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COMMUNITY DEVELOPMENT PROGRAM FUNDING AGREEMENT

THIS AGREEMENT made this 7th day of March, 2018.

BETWEEN: **GOVERNMENT OF PRINCE EDWARD ISLAND**, as represented by the Minister of Rural and Regional Development,

(hereinafter referred to as the "Government")

OF THE FIRST PART

AND: **COMMUNITY OF NORTH SHORE**, a non-profit corporation duly registered under the laws of Prince Edward Island, with its head office at 2120 Covehead Road, York, PE C0A 1P0 in Queen's County, Province of PEI.

(hereinafter referred to as the "Recipient")

OF THE SECOND PART

COVEHEAD BAY & AREA SUSTAINABILITY PLAN

WHEREAS Government wishes to provide funding to the Recipient to carry out the Project described in Schedule "A" attached hereto;

AND WHEREAS the Recipient has agreed to carry out the Project on certain terms and conditions as more particularly set out in this Agreement;

AND WHEREAS the Recipient has agreed that this is a *funding agreement* and not a *contract for service* agreement;

NOW THEREFORE in consideration of the mutual promises contained in this Agreement, the Parties agree that the terms and conditions of their relationship are as follows:

Covenants of the Recipient and Government

1. The Recipient shall perform the services, assume all those responsibilities and diligently execute the Project described in the attached Schedule "A".
2. (a) Subject to the termination clause contained in the Termination section of this Agreement, the term of this Agreement shall commence on the 20th day of December, 2017, and end on the 31st day of March, 2018.
- (b) Subject to the termination clause contained in the Termination section of this Agreement and notwithstanding the date of signing of this Agreement, it is

acknowledged by both Parties that the Recipient commenced the performance of the Project on the 20th day of December, 2017. It is further agreed that the amount of \$15,000 is the maximum amount to be paid for the Project and includes all amounts which may be owed for the Project done since 20th day of December, 2017.

Payments, Records and Accounts

3. (a) Provided that the Project proceeds in accordance with Schedule "A", payment for the Project shall be a fixed lump sum of \$15,000, payable in installments, as follows:
 - i. an advance payment in the amount of \$7,500 (50%) will be provided upon acceptance of this signed Agreement and confirmation that the other funding sources indentified in Schedule "A" have agreed to fund the Project for 2017-18.
 - ii. a second advance payment in the amount no greater than \$6,000 (40%) will be provided upon the acceptance of a cost claim summary based on the Project costs breakdown described in Schedule "A".
 - iii. final payment in the amount no greater than \$1,500 (10%) will be provided upon reconciliation of a cost claim summary for the entire project in accordance with the Project costs breakdown identified in Schedule "A". Government shall pay the amount owing within thirty (30) days of Government's approval of the claim information.
- (b) Government will not contribute to any cost incurred by the Recipient prior to the received date of the application. Any costs incurred after the Project completion date as stated in this Agreement will not be accepted, unless otherwise agreed to in writing, prior to the costs being incurred.
- (c) Government may adjust its payment or contribution to the project if the project has been downsized, significantly altered or not completed. Where the Government determines that an overpayment has been made to the project due to a significant alteration to the project or its non-completion, the Recipient is responsible to repay such overpayment on demand by the Government.
- (d) Eligibility for reimbursement of HST to the Recipient from Government is dependent upon the Recipient being a non-profit corporation and providing documentation, acceptable to Government, that the Recipient is ineligible for partial or complete reimbursement of HST from the Government of Canada. Government's contribution to this reimbursement is limited to the amount not eligible for reimbursement from the Government of Canada.

- (e) The Recipient will inform the Government in writing of any further federal, provincial or municipal assistance to be received for the Project and the Government shall have the right to adjust the amount of the contribution by the amount of such further assistance to be received.
- (f) The Recipient shall keep proper accounts and records of the cost to the Recipient of the Project and of all expenditures or commitments made by the Recipient under this Agreement including the related invoices, receipts and vouchers. Such accounts, invoices, receipts and vouchers shall, at all times, be open to audit, copying, extracting information and inspection by the authorized representatives of Government. The Recipient shall provide all facilities for the audits, inspections, copying and extractions and shall provide Government and its authorized representatives with all information that is requested from the accounts, records, invoices, receipts and vouchers.
- (g) Subject to statutory limitations, the Recipient shall not, without the written consent of Government, dispose of the accounts, records, invoices, receipts and vouchers related to this Agreement, but shall preserve and keep the same available for audit, copying, extracting information and inspections for seven years after the completion of the Project.

Conditions of Agreement

- 4. (a) The Parties agree that the Recipient shall act as an independent contractor and that it is entitled to no other benefits or payments whatsoever than those specified in the Payments, Records and Accounts section of this Agreement.
- (b) The Parties agree that entry into this Agreement will not result in the appointment or employment of the Recipient, or any officer, clerk, employee or agent of the Recipient, as an officer, clerk, employee or agent of Government, nor shall the *Civil Service Act*, R.S.P.E.I. 1988, Cap. C-8 apply.
- 5. (a) The Recipient agrees to accept sole responsibility to submit any applications, reports, payments or contributions for sales taxes, income tax, Canada Pension Plan, Employment Insurance, Workers' Compensation assessments, goods and services tax, harmonized sales tax, or any other similar matter which the Recipient may be required by law to make in connection with the Project.
- (b) The Recipient agrees to accept sole responsibility to comply with all federal, provincial and municipal legislation which may have application to the Project and agrees to comply with all provincial and federal legislation affecting conditions of work and wage rates including the *Employment Standards Act* R.S.P.E.I., 1988 Cap. E-6.2, the *Workers Compensation Act* R.S.P.E.I., 1988 Cap. W-7.1 or any other laws that impose obligations in the nature of the employers' obligations.

- (c) As it relates to this Project, the Recipient agrees to obtain all necessary environmental clearance certificates, building permits or other licenses as required by applicable federal, provincial and municipal regulatory bodies and agencies.
 - (d) The Recipient, before undertaking any work shall provide to Government either a certificate of good standing by the Workers Compensation Board or written confirmation from the Workers Compensation Board that such certificate is not required.
 - (e) The Recipient agrees to accept the full cost of doing those things required under this paragraph, and will not charge or seek reimbursement from Government in any way, such costs having been taken into consideration and included in the rates of payment stipulated in Payments, Records and Accounts section of this Agreement.
6. Any payment under this Agreement is subject to a provincial appropriation for the payment being approved by the Legislative Assembly of Prince Edward Island for Government's fiscal year in which the payment is to be made.

Reports

- 7. (a) The Recipient shall make interim reports as Government may direct.
- (b) The Recipient shall prepare and submit draft reports as outlined in this Agreement, in Schedule "A".

Administration

- 8. The Recipient shall permit any authorized representative of the Department of Rural and Regional Development reasonable access to the Recipient's premises and project site to inspect and assess the progress and results of the Project.
- 9. (a) The Recipient will advise Government at least thirty (30) days in advance of any special event (official opening, ribbon cutting, sod-turning, etc.) the Recipient wishes to organize in connection with the Project. A ceremony shall only be held on a date which is mutually acceptable to Government and the Recipient. The Recipient consents to having Government participate in any such ceremony.
- (b) The Recipient shall ensure that publications and presentations resulting from the Project shall identify the Government as a funder of the Project.
- 10. Government shall provide such support, direction, decisions and information to the Recipient as it deems necessary or appropriate under this Agreement and may appoint a person to administer this Agreement and communicate with the Recipient.

Termination

11. Notwithstanding other provisions of this Agreement, Government may terminate this Agreement in its entirety, or any part thereof, at any time by a notice in writing, signed by or on behalf of Government and delivered to the Recipient by hand delivery, mail to the Recipient's last known place of business, facsimile transmission, or electronic communication. This Agreement shall be determined to have ended upon the date of delivery, sending by electronic communications or mailing of such notice in which event the Recipient shall have no further claim against Government, except that the Recipient will be paid pursuant to and in accordance with the provisions of the Payments, Records and Accounts section of this Agreement for the Project performed up to the date of termination by written notice. Such payment shall include all firm commitments made by the Recipient prior to the receipt of the notice and for which the Recipient is liable for payment, less any sums paid by Government to the Recipient on account.
12. Notice in this Agreement is deemed to have been effected on the day of delivery in person, facsimile, electronic communication, or upon mailing of the notice.

Confidentiality and Copyright

13. Any and all information, knowledge or data made available to the Recipient as a result of this Agreement shall be treated as confidential information. The Recipient shall not directly or indirectly disclose or use the information, knowledge or data for purposes unrelated to the Agreement at any time without first obtaining the written consent of Government, unless the information, knowledge or data is generally available to the public.
14.
 - (a) The Parties agree that all lists, reports, information, statistics, compilations, analyses, and other data generated or collected in any way as a result of this Agreement are the exclusive property of Government and shall not be distributed, released, transmitted or used in any way, via any media, outside the purposes of this Agreement, by the Recipient, its employees, agents, servants or others for whom the Recipient is responsible, without the written consent of Government.
 - (b) The Parties agree that Government owns the copyright on all aspects of the Project, including all manner of data as set out in sub-paragraph (a) and including all software developed as a result of the Project whether in the form of raw data, analyses, database entries or software or hardware code of any kind or in any form whatsoever, including but not limited to object code and source code and any necessary information with respect to the use of such code such as encryption keys, compiler information and version number.

- (c) The Recipient relinquishes all rights to the Project created pursuant to this Agreement, including all rights, and moral rights otherwise accruing to the Recipient pursuant to the *Copyright Act*, R.S.C. 1985, C-42.

Conflict of Interest

- 15. The Recipient warrants that as at the date of this Agreement, no conflict of interest, or any circumstance that might interfere with independent and objective exercise of judgment, exists or is likely to arise in relation to execution of this Agreement or its subject matter. The Recipient shall immediately notify Government, in writing, if any such actual or potential conflict of interest should arise at any time during the Term. In the event Government discovers or is notified by the Recipient of an actual or potential conflict of interest, Government, in its sole discretion, may either:
 - (a) allow the Recipient to resolve the actual or potential conflict to the satisfaction of Government; or
 - (b) terminate the Agreement in accordance with the Termination section of this Agreement.

Freedom of Information and Protection of Privacy Act

- 16. The Recipient acknowledges that this Agreement and information provided in respect of this Agreement may be subject to release under the *Freedom of Information and Protection of Privacy Act*, R.S.P.E.I. 1988, Cap. F-15.01. The Recipient may be consulted prior to release of any information.
- 17. The Recipient acknowledges and agrees that, in the event the Project involves the collection or use of personal information, it is subject to the *Freedom of Information and Protection of Privacy Act*, and that personal information may not be released to any third party or unauthorized individual.

Indemnification and Insurance

- 18. The Recipient shall indemnify and hold harmless Government, its agents, representatives and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings of every nature and kind whatsoever arising out of or resulting from the performance of the Project (herein called the "Claim"), provided that any such Claim is caused in whole or in part by any act, error or omission, including, but not limited to, those of negligence, of the Recipient or anyone directly or indirectly employed by the Recipient or anyone for whom the Recipient may be liable.

19. The Recipient shall, without limiting its obligations or liabilities under this Agreement and at its own expense, provide and maintain, the following insurance with insurers and in forms and amounts acceptable to Government:
- (a) Commercial General Liability insurance in an amount not less than \$2,000,000 (CAD) inclusive per occurrence against bodily injury and property damages. Government of Prince Edward Island is to be added as an additional insured under this policy. Such insurance shall include, but not be limited to:
- Products and Completed Operations Liability;
 - Owner's and Contractor's Protective Liability;
 - Blanket Written Contractual Liability;
 - Contingent Employer's Liability;
 - Personal Injury Liability;
 - Non-Owned Automobile Liability;
 - Cross Liability;
 - Employees as additional Insured's;
 - Broad Form Property Damage;
 - If applicable, Tenant's Legal Liability in an amount adequate to cover a loss to premises of Government occupied by the Contractor
- (b) The policy or policies required by this Agreement shall be in a form and with insurers satisfactory to Government. All required insurance shall be endorsed to provide Government with 30 days advance written notice of cancellation or material change. The foregoing insurance shall be primary and not require the sharing of any loss by any insurer of Government nor by any other form of recovery available such as the Provincial Self Insurance and Risk Management Fund. A Certificate of Insurance and any renewals thereof shall be delivered to Government prior to execution of this Agreement. Default of delivery or receipt by the Government shall not be construed as acknowledgment or concurrence that there has been compliance with the terms of this Agreement.


General

20. This Agreement shall not be assigned or subcontracted in whole or in part by the Recipient without the prior written consent of Government.
21. This Agreement shall ensure to the benefit of and be binding upon the Parties hereto and, subject to the above assignment and subcontracting clause, their executors, administrators, successors and assigns.
22. This Agreement shall be interpreted and applied in accordance with the laws and in the Courts of the province of Prince Edward Island.

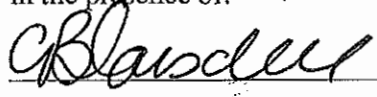
- 23. This Agreement, including Schedules "A" constitutes and expresses the entire agreement of the Parties hereto and any amendment or addition thereto shall be in writing and signed by the respective Parties.
- 24. The headings are inserted in this Agreement for reference only and shall not form part of the Agreement.
- 25. The provisions of this Agreement which, by their terms, are intended to survive or which must survive in order to give effect to continuing obligations of the Parties, shall survive the termination or expiry of this Agreement.
- 26. If any provision of this Agreement is, for any reason, invalid, that provision shall be considered separate and severable from this Agreement, and the other provisions of this Agreement shall remain in force and continue to be binding upon the Parties as though the invalid provision had never been included in this Agreement.

IN WITNESS WHEREOF the Parties thereto have duly executed this Agreement as of the date first above written.

SIGNED, SEALED & DELIVERED
in the presence of:



SIGNED, SEALED & DELIVERED
in the presence of:



Government of Prince Edward Island,
as represented by the Minister of
Rural and Regional Development



Recipient



Authorized Signing Officer

SCHEDULE "A"

TO AGREEMENT
BETWEEN
GOVERNMENT OF PRINCE EDWARD ISLAND
AND
THE RECIPIENT

DATED THE 7th DAY OF March, 2018

PROJECT DESCRIPTIONCOVEHEAD BAY & AREA SUSTAINABILITY PLAN**Project Description:**

The funding for this project will be used to hire a consultant that will provide input into the DFO Covehead Bay review, complete revisions to the existing official plan for the area, explore tourism and other commercial development opportunities, and develop a community growth plan.

ITEM	ESTIMATED COSTS	CONDITIONAL CONTRIBUTION
Covehead Bay & Area Sustainability Plan	\$30,000	
Total	\$30,000	* 15,000

It is expected that these estimates are a reasonable spending projection in each area and any variance of more than 25% must be approved in advance by the Government.

Funding:

Community Development Program	15,000
Applicant	15,000
Total Funding	\$30,000

Initials: SM
Date: 31/01/18

SM
Mar. 7/18

CLAIM PROCEDURE:

The first claim will consist of invoices and cancelled cheques/receipts equal to or greater than the amount advanced (50%). If the first claim is satisfactory, the Department will release the second advance payment (40%).

Upon completion of the Project a final cost claim summary must be completed in order for the final payment (10%) to be released. The final claim will include invoices and cancelled cheques/receipts for the full amount provided through this agreement. Should this approval be part of a larger project with multiple funding partners, a ledger detailing the expenses of the entire project will be required, from which twenty (20) items in addition to the requirements above will be selected and the applicant will provide the corresponding invoices and cancelled cheques/receipts for review.

Initials: SM, PM
Date: 3/10/18 MCM. 7/18