

THE CORPORATION OF THE TOWNSHIP OF PRINCE

BY-LAW NO. 2003-5

Being a by-law to authorize execution by the
Administrator of an Agreement between the
municipality and the Northern Ontario Heritage
Fund Corporation

THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF PRINCE
HEREBY ENACTS AS FOLLOWS:

1. THAT the Reeve and Administrator are and they are hereby authorized to execute and affix the Corporate Seal to an Agreement between the municipality and the , Northern Ontario Heritage Fund Corporation which Agreement is attached hereto as Schedule "A".

2. SCHEDULE "A"

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

READ THREE TIMES AND PASSED in open Council this 25th day of March
2003.


Reeve


Administrator



This agreement is made to be effective October 8, 2002

BETWEEN:

NORTHERN ONTARIO HERITAGE FUND CORPORATION, a Crown corporation under the laws of Ontario ("NOHFC")

AND

THE CORPORATION OF THE TOWNSHIP OF PRINCE, a municipality under the laws of Ontario ("Recipient")

BACKGROUND:

- A. NOHFC has among its objects the promotion and stimulation of economic initiatives in northern Ontario;
- B. Recipient proposes to carry out the project defined below;
- C. NOHFC wishes to provide financial assistance toward the Recipient's costs of the project,

Now therefore, in consideration of the mutual promises and agreements contained in this agreement and other good and valuable consideration, the parties agree as follows:

1. Interpretation

"agreement" means this main body of the agreement and the schedules that are specified in section 6, which are incorporated by reference and form part of the agreement.

"contribution" means the amount of money to be paid by NOHFC to Recipient, subject to the terms and conditions of the agreement. The contribution is financial assistance to Recipient in aid of the project;

"eligible project costs" means eligible costs incurred by Recipient in carrying out the project subject to the limits for each category as set out in Schedule C;

"expenditures" means amounts paid for actual expenses and amounts applied towards in-kind costs, which are set out in Schedule C;

"project" means the various community projects to be carried out in accordance with Schedule B and with such reasonable changes as NOHFC requests or agrees to.

2. Term

The term of the agreement starts October 8, 2002 and ends September 30, 2003.

3. Contribution and Payment

3.1 a) NOHFC's contribution is limited to approximately Seventy-five per cent (75%) of the expenditures on eligible project costs up to the maximum payable under the agreement of One hundred and six thousand one hundred dollars (\$106,100).

b) Recipient will provide its own funding for the remainder of the project costs as set out in Schedule C and commits to be responsible for any project cost overruns.

c) Despite paragraphs a) and b) when the project is completed if the total eligible project costs are less than estimated, in its sole discretion NOHFC may vary the percentage of expenditures that are reimbursed; however, in no case will the maximum amount set out in paragraph a) be exceeded.

3.2 Subject to the terms and conditions in the agreement including Schedule A, on receipt of the items specified in section 3.3 NOHFC agrees to pay to the Recipient an amount of money equal to the portion of the contribution payable on February 28, 2003 and thereafter not more often than monthly.

3.3 To initiate payment under subsection 3.2, Recipient must submit the following to NOHFC:

a) a request for payment in the form of Schedule D, and

b) all other reports and deliverables required under the agreement during the time period covered by the statement of expenditures.

3.4 Despite the provisions of section 1.2 of Schedule A, NOHFC agrees to provide Fifty thousand dollars (\$50,000) and no more, in advance of expenditures on eligible project costs by Recipient. Before NOHFC contributes any further amounts under this agreement, Recipient shall submit all necessary receipts or documentation to evidence its expenditures on eligible project costs in respect of the moneys advanced and in accordance with this agreement.

4. Terms and Conditions

4.1 Recipient is required to comply with the standard terms and conditions of Schedule A that are applicable to the project and with any terms and conditions specified in this section.

4.2 There are no specific terms or conditions.

5. Contacts

Notices and any documents to be provided under the agreement shall be addressed as follows:

NOHFC:

Executive Director
Northern Ontario Heritage Fund Corporation
Roberta Bondar Place
70 Foster Drive, Suite 200
Sault Ste. Marie, ON P6A 6V8

Tel: 705-945-6700 or 1-800-461-8329;
Fax: 705-945-6701

Recipient:

Ms. Rachel Tyczinski, CMO
Administrator
The Corporation of the Township of Prince
3042 Second Line West, R.R. #6
Sault Ste. Marie, ON P6A 6K4

Tel: 705-779-2992 Fax: 705-779-2725
Email: rachel@twp.prince.on.ca

6.Schedules to this Agreement

The following schedules are incorporated by reference into and form part of this agreement:

- Schedule A - NOHFC's Standard Terms and Conditions
- Schedule B - Recipient's Application
- Schedule C - Eligible Project Costs and Project Financing
- Schedule D - Form Request for Payment

The parties to this agreement acknowledge that they have read it, understand it, and agree to be bound by it. The parties certify that they have authority to sign and to bind the entity on behalf of which they are signing.

THE CORPORATION OF THE TOWNSHIP OF PRINCE

Date: _____

_____ seal
Name:
Position:

NORTHERN ONTARIO HERITAGE FUND CORPORATION

Date: _____

_____ seal
Name: Aime J. Dimatteo
Position: Executive Director

NORTHERN ONTARIO HERITAGE FUND CORPORATION

SCHEDULE A

STANDARD TERMS AND CONDITIONS OF CONTRIBUTION AGREEMENTS

1. PAYMENTS

Before disbursement

- 1.1 Recipient must provide in writing evidence that the additional financial assistance set out in Schedule C has been committed to the project.

Basis of contribution

- 1.2 NOHFC makes the contribution on the basis of reimbursement for eligible project costs incurred.
- 1.3 On expiry or termination of this agreement, NOHFC may recover any excess of funds provided to the Recipient and such amount is considered to be a debt to NOHFC.

Eligible project costs

- 1.4 In its sole discretion, NOHFC may approve transfer of amounts between the categories set out in Schedule C.

Holdback

- 1.5 In its sole discretion NOHFC may holdback not more than ten per cent (10%) of any payments by it, to be released on:
- completion of the project in accordance with this agreement;
 - Receipt by NOHFC of all deliverables required under this agreement; and
 - Receipt by NOHFC of the final statement of expenditures.

Other public funding

- 1.6 Recipient shall not use the contribution for any eligible project costs for which Recipient is in receipt of other funding from public sector sources.
- 1.7 Recipient shall notify NOHFC promptly if any other funding is received from a public sector source other than as set out in Schedule C.
- 1.8 If Recipient receives funding from public sector sources in addition to the funding under the

agreement, in its sole discretion NOHFC may reduce the amount of the contribution by an amount equal to the other funding to ensure that there is no duplication in public sector funding.

Recipient's obligations

1.9 Recipient must:

- not be in default as defined in Section 3 below, and
- carry out the project in accordance with the agreement with due diligence and in an economical and businesslike manner.

Third-Party Contracts

1.10 If Recipient is selecting any third-party contractors to perform any of the project for an amount greater than twenty-five thousand dollars (\$25,000) competitive process must be used, including a written request for at least three (3) proposals, written evaluation of bids received and a written agreement with the successful contractor. Despite this provision, NOHFC may consent in writing to allow single sourcing if details of urgency, special expertise, confidentiality or savings warrant it.

Cost overruns

1.11 NOHFC is not responsible for any cost overruns related to the project.

This section survives

1.12 The provisions of this section survive the expiry or termination of the agreement.

2. MONITORING AND REPORTS

Delays

2.1 Recipient must notify the NOHFC as soon as possible if it becomes aware of actual or possible delays or inability to complete the project.

Monitoring

2.2 NOHFC may require Recipient to implement or amend a tracking system to measure results of the project and may require certain costs to be spread out over multiple years of the project.

Final Report

2.3 On completion or early termination of the project but not later than two (2) months after the end of the term of the agreement or such later date as NOHFC may agree to, Recipient shall submit to NOHFC two (2) copies of a final report on the project, satisfactory to NOHFC in scope and detail including:

- A statement that the project is complete;
- Details about any economic benefits to northern Ontario that may result from the project.

Records

2.4 For a period of seven (7) years after the expiry or termination of the agreement, Recipient shall maintain:

- financial records and books of account respecting the project in accordance with generally accepted accounting procedures; and
- records of the carrying out of the project.

Requests for information

2.5 At the request of NOHFC and the Provincial Auditor, Recipient shall supply such information in respect of the project and its results as may be required for the purpose of monitoring the project.

Access

2.6 Recipient shall allow the NOHFC and the Provincial Auditor access to Recipient's premises and to the project site to inspect and assess the progress and results of the project and the records required to be kept under the agreement. This provision survives the expiry or termination of the agreement.

Audit Report

2.7 If the NOHFC or the Provincial Auditor believes that there are material inaccuracies in or inconsistencies between the statements of expenditures and the Recipients financial records and books of account, NOHFC or the Provincial Auditor may request and Recipient must provide at its own expense an audit report from a public accountant licensed under the laws of Ontario. The audit report must be satisfactory to the NOHFC in form and content and address:

- NOHFC funds received to date;
- Expenditures made to date;

- Whether the expenditures were made in accordance with the project and this agreement; and
- Other financial information pertaining to this agreement as may be reasonably specified in the request.

3. DEFAULT

Recovery of Contribution

3.1 If Recipient is in default, in its sole discretion NOHFC may recover any funds advanced or an amount equal to the advanced funds and may refrain from making further payments.

Occurrences of Default

3.2 Recipient is in default if:

- it is in default of any of the terms and conditions of the agreement or in the sole opinion of NOHFC, Recipient fails to meet a term or condition of the agreement;
- it becomes bankrupt or insolvent, or
- goes into receivership, or
- takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors, or
- makes an arrangement with any of its creditors that will have an effect on the project or Recipient's operations, or
- in the sole opinion of NOHFC Recipient faces other serious financial difficulty, or
- an order is made or resolution passed for the winding up of Recipient, or
- it is dissolved or wound-up or
- in the sole opinion of NOHFC, Recipient ceases to operate, or
- it submits false or misleading information to NOHFC at any time or makes a false representation in the agreement, or
- in the sole opinion of NOHFC, Recipient fails to proceed diligently with the project unless the failure is due to causes beyond the control of Recipient, or
- in the sole opinion of NOHFC, funds provided to Recipient are used for purposes other than expenditures on eligible project costs.

4. INDEMNITY AND INSURANCE

Indemnity

4.1 During and following the term of the agreement, Recipient shall indemnify and save harmless NOHFC from all costs, losses, damages, judgments, claims, demands, suits, actions, claims of action or other proceeding that may be taken in any manner based on, occasioned by or attributed to anything done by Recipient or its officers, directors, partners, employees, agents, subcontractors or volunteers, in connection with anything purported to be or required to be provided by or done by Recipient pursuant to this agreement or otherwise in connection with the project.

Insurance

4.2 Recipient shall arrange for and keep current while performing the project, a policy of comprehensive general liability insurance subject to limits not less than two million dollars (\$2,000,000) per occurrence, covering bodily injury, personal injury, death, property damage, products and completed operations, that names NOHFC as an additional insured.

Third-Party Insurance

4.3 Recipient shall ensure that any third-party contributors and contractors retained to perform any part of the project shall have adequate insurance in place that is appropriate to the project risks and to the third party.

Evidence of Insurance

4.4 Recipient shall provide to NOHFC:

- On signing the agreement, a valid certificate of the insurance required and on each renewal of the policies during performance of the agreement.
- Without delay on receipt of a written request by NOHFC, a certified copy of the policy of insurance.

5. COMPLIANCE WITH LAWS AND WITH INSURANCE

Laws

5.1 At all times, Recipient, its officers, directors, partners, employees agents, subcontractors or volunteers shall comply with all applicable federal, provincial and municipal laws, ordinances, statutes, regulations, rules and orders in respect of the performance of the project and the agreement.

Permits

5.2 At its own expense, Recipient shall obtain all permits, licenses, approvals and authorizations required to perform the project and the agreement and shall comply with all federal, provincial and municipal laws, ordinances, statutes, regulations, rules and orders in respect of same.

Insurance

5.3 Recipient shall comply with all provisions and requirements of any of the Recipient's insurance policies applicable to the policy and with all rules and regulations concerning safety and the proper conduct of work.

6. ACKNOWLEDGEMENTS

Acknowledgement

6.1 Recipient shall acknowledge NOHFC's contribution on all reports, news releases, public statements, and publications regarding the project. No acknowledgement shall imply endorsement by NOHFC of any product or process. Recipient shall include in acknowledgements NOHFC's visual identifiers if reasonably practical to do so.

Signage

6.2 At its own expense, Recipient shall install and maintain in good condition project signs or plaques in conspicuous and visually unobstructed locations within the project area. NOHFC shall prescribe the time, form and specifications for the installation of and the length of time for maintaining project signs or plaques. NOHFC may require Recipient to include NOHFC's logo on any of its signs or plaques.

6.3 If the project includes a vehicle, Recipient will use NOHFC's vehicle signage package in accordance with the included instructions.

7. FREEDOM OF INFORMATION

Legislation

7.1 Subject to the *Freedom of Information and Protection of Privacy Act*, all information pertaining to NOHFC's contribution and Recipient's obligations under the agreement is public information and may be released to third parties on request.

Consents

7.2 Despite any copyright or other intellectual property rights of Recipient or any third-party contractor, Recipient consents for itself and will arrange for any necessary consent from the third-party contractor to NOHFC providing copies of the information to any government institutions, particularly the Ministry of Northern Development and Mines.

Confidentiality

7.3 Despite subsections 7.1 and 7.2, NOHFC acknowledges that:

- reports and documents required to be provided under this agreement are supplied by Recipient on a confidential basis because they contain technical, commercial and financial information; and
- disclosure could reasonably be expected to have a significant prejudicial effect on the competitive position or contract negotiations of Recipient or any third party.

8. GENERAL

Jurisdiction

8.1 The agreement is governed by and construed in accordance with the laws of Ontario.

Amendment

8.2 The agreement may be amended only in writing, on agreement between the parties.

Conflict

8.3 If there is a conflict between the main body of the agreement and any schedule, the main body of the agreement prevails. If there is a conflict between any of the schedules, Schedule A prevails, then Schedule C, then Schedule B.

Entire Agreement

8.4 The agreement forms the entire agreement between the parties.

Severability

8.5 The invalidity or unenforceability of any provision of the agreement or any covenant in it will not have an effect on the validity or enforceability of any other provision or covenant in it and the invalid provision or covenant is deemed to be severable.

Interpretation

8.6 Headings are not part of the agreement; they are included for convenience only.

8.7 Words importing the singular number include the plural and vice versa.

8.8 Words importing the masculine gender include the feminine and neuter genders and vice versa.

8.9 Words importing persons include individuals, sole proprietors, corporations, partnerships, trusts and unincorporated associations.

Notices

8.10 Any notices, reports, documents, correspondence under the agreement shall be in writing and given by personal delivery, prepaid registered mail, facsimile, or courier service and are deemed to have been effectively given on the date of personal delivery, facsimile or courier service or in the case of prepaid registered mail five (5) days after the date of mailing.

Project Status

8.11 Recipient shall not alter the ownership, financing, location, cost, scope, content, objectives or timing of the project or permit or cause any other material change to the project, without the prior written

consent of NOHFC, which consent shall not be withheld unreasonably. NOHFC's consent may be conditional on recovery of its contribution.

Recipient Status

8.12 Recipient shall not alter its corporate structure, ownership, financing or objects without the prior written consent of NOHFC, which consent shall not be withheld unreasonably. NOHFC's consent may be conditional on recovery of its contribution.

Assignment

8.13 Recipient shall not assign the agreement or any part of it, without the prior written consent of NOHFC. In its sole discretion, NOHFC may withhold its consent or give its consent on such terms and conditions as it requires.

Third Parties

8.14 Recipient shall take all reasonable measures to ensure that its officers, directors, partners, employees, agents, contractors, subcontractors and volunteers shall be bound to observe the provisions of the agreement. In all contracts regarding the project, Recipient shall include terms and conditions similar to and not less favourable to NOHFC than the terms and conditions of the agreement to the extent that they are applicable to the subject of the contract.

Contribution Only

8.15 The agreement is a contract for conditional financial assistance only and nothing in it or done pursuant to it is to be construed as constituting any agency, partnership, joint venture or employment between Recipient and NOHFC.

Waiver

8.16 NOHFC's failure to insist in one or more instances on the performance by Recipient of any of the terms and conditions of the agreement shall not be construed as a waiver of NOHFC's right to require future performance of any such terms or conditions and Recipient's obligations with respect to future performance continues in full force and effect.

Force Majeure

8.17 Neither party shall be responsible for failures in performance resulting from matters beyond the control of the party, including acts of God, riots or other civil insurrection, war, strikes and lock-outs.

Time of Essence

8.18 Time is of the essence in the performance of obligations under the agreement.

Initialed:

Recipient

NOHFC

NORTHERN ONTARIO HERITAGE FUND CORPORATION

SCHEDULE B

RECIPIENT'S APPLICATION

Recipient's application dated September 27, 2002 as amended is incorporated by reference into the agreement as Schedule B.

A copy of Schedule B is kept in NOHFC's file.

SCHEDULE C - 25188

Project Costs

Activity	Eligible Costs	Ineligible Costs	Total Cost
Component 1 – Roads			
TownLine resurfacing	\$25,000		\$25,000
Bridge rehabilitation	20,000		20,000
Marshall Drive resurfacing	25,000		25,000
Base Line resurfacing	20,000		20,000
Gagnon Road resurfacing	17,000		17,000
Sub Total			107,000
Component 2 – Community Centre Water Filtration	24,500		24,500
Sub Total			24,500
Component 3 – Community Centre Excavation	10,000		10,000
Sub Total			10,000
Total:	\$141,500		\$141,500

Project Financing

Contributor	Financing Type	Activities Funded	Eligible Costs	Ineligible Costs	Total Funding
NOHFC	Conditional Contribution	Towards all components	\$106,100		\$106,100
Recipient	Cash	Towards all components	35,400		35,400
TOTAL			\$141,500		\$141,500
NOHFC %			75 %		75%

Northern Ontario Heritage Fund Corporation

Schedule D – Request for Payments; Certification

Use to request an approved advance and then, please do not submit requests more often than monthly. Forms must be completed by Recipient, signed and returned to the appropriate Ministry of Northern Development and Mines Project Officer.

General Information **NOHFC PROJECT NUMBER: 25188**

Project Name: Various community projects

Recipient's Legal Name: The Corporation of the Township of Prince

Contact: _____

Telephone No: _____

Funding Arrangements

Contributor	Financing Type	Activities Funded	Eligible Costs	Ineligible Costs	Total Funding
NOHFC	Conditional Contribution	Towards all components	\$106,100		\$106,100
Recipient	Cash	Towards all components	35,400		35,400
TOTAL			\$141,500		\$141,500
NOHFC %			75 %		75%

Calculation of Payment Request

Advance _____ (A)

OR Eligible Expenditures this Claim (receipts attached):

Cash _____

In-Kind _____

Subtotal _____

NOHFC % of Eligible Costs X Subtotal: _____ (B)

PAYMENT REQUESTED: (A) or (B) \$ _____

Certification (to be completed for all payment requests)

I CERTIFY THAT THE ADVANCE WILL BE USED ONLY FOR ELIGIBLE COSTS AND THAT REPORTED EXPENDITURES ARE ALL ELIGIBLE COSTS UNDER THE LEGAL AGREEMENT. I UNDERSTAND THAT EVIDENCE OF REPORTED EXPENDITURES MUST BE PROVIDED IF REQUESTED. ALL FUNDS REMITTED BY NOHFC SHALL BE USED FOR PROJECT COSTS ELIGIBLE UNDER THE LEGAL AGREEMENT. ALL CONDITIONS CONTAINED IN THE LEGAL AGREEMENT REQUIRED TO DATE HAVE BEEN MET.

Authorized Signature

Date

Name:
Title:

Title

Address: _____

Final Payment

In addition to the previous pages, this portion of the form is to be completed by Recipient when the project final request for payment is submitted.

Project Description and Objectives:

Were the project objectives met? (Explain)

Was project completed in accordance with the legal agreement? (Explain)

Authorized Signature

Date

Name

Title