

THE CORPORATION OF THE TOWNSHIP OF PRINCE

BY-LAW 95-4

A by-law to authorize execution of an Agreement between the municipality and Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Northern Development and Mines

THE COUNCIL of the Corporation of the Township of Prince HEREBY ENACTS AS FOLLOWS:

1. That the Reeve and Administrator be and they are hereby authorized to execute and affix the Corporate Seal to an Agreement between the municipality and Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Northern Development and Mines with respect to funding under the Canada/Ontario Infrastructure Works program for the following projects:
 - (i) Community Centre Expansion and Renovations
 - (ii) Reconstruction of Marshall Drive and Gagnon Road
 - (iii) Upgrading of Gros Cap Beach shoreline

which Agreement is attached hereto as Schedule "A".

2. Schedule "A" hereto forms part of this by-law.

READ THREE TIMES and PASSED in open Council this 14th day of February, 1995.


Reeve


Administrator

HER MAJESTY THE QUEEN
In right of Ontario

-AND-

THE CORPORATION OF THE TOWNSHIP OF PRINCE

A G R E E M E N T

CANADA/ONTARIO INFRASTRUCTURE WORKS

Ministry of Northern
Development and Mines
159 Cedar Street
Sudbury, Ontario
P3E 6A5

PROVINCIAL-MUNICIPAL INFRASTRUCTURE AGREEMENT

THIS AGREEMENT made in this 24th day of January, 1995.

B E T W E E N:

HER MAJESTY THE QUEEN in right of
Ontario as represented by
The Minister of Northern
Development and Mines
(hereinafter called the "Province")

A N D:

THE CORPORATION OF THE TOWNSHIP OF PRINCE
(hereinafter called the "Municipality")

WHEREAS on January 24, 1994, the Province and Canada entered into the Canada-Ontario Infrastructure Program Agreement ("C.O.I.P.A."), which is appended to this Agreement as Schedule "A";

AND WHEREAS Canada and the Province are committed to the renewal and enhancement of Canada's physical infrastructure;

AND WHEREAS it is agreed that Canada and the Province should invest in the renewal and enhancement of infrastructure at the local community level;

AND WHEREAS Canada and the Province agree that sound investments in infrastructure can promote a competitive and productive economy, generate valuable short and long-term employment and accelerate economic recovery;

AND WHEREAS the Municipality is also committed to working toward this shared goal of investing to improve public infrastructure and the creation of employment;

AND WHEREAS the Municipality, by By-law ⁹⁵⁻⁴~~14~~, dated ~~14~~ February, 1995 and appended hereto as Schedule "B" authorizes the Mayor, Reeve, Warden or Chair and the Clerk to enter into this Agreement on behalf of the Municipality;

THEREFORE the Province and the Municipality agree as follows:

1. Definitions

1.1 In this Agreement:

- (a) "Canada" means Her Majesty the Queen in right of Canada;
- (b) "eligible costs" means those costs defined in section 4.1 of this Agreement;
- (c) "fiscal year" means the period commencing April 1 of any year and terminating on March 31 of the immediately following year;
- (d) "Management Committee" means the Management Committee established pursuant to section 3.1 of Schedule "A";
- (e) "Minister" means Minister of Northern Development and Mines;
- (f) "Parties" means Canada and the Province; and
- (g) "Project" means a project or projects approved by the Management Committee pursuant to section 3.5 of Schedule "A" and as further described in Schedule "C" of this Agreement.

2. Implementation

2.1 The Municipality shall implement and complete actual construction of the Project described in Schedule "C" in accordance with the terms and conditions set out in Schedule "C" and in the body of this Agreement on or before March 31, 1997.

2.2 (a) If at any time after this Agreement is entered into, the Municipality becomes aware that it is or may be in default on either the commencement date or the completion date for the Project or the projected cash flows for the Project as set out in Schedule "C", the Municipality shall give written notice immediately to the Province, by registered mail, of the actual or possible default.

- (b) The notice shall contain the following information:
- (1) detailed reasons and justification for the actual or possible default; and
 - (2) the revised Schedule "C" setting out the new commencement or completion dates, and projected cash flows.
- (c) The notice, upon receipt by the Province, shall be deemed to be accepted unless the Province notifies the Municipality immediately that further Management Committee approval is required in order for the Project to continue as a Project under this Agreement.
- 2.3** The Municipality is solely and fully responsible for the implementation of the Project including but not limited to, the capital costs of the Project and the acquisition of all land and interests in lands that are required for the implementation of the Project.
- 2.4** The Municipality shall be responsible for obtaining all approvals, permits and licences required by all statutes, regulations and by-laws necessary for the implementation of the Project.
- 2.5** The Municipality shall implement the Project in compliance with the laws of the Province of Ontario, including but not limited to, labour, environmental, human rights and occupational health and safety statutes and regulations.
- 2.6** Upon completion of the implementation of the Project the Municipality shall be responsible for all on-going costs associated with the operation, maintenance and repair of the Project.

3. Tenders

- 3.1** The Municipality shall let all contracts relating to the implementation of the Project in accordance with purchasing policies of the Municipality or as otherwise approved by the Council of the Municipality.

3.2 To the extent permitted by law the Municipality shall ensure that when selecting a bid or proposal for work to be done in respect of the implementation of the Project that a bid or proposal price preference of up to 10 percent on the Canadian content (all values added in Canada) of the supplies, equipment and services will be applied when comparing bids and proposals of Fifteen Thousand (\$15,000) or more, with the exception of cement.

4. Financial Provisions

4.1 For purposes of this Agreement, "eligible costs" means all direct costs properly and reasonably incurred and paid solely and specifically in relation to this Project and for greater certainty means:

- (a) costs invoiced against a contract for goods and services necessary for the implementation of the Project;
- (b) any other costs which are incurred and paid in the course of implementation of the Project that are recognized and determined as relevant by the Management Committee;
- (c) the salaries and wages of any employee of the Municipality and other employment benefits of any employee engaged solely and specifically for the purpose of implementing the Project which costs have been determined and approved by the Management Committee, including the salaries and other employment benefits of any municipal employee in proportion to the employee's time solely and specifically devoted to the Project;
- (d) costs related to Project signage;
- (e) contributions in kind which are recorded at the lesser of fair market value or cost; and
- (f) any other administrative costs not otherwise covered in (a), (b), (c), (d) and (e) above, which have been determined and approved by the Management Committee;

but shall not include costs which are for:

- (g) services or works normally provided by the Municipality or an agency thereof; and
 - (h) the cost of any lands or any interest in land.
- 4.2**
- (a) The Province shall contribute an amount not exceeding one third (1/3) of the eligible costs of the Project, and on behalf of Canada, shall contribute an amount not exceeding a further one third (1/3) of the eligible costs of the Project, and the final one third (1/3) of the eligible costs of the Project shall be contributed by the Municipality.
 - (b) If the Municipality receives grants or other funding from Canada in addition to the funding set out in this Agreement the Municipality may apply those other funds to the Project however the aggregate funding received from Canada from all sources shall not exceed one third (1/3) of the eligible costs of the Project.
 - (c) A Project is not eligible for funding under this Agreement if the Project receives funding from the Province under any provincial capital program.

5. Payment Provisions

- 5.1** The Municipality shall submit to the Province its claims for payment of the eligible costs of the Project which it has paid or which it has been billed for but has not paid. In all instances claims for payment shall be submitted on or before March 31 of the year following the fiscal year in which the cost was incurred, but no claim for payment shall be submitted after March 31, 1998.
- 5.2** Where the Municipality in accordance with section 5.1 submits a claim to the Province for payment of eligible costs for which it has been billed but has not paid, the Municipality agrees to supply the Province with proof of payment of that bill within 90 days of submitting the claim to the Province.
- 5.3** In the event that the Municipality does not file the proof of payment required by section 5.2, the Province may withhold or reduce future payments to the Municipality;

- 5.4 The Province shall not be responsible for the payment of any costs incurred before January 24, 1994 in relation to the implementation of the Project regardless of when such costs are billed to the Municipality.
- 5.5 The Municipality shall submit its claims for payment of eligible costs to the Province on claim forms which will be provided by the Province.
- 5.6 Subject to satisfactory review and approval of the claim by the Province, the Province shall pay to the Municipality the Parties' share of the eligible costs.
- 5.7 The Municipality shall submit with its final claim for payment of eligible costs a Project Completion Report for the Project and the said Report shall be submitted on forms which will be provided by the Province.
- 5.8 In the event that the Municipality does not submit a Project Completion Report as required by section 5.7, the Province shall withhold payment of the final claim.

6. Financial Records

- 6.1 The Municipality shall keep separate financial records for all amounts incurred, claimed, paid and received with respect to the implementation of the Project.
- 6.2 The Municipality shall retain and preserve all documents, contracts, records, claims and accounts that relate to the implementation of the Project until March 31, 1999.

7. Public Information

- 7.1 The Municipality shall not make any public announcements with respect to the approved Project without the prior written consent of the Management Committee;
- 7.2 The public information described in section 10 of Schedule "A", public announcements and official ceremonies concerning the Project shall be developed and organized by a joint federal-provincial communications committee in consultation with the Municipality. Costs associated with the public information, public announcement or official ceremony shall be shared equally by Canada and the Province.

- 7.3 (a) At the request of Management Committee the Municipality shall install at the appropriate location, and maintain throughout the duration of the Project, one or more signs indicating that the Project is an Infrastructure Project undertaken under the auspices of the Canada-Ontario Infrastructure Program Agreement or bearing any other such message approved by the Management Committee.
- (b) The cost of the signage referred to in paragraph (a) is considered an eligible cost for the purposes of section 4.1(d) of this Agreement.
- 7.4 (a) At the request of Management Committee the Municipality shall install, upon completion of the Project, where feasible, a plaque or permanent sign bearing an inscription approved by the Management Committee.
- (b) The cost of the plaque or permanent sign referred to in paragraph (a) shall be shared equally by Canada and the Province.
- 7.5 All public information material related to calls and tenders for the Project, including Project signage, shall clearly and prominently indicate that funding was provided under the terms of Schedule "A", and non-compliance by the Municipality may result in the termination of such funding.
- 7.6 (a) All public information material approved by the Management Committee in relation to this Project shall be in both English and French.
- (b) Paragraph (a) does not apply to public information material related to calls and tenders for the Project unless the Municipality has passed a by-law pursuant to section 14 of the French Language Services Act R.S.O. 1990, c.F.32, as amended or re-enacted from time to time.
8. **Audit and Inspection**
- 8.1 Upon reasonable notice from either or both Parties the Municipality shall make available to either or both Parties, and their respective auditors, all documents, contracts, records, claims and accounts associated with the implementation of this Project, for inspection.

- 8.2** Each of the Parties may inspect the amounts of all claims in respect of the implementation of the Project, and all documents, contracts, records and accounts, related to the claims.
- 8.3** After completion of the implementation of the Project, the Province may undertake a final accounting and audit of the actual costs and may make appropriate adjustments in accordance with the permitted eligible costs. The Municipality shall immediately refund any overpayment upon the Province's written request regardless of when the overpayment is discovered.
- 8.4** If the Province, during its inspection of any of the documents, contracts, records, claims and accounts determines that any payment made by the Province has been used by the Municipality for any purpose other than implementation of the Project the Municipality shall, immediately upon written request from the Province, remit the amounts requested to the Province.
- 8.5** Upon written request from the Management Committee, the Municipality shall provide the Committee with any information which is available to the Municipality with respect to the Project and which the Committee requires for any purpose.

9. Indemnification

- 9.1** The Municipality shall indemnify and save harmless the Parties, their Ministers, officers, employees and agents from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings, by whomsoever made, sustained, brought or prosecuted, in any manner arising from any wilful or negligent act, or attributable to anything done or omitted to be done in the implementation, operation, maintenance and repair of the Project.
- 9.2** If the Municipality enters into an agreement with a Third Party for the purpose of implementing the Project, the Municipality shall ensure that it is a term of that agreement that the Third Party shall indemnify and save harmless the Parties, their Ministers, officers, employees and agents from and against all claims, demands, losses, damages and costs of any kind based upon any injury or loss of property arising from any wilful or negligent act, omission or delay on the part of the Third Party, its directors, officers, employees or agents in carrying out the contract.

10. Insurance

10.1 The Municipality shall maintain comprehensive policies of public liability and property damage insurance, insuring the Municipality for all sums which the Municipality may become obliged to pay as damages by reason of injury to persons (including death) or damage to or destruction of property in the course of any activity carried out under this Agreement.

11. Time is of the Essence

Time is of the essence in this Agreement and any dates or deadlines are to be strictly adhered to.

12. Priority

In the event of conflict between the body of this Agreement and Schedule "A", Schedule "A" shall prevail. In the event of a conflict between the body of this agreement and Schedule "C" this Agreement shall prevail.

13. Notices

Any notices, reports or communications under this Agreement shall be given by personal delivery or by regular mail, posted in Canada, delivered or addressed as follows:

To the Ministry:

Mr. D. Clute
Senior Community Development
Economist
Ministry of Northern
Development and Mines
70 Foster Drive, Suite 200
Sault Ste. Marie, ON P6A 6V8

To the Municipality:

Ms. Rachel Tyczinski
Administrator Clerk-Treasurer
The Corporation of the
Township of Prince
3042 Second Line West
Sault Ste. Marie, ON P6A 6K4

14. Schedules

Schedules "A", "B" and "C" of this Agreement and the provisions contained in those Schedules form part of this Agreement.

15. Alteration or Addition

No change or modification to this Agreement and Schedules hereto shall be valid unless authorized in writing by both the Municipality and the Province.

16. Binding

This Agreement binds the Province and the Municipality to it and their respective successors and permitted assigns.

17. Financial Administration Act

Notwithstanding any other provision in this Agreement all obligations on the part of the Province and the Municipality are subject to the Financial Administration Act R.S.O. 1990, c.F.12, as amended or re-enacted from time to time.

18. Failure to Comply

Where, in the opinion of the Province, the Municipality has failed to comply with any of the terms of this Agreement, the Province shall give the Municipality written notice, by registered mail, of the Municipality's failure to comply.

18.2

If the Municipality upon receipt of the notice referred to in section 18.1 fails to comply with the terms of this Agreement within fourteen (14) days of receiving the notice, the Province may recommend to the Management Committee that it revoke the Project and where the approval is revoked, the Province may recover any and all funds paid to the Municipality under this Agreement.

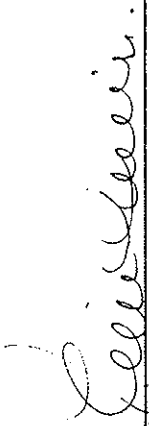
19. Dispute Resolution

Any dispute arising out of the Agreement shall be submitted to and determined by a court having jurisdiction in the Province to hear and determine such dispute.

IN WITNESS WHEREOF this Agreement has been executed on behalf of the Province by the Minister of Northern Development and Mines, and on behalf of the Municipality by the Mayor, Reeve, Warden or Chair and the Clerk.

GOVERNMENT OF THE PROVINCE OF ONTARIO

Witness



Minister of Northern Development
and Mines

Jan 26/95
Date

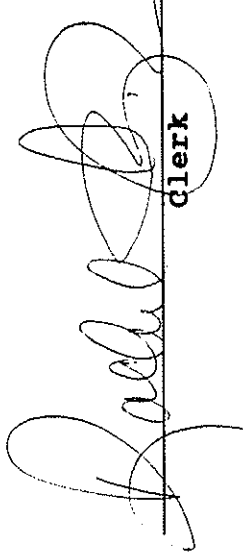
THE CORPORATION OF THE TOWNSHIP OF PRINCE

Witness



Mayor/Reeve/Warden/Chair

Feb 14/95
Date



Clerk

Feb 14/95
Date

Schedule "C" 1 of 3

Project #N80610-01

1. Project Name: Community Centre Expansion and Renovation
2. Project Description: Expansion/renovation of existing community centre to improve service delivery, including upgrading of auxiliary support services.
3. Location of Project: Part of SW 1/4, Section 26, Plan IR 6540, Township of Prince
4. Project Costs: \$ 127,120.00
As approved and set out in the attached Project Expenditure Schedule.
5. Project Start Date: ~~January~~^{April} 1, 1995
6. Project Completion Date: ~~June~~^{September} 30, 1995

Schedule "C" 2 of 3

Project #N80610-02

1. Project Name: Upgrading of Marshall Drive and Gagnon Road
2. Project Description: Road reconstruction, ditching and associated site work including preparation and surface treatment of Gagnon Road.
3. Location of Project: 1 Km on both sides of roadway on Marshall Drive, 300 ft on Gagnon Road
4. Project Costs: \$ 25,000.00
As approved and set out in the attached Project Expenditure Schedule.
5. Project Start Date: October 1, 1994
6. Project Completion Date: June 30, 1995

Schedule "C" 3 of 3

Project #N80610-03

1. Project Name: Gros Cap Beach Project
2. Project Description: Restoration and establishment of erosion control measures of existing beach area including terracing of banks and construction of beach water.
3. Location of Project: Pt. SW 1/4 of Sec. 32 Township of Prince
4. Project Costs: \$ 30,000.00
As approved and set out in the attached Project Expenditure Schedule.
5. Project start Date: ~~October 1, 1994~~ April 01, 1995
6. Project Completion Date: ~~December 15, 1994~~ June 30, 1995