shall be borne by the Harbour Board and payable as part of the Budget. The City shall be a Named Insured and the policy shall insure all persons and entities for whom the City has agreed to obtain, or has the responsibility for placing, insurance.
- 9.2 The City shall not be liable for, and the Harbour Board hereby releases the City from and agrees to indemnify and save harmless the City from and against, any and all manner of liability, claims, damages, losses, costs or expenses for the property damage or for personal injury including death arising out of the actions of the Harbour Board, its agents, employees or invitees, whether such actions occur at the Facility or at other locations. The Harbour Board releases the City from, and agrees to indemnify and save harmless the City from and against, all manner of actions, causes of action, suits and demands whatsoever at law or at equity which the Harbour Board may at any time have by reason of the exercise by the City of its rights as set out in this Agreement. The parties agree that the obligations of the parties under this section 9.2 shall survive the expiry or earlier termination of this Management Agreement.

10. ARTICLE – TERMINATION

- 10.1 The Harbour Board agrees that if the Harbour Board fails to observe, abide by or comply with any provision of the Management Agreement and, if, after thirty (30) days of the City's Representative written notice of the same, the Harbour Board fails to remedy the failure(s) or deliver to the City a plan for remedying the failure(s) satisfactory to the City, the City may terminate this Management Agreement, in its sole discretion, and all rights and interest in the Facility will be absolutely forfeited to the City.
- 10.2 The City agrees that if the City fails to observe, abide by or comply with any provision of the Management Agreement and, if, after thirty (30) days of the Harbour Board written notice of the same, the City fails to remedy the failure(s) or deliver to the Harbour Board a plan for remedying the failure(s) satisfactory to the Harbour Board, the Harbour Board may terminate this Management Agreement, in its sole discretion.
- 10.3 This Management Agreement may be lawfully terminated by the City or the Harbour Board at any time upon sixty (60) days' written notice to the other party.

- 10.4 Subject to section 10.5, upon the expiration of the Term or the earlier lawful termination by the City of this Management Agreement, the Harbour Board will make no claim for compensation, in damages or otherwise.
- 10.5 If this Management Agreement is lawfully terminated by either party, the Fees and any outstanding amount for utilities shall be surrendered to the City, subject to the pro-rated Budget Amount up to the date of termination, or such other amount as determined by the City, acting reasonably, that is to remain with the Harbour Board.
- 10.6 On the termination of this Management Agreement, except for ordinary wear and tear, the Harbour Board must restore the Facility as nearly as may be reasonably possible to the same conditions as it was on the Commencement Date, to the satisfaction of the City, aside from any Capital Improvements or major repairs.

11. ARTICLE – SEVERABILITY

- 11.1 It is intended that all provisions of this Management Agreement will be fully binding and effective between the Parties, but in the event that any particular provisions or provisions or a part of one is found to be void, voidable or unenforceable for any reasons whatsoever, then:
- a) the particular provisions or provisions or part of a provisions shall be deemed severed from the remainder of this Management Agreement and all other provisions shall remain in full force; and
 - b) the Parties will negotiate in good faith a revised provision or provisions or part of a provision that is similar in terms and effect to such provision or provisions or part of the provision found to be void, voidable or unenforceable as may be possible and legal, valid and enforceable.

12. ARTICLE - AMENDMENTS

- 12.1 This Management Agreement constitutes the entire agreement between the Parties and no understanding or agreement, oral or otherwise, exists between the Parties with respect to the subject matter of this Management Agreement except as expressly set out in this Management Agreement.
- 12.2 If at any time during the continuance of this Management Agreement the Parties shall deem it necessary or expedient to make any alteration or addition to this Management Agreement, they may do so only by means of a written agreement between them which shall be supplemental and form part of this Management Agreement.

13. ARTICLE - NOTICE

- 13.1 Any notice to be given or delivered, including consent, approval or requests, shall be in writing, but such written notice may be given electronically, including delivery by e-mail.

- 13.2 Notice to the City shall be delivered by personal delivery to the City's Representative, or sent electronically through email to the City's Representative at **DAbt@whiterockcity.ca**, or such other email address as provided by the City's Representative, or mailed (by prepaid registered mail) to the City's Representative at 15322 Buena Vista Avenue, White Rock, BC, V4B 1Y6, or such other mailing address as provided by the City's Representative.
- 13.3 Notice to the Harbour Board shall be delivered by personal delivery to any of the Directors, or sent electronically through email to the Harbour Board at **wrharbourboard@gmail.com**, or such other email address as provided by the Harbour Board, or mailed (by prepaid registered mail) to the Harbour Board at 15216 North Bluff Road, Suite #552, White Rock, BC, V4B 0A7, or such other mailing address as provided by the Harbour Board.
- 13.4 Any notice, direction or instrument aforesaid shall:
- a) if by personal delivery, be deemed to have given or made at the time of delivery;
 - b) if mailed by registered mail in Canada and properly addressed be deemed to have been given or made on the third day following the day on which it was so mailed, provided that if mailed, should there be, at the time of mailing or between the time of mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice by the mails, then such notice shall be only effective if actually delivered; and
 - c) if sent electronically, be deemed to have been given or made on the day following the day on which it was sent.
- 13.5 Any of the Parties may give written notice of change of address in the same manner, in which event such notice shall thereafter be given to it as above provided at such changed address.

14. ARTICLE – WAIVER

- 14.1 No provision of this Management Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act, and any reference to waiver includes acquiescence.

15. ARTICLE – ARBITRATION


15.1 If a conflict between the parties arises pursuant to this Agreement, the parties agree to use best efforts to negotiate in good faith to reach a mutually agreeable resolution. Notwithstanding the foregoing, the parties agree that all disputes arising, out of or in connection with this Agreement shall be referred to and finally resolved by arbitration under the Rules of the British Columbia International Commercial Arbitration Centre. The appointing authority shall be the British Columbia International Commercial Arbitration Centre. The arbitration case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its "Procedures for Cases Under the BCICAC Rules". The place of arbitration shall be White Rock, British Columbia, Canada.

16. ARTICLE – COUNTERPARTS


16.1 This Agreement may be signed in counterpart and each counterpart when so executed and delivered shall be deemed an original and all of which shall constitute, collectively, one agreement.

IN WITNESS THEREFORE, THIS AGREEMENT HAS BEEN EXECUTED AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

CITY OF WHITE ROCK


 Per Authorized Signatory:
 Name: **Wayne Baldwin**
 Position: **Mayor**

WHITE ROCK HARBOUR BOARD

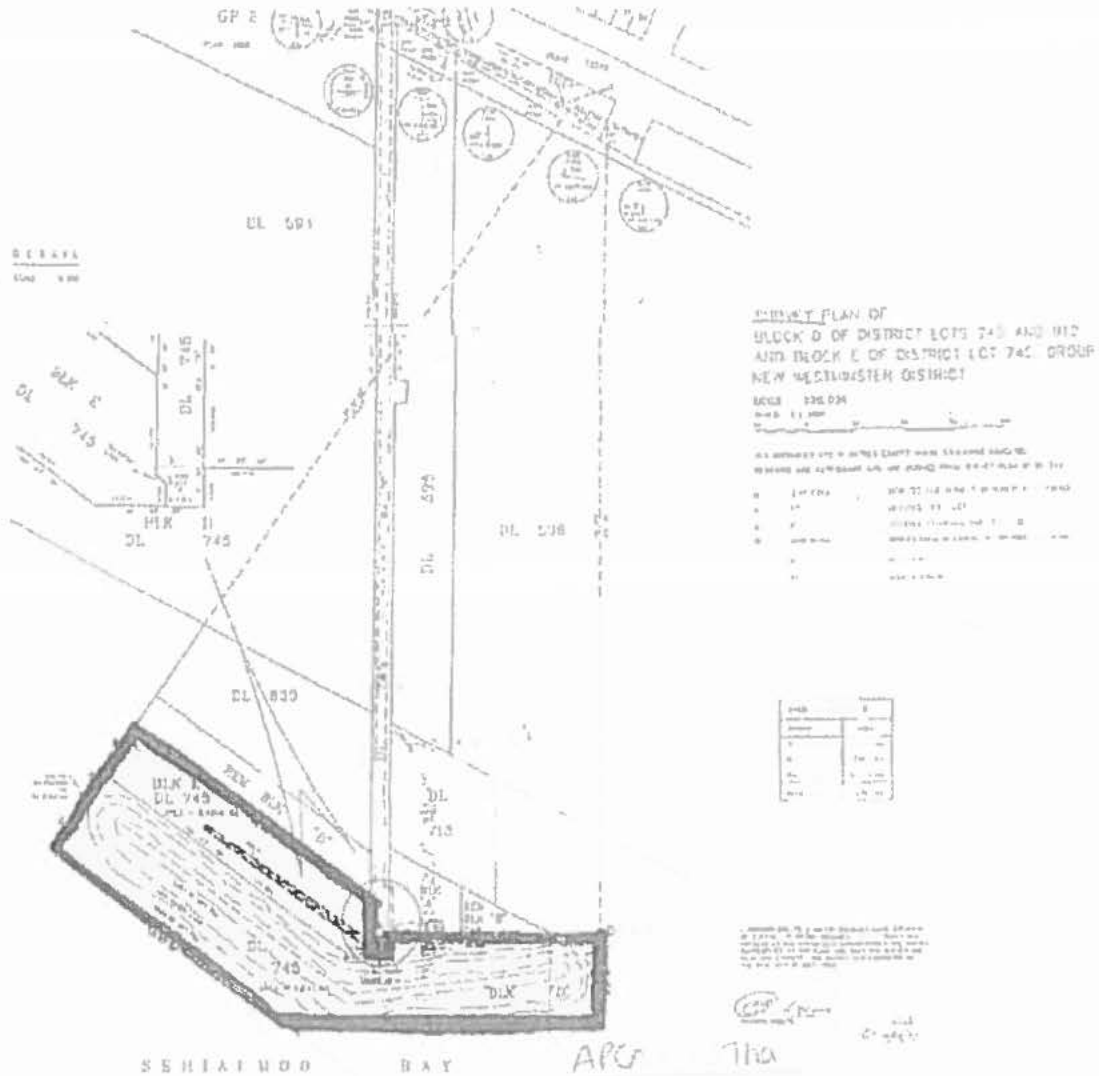

 Per Authorized Signatory:
 Name: Warren Hill
 Position: President, White Rock Harbour Board


 Tracey Arthur, Director
 Corporate Administration

SCHEDULE B

Lease 237525 File No. 010118N
Disposition No. 811262

LEGAL DESCRIPTION SCHEDULE



SCHEDULE C

See attached Constitution

SCHEDULE D

See attached Bylaws.

MOORAGE AGREEMENT & WAIVER OF LIABILITY

dated for reference ____ day of _____, 20__
(the "Moorage Agreement and Waiver")

AMONG:

WHITE ROCK HARBOUR BOARD, a society
incorporated under the *Society Act* of British
Columbia, and having a mailing address at

15216 North Bluff Road
Suite #552
White Rock BC V4B 0A7

(the "Harbour Board")

AND:

(Name)
(Address)
(City, Prov.)
(E-mail)
(the "Owner")

(collectively, the "Parties")

WHEREAS:

A. The Vessel Owner is the owner of the vessel (the "Vessel") with the following description:

Vessel Name _____
Make _____
Model _____
Registration # _____
Hull ID# _____
Length (LOA) _____
Engine Make/Model _____
Serial # _____
Other Notations _____

B. The Vessel Owner wishes to enter into a moorage use agreement with the Harbour Board on terms and conditions set out in this Moorage Agreement and Waiver, regarding the use of facilities, property or chattels, now owned, leased or operated or hereafter acquired by the Harbour Board, and including, without limitation, the gatehouse, wharf and facilities, and tools of the Harbour Board (collectively the "Facility").

NOW THEREFORE in consideration of the promises and mutual agreements and covenants contained in this Moorage Agreement and Waiver and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties hereby covenant and agree as follows:

1. **Conditions Precedent.** The operation of this Moorage Agreement and Waiver is conditional upon the following conditions precedent being fulfilled or waived by the Harbour Board, no later than two (2) weeks following the execution of this Moorage Agreement and Waiver:
 - a) the Owner's application for membership with the Harbour Board being accepted by the Harbour Board and all applicable annual membership dues, moorage fees, special assessments and other fees in accordance with the Bylaws (as defined in section 3);
 - b) the Owner confirming to the Harbour Board that the Owner has received a copy of the Rules and Regulations (as defined in section 3) and confirmed that the Owner has been provided a means of accessing Rules and Regulations as the Rules and Regulations get updated from time to time;
 - c) the Owner delivering to the Harbour Board proof of ownership of and proof of insurance for the Vessel, in a form satisfactory to the Harbour Board;
 - d) the conditions set out in section 8 of this Moorage Agreement and Waiver have been satisfied; and
 - e) the Harbour Board being satisfied with the information provided to the Harbour Board under this section 1;
2. **Accurate Information.** The Owner acknowledges that information provided by the Owner is true, accurate and complete. The Owner will notify the Harbour Board of any change in the information, including but not limited to, contact information, and any significant or material change to the accuracy or completeness of the representations and/or information that was provided to the Harbour Board pursuant to section 1.
3. **Compliance with Bylaws.** The Owner agrees to abide by the constitution of the Harbour Board, the bylaws of the Harbour Board, as may be amended from time to time (the "Bylaws"), and the rules, policies, regulations, guidelines, and policies that are approved and adopted by the Harbour Board from time to time (the "Rules and Regulations"), all of which are updated annually.
4. **Access to Bylaws and Rules & Regulations.** The Owner confirms that he/she has been provided a copy of the current Bylaws and Rules and Regulations. The Owners confirms that he/she has reasonable access to the Bylaws and Rules and Regulations, as may be amended from time to time, after the Owner has executed this Moorage Agreement and Waiver (posted at _____). The Owner acknowledges that the Bylaws and the

Rules and Regulations contain important terms and conditions and that the Owner will read the Bylaws and the Rules and Regulations and will remain up to date on the terms and conditions of the Bylaws and the Rules and Regulations.

5. **Moorage Space Use.** Subject to the terms and conditions set out in this Moorage Agreement and Waiver, the Harbour Board will grant the Owner the right to use certain moorage space on the west wharf along the harbour of the City of White Rock, described as slip # _____ (the "**Moorage Space**") by way of a sub-license of the license granted to the Harbour Board pursuant to Management Agreement (as defined in the Bylaws). Nothing in this Moorage Agreement and Waiver shall convey to the Owner any more rights or privileges than the Harbour Board has under the aforementioned Management Agreement.
6. **Moorage Fees.** The Harbour Board will set moorage rates, fees, and other costs charges (the "**Fees**"), in accordance with the Bylaws and the Rules and Regulations. The Owner will pay the Fees in accordance the Bylaws and the Rules and Regulations.
7. **Default.** The Owner's failure to abide by the terms and conditions of the Bylaws and Rules and Regulations, including without limitation the failure to pay the Fees charged by the Harbour Board by the due date, will constitute a default under the terms of this Moorage Agreement and Waiver. If the Owner is in default, the Harbour Board is entitled to take any actions permitted in the Bylaw and the Rules and Regulations.
8. **Ownership of Vessel.** Check one of the two following boxes that apply to the Owner:
 - A. The Owner warrants that the Owner is the sole owner of the Vessel and all gear, equipment and other property on the Vessel and that no other person has any interest in them. The Owner agrees to indemnify the Harbour Board for any claims made by any other person who claims to have any interest in the Vessel or in any gear, equipment or other property on the Vessel.
 - B. The Owner warrants that the Owner is one of the owners of the Vessel and all gear, equipment and other property on the Vessel (the "**Owners**") and that, aside from the Owners, no other person has any interest in them. The Owner acknowledges and confirms that as a condition to the operation of this Moorage Agreement and Waiver, each of the Owners shall execute a copy of this Moorage Agreement and Waiver and deliver the executed copy to the Harbour Board. The Owner agrees to indemnify the Harbour Board for any claims made by any other person who claims to have any interest in the Vessel or in any gear, equipment or other property on the Vessel.
9. **No Assignment.** This Moorage Agreement and Waiver may not be assigned, transferred, or sublet without the express authorization and consent of the Harbour Board, and all Fees will continue until this Moorage Agreement and Waiver is terminated.

10. **Insurance.** The Owner will comply with insurance policy requirements set out in the Bylaws and Rules and Regulations.
11. **Safety.** The Owner will comply with the safety requirements set out in the Rules and Bylaws and Regulations. The Owner shall obtain and maintain in good standing insurance for the boat or vessel that includes a minimum of \$2,000,000.00 third party liability insurance.
12. **No Liability Assumed by Harbour Board or the City of White Rock.** The Owner acknowledges that the Harbour Board and the City of White Rock do not accept liability for and will not be liable for the safekeeping of the Vessel or its gear, equipment and other property on the Vessel, or the use of the Facility. The Harbour Board and the City of White Rock are not and will not be liable for any injury or damage suffered by the Owner, the Owner's guests, or the guests of their guests, in relation to the use of the Owner's property, including the Owner's Vessel and its gear, equipment and other property on the Vessel, or the use of the Facility.

The Owner agrees that this provision is in addition to any waiver of liability provisions set out in the Rules and Regulations.

13. **Owner's Assumption of Risk.** The Owner assumes all risk of injury, death, or property loss or damage they may suffer while, in, about or using any of the Facility, or while traveling to or from the Facility, howsoever arising or wheresoever caused, and including but without limitation, death, injury, property loss or damage incurred or suffered as a result of the breakdown or failures of the Facility, including without limitation, damage caused by fire, theft or vandalism, earthquakes, flood, water escapement, storm, snow or other peril, Acts of God, defect in the design or construction of the Facility, failure to maintain, repair, replace any portion of the Facility, and death, injury, property loss or damage caused or contributed to, directly or indirectly, by the negligence, breach of contract or breach of statutory duty, or willful or other act of the Harbour Board or the City of White Rock, or any of their employees, officers, directors, and other members, or member's guests or the guests of their guests.

The Owner agrees that this provision is in addition to any assumption of risk provisions set out in the Rules and Regulations.

14. **Release of Liability.** The Owner hereby forever and irrevocably remise, release and discharge:
 - a) the Harbour Board, its employees, officers, directors, servants, contractors and agents, members, board of directors, managers, volunteers, other members, other members' guests, and guests of their guests, and each of their heirs, executors and assigns; and
 - b) the City of White Rock, its employees, officers, directors, servants, contractors and agents, members, Council, managers, volunteers, other members, other

members' guests, and guests of their guests, and each of their heirs, executors and assigns;

(collectively, the "Releasees")

from any and all Claims that the Owner may now or at any time hereafter have against the Releasees, or any of them,. For the purpose of this Moorage Agreement and Waiver, "Claims" means any and all manner of claims, actions, causes of action, suits, debts, losses, due accounts, demands, covenants, contracts, damages, liabilities, interest, costs, expenses, and compensation of whatsoever kind and howsoever arising, whether by contract, statute, regulation, common law, or operation of law including but not limited to termination of this Moorage Agreement and Waiver or loss of moorage privileges or rights.

The Owner agrees that this provision is in addition to any release provisions set out in the Rules and Regulations.

15. **Indemnification of Releasees.** The Owner will fully indemnify and save harmless the Releasees and each of them, and agrees to hold each of them harmless from and against all Claims which the Releasees or any of them may suffer as a result of:
- a) the Owner's breach or non-compliance of any provision of the Moorage Agreement and Waiver, including without limitation, negligence, willful default or misconduct by Owner;
 - b) the Owner's breach or non compliance with any applicable federal, provincial or municipal legislation, in relation to the maintenance and operation of a Vessel and the use of the Facility;
 - c) Claims made by guests of the Owner, and guests of guests of the Owner, in relation to the maintenance and operation of a Vessel and the use of the Facility; and
 - d) any and all costs, charges, legal fees and expenses incurred by the Harbour Board in connection with any of the foregoing, including without limitation, legal fees and expense incurred in prosecuting, proceeding, defending, or settling any civil, criminal, statutory or administrative action, proceeding or other remedy sought by any individual or person.

The Owner agrees that this provision is in addition to any indemnification obligations set out in the Rules and Regulations.

16. **City of White Rock as Beneficiary:** The Parties agree that the City of White Rock shall be a beneficiary of the Release of Liability, Indemnification, Owner's Assumption of Risk and No Liability provisions set out at section 12, 13, 14, and 15 of this Moorage

- Agreement and Waiver, which shall survive the expiry or earlier termination of this Moorage Agreement and Waiver.
17. **Damage Caused by Owner.** The Owner will use the Facility in a reasonably safe manner at all times in accordance with the Bylaws and the Rules and Regulations.
 18. **Termination on Notice.** Subject to section 19, the Owner or the Harbour Board is entitled to terminate this Moorage Agreement and Waiver by written notice four (4) weeks in advance.
 19. **Termination of Term.** The Harbour Board is entitled to terminate this Moorage Agreement and Waiver if:
 - a) the Moorage Agreement and Waiver is terminated in accordance with section 7;
 - b) the Moorage Agreement and Waiver is terminated in accordance with section 18;
 - c) the Owner ceases to be a member of the Harbour Board; or
 - d) the Management Agreement (as defined in the Bylaws) is terminated, in which case this Moorage Agreement and Waiver shall automatically terminate without any further action or notice by the Harbour Board.
 20. **Joint and Several Liability.** Any covenants, agreements, conditions, or promises made by two or more Owners contained in this Moorage Agreement and Waiver will be construed as joint and several, including any payments or compensation to be paid pursuant to this Moorage Agreement and Waiver, and such parties shall be jointly and severally liable for the performance and observance of this Moorage Agreement and Waiver.
 21. **Applicable Law.** This Moorage Agreement and Waiver is governed by the laws of the Province of British Columbia, Canada. The courts of British Columbia shall have exclusive jurisdiction over this Moorage Agreement and Waiver, including without limitation the enforcement of the Moorage Agreement and Waiver and any dispute regarding its interpretation and application, and each of the Parties irrevocably attorns to the exclusive jurisdiction of the courts of British Columbia in that regard.
 22. **Entire Agreement.** There are no warranties, representations, terms, conditions, collateral agreements, express or implied concerning same, other than set forth in this Moorage Agreement and Waiver.
 23. **Legal Advice.** The Parties each acknowledge that they have consulted with or have had a reasonable opportunity to obtain independent legal advice, in regards to the terms and conditions of this Moorage Agreement and Waiver. The Parties each acknowledge that they understand the meaning and effect of this Moorage Agreement and Waiver.

24. **Execution.** This Moorage Agreement and Waiver may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document. Delivery of an executed copy of this Moorage Agreement and Waiver by electronic communication capable of producing a printed copy will be deemed to be execution and delivery of this Moorage Agreement and Waiver as of the day and year first above written.

IN WITNESS WHEREOF the Parties have each duly executed this Moorage Agreement and Waiver as of the day and year first above written.

WITNESSED BY:)
)
)
_____)
Signature)
)
_____)
Print Name)
)
_____)
Address)
)
)
_____)
Occupation)

Name:

WITNESSED BY:)
)
_____)
Signature)
)
_____)
Print Name)
)
_____)
Address)
)
)
_____)
Occupation)

WHITE ROCK HARBOUR BOARD

Authorized Signatory
Name:
Position:

SCHEDULE C

CONSTITUTION

1. The name of the society is the **White Rock Harbour Board** (the Board).
2. The purpose of the Board is to secure and operate a moorage location for the benefit of its members by:
 - a) self-managing the west wharf and ramp facilities on the White Rock pier,
 - b) allocating berths, which allocations shall prioritize the residents of the City of White Rock over non-residents,
 - c) collecting membership and moorage fees,
 - d) controlling transient vessels, and
 - e) maintaining the facilities.

SCHEDULE D

BYLAWS OF WHITE ROCK HARBOUR BOARD (THE “BYLAWS”)

PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

1.1 (a) In these Bylaws, unless the context otherwise requires:

“**Act**” means the *Societies Act* of British Columbia, as amended from time to time;

“**Board of Directors**” means the directors of the Harbour Board from time to time;

“**Bylaws**” means these Bylaws as altered from time to time;

“**City**” means the City of White Rock, British Columbia;

“**City Executive**”: a member of City Council who is appointed by the City as a director on the Board of Directors and is a voting member of the Board of Directors, or the alternate member of City Council who is appointed by the City to act in the place of the first appointee, if the first appointee is unable to perform his/her duties;

“**City’s Representative**”: an individual appointed by the City to be a non-voting member of the Board of Directors and to act as a liaison between the City and the Harbour Board; the individual who acts as the City’s Representative may be replaced at the sole discretion of the City; the City may appoint an alternate individual to act in the place of the first appointee as the City’s Representative, if the first appointee is unable to perform his/her duties;

“**Harbour Board**” means the White Rock Harbour Board;

“**Management Agreement**” means the moorage rental and licensing agreement, if any, entered into between the City of White Rock and the Harbour Board to define the Harbour Board’s rights and obligations regarding the Harbour Board’s operation and management of certain portion of the White Rock wharf area, on terms and conditions that the Board of Directors deems fit and in the best interest of the Harbour Board, from time to time;

“**Moorage Agreement and Waiver**” means the moorage and wavier of liability agreement entered into between the Harbour Board and the members of the Harbour Board to define the rights and obligations of the Harbour Board and the members, on terms and conditions that the Board of Directors deems fit and in the best interest of the Harbour Board, from time to time;

“**West Float**” has the meaning set out in section 2.1 (a) of these Bylaws; and

“**Wharfinger**” means the individual who is appointed to be the wharfinger by the Harbour Board to oversee the operation of the Facility.

(b) Words importing the singular include the plural and vice versa; and words importing a male person include a female person and a corporation.

Definitions in Act apply

1.2 The definitions in the Act apply to these Bylaws.

Conflict with Act or regulations

1.3 If there is a conflict between the Management Agreement or the Moorage Agreement and Waiver and the rules and regulations of the Harbour Board, the latter shall prevail.

1.4 If there is a conflict between the rules and regulations of the Harbour Board and the Act or the regulations under the Act, the Act or the regulations, as the case may be, shall prevail.

1.5 If there is a conflict between the Management Agreement or the Moorage Agreement and Waiver and the Act or the regulations under the Act, the Act or the regulations, as the case may be, shall prevail.

PART 2 – MEMBERS

Classes of membership

2.1 The Harbour Board shall have the following classes of membership:

- a) Class “A”, which shall consist of persons, or cooperatives, as the case may be, who are the primary owners of a boat or vessel that is allotted a berth on the west wharf (the “**West Float**”) and each boat or vessel shall only have one (1) primary owner, and each member of this class shall only be entitled to one vote, regardless of the number of boats or vessels of which such member is the primary owner, provided that their membership is in good standing;
- b) Class “B”, which shall consist of persons who are associated with a member in Class “A” and is a part/joint owner with him/her in respect a boat or vessel that is allotted a berth on the West Wharf, and each member of this class shall have the right to attend meetings, but shall not have the right to vote;
- c) Class “C”, which shall consist of other persons who have made an application for moorage space in accordance with the Bylaws and have been placed on a waiting list, and each member of this class shall have the right to attend meetings but shall

not have the right to vote and will not have the right to become a director of the Harbour Board while the member is a Class “C” member; and

- d) any additional classes of membership as may be determined by the Board of Directors, from time to time, including without limitation, the creation of additional voting and non-voting classes of membership, provided that any such additional classes of membership has been approved by the City Executive, if any appointed.

Application for membership

- 2.2 A person, including individuals and corporate entities (the “**Applicant**”), may apply to the Board of Directors for membership in the Harbour Board (“**Membership Application**”).
- 2.3 Subject to section 2.4, on receipt of the Applicant’s Membership Application, the Board of Directors, or any person to whom the Board of Directors delegate its authority under this section, acting reasonably, may accept the Applicant’s Membership Application and confirm the class in which the member is categorized under, upon:
 - a) confirmation of the Applicant’s dedication to the purposes of the Harbour Board and the Applicant’s agreement to comply with any rules and regulations that have been approved and adopted by the Board of Directors pursuant to these Bylaws, if any;
 - b) confirmation that the Applicant meets the criteria of one of the classes of membership, as set out in these Bylaws;
 - c) confirmation that the Applicant meets the criteria set out in rules and regulations regarding membership acceptance that have been approved and adopted by the Board of Directors pursuant to these Bylaws, if any;
 - d) confirmation that it would not otherwise be contrary to the best interests of the Harbour Board to admit the Applicant as a member of the Harbour Board; and
 - e) receipt of payment of member dues and fees determined by the Board of Directors, from time to time.

Restrictions on Membership

- 2.4 The acceptance of a Membership Application from an Applicant to become a member of the Harbour Board is subject to the following restrictions:
 - a) if the Applicant is a non-resident of White Rock, the Applicant’s Membership Application to become a member of the Harbour Board shall be subject to the review and approval of the City’s Representative, if one is appointed,; and

- b) if the Applicant is a cooperative, the Applicant's Membership Application to become a member of the Harbour Board shall not be accepted unless there is prior approval by the City's Representative, if one is appointed.

Applications for moorage

- 2.5 In respect of each boat or vessel, a member who is the owner of the boat or vessel must apply to the Harbour Board for a moorage space to be assigned to the boat or vessel (the "**Moorage Application(s)**"), in the form and using the process adopted and approved by the Board of Directors.
- 2.6 Subject to section 2.8, each Moorage Application shall be placed on a waiting list, if applicable, in the order in which the Moorage Application was made, subject to:
 - a) the rules and regulations regarding the wait list that have been approved and adopted by the Board of Directors pursuant to these Bylaws, if any, including without limitation rules permitting preferential treatment of Moorage Applications made by applicants who ordinarily reside in the City of White Rock;
 - b) any other rules that the Harbour Board may be contractually obligated to approve, apply and enforce, pursuant to the Management Agreement, if any.
- 2.7 Any wait list created under section 2.6 shall be managed, organized and updated by the Harbour Board or any person to whom the Board of Directors directs to manage, organize and update the wait list. For greater clarity, the Board of Director shall review, organize or otherwise update the wait lists, from time to time, such that the wait lists are consistent and in compliance with the most current rules and regulations that have been approved and adopted by the Board of Directors regarding the wait lists.
- 2.8 No Moorage Application shall be accepted or approved by the Board of Directors, unless the applicant under the Moorage Application and each and every owner of the boat or vessel referenced in the Moorage Application have executed a Moorage Agreement and Waiver.

Restrictions on existing cooperative members

- 2.9 The Harbour Board shall not allow the Lower Mainland Yacht Co-op to increase the number of boats or vessels moored at the West Float from the seven (7) moored at the Commencement Date without the prior approval of the City's Representative, if one is appointed.
- 2.10 The Harbour Board shall not allow the Waterline Yacht Co-op to increase the number of boats moored at the Facility from the two (2) moored at the Commencement Date without the prior approval of the City's Representative, if one is appointed..

Obligation of Existing Members to Sign Moorage Agreement and Waiver

- 2.11 All current and existing members of the Harbour Board must deliver to the Harbour Board an executed copy of the Moorage Agreement and Waiver, no later than two (2) weeks from the date on which this section comes into effect.

Entitlement to Bylaws

- 2.12 On being admitted to membership in the Harbour Board, each member is entitled to, and the Harbour Board must give the member, without charge, a copy of the constitution and the Bylaws.

Duties of members

- 2.13 Every member must uphold the constitution of the Harbour Board and must comply with these Bylaws and the rules and regulations that have been adopted and approved by the Board of Directors pursuant to these Bylaws.

Amount of membership dues and fees

- 2.14 The amount of the annual membership dues, moorage fees, special assessments, penalties, and other fees for each class of membership, if any, must be determined by the Board of Directors and shall be due on January 1 of each year and must be paid by January 15 of each year, or such other dates as may be determined by the Board of Directors.

Member not in good standing

- 2.15 All members are in good standing except a member who has failed to pay the member's annual membership dues, fees or any other debt due and owing by the member of the Harbour Board, if any, and the member is not in good standing for so long as those dues remain unpaid.
- 2.16 A voting member who is not in good standing is not entitled to vote at a general meeting and is deemed not to be a voting member for the purpose of consenting to a resolution of the voting members.

Membership Ceasing

- 2.17 A person ceases to be a member of the Harbour Board upon the occurrence of any of the following:
- a) by delivering his/her resignation in writing to the secretary of the Harbour Board or by mailing or delivering it to the address of the Harbour Board;

- b) on his/her death or, in the case of a corporation, on its dissolution;
 - c) on being expelled or having the membership terminated by the Board of Directors, or any person to whom the Board of Directors delegate its authority under this section, at the discretion of the Board of Directors or the delegate, if applicable, acting reasonably, for:
 - i. a member's breach of the Bylaws;
 - ii. a member's conduct that is determined to be sufficiently harmful to the Harbour Board and/or its reputation so as to warrant expulsion or membership termination;
 - d) on having the membership terminated by the Board of Directors, at the discretion of the Board of Directors, or any person to whom the Board of Directors delegate its authority under this section, as a result of the member not being in good standing for 6 consecutive months; or
 - e) on being expelled or having the membership terminated in accordance with section 2.18, with respect to circumstances that are not otherwise dealt with in this section 2.17;
 - f) upon notice being provided by the Board of Directors, or any person to whom the Board of Directors delegate its authority under this section, if the Board of Directors determine that moorage space occupied by non-residents of the City needs to be made available for residents of the City. Prior to membership ceasing under this section 2.17 (f), the member shall be provided the opportunity to appear before the Board of Directors to make representations; or
 - g) upon the member ceasing to own a boat or vessel that is allotted a berth on the West Float, or upon the member ceasing to have an allotted berth on the West Float, unless the member applies for and is accepted for membership in another class of membership by the Board of Directors, or any person to whom the Board of Directors delegate its authority under this section.
- 2.18 A person may be expelled from the Harbour Board or have his/her membership in the Harbour Board terminated by a special resolution of the members passed at a general meeting. The notice of special resolution for expulsion or membership termination must be accompanied by a brief statement of the reasons for the proposed expulsion or membership termination. The person who is the subject of the proposed special resolution for expulsion or membership termination must be given an opportunity to be heard at the general meeting before the special resolution is put to a vote.

PART 3 – GENERAL MEETINGS OF MEMBERS

Time and place of general meeting

- 3.1 A general meeting must be held at the time and place the Board of Directors determines, subject to the Act. Every meeting, other than an annual general meeting, is an extraordinary general meeting.
- 3.2 Notice of a general meeting must be given to members of the Harbour Board either in person, by mail, or by email to members (if there are 250 or more members). A notice sent by mail or email is deemed to have been given on the second day following the day on which the notice is posted or sent.
- 3.3 The members of the Harbour Board may attend at the general meeting in person or by electronic means, including attendance by telephone conference, video conference, or similar electronic means approved by the Board of Directors from time to time.
- 3.4 The members of the Harbour Board may not attend at the general meeting by proxy.

Ordinary business at general meeting

- 3.5 At a general meeting, the following business is ordinary business:
 - a) adoption of rules of order;
 - b) consideration of any financial statements of the Harbour Board presented to the meeting;
 - c) consideration of the reports, if any, of the directors or auditor;
 - d) election or appointment of directors;
 - e) appointment of an auditor, if any;
 - f) business arising out of a report of the directors not requiring the passing of a special resolution.

Notice of special business

- 3.6 A notice of a general meeting must state the nature of any business, other than ordinary business, to be transacted at the meeting in sufficient detail to permit a member receiving the notice to form a reasoned judgment concerning that business.

Chair of general meeting

3.7 The following individual is entitled to preside as the chair of a general meeting:

- a) the individual, if any, appointed by the Board of Directors to preside as the chair;
- b) if the Board of Directors has not appointed an individual to preside as the chair or the individual appointed by the Board of Directors is unable to preside as the chair,
 - (i) the president,
 - (ii) the vice-president, if the president is unable to preside as the chair, or
 - (iii) one of the other directors present at the meeting, if both the president and vice-president are unable to preside as the chair.

Alternate chair of general meeting

3.8 If there is no individual entitled under these Bylaws who is able to preside as the chair of a general meeting within 15 minutes from the time set for holding the meeting, the voting members who are present must elect an individual present at the meeting to preside as the chair.

Quorum required

3.9 Business, other than the election of the chair of the meeting and the adjournment or termination of the meeting, must not be transacted at a general meeting unless a quorum of voting members is present.

Quorum for general meetings

3.10 The quorum for the transaction of business at a general meeting is the greater of the following:

- a) 3 voting members;
- b) 10% of the voting members; and
- c) any other quorum determined by the Board of Directors as required for the transaction of business at a general meeting, acting reasonably.

Lack of quorum at commencement of meeting

3.11 If, within 30 minutes from the time set for holding a general meeting, a quorum of voting members is not present,

- a) in the case of a meeting convened on the requisition of members, the meeting is terminated, and
- b) in any other case, the meeting stands adjourned to a day and time determined by the Board of Directors, provided that continuation of the adjourned meeting is not later than one (1) month from the meeting adjourned, and if, at the continuation of the adjourned meeting, a quorum is not present within 30 minutes from the time set for holding the continuation of the adjourned meeting, the voting members who are present constitute a quorum for that meeting.

If quorum ceases to be present

- 3.12 If, at any time during a general meeting, there ceases to be a quorum of voting members present, business then in progress must be suspended until there is a quorum present or until the meeting is adjourned or terminated.

Adjournments by chair

- 3.13 The chair of a general meeting may, or, if so directed by the voting members at the meeting, must, adjourn the meeting from time to time and from place to place, but no business may be transacted at the continuation of the adjourned meeting other than business left unfinished at the adjourned meeting.

Notice of continuation of adjourned general meeting

- 3.14 It is not necessary to give notice of a continuation of an adjourned general meeting or of the business to be transacted at a continuation of an adjourned general meeting except that, when a general meeting is adjourned for 30 days or more, notice of the continuation of the adjourned meeting must be given.

Order of business at general meeting

- 3.15 The order of business at a general meeting is as follows:
- a) elect an individual to chair the meeting, if necessary;
 - b) determine that there is a quorum;
 - c) approve the agenda;
 - d) approve the minutes from the last general meeting;
 - e) deal with unfinished business from the last general meeting;
 - f) if the meeting is an annual general meeting,

- (i) receive the directors' report on the financial statements of the Harbour Board for the previous financial year, and the auditor's report, if any, on those statements,
 - (ii) receive any other reports of directors' activities and decisions since the previous annual general meeting,
 - (iii) elect or appoint directors, and
 - (iv) appoint an auditor, if any;
- g) deal with new business, including any matters about which notice has been given to the members in the notice of meeting;
- h) terminate the meeting.

Methods of voting

- 3.16 At a general meeting, voting must be by a show of hands, an oral vote or another method that adequately discloses the intention of the voting members, except that if, before or after such a vote, 2 or more voting members request a secret ballot or a secret ballot is directed by the chair of the meeting, voting must be by a secret ballot.
- 3.17 A voting member who is not an individual is entitled by its authorized representative to speak and vote, and in all other respects exercise the rights of a voting member, and that representative must be considered as a voting member for all purposes with respect to a meeting of the Harbour Board.
- 3.18 The individual who is the chair of a general meeting is entitled to vote if the chair is a member of any class of members entitled to vote. However, in the case of a tie vote, the chair does not have a casting or second vote in addition to the vote to which he/she may be entitled as a member and the proposed resolution does not pass.

Announcement of result

- 3.19 The chair of a general meeting must announce the outcome of each vote and that outcome must be recorded in the minutes of the meeting.

Proxy voting not permitted

- 3.20 Voting by proxy is not permitted.

Matters decided at general meeting by ordinary resolution

- 3.21 A matter to be decided at a general meeting must be decided by ordinary resolution unless the matter is required by the Act or these Bylaws to be decided by special resolution or by another resolution having a higher voting threshold than the threshold for an ordinary resolution.

PART 4 – DIRECTORS

Number of directors on Board of Directors

4.1 The Harbour Board must have no fewer than seven (7) and no more than nine (9) directors. A majority of the directors on the Board of Directors must ordinarily be resident in British Columbia. Class “C” members are not eligible to be elected or appointed a director.

Election or appointment of directors

4.2 At the annual general meeting, any member of the Harbour Board may nominate an individual to be a director on the Board of Directors, provided that the nominated individual:

- a) is a voting or non-voting member of the Harbour Board who is in good standing, belonging to a class of members that is eligible to be a director;
- b) is at least 18 years old;
- c) has not been found by court to be incapable of managing the individual’s own affairs;
- d) is not an undischarged bankrupt;
- e) has not been convicted of an offense in connection with the promotion, formation or management of a corporation or unincorporated entity, or of an offense involving fraud, unless five (5) years have lapsed from the last date of the punishment (e.g. suspension, fine, imprisonment, probation) or a pardon granted; and
- f) meets any additional qualifications as may set out in rules and regulations regarding director qualifications that have been adopted and approved by the Board of Directors pursuant to these Bylaws, if any.

4.3 At each annual general meeting, the voting members entitled to vote for the election or appointment of directors must elect (by acclamation or by ballot voting) or appoint the Board of Directors and each director appointed to the Board of Directors shall serve for a term of one (1) year.

4.4 If a successor is not elected or appointed, the person previously elected or appointed continues to hold his/her office, until such an election or appointment is made or otherwise cases to hold office in accordance with these Bylaws.

Directors may fill casual vacancy on Board of Directors

- 4.5 The Board of Directors may, at any time, appoint a member as a director to fill a vacancy that arises on the Board of Directors as a result of the resignation, death or incapacity of a director during the director's term of office, as long as the member appointed to fill a vacancy meets the same conditions for directors set out in section 4.2.

Term of appointment of director filling casual vacancy

- 4.6 A director appointed by the Board of Directors to fill a vacancy ceases to be a director at the end of the unexpired portion of the term of office of the individual whose departure from office created the vacancy. At the next annual general meeting of the Harbour Board, this director is eligible for re-election at the meeting.

No Remuneration to Directors

- 4.7 None of the directors may receive or be entitled to receive remuneration from the Harbour Board, in any form, whether as employees, contractors, or service providers, unless specifically permitted in these Bylaws. The directors shall not receive, directly or indirectly, any profits from their positions as directors. A director must be reimbursed for all expenses necessarily and reasonably incurred by the director while engaged in the affairs of the Harbour Board.

When director ceases to hold office

- 4.8 A director of a Harbour Board immediately ceases to be a director when:
- a) the director's term of office expires;
 - b) the director ceases, in accordance with the Bylaws, to hold office;
 - c) the director resigns or dies;
 - d) the director is removed from office in accordance with the Act; or
 - e) the director ceases to be a member of a class of memberships at the Harbour Board which is eligible for election or appointment as directors.

Directors' insurance

- 4.9 The Board of Directors may on behalf of the Harbour Board purchase and maintain insurance for the benefit of any or all directors and officers against personal liability incurred by any such person while acting in their capacity as a director or officer.

PART 5 – DIRECTORS' & COMMITTEES' MEETINGS**Calling directors' meeting**

- 5.1 A directors' meeting may be called by the president or by any two (2) other directors. The directors hold meetings at times and in locations that the directors deem fit. The directors may attend the meeting in person or by electronic means, including attendance by telephone conference, video conference, or similar electronic means approved by the Board of Directors from time to time.

Notice of directors' meeting

- 5.2 At least 14 days' notice of a directors' meeting must be given unless all the directors agree to a shorter notice period.

Proceedings valid despite omission to give notice

- 5.3 The accidental omission to give notice of a directors' meeting to a director, or the non-receipt of a notice by a director, does not invalidate proceedings at the meeting.

Quorum of directors

- 5.4 The directors may from time to time set the quorum necessary to conduct business at the directors' meeting. If no quorum is set, then the quorum for the transaction of business at a directors' meeting is a majority of the directors.

Conduct of directors' meetings

- 5.5 The directors may regulate their meetings and proceedings as they think fit, provided that appropriate provisions have been made to ensure that there is a chair for all of the meetings and a secretary is in attendance to take minutes of the meetings.

Rules and Regulations

- 5.6 The Board of Directors may make rules and regulations related to the management of the Harbour Board and/or its business that the Board of Directors deems necessary and in the best interest of the Harbour Board.

Majority vote

- 5.7 Business arising at a directors' meeting must be decided by a majority vote. In case of a tie vote, the chair of the directors' meeting and the committee's meeting does not have a second or casting vote and the proposed resolution does not pass.

Resolution by Unanimous Consent

- 5.8 A resolution in writing, signed by all the directors, is as valid and effective as if regularly passed by majority vote at a meeting of the directors.

Consecutive absences in directors' meetings

- 5.9 If a director is absent for three (3) consecutive directors' meetings without prior approval of the Board of Directors, aside from the City Executive, the Board of Directors may dismiss or suspend the said absent director from the Board of Directors, or otherwise discipline the said absent director, by a vote of the Board of Directors (which vote shall exclude the absent director).

Delegation to Committees

- 5.10 The directors may delegate any, but not all, of their powers to committees consisting of a director or directors as they think fit. A committee so formed in the exercise of the powers so delegated must conform to any rules imposed on it by the directors, and must report every act done or steps taken in exercise of those powers to the earliest meeting of the directors held after the act done or steps taken.

PART 6 – BOARD OF DIRECTORS POSITIONS**Election and Appointment of Board Positions**

- 6.1 Subject to the provisions set out in Part 6, the Board of Directors shall be comprised of:
- a) president;
 - b) vice-president;
 - c) past president;
 - d) secretary;
 - e) treasurer;
 - f) the City's Representative, who shall be a non-voting member; and
 - g) the City Executive, who shall be a voting member.
- 6.2 Directors must be elected by separate elections (or appointed in accordance with these Bylaws) to the following positions on the Board of Directors:
- a) president;
 - b) vice-president;
 - c) secretary; and
 - d) treasurer.

- 6.3 The position of secretary and treasurer may be held by the same individual and in such case, the position shall be referred to as the secretary-treasurer.
- 6.4 With respect to the position of past president, the previous president shall be appointed as past president by acclamation and shall continue to hold the office for a term of one (1) year, unless otherwise agreed to by the other directors of the Board of Directors. Following the expiration of the one (1) year term, the position of the past president shall remain vacant until the individual who most recently held the president position resigns.
- 6.5 With respect to the City's Representative and the City Executive, the City of White Rock shall appoint the individual who shall hold these positions in accordance with the Management Agreement.
- 6.6 Except for the past-president, if any director in the position of president, vice-president, secretary, or treasurer resident or otherwise cease to hold these positions, the Board of Directors shall appoint a voting or non-voting member as a director to fill such vacancies.
- 6.7 No individual shall continue or be permitted to hold a position on the Board of Directors if the number of years that the individual served on the Board of Directors in each of the available positions, collectively exceed ten (10) years in the span of the individual's lifetime, except for:
- a) the individual appointed as the City Executive;
 - b) the individual appointed as the City's Representative; and
 - c) the individual appointed to the position of past president in accordance with section 6.4.
- 6.8 The Board of Directors may from time to time adopt and approve policies that set out the duties, rights and responsibilities of the officers appointed, including the president, vice-president, past president, treasurer and secretary, and any other executive position in addition to those set out in these Bylaws.

Directors Elected At Large

- 6.9 Directors who are elected or appointed to positions on the Board of Directors in addition to the positions described in these Bylaws are elected or appointed as directors at large.

Role of president

- 6.10 The president is the chair of the Board of Directors and is responsible for supervising the other directors in the execution of their duties.

Role of vice-president

6.11 The vice-president is the vice-chair of the Board of Directors and is responsible for carrying out the duties of the president if the president is unable to act.

Role of past president

6.12 The past president is responsible for providing guidance, assistance and advice to the president when requested by the president.

Role of secretary

6.13 The secretary is responsible for doing, or making the necessary arrangements for, the following:

- a) issuing notices of general meetings and directors' meetings;
- b) taking minutes of general meetings and directors' meetings;
- c) keeping the records of the Harbour Board in accordance with the Act;
- d) conducting the correspondence of the Board of Directors;
- e) filing the annual report of the Harbour Board and making any other filings with the registrar under the Act.

Absence of secretary from meeting

6.14 In the absence of the secretary from a meeting, the Board of Directors must appoint another director to act as secretary at the meeting.

Role of treasurer

6.15 The treasurer is responsible for doing, or making the necessary arrangements for, the following:

- a) receiving and banking monies collected from the members or other sources;
- b) keeping accounting records in respect of the Harbour Board's financial transactions;
- c) preparing the Harbour Board's financial statements; and
- d) making the Harbour Board's filings respecting taxes.

PART 7 – AGREEMENTS

Authority to enter into agreements

- 7.1 On behalf of the Harbour Board, the Board of Directors is authorized to enter into a Management Agreement with the City, on terms and conditions that the Board of Directors deems fit and in the best interest of the Harbour Board, from time to time.
- 7.2 On behalf of the Harbour Board, the Board of Directors is authorized to enter into Moorage Agreement and Waiver with the members of the Harbour Board, on terms and conditions that the Board of Directors deems fit and in the best interest of the Harbour Board, from time to time.
- 7.3 On behalf of the Harbour Board, the Board of Directors shall appoint a wharfinger to oversee the operation of the Facility. On behalf of the Harbour Board, the Board of Directors is authorized to enter into a contract for services with the independent contractor, Wharfinger, to define the Harbour Board's rights and obligations, on terms and conditions that the Board of Directors deems fit and in the best interest of the Harbour Board, from time to time.

PART 8 –SIGNING AUTHORITY

Signing authority

- 8.1 A contract or other record to be signed by the Harbour Board must be signed on behalf of the Harbour Board
 - a) by the president, together with one other director;
 - b) if the president is unable to provide a signature, by the vice-president together with one other director;
 - c) if the president and vice-president are both unable to provide signatures, by any 2 other directors; or
 - d) in any case, by one or more individuals authorized by the Board of Directors to sign the record on behalf of the Harbour Board.

PART 9 –SEAL

- 9.1 The directors may provide a common seal for the Harbour Board and may destroy a seal and substitute a new seal in its place.
- 9.2 The common seal must be affixed only when authorized by a resolution of the directors and then only in the presence of the persons specified in the resolution, or if no persons are specified, in the presence of the president and secretary or president and

secretary treasurer.

PART 10 – BORROWING

- 10.1 In order to carry out the purposes of the Harbour Board, the directors may, on behalf of and in the name of the Harbour Board, raise, secure, borrow or otherwise obtain money or funds in the manner the Board of Directors deems fit and in the best interest of the Harbour Board, including without limitation the ability to issue bonds, debentures, notes and other evidences of debt obligations.
- 10.2 The Board of Directors shall not issue bonds, debentures, notes and other evidences of debt obligations without the authorization of a special resolution.
- 10.3 The members may, by special resolution, restrict the borrowing powers of the directors, but a restriction imposed expires at the next annual general meeting.

PART 11 — AUDITOR

- 11.1 At each annual general meeting the Harbour Board must appoint an auditor to hold office until the auditor is re-elected or a successor is elected at the next annual general meeting.
- 11.2 An auditor may be removed by ordinary resolution.
- 11.3 An auditor must be promptly informed in writing of the auditor's appointment or removal.
- 11.4 A director or employee of the Harbour Board must not be its auditor.
- 11.5 The auditor may attend general meetings.

PART 12 — DISSOLUTION

- 12.1 Upon winding up or dissolution of the Harbour Board, the assets remaining after the payment of all costs, charges and expenses properly incurred in the winding up, including remuneration of a liquidator, and after payment to employees of the Harbour Board of any arrears of salaries or wages, and after payment of any debts of the Harbour Board, shall be distributed to the City of White Rock.

WHITE ROCK HARBOUR BOARD - RULES AND REGULATIONS
(the “Rules and Regulations”)

Definitions

1. All capitalized terms used in the Rules and Regulations but not defined shall have the meanings ascribed to them in the Bylaws for the Harbour Board.

Compliance with Bylaws, Rules and Regulations and Moorage Agreement and Waiver

2. Every member of the Harbour Board, regardless of which class of member in which he/she belong to, must comply with the Bylaws, the Moorage Agreement and Waiver, these Rules and Regulations, and any other rules and regulations that have been adopted and approved by the Board of Directors pursuant to the Bylaws.

Moorage Applications

3. Each Moorage Application in respect of a new boat or vessel made by a member of the Harbour Board shall be placed on a waiting list, if applicable, in the order in which the Moorage Application was made, subject to the following rules:
 - a) There shall be the following four (4) separate wait lists (the “Wait Lists”):
 - i. Sailboat Wait List for Residents of White Rock;
 - ii. Sailboat Wait List for Non-Residents of White Rock;
 - iii. Powerboat Wait List for Residents of White Rock; and
 - iv. Powerboat Wait List for Non-Residents of White Rock; and
 - b) Moorage Application made by applicants/members who are resident of the City of White Rock shall have priority over members who are non-residents of the City of White Rock.
4. All members placed on the Wait Lists shall be charged an annual fee of \$25.00 per Wait List that he/she is on, or such other amounts determined by the Board of Directors from time to time. All annual charges in relation to placements on the Wait Lists are due on January 15, 2017.
5. Upon request by a member on a Wait List, a copy of the applicable Wait Lists shall be provided to the member requesting the same.

Assignment of Moorage

6. The Moorage Applications shall be accepted and the applicant of the Moorage Application shall be assigned a moorage space/slip in the order in which they are placed on the applicable Wait Lists, subject to the priority to residents of the City of White Rock, provided that each of the following have been fulfilled:

- a) each and every owner of the boat or vessel referenced in the Moorage Application is a member of the Harbour Board in good standing;
 - b) each and every owner of the boat or vessel referenced in the Moorage Application has executed the Moorage Agreement and Waiver;
 - c) proof of ownership and insurance for the boat or vessel referenced in the Moorage Application has been delivered to the Harbour Board, in a form satisfactory to the Board of Directors;
 - d) all applicable dues and fees in regards to the Moorage Application and the moorage of the boat or vessel referenced in the Moorage Application have been paid; and
 - e) none of the owners of the boat or vessel referenced in the Moorage Application have any outstanding payment obligations to the Harbour Board.
7. Slip assignments shall be made by the Board of Directors or any person to whom the Board of Directors delegate its authority.

Replacement in Existing Moorage Space

8. Notwithstanding sections 3 and 6, a member with an already existing moorage space assigned to him/her (the “**Existing Assignment**”) may replace his/her older boat or vessel and continue to use the Existing Assignment, provided that each of the following have been fulfilled:
- a) the replacement boat or vessel (the “**Replacement Vessel**”) to be moored in the Existing Assignment is the same type of boat or vessel (i.e. Sailboat or Powerboat) that previously was moored at the Existing Assignment;
 - b) the Replacement Vessel is placed in the Existing Assignment no later than 180 days from the removal of the previous boat or vessel;
 - c) each and every owner of the Replacement Vessel is a member of the Harbour Board in good standing;
 - d) proof of ownership and insurance for the boat or vessel referenced in the Moorage Application has been delivered to the Harbour Board, in a form satisfactory to the Board of Directors;
 - e) each and every owner of the Replacement Vessel has executed a Moorage Agreement and Waiver;

- f) all applicable dues and fees in regards to the moorage of the Replacement Vessel have been paid; and
- g) none of the owners of the Replacement Vessel have any outstanding payment obligations to the Harbour Board.

Placement of Boat or Vessel

- 9. A member must place his/her boat or vessel in his/her assigned moorage space no later than 180 days after the moorage space on the West Float has been assigned.
- 10. The boats and vessels that are moored on the West Float shall be rafted two per slip, with sailboat rafted to sailboat, and powerboat rafted to powerboat.

Size and design requirements of boat

- 11. Boats and vessels moored on the West Float shall be a minimum of 20 ft. in overall length, shall not exceed 32 ft. in overall length and a maximum 11 ft. in beam. For the purpose of these Rules and Regulations, the overall length is the total length that is occupied at any time and shall include bowsprit, anchor, anchor roller, pulpit, push pit, swim grid, boarding ladder, rudder, motor mount and outboard or stern drive motor and any and all other items that may protrude from the bow, transom or sides of the hull, with the exception of side mooring bumpers.
- 12. In respect of boats or vessels moored on the West Float on a moorage space/slip that permits a dinghy, the dinghies must be stored on the dinghy float and must display the owner identification. Annual storage fees shall be as determined by the Board of Directors.
- 13. Electrical shore-power cords and fittings must be of a type approved by the Board of Directors and electrical consumption limited to 4 amps (440 watts) per boat/vessel during the winter season.
- 14. The boat or vessel moored on the West Float shall be of a design that, in the opinion of the Board of Directors can be boarded, crossed and rafted in a safe manner.

No commercial ventures

- 15. No boats or vessels that are moored on the West Float, including those boats or vessels owned by cooperatives, shall be engaged in commercial ventures or businesses operated from the West Float.

No sale of moorage slips

- 16. The sale of moorage space/slips assigned to the members (or non-members) of the Harbour Board is not permitted under any circumstances.

Transfer of moorage slips from Class B to Class A members

17. The transfer of moorage space/slips assigned to the members (or non-members) of the Harbour Board is not permitted under any circumstances, except in strict accordance with section 18.
18. Notwithstanding sections 3 and 6, a member who is a Class “A” member (the “**Primary Owner**”) and is assigned moorage space/slip (the “**Transferred Moorage Space**”) may transfer the right to the use of the moorage space/slips to the member’s corresponding Class “B” member (the “**Secondary Owner**”), provided that each of the following has been fulfilled:
 - a) the Primary Owner and the Secondary Owner have entered into a partnership agreement with respect to the boat or vessel moored on the Transferred Moorage Space (the “**Partnership**”);
 - b) the Partnership between the Primary Owner and the Secondary Owner has been in force and effect for a minimum of five (5) years;
 - c) documentary/written proof of the Partnership being in force and effect for a minimum of five (5) years, has been delivered to the Harbour Board, in a form satisfactory to the Board of Directors;
 - d) the Secondary Owner’s boat or vessel, if separate from the boat or vessel previously moored at the Transferred Moorage Space (the “**New Vessel**”) shall be the same type of boat or vessel that previously was moored at the Transferred Moorage Space and the New Vessel will be placed in the Transferred Moorage Space no later than 180 days from the removal of previous boat or vessel;
 - e) the Primary Owner ceases to be a Class “A” member of the Harbour Board and is re-categorized as a Class “B” member of the Harbour Board;
 - f) the Secondary Owner ceases to be a Class “B” member of the Harbour Board and is re-categorized as a Class “A” member of the Harbour Board;
 - g) each and every owner of the boat or vessel moored at the Transferred Moorage Space is a member of the Harbour Board in good standing;
 - h) proof of ownership and insurance for the boat or vessel moored at the Transferred Moorage Space has been delivered to the Harbour Board, in a form satisfactory to the Board of Directors;
 - i) each and every owner of the boat or vessel moored at the Transferred Moorage Space has executed a Moorage Agreement and Waiver;

- j) all applicable dues and fees in regards to the moorage of the boat or vessel moored at the Transferred Moorage Space have been paid; and
 - k) none of the owners of the boat or vessel moored at the Transferred Moorage Space have any outstanding payment obligations to the Harbour Board.
19. If members are in breach or is discovered to be in breach of sections 17 and/or 18, the Harbour Board is entitled to take immediate steps to terminate the breaching members' membership with the Harbour Board and immediately issue a demand for the breaching members to remove their boat and/or vessel and further take steps, if necessary, to remove the boat or vessel that is allotted a slip on the West Float in contravention of sections 17 and/or 18, at the sole expense of the breaching members.

Payment obligations

20. Annual membership, moorage rates, and any fees shall be determined by the Board of Directors.
21. The moorage rates for owners of boats and vessels moored on the West Float shall be charged on the overall length of the boat or vessel.
22. The members of the Harbour Board and the owners of the boats and vessels moored on the West Float shall pay the membership fees, moorage fees, or other penalties and costs, as applicable, by the deadline set out in the Bylaws and/or the Rules and Regulations, or otherwise determined by the Board of Directors, if no deadline is set in the Bylaws or Rules and Regulations.
23. If a member's account becomes delinquent for any reason, including without limitation the failure to pay any fee and penalties, the member agrees to pay interest on the outstanding fees and penalties, at the rate of ___ per annum.

Safe usage

24. The members of the Harbour Board shall use the West Float in a reasonably safe manner at all times.
25. The members with boats or vessels on the West Float shall maintain and operate the boat or vessel in a reasonably safe condition at all times while it is moored at the West Float.
26. The members of the Harbour Board agrees to repair, replace or reimburse the Harbour Board, as necessary, in respect of damage or harm caused directly or indirectly by the members and/or their guests, including without limitation, damage to the West Float or other boats and vessels on the West Float, and damage caused by the negligent or willful act or omission of the members and/or their guests.

Insurance

27. The Owner shall obtain and maintain in good standing insurance for his/her boat or vessel that is moored on the West Wharf, which insurance shall include a minimum of \$2,000,000.00 third party liability insurance.

No liability assumed by Harbour Board

28. The members acknowledge that the Harbour Board does not accept liability for and will not be liable for the safekeeping of the members' property, including the boat or vessel or its gear, equipment and other property on the Vessel, or the use of the West Float. The Harbour Board does not and will not be liable for any injury or damage suffered by the members, the members' guests, or the guests of their guests, in relation to the use the members' property, including the boat or vessel or its gear, equipment and other property on the Vessel, or the use of the West Float.

Member's assumption of risk

29. The members assumes all risk of injury, death, or property loss or damage they may suffer while, in, about or using any of the West Float, or while traveling to or from the West Float, howsoever arising or wheresoever caused, and including but without limitation, death, injury, property loss or damage incurred or suffered as a result of the breakdown or failures of the West Float, including without limitation, damage caused by fire, theft or vandalism, earthquakes, flood, water escapement, storm, snow or other peril, Acts of God, defect in the design or construction of the West Float, failure to maintain, repair, replace any portion of the West Float, and death, injury, property loss or damage caused or contributed to, directly or indirectly, by the negligence, breach of contract or breach of statutory duty, or willful or other act of the Harbour Board or any of its employee, officer, director, and other members, or member's guests or the guests of their guests.

Release of liability

30. The members hereby forever and irrevocably remise, release and discharge the Harbour Board, its employees, officers, directors, servants, contractors and agents, members, board of directors, managers, volunteers, other members, other members' guests, and guests of their guests, and each of their heirs, executors and assigns, and the City of White Rock, its employees, officers, directors, servants, contractors and agents, members, Council, managers, volunteers, other members, other members' guests, and guests of their guests, and each of their heirs, executors and assigns (collectively, the "**Releasees**") from any and all Claims that the members may now or at any time hereafter have against the Releasees, or any of them. For the purpose of these Rules and Regulations, "Claims" means any and all manner of claims, actions, causes of action, suits, debts, losses, due accounts, demands, covenants, contracts, damages, liabilities, interest, costs, expenses, and compensation of whatsoever kind

and howsoever arising, whether by contract, statute, regulation, common law, or operation of law.

Indemnification of Releasees

31. The members will fully indemnify and save harmless the Releasees and each of them, and agrees to hold each of them harmless from and against all Claims which the Releasees or any of them may suffer as a result of:
- a) the member's breach or non-compliance of any provision of the Moorage Agreement and Waiver, if any, the Bylaws, and the Rules and Regulations, including without limitation, negligence, willful default or misconduct by the member;
 - b) the member's breach or non-compliance with any applicable federal, provincial or municipal legislation, in relation to the maintenance and operation of a boat or vessel on the West Float and the use of the West Float;
 - c) Claims made against the Harbour Board by the member's guests and the guests of the guests, in relation to the maintenance and operation of a boat or vessel on the West Float and the use of the West Float; and
 - d) any and all costs, charges, legal fees and expenses incurred by the Harbour Board in connection with any of the foregoing, including without limitation, legal fees and expense incurred in prosecuting, proceeding, defending, or settling any civil, criminal, statutory or administrative action, proceeding or other remedy sought by any individual or person.

Removal of unsafe boats or vessels

32. If a boat or vessel is determined by the Board of Directors to be derelict, non-functioning, or a threat or a safety hazard to the West Float, or persons or other boats or vessels using the West Float, the Board of Directors is entitled to demand the removal of the boat or vessel at the sole cost of the owner(s) of the boat or vessel, in a manner and by a deadline determined by the Board of Directors (the "**Demand for Removal**").
33. If the owner(s) fail to comply with the Demand for Removal by the deadline set out in the Demand for Removal, the Board of Directors is entitled to remove the boat or vessel and invoice the owner(s) for any and all costs and expenses incurred (the "**Invoice**"). The owner(s) shall, jointly and severally, pay the Invoice no later than ten (10) days from the date of the Invoice. For greater clarity, the Board of Directors is entitled to remove the boat or vessel immediately for the owner's failure to comply with the Demand for Removal without having to first follow the procedure under sections 37 and 38.

Abandonment

34. The owners of boats or vessels that have been assigned a moorage slip on the West Float shall not leave their assigned slip vacant for 180 days or more consecutively.
35. If a moorage slip has been left vacant for 180 days or more consecutively, the moorage slip shall be deemed to be abandoned by the owner(s) of the boat or vessel previously assigned that moorage slip.
36. If a boat or vessel has been abandoned by its owner(s), the Board of Directors is entitled to re-assign the moorage slip to another member of the Harbour Board immediately on the Board of Director's determination of abandonment and refuse the owner(s) of the boat and vessel the use of the abandoned moorage slip. For greater clarity, the Board of Directors is entitled to re-assign abandoned moorage slips immediately without having to first follow the procedure under sections 37 and 38.

Violations and/or breaches

37. If there is a breach of the Bylaws, the Rules and Regulations, or any other rules or regulations approved and adopted by the Board of Directors pursuant to the Bylaws, or the Moorage Agreement and Waiver (the "**Breach**") by a member of the Harbour Board (the "**Breaching Party**"), the Board of Directors shall deliver to the Breaching Party notice of the Breach (the "**Notice**") and demand that the breach be remedied no later than ten (10) days from the date of the Notice or such other later deadline determined by the Board of Directors acting reasonably.
38. If the Breaching Party does not remedy the Breach within the deadline provided in the Notice, the Board of Directors is entitled to proceed with any or all of the following actions, at the discretion of the Board of Directors:
 - a) issue a fine to the Breaching Party, in an amount determined by the Board of Directors to be reasonable under the circumstances, to be paid in the manner and by a deadline determined by the Board of Directors;
 - b) issue an invoice to the Breaching Party, in respect of any and all costs and expenses incurred by the Harbour Board as a result of the Breach;
 - c) take enforcement steps against the Breaching Party, including commencing a claim in the courts of British Columbia against the Breaching party for annual membership, moorage rates, and any fees and interest owed by the Breaching Party to the Harbour Board, and legal fees and disbursements incurred by the Harbour Board in any such enforcement steps;
 - d) refuse the owner(s) of the boat and vessel the use of the West Float, until the Breach has been remedied by the Breaching Party, to the satisfaction of the Harbour Board;

- e) terminate the Moorage Agreement and Waiver in a manner determined by the Board of Directors;
- f) take any step or action permitted under the Bylaws, including without limitation termination of the Breaching Party's membership in the Harbour Board;
- g) take any steps or actions necessary to remove the boat or vessel from the West Float, at the sole expense of the Breaching Party; and
- h) take any step or action permitted under applicable law to enforce the terms of the Moorage Agreement and Waiver.

Exercise of discretion under mitigation circumstances

39. Notwithstanding section 38, the Board of Directors may exercise its discretion, under limited circumstances, to delay, waive, or abandon any of the enforcement steps under section 38, on terms and conditions determined by the Board of Directors, provided that there are extenuating or mitigating circumstances that the Board of Directors determines to be sufficient to warrant any such delay, waiver or abandonment. For greater clarity, nothing in the foregoing shall require the Board of Directors to exercise its discretion to delay, waive, or abandon any of the enforcement steps under section 38.
40. Notwithstanding any discretion exercised under section 39, the Board of Directors shall be entitled to resume, reinstate or commence any of the enforcement steps under section 38, in respect of any Breach, on reasonable notice, to be determined at the sole discretion of the Board of Directors, to the member affect by any such delay, waiver or abandonment.

Guest to follow same rules

41. Members of the Harbour Board shall ensure that their guests and the guests of their guests shall abide by these Rules and Regulations.
42. The members agree that any breach or violation of the Bylaws and Rules and Regulations by their guests and the guests of their guests shall be deemed to be a breach or violation of the member. Furthermore, the Harbour Board is entitled to treat any breach or violation of the Bylaws and Rules and Regulations by their guests and/or the guests of their guests as if it was a breach personally committed by the member of the Harbour Board.

These Rules and Regulations adopted by the Board of Directors effective _____, pursuant to the Bylaws.