

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2014-124

By-law authorizing the execution of an agreement between the Corporation of the Town of Amherstburg, the Amherstburg Police Services Board and Her Majesty the Queen in Right of Ontario as represented by the Minister of Community Safety and Correctional Services with respect to Court Security and Prisoner Transportation (CSPT)

WHEREAS under Section 8 of the Municipal Act 2001, S.O., 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS under Section 9(1) (a) and (b) of the Municipal Act 2001, S.O., 2001, c. 25, as amended, Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS the Council of The Corporation of the Town of Amherstburg deems it expedient to enter into an agreement between the Corporation of the Town of Amherstburg, the Amherstburg Police Services Board and Her Majesty the Queen in Right of Ontario as represented by the Minister of Community Safety and Correctional Services with respect to Court Security and Prisoner Transportation (CSPT);

NOW THEREFORE the Council of The Corporation of the Town of Amherstburg enacts as follows:

1. That the Council of The Corporation of the Town of Amherstburg agrees to enter into the agreement as attached hereto as Schedule "A" to this By-law.
2. That the Mayor and Clerk are hereby authorized to sign and seal said agreement on behalf of The Corporation of Town of Amherstburg.
3. This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 15th day of December, 2014.


ALDO DICARLO, MAYOR


PAULA PARKER, CLERK

THE AGREEMENT effective as of the 1st day of January, 2015.

B E T W E E N :

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Minister of Community Safety and
Correctional Services**

(the "Province")

- and -

Town of Amherstburg

(the "Recipient")

BACKGROUND:

- A. As part of the 2008 Provincial-Municipal Fiscal and Service Delivery Review (PMFSDR), the Ontario government committed to upload court security and prisoner transportation costs from municipalities, beginning in 2012 and phased in by an equal amount over seven years, to a maximum of \$125 million annually at maturity by 2018.
- B. The Province established the Court Security and Prisoner Transportation (CSPT) Program (the "Program") in 2012 to assist municipalities in offsetting their costs of providing CSPT services in their jurisdictions;
- C. The Recipient is a municipality who is responsible for the costs of providing security for court premises during hours of court operations and security of persons attending court; and the costs of transporting prisoners and custodial minors (i.e., persons between twelve and seventeen years of age) between correctional institutions, custodial facilities and court locations for the purposes of court attendance;
- D. The Recipient has provided its 2013 CSPT costs, as confirmed in the 2013 Annual Financial Report, which the Recipient submitted as part of the reporting requirements for the 2012-2014 agreement for the Program;
- E. Funding will be provided based on the Recipient's relative share of the total 2013 provincial CSPT costs.

CONSIDERATION:

In consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Parties agree as follows:

**ARTICLE 1
INTERPRETATION AND DEFINITIONS**

1.1 Interpretation. For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the background and the headings do not form part of the Agreement; they are for reference only and shall not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency shall be to Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

1.2 Definitions. In the Agreement, the following terms shall have the following meanings:

"Agreement" means this agreement entered into between the Province and the Recipient and includes all of the schedules listed in section 31.1 and any amending agreement entered into pursuant to section 34.2.

"BPSAA" means the *Broader Public Sector Accountability Act, 2010* (Ontario).

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Court Security and Prisoner Transportation Services" means the services and activities eligible for funding, as set out in Schedule "B".

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section 14.1.

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following December 31; and
- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on January 1 following the end of the previous Funding Year and ending on the following December 31.

"Funds" means the money the Province provides to the Recipient pursuant to the Agreement.

"Indemnified Parties" means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees and employees.

"Maximum Funds" means a total of **\$80,543.41** being **\$35,797.07** for Funding Year 1 and **\$44,746.34** for Funding Year 2.

"Notice" means any communication given or required to be given pursuant to the Agreement.

"Notice Period" means the period of time within which the Recipient is required to remedy an Event of Default, and includes any such period or periods of time by which the Province considers it reasonable to extend that time.

"Parties" means the Province and the Recipient.

"Party" means either the Province or the Recipient.

"Project" means the undertaking described in Schedule "A".

"Reports" means the reports described in Schedule "A".

"Timelines" means the Project schedule set out in Schedule "A".

ARTICLE 2 REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1 General. The Recipient represents, warrants and covenants that:

- (a) it is, and shall continue to be for the term of the Agreement, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and shall continue to have for the term of the Agreement, the experience and expertise necessary to carry out the Project;
- (c) it is in compliance with all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and by-laws related to any aspect of the Project, the Funds or both;
- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and shall continue to be true and complete for the term of the Agreement.

- 2.2 Execution of Agreement.** The Recipient represents and warrants that:
- (a) it has the full power and authority to enter into the Agreement; and
 - (b) it has taken all necessary actions to authorize the execution of the Agreement.
- 2.3 Governance.** The Recipient represents, warrants and covenants that it has, and shall maintain, in writing for the period during which the Agreement is in effect:
- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
 - (b) procedures to ensure the ongoing effective functioning of the Recipient;
 - (c) decision-making mechanisms for the Recipient;
 - (d) procedures to enable the Recipient to manage the Funds prudently and effectively;
 - (e) procedures to enable the Recipient to complete the Project successfully;
 - (f) procedures to enable the Recipient, in a timely manner, to identify risks to the completion of the Project, and strategies to address the identified risks;
 - (g) procedures to enable the preparation and delivery of all Reports required pursuant to Article 7; and
 - (h) procedures to enable the Recipient to deal with such other matters as the Recipient considers necessary to ensure that the Recipient carries out its obligations under the Agreement.
- 2.4 Supporting Documentation.** Upon request, the Recipient shall provide the Province with proof of the matters referred to in this Article 2.

ARTICLE 3 TERM OF THE AGREEMENT

- 3.1 Term.** The term of the Agreement shall commence on the Effective Date and shall expire on December 31, 2016 unless terminated earlier pursuant to Article 12, Article 13 or Article 14.

ARTICLE 4
FUNDS AND CARRYING OUT THE PROJECT

4.1 Funds Provided. The Province shall:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule "A";
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution;
 - (ii) is in the name of the Recipient; and
- (d) In addition to the Province's rights under Section 15.1, if the Recipient identifies that any Funds for the Funding Year are not expected to be used for the Project in that Funding Year, the Province may reallocate the Funds to other municipalities.

4.2 Limitation on Payment of Funds. Despite section 4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the insurance certificate or other proof as the Province may request pursuant to section 11.2;
- (b) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project;
- (c) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province's assessment of the information provided by the Recipient pursuant to section 7.1; and
- (d) if, pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) reduce the amount of the Funds and, in consultation with the Recipient, change the Project; or
 - (ii) terminate the Agreement pursuant to section 13.1.

- 4.3 **Use of Funds and Project.** The Recipient shall:
- (a) carry out the Project in accordance with the terms and conditions of the Agreement; and
 - (b) use the Funds only for the purpose of carrying the Project; and
 - (c) spend the Funds only on activities and services eligible for funding as set out in Schedule "B".
- 4.4 **No Changes.** The Recipient shall not make any changes to the Project, the Timelines, or spend any of the Funds on any activities or services that are not eligible for funding as set out in Schedule "B" without the prior written consent of the Province.
- 4.5 **Interest Bearing Account.** If the Province provides Funds to the Recipient prior to the Recipient's immediate need for the Funds, the Recipient shall place the Funds in a separate interest bearing account in the name of the Recipient at a Canadian financial institution.
- 4.6 **Interest.** If the Recipient earns any interest on the Funds, the Province may:
- (a) deduct an amount equal to the interest from any further instalments of Funds; or
 - (b) demand from the Recipient the repayment of an amount equal to the interest.
- 4.7 **Maximum Funds.** The Recipient acknowledges that the Funds available to it pursuant to the Agreement shall not exceed the Maximum Funds.
- 4.8 **Rebates, Credits and Refunds.** The Recipient acknowledges that the amount of Funds available to it pursuant to the Agreement is based on the actual costs to the Recipient, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit or refund.

ARTICLE 5 ACQUISITION OF GOODS OR SERVICES

- 5.1 **Acquisition.** Subject to section 28.1, if the Recipient acquires goods, services, or both with the Funds, it shall do so through a process that promotes the best value for money.
- 5.2 **Disposal.** The Recipient shall sell, lease or otherwise dispose of any asset purchased with the Funds or for which Funds were provided only in accordance with its asset disposal policies and procedures, unless the Province agrees otherwise.

**ARTICLE 6
CONFLICT OF INTEREST**

- 6.1 No Conflict of Interest.** The Recipient shall carry out the Project and use the Funds without an actual, potential or perceived conflict of interest.
- 6.2 Conflict of Interest Includes.** For the purposes of this Article, a conflict of interest includes any circumstances where:
- (a) the Recipient; or
 - (b) any person who has the capacity to influence the Recipient's decisions, has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased and impartial judgment relating to the Project, the use of the Funds, or both.
- 6.3 Disclosure to Province.** The Recipient shall:
- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential or perceived conflict of interest; and
 - (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

**ARTICLE 7
REPORTING, ACCOUNTING AND REVIEW**

- 7.1 Preparation and Submission.** The Recipient shall:
- (a) submit to the Province at the address provided in section 18.1, all Reports in accordance with the timelines and content requirements set out in Schedules "A", "B" and "C", or in a form as specified by the Province from time to time;
 - (b) submit to the Province at the address provided in section 18.1, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
 - (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and
 - (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

- 7.2 Record Maintenance.** The Recipient shall keep and maintain:
- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
 - (b) all non-financial documents and records relating to the Funds or otherwise to the Project.
- 7.3 Inspection.** The Province, its authorized representatives or an independent auditor identified by the Province may, at its own expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Project and the Recipient's allocation and expenditure of the Funds and, for these purposes, the Province, its authorized representatives or an independent auditor identified by the Province may take one or more of the following actions:
- (a) inspect and copy the records and documents referred to in section 7.2;
 - (b) remove any copies made pursuant to section 7.3(a) from the Recipient's premises; and
 - (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project, or both.
- 7.4 Disclosure.** To assist in respect of the rights set out in section 7.3, the Recipient shall disclose any information requested by the Province, its authorized representatives or an independent auditor identified by the Province, and shall do so in the form requested by the Province, its authorized representatives or an independent auditor identified by the Province, as the case may be.
- 7.5 No Control of Records.** No provision of the Agreement shall be construed so as to give the Province any control whatsoever over the Recipient's records.
- 7.6 Auditor General.** For greater certainty, the Province's rights under this Article are in addition to any rights provided to the Auditor General pursuant to section 9.2 of the *Auditor General Act* (Ontario).

ARTICLE 8 COMMUNICATIONS REQUIREMENTS

- 8.1 Acknowledge Support.** Unless otherwise directed by the Province, the Recipient shall acknowledge the support of the Province in a form and manner as directed by the Province.
- 8.2 Publication.** The Recipient shall indicate, in any of its publications, of any kind, including written, oral, or visual, relating to the Project, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

**ARTICLE 9
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

- 9.1 **FIPPA.** The Recipient acknowledges that the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.
- 9.2 **MFIPPA.** The Province acknowledges that the Recipient is bound by the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Recipient in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

**ARTICLE 10
INDEMNITY**

- 10.1 **Indemnification.** The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Province.

**ARTICLE 11
INSURANCE**

- 11.1 **Recipient's Insurance.** The Recipient represents and warrants that it has, and shall maintain for the term of the Agreement, at its own cost and expense, with Insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than five million dollars (\$5,000,000) per occurrence. The policy shall include the following:
- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
 - (b) a cross-liability clause;
 - (c) contractual liability coverage; and
 - (d) a 30 day written notice of cancellation, termination or material change.

- 11.2 **Proof of Insurance.** The Recipient shall provide the Province with certificates of insurance, or other proof as may be requested by the Province, that confirms the insurance coverage as provided for in section 11.1. Upon the request of the Province, the Recipient shall make available to the Province a copy of each insurance policy.

ARTICLE 12 TERMINATION ON NOTICE

- 12.1 **Termination on Notice.** The Province may terminate the Agreement at any time upon giving at least 30 days Notice to the Recipient.
- 12.2 **Consequences of Termination on Notice by the Province.** If the Province terminates the Agreement pursuant to section 12.1, the Province may take one or more of the following actions:
- (a) cancel all further instalments of Funds;
 - (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and
 - (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset the costs determined pursuant to section 12.2(c), against the amount owing pursuant to section 12.2(b); and
 - (ii) subject to section 4.7, provide Funds to the Recipient to cover the costs determined pursuant to section 12.2(c).

ARTICLE 13 TERMINATION WHERE NO APPROPRIATION

- 13.1 **Termination Where No Appropriation.** If, as provided for in section 4.2(d), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the Agreement, the Province may terminate the Agreement immediately by giving Notice to the Recipient.
- 13.2 **Consequences of Termination Where No Appropriation.** If the Province terminates the Agreement pursuant to section 13.1, the Province may take one or more of the following actions:
- (a) cancel all further instalments of Funds;
 - (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and

- (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section 13.2(b).

13.3 No Additional Funds. For purposes of clarity, if the costs determined pursuant to section 13.2(c) exceed the Funds remaining in the possession or under the control of the Recipient, the Province shall not provide additional Funds to the Recipient.

ARTICLE 14

EVENT OF DEFAULT, CORRECTIVE ACTION AND TERMINATION FOR DEFAULT

14.1 Events of Default. Each of the following events shall constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section 7.1, Reports or such other reports as may have been requested pursuant to section 7.1(b);
- (b) the Recipient's operations, or its organizational structure, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver;
- (d) the Recipient ceases to operate.

14.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;

- (d) reduce the amount of the Funds;
- (e) cancel all further instalments of Funds;
- (f) demand the repayment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand the repayment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand the repayment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, upon giving Notice to the Recipient.

14.3 Opportunity to Remedy. If, in accordance with section 14.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province shall provide Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

14.4 Recipient not Remediating. If the Province has provided the Recipient with an opportunity to remedy the Event of Default pursuant to section 14.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections 14.2(a), (c), (d), (e), (f), (g), (h) and (i).

14.5 When Termination Effective. Termination under this Article shall take effect as set out in the Notice.

**ARTICLE 15
FUNDS AT THE END OF A FUNDING YEAR**

- 15.1 **Funds at the End of a Funding Year.** Without limiting any rights of the Province under Article 14, if the Recipient has not spent all of the Funds allocated for the Funding Year, the Province may take one or both of the following actions:
- (a) demand the return of the unspent Funds; and
 - (b) adjust the amount of any further instalments of Funds accordingly.

**ARTICLE 16
FUNDS UPON EXPIRY**

- 16.1 **Funds Upon Expiry.** The Recipient shall, upon expiry of the Agreement, return to the Province any Funds remaining in its possession or under its control.

**ARTICLE 17
REPAYMENT**

- 17.1 **Repayment of Overpayment.** If at any time during the term of the Agreement the Province provides Funds in excess of the funds to which the Recipient is entitled under the Agreement, the Province may:
- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
 - (b) demand that the Recipient pay an amount equal to the excess Funds to the Province.
- 17.2 **Debt Due.** If, pursuant to the Agreement:
- (a) the Province demands the payment of any Funds or an amount equal to any Funds from the Recipient; or
 - (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not their return or repayment has been demanded by the Province,
- such Funds or other amount shall be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient shall pay or return the amount to the Province immediately, unless the Province directs otherwise.
- 17.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

- 17.4 **Payment of Money to Province.** The Recipient shall pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province at the address provided in section 18.1.

**ARTICLE 18
NOTICE**

- 18.1 **Notice in Writing and Addressed.** Notice shall be in writing and shall be delivered by email, postage-prepaid mail, personal delivery or fax, and shall be addressed to the Province and the Recipient respectively as set out below, or as either Party later designates to the other by Notice:

To the Province:
Ministry of Community Safety and
Correctional Services
Public Safety Division
External Relations Branch
Program Development Section
12th Floor, 25 Grosvenor Street
Toronto ON M7A 2H3

To the Recipient:
Town of Amherstburg
271 Sandwich St. South
Amherstburg ON N9V 2A5
Attn: Giovanni (John) Miceli

Attention:
Fionne Yip
Community Safety Analyst

Attention: 
~~Mr. Mike Phipps~~ *Mr. Giovanni (John) Miceli*
Chief Administrative Officer

Fax: 416-314-3092
Email: Fionne.Yip@ontario.ca

Fax: 519-736-5403
Email: mphipps@amherstburg.ca 
jmiceli@amherstburg.ca

- 18.2 **Notice Given.** Notice shall be deemed to have been received:
- (a) in the case of postage-prepaid mail, seven days after a Party mails the Notice; or
 - (b) in the case of email, personal delivery or fax, at the time the other Party receives the Notice.
- 18.3 **Postal Disruption.** Despite section 18.2(a), in the event of a postal disruption:
- (a) Notice by postage-prepaid mail shall not be deemed to be received; and
 - (b) the Party giving Notice shall provide Notice by email, personal delivery or by fax.
- 18.4 **Despite Section 18.2.** Despite section 18.2, if either Party receives a Notice on a non-Business Day, or after 5 p.m. on a Business Day, the Notice shall be deemed to have been received on the next Business Day.

**ARTICLE 19
CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT**

- 19.1 **Consent.** When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient shall comply with such terms and conditions.

**ARTICLE 20
SEVERABILITY OF PROVISIONS**

- 20.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision shall be deemed to be severed.

**ARTICLE 21
WAIVER**

- 21.1 **Waivers in Writing.** If a Party fails to comply with any term of the Agreement, that Party may only rely on a waiver of the other Party if the other Party has provided a written waiver in accordance with the Notice provisions in Article 18. Any waiver must refer to a specific failure to comply and shall not have the effect of waiving any subsequent failures to comply.

**ARTICLE 22
INDEPENDENT PARTIES**

- 22.1 **Parties Independent.** The Recipient acknowledges that it is not an agent, joint venturer, partner or employee of the Province, and the Recipient shall not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

**ARTICLE 23
ASSIGNMENT OF AGREEMENT OR FUNDS**

- 23.1 **No Assignment.** The Recipient shall not, without the prior written consent of the Province, assign any of its rights, or obligations under the Agreement.
- 23.2 **Agreement Binding.** All rights and obligations contained in the Agreement shall extend to and be binding on the Parties' respective heirs, executors, administrators, successors and permitted assigns.

**ARTICLE 24
GOVERNING LAW**

- 24.1 **Governing Law.** The Agreement and the rights, obligations and relations of the Parties shall be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement shall be conducted in the courts of Ontario, which shall have exclusive jurisdiction over such proceedings.

**ARTICLE 25
FURTHER ASSURANCES**

- 25.1 **Agreement into Effect.** The Recipient shall provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and shall otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

**ARTICLE 26
JOINT AND SEVERAL LIABILITY**

- 26.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities shall be jointly and severally liable to the Province for the fulfilment of the obligations of the Recipient under the Agreement.

**ARTICLE 27
RIGHTS AND REMEDIES CUMULATIVE**

- 27.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

**ARTICLE 28
BPSAA**

- 28.1 **BPSAA.** For the purposes of clarity, if the Recipient is subject to the BPSAA and there is a conflict between any of the requirements of the Agreement and the requirements of the BPSAA, the BPSAA shall prevail.

**ARTICLE 29
ACKNOWLEDGEMENT OF OTHER LEGISLATION**

- 29.1 **Recipient Acknowledges.** The Recipient acknowledges that by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the BPSAA, the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario).

**ARTICLE 30
FAILURE TO COMPLY WITH OTHER AGREEMENTS**

- 30.1 **Other Agreements.** If the Recipient:
- (a) has failed to comply (a "Failure") with any term, condition or obligation under any other agreement with Her Majesty the Queen in right of Ontario or a Crown agency;
 - (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
 - (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
 - (d) such Failure is continuing,
- the Province may suspend the payment of Funds for such period as the Province determines appropriate.

**ARTICLE 31
SCHEDULES**

- 31.1 **Schedules.** The Agreement includes the following schedules:
- (a) Schedule "A" - Project Description, Payment and Reporting Schedule;
 - (b) Schedule "B" - Court Security and Prisoner Transportation Services and Activities Eligible for Funding; and
 - (c) Schedule "C" -- Template for Annual Financial Report.

**ARTICLE 32
SURVIVAL**

- 32.1 Survival.** The following Articles and sections, and all applicable cross-referenced sections and schedules, shall continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1 and any other applicable definitions, section 4.2(d), 4.6, 5.2, section 7.1 (to the extent that the Recipient has not provided the Reports to the satisfaction of the Province), sections 7.2, 7.3, 7.4, 7.5, 7.6, Article 8, Article 10, section 12.2, sections 13.2 and 13.3, sections 14.1, 14.2(d), (e), (f), (g) and (h), Article 16, Article 17, Article 18, Article 20, section 23.2, Article 24, Article 26, Article 27, Article 29, Article 30, Article 31, Article 32 and Article 34.

**ARTICLE 33
COUNTERPARTS**

- 33.1 Counterparts.** The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**ARTICLE 34
ENTIRE AGREEMENT**

- 34.1 Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.
- 34.2 Modification of Agreement.** The Agreement may only be amended by a written agreement duly executed by the Parties.

The Parties have executed the Agreement on the dates set out below.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the **Minister of Community Safety and Correctional Services**


Name: Oscar Mosquera Date: JAN 23/15
Title: Manager
Program Development Section
External Relations Branch

Pursuant to Delegated Authority

Town of Amherstburg


Name: Aldo DiCarlo
Title: Mayor

7 JAN 2015
Date


Name: Paula Parker
Title: Clerk

Jan 6/15
Date

I/We have authority to bind the Recipient.

SCHEDULE "A"

PROJECT DESCRIPTION

As part of the 2008 PMFSDR, the Ontario government committed to upload court security and prisoner transportation costs from municipalities, beginning in 2012 and phased in by an equal amount over seven years, to a maximum of \$125 million annually at maturity by 2018.

The Recipient is responsible for the costs of providing security for court premises during hours of court operations and security of persons attending court. The Recipient is also responsible for the costs of transporting prisoners and custodial minors (i.e., persons between twelve and seventeen years of age) between correctional institutions, custodial facilities and court locations for the purposes of court attendance.

Funding is allocated based on the Recipient's relative share of the total 2013 provincial CSPT costs.

PAYMENT AND REPORTING SCHEDULE

The Funds in the amount of **\$80,543.41** will be provided to the Recipient according to the following schedule:

Funding Year 1 – January 1, 2015 to December 31, 2015:

- A. First instalment: **\$8,949.27** will be paid to the Recipient once the Recipient has signed the Agreement, provided adequate proof of insurance to the Province in accordance with Article 11.2 of the Agreement, and the Agreement has then been signed by the Province.
- B. Final instalment: **\$26,847.80** will be paid to the Recipient, following the Province's receipt and approval of the 2014 Annual Financial Report (due April 15, 2015), which is part of the reporting requirements of the 2012-2014 agreement for the Program.

Funding Year 2 – January 1, 2016 to December 31, 2016:

- A. First instalment: **\$11,186.59** will be paid to the Recipient, following the Province's receipt and approval of the 2015 Annual Financial Report (due January 30, 2016).
- B. Final instalment: **\$33,559.75** will be paid to the Recipient by the end of April 2016, subject to the Province's receipt and approval of the 2015 Annual Financial Report.
- C. The Recipient must submit the 2016 Annual Financial Report to the Province by April 15, 2017.

SCHEDULE "B"

COURT SECURITY AND PRISONER TRANSPORTATION SERVICES AND ACTIVITIES ELIGIBLE FOR FUNDING

A. COURT SECURITY includes:

1. **Facility Perimeter Security**
Costs associated with external and/or internal police presence during regular or non-regular hours to secure the perimeter of the facility, to respond to a specific threat or for high-profile matters.
2. **Courtroom Security**
Costs associated with the presence of police staff in the courtroom to ensure the safety and security of the proceedings and attendees.
3. **General Courthouse Security Presence**
Costs associated with the use of screening stations to screen all public visitors to the courthouse, including the use of magnetometers and x-ray machines, and police staff assigned to perform roving patrols of the court facility.
4. **Prisoner Movement In Courthouse**
Costs associated with monitoring the movement of prisoners between holding cells and other areas within the courthouse.
5. **Prisoner Guarding in Holding Cells**
Costs associated with guarding and monitoring of prisoners brought to court for trial and held in courthouse holding cells (where applicable).
6. **Prisoner Feeding**
Costs associated with the provision of meals to prisoners required while in the custody of local police services for the purpose of attending court.

B. PRISONER TRANSPORTATION Includes:

1. **Prisoner Transport**
Costs associated with the movement of prisoners between correctional institutions and court locations for the purposes of attending trial.
2. **Prisoner Transport - Youth**
Costs associated with the movement of custodial minors (i.e. 12-17 years old) between correctional and/or custodial facilities and court locations for the purposes of attending trial.

***PRISONER includes:** Persons being held in custody as a result of provincial or federal offence proceedings, including persons under immigration detention.

C. TRAINING, EQUIPMENT AND RECRUITING Includes:

1. Costs associated with training that is relevant to court security and prisoner transportation only.
2. Cost associated with equipment that is unique to the member's deployment within court security and prisoner transportation and does not include equipment that would be utilized if the member was deployed in any other capacity within the police service.
3. Costs associated with recruiting that is relevant to the staffing of court security and prisoner transportation only. Costs may include advertising for applicants, physical fitness and/or psychological testing, applicant screening, interviews or any other related human resources expense.

COURT SECURITY AND PRISONER TRANSPORTATION do NOT include:

Court Administration

Costs associated with performing court administrative duties including the scheduling of staff for daily deployment, the service of legal documents, the preparation/maintenance of Crown Brief materials, the entry of data into court information systems, preparing or swearing/affirming legal documentation, scheduling of court appearances or other duties of a related nature.

SCHEDULE "C"

TEMPLATE FOR ANNUAL FINANCIAL REPORT

SCHEDULE C - ANNUAL FINANCIAL REPORT - 201_(YEAR_)

REPORTING MUNICIPALITY: (please select from drop down list)			
CONTACT INFORMATION			
Salutation	First Name	Last Name	Title
Tel:	Ext:	Fax:	Email:
Address:			
City:		Postal Code:	
LOCAL POLICE SERVICE:			
Name of Municipal or Regional Police Service or OPP Detachment:			
ANNUAL EXPENDITURE SUMMARY:			
PLEASE COMPLETE THE FOLLOWING SECTION IN RELATION TO THE COURT SECURITY AND PRISONER TRANSPORTATION SERVICES/ACTIVITIES ELIGIBLE FOR FUNDS LISTED IN SCHEDULE B (ATTACHED).			
For items b, c, d, g, h, and i, please provide details on a separate page, identifying the name of the municipality/funding source and the amount of funding.			
201_(Year_) Allocation:			
COURT SECURITY COSTS			
a) Total gross annual court security costs:			
b) Total annual payments provided to other municipalities for court security:			
c) Total annual payments received from other municipalities for court security:			
d) Total annual payments received from other funding sources for court security:			
e) Total net annual court security costs (a - b - c - d):			\$0.00
PRISONER TRANSPORTATION COSTS			
f) Total gross annual prisoner transportation costs:			
g) Total annual payments provided to other municipalities for prisoner transportation:			
h) Total annual payments received from other municipalities for prisoner transportation:			
i) Total annual payments received from other funding sources for prisoner transportation:			
j) Total net annual prisoner transportation costs (f - g - h - i):			\$0.00
Total Net Annual Court Security and Prisoner Transportation Costs (e - j):			\$0.00
Variance (Allocation - Total Net Annual Costs)			\$0.00
SIGNATURE OF AUTHORIZED OFFICIAL			
I, hereby certify that the information provided in the Annual Financial Report is true and correct and is in agreement with the books and records of the municipality and its consolidated entities.			
Title:		Print Name:	
Signature:		Date:	

Ministry of Community Safety and Correctional Services