

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2019 - 54

Being a By-law to enter into an agreement for the provision of Regional Economic Development Services

WHEREAS Section 20(1) of the Municipal Act, S.O. 2001, Chapter 25 as amended, authorizes a municipality to enter into an agreement with one or more municipalities to jointly provide, for their joint benefit, any matter which all of them have the power to provide;

AND WHEREAS Section 20(2) of the Municipal Act, S.O. 2001, Chapter 25 as amended, allows a municipality to provide the matter in accordance with the agreement anywhere that any of the municipalities or local bodies have the power to provide the matter;

NOW THEREFORE the Council of The Municipal Corporation of the Municipality of Magnetawan as follows:

1. THAT the Municipality of Magnetawan is hereby authorized to enter into an Agreement, attached as "Joint Service Agreement" and being part of this by-law, with the Township of Perry, Township of Ryerson, the Village of Sundridge, the Almaguin Highlands Chamber of Commerce, the Township of Armour, the Village of Burk's Falls, the Township of Strong, the Village of South River, the Municipality of Powassan and the Township of Joly to jointly operate economic development services; and,
2. THAT the Mayor and Clerk are hereby authorized to sign the agreement substantially in the format as attached.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 18th day of September 2019

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk

JOINT SERVICE AGREEMENT

This Agreement made effective this ___ day of _____, 2019

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF PERRY
(Hereinafter referred to as "Perry")
- and -
THE MUNICIPAL CORPORATION OF THE TOWNSHIP OF ARMOUR
(Hereinafter referred to as "Armour")
- and -
THE CORPORATION OF THE TOWNSHIP OF RYERSON
(Hereinafter referred to as "Ryerson")
- and -
THE CORPORATION OF THE VILLAGE OF SUNDRIDGE
(Hereinafter referred to as "Sundridge")
- and -
THE ALMAGUIN HIGHLANDS CHAMBER OF COMMERCE
(Hereinafter referred to as "the Chamber")
- and -
THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN
(Hereinafter referred to as "Magnetawan")
- and -
THE CORPORATION OF THE MUNICIPALITY OF THE VILLAGE OF BURK'S FALLS
(Hereinafter referred to as "Burk's Falls")
- and -
THE CORPORATION OF THE TOWNSHIP OF STRONG
(Hereinafter referred to as "Strong")
- and -
THE CORPORATION OF THE VILLAGE OF SOUTH RIVER
(Hereinafter referred to as "South River")
- and -
THE CORPORATION OF THE MUNICIPALITY OF POWASSAN
(Hereinafter referred to as "Powassan")
- and -
THE CORPORATION OF THE TOWNSHIP OF JOLY
(Hereinafter referred to as "Joly")

WHEREAS the Municipal Act, S.O. 2001,c.25, S.20(1) allows a municipality to enter into an agreement with one or more municipality to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their boundaries;

AND WHEREAS the Municipal Act, S.O. 2001,c.25, S.20(2), allows a municipality to provide the matter in accordance with the agreement anywhere that any of the municipalities or local bodies have the power to provide the matter;

AND WHEREAS Perry, Armour, Ryerson, Sundridge, the Chamber, Magnetawan, Burk's Falls, Strong, South River, Powassan and Joly wish to jointly provide economic development services to the region;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of good and other valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the parties hereto to each of the other parties hereto, the receipt whereof is hereby acknowledged, the parties hereto hereby covenant, promise and agree with each other as follows:

DEFINITIONS

1. In this Agreement including in the recitals above,
 - (a) “**ACEDDB Meeting**” means a meeting between the appointed representatives of each Member Party, with a quorum of half the representatives plus one;
 - (b) “**Act**” means the *Municipal Act*, 2001, S.O. 2001, c.25;
 - (c) “**Administer**” means to provide the Economic Development Services to the public in accordance with Applicable Law, and “**Administration**” has the same meaning;
 - (d) “**Administering Municipality**” means the Member Party that has been chosen by the Member Parties to administer the Economic Development Services;
 - (e) “**Administrative Services**” means those services as set out in section 11 of this Agreement;
 - (f) “**Agreement**” means this Joint Service Agreement and all Schedules and Exhibits attached to this Agreement;
 - (g) “**Almaguin Community Economic Development**” (**ACED**) is the name given to the regional economic development entity formed by the participating Member Parties.
 - (h) “**Almaguin Community Economic Development Department Board**” (**ACEDDB**), is a committee composed of appointed representatives from all of the Member Parties who have agreed to participate and fund the Almaguin Community Economic Development (**ACED**).
 - (i) “**Almaguin Community Economic Development Department (ACEDD)**” performs the work needed work to strengthen the local economy and diversify the municipal tax base. They recruit new businesses, retain existing ones, and assist businesses when they can expand operations locally.
 - (j) “**Applicable Law**” means any applicable statute, ordinance, decree, regulation or by-law or any rule, circular, directive, license, consent, permit, authorization, concession or other approval issued by any Government Authority which has appropriate jurisdiction;
 - (k) “**Business Days**” means any day other than a Saturday, Sunday or statutory holiday;
 - (l) “**Calendar Days**” means consecutive days, including Saturday, Sunday or statutory holiday;
 - (m) “**Capital Expenditure**” means any expenditure related to machinery, equipment, vehicles and furniture reported as a tangible capital asset on the audited financial statement of the Economic Development Services;
 - (n) “**Capital Items**” means machinery, equipment, vehicles and furniture required to provide Economic Development Services;
 - (o) “**Director of Economic Development**” (the Director) means the municipal employee hired to manage the ECADD.
 - (p) “**Economic Development Services**” means all services related to the provision of economic development;
 - (q) “**Emergency**” means any unplanned event, activity, circumstance that constitutes a threat to the operation of the Service and/or requires the stoppage of the delivery of the Economic Development Services, in whole or in part and may include both person-caused and natural-caused events, activities and circumstances;

- (r) **“Expenditure”** means any funds used by the Administering Municipality to obtain new assets, improve existing ones or reduce a liability;
- (s) **“Government Authority”** means any government, regulatory authority, ministry, board, department, court or other law, regulation or rule-making entity, having jurisdiction or authority over the matter in issue, but excludes a municipality or any of its local boards;
- (t) **“Member Party(ies)”** means Perry, Armour, Ryerson, Sundridge, the Chamber, Magnetawan, Burk’s Falls, Strong, South River, Powassan or Joly;
- (u) **“Net Cost”** means all operating, capital and real property capital expenditures for Economic Development Services less all revenues generated by the Economic Development Services including, but not limited to, government grants, user fees, rents, sales and donations and **“Net Costs”** has the same meaning;
- (v) **“Real Property”** means land, land improvement and any building or buildings erected upon the land used to provide Economic Development Services;
- (w) **“Real Property Capital Expenditure”** means any expenditure related to land, land improvements and buildings reported as a tangible capital asset on the audited financial statements of the Economic Development Services;
- (x) **“Report”** means that Report referred to in clause 11(f) of the Agreement, in the form required by the Administering Municipality and **“Reporting”** has the same meaning;

TERM OF THE AGREEMENT

2. This Agreement takes effect on _____, 2019 and will expire when the CIINO grant for regional economic development expires.
3. This Agreement will be automatically renewed for three (3) years unless one of the Member Parties advises the other Member Parties, in writing, one (1) year in advance of the date of expiry set out in section 2 of this Agreement, that it wishes to withdraw or renegotiate all or part of this Agreement.
4. If one of the Member Parties has requested a renegotiation of this Agreement and the renegotiated agreement is not in place at the expiry date of this Agreement as set out in section 2 of this Agreement, this Agreement will remain in place until a new agreement is in force and effect.
5. Upon receipt of a notice of withdrawal from another Member Party, a Member Party may call an ACEDDB Meeting to discuss such notice and to consider steps that may be taken to either engage the dispute resolution provisions of this Agreement or to terminate this Agreement and prepare for dissolution related to the Economic Development Services.

ECONOMIC DEVELOPMENT SERVICES

Ownership, Operation and Maintenance

6. The Administering Municipality shall operate and maintain the assets associated with the Economic Development Services it Administers in good condition and in accordance with Applicable Law.

Administration, Cost Sharing, Oversight and Reporting

7. The Administering Municipality for the Economic Development Services shall be The Municipal Corporation of the Township of Armour.
8. For the purposes of this Agreement, the Administrative Services to be provided by the Administering Municipality are as follows:
 - (a) Operation in compliance with Applicable Law;
 - (b) Staffing, through employees, contractors or agents, as the Administering Municipality deems appropriate within budget restraints, in accordance with its policies and procedures and Applicable Law;
 - (c) Ensure that policies and procedures are in place with respect to procurement, employment, health and safety, asset management, fees and charges, and record retention, all in compliance with Applicable Law;
 - (d) Reporting to and communicating with any government ministry or agency, including but not limited to the Ontario Ministry of the Environment and Climate Change, the Ontario Ministry of Municipal Affairs, the Office of the Fire Marshal of Ontario and the Ontario Ministry of Finance, as may be required by Applicable Law;
 - (e) Maintain financial records and report to the other Member Parties as required by this Agreement with respect to budgets, revenues, expenses, audits and other financial activities; and
 - (f) Reporting, on a monthly basis, in the form required by the Administering Municipality, to the other Member Parties.
9. The Administering Municipality shall not charge any additional fees to the other Member Parties to Administer the Economic Development Services.

BUDGETS AND FINANCIAL REPORTING

10. The Director shall prepare, on an annual basis, a draft operating and a capital budget for the Economic Development Services.
 - (a) Such draft budgets shall be presented at the October ACEDDB Meeting of each calendar year and once reviewed, shall be presented for consideration to each Member Party. Each Member Party shall report to the other Member Parties the outcome of such consideration within ten (10) Business Days of the date of each Member Party's next regular meeting.
 - (b) Based on the comments received the Director shall prepare a final budget proposal and forward it to the other Member Parties by the last Friday in January of each year.
 - (c) Each Member Party shall bring a resolution to the February ACEDDB Meeting indicating whether or not it supports the budget.
 - (d) The yearly budget must receive approval from a majority of the Member Parties before it can be implemented.
 - (e) In the first year this Agreement is in force and effect the Member Parties shall forego clause 11(a), above, and shall simply consider the 2019 budget when the CIINO grant is approved or at their first regular meeting following the commencement date of this Agreement, as the case may be.
11. If a majority of the Member Parties do not agree to a proposed budget, the contributions from all Member Parties to the budget shall not change from the most recently approved budget until a majority of the Member Parties agree to the proposed budget.

12. From the time the annual budget is approved by a majority of the Member Parties, the Administering Municipality, shall provide, every three (3) months thereafter, in writing, a budget to actual report to the ACEDDB.
13. Once the budget is approved by a majority of the Member Parties the following will apply:
 - (a) Any change(s) to the approved budget which would increase the net total of the approved budget shall require the approval of a majority of the Member Parties in order to be implemented. The Member Party requesting such change shall notify the other Member Parties with an explanation of the requested change and shall request that an ACEDDB meeting be held within fifteen (15) Calendar Days of such request.
 - (b) An overspending of the budget does not constitute a change to the budget but shall be reported by the Director to the ACEDDB with an explanation of and reason(s) for the overspending.
14. The Administering Municipality is responsible to ensure that its auditor carries out an audit, on an annual basis, and it shall provide a copy of its audited financial statements to the other Member Parties within ten (10) Business Days after they are placed on an agenda to be considered by the Administering Municipality.

ADMINISTRATION OF COST SHARING

15. The Net Cost of the Economic Development Services shall be shared annually as set out in **Schedule "A"** to this Agreement.
16. The Administering Municipality shall invoice the other Parties quarterly for their share of the Economic Development Services and such invoices are due within thirty (30) Calendar Days.
17. After the annual audit is complete the Administering Municipality shall either invoice or refund the other Member Parties the difference between the budgeted amount paid by each Member Party and the actual amount to be paid as determined by the audit.

INSURANCE

18. During the term of this Agreement, the Administering Municipality shall obtain and maintain in full force and effect, general liability insurance issued by an insurance company authorized by law to carry on business in the Province of Ontario, providing for, without limitation, coverage for personal injury, public liability, environmental liability and property damage. Such policy shall:
 - (a) Have inclusive limits of not less than five million dollars (\$5,000,000.00) for injury, loss or damage resulting from any one occurrence;
 - (b) Name the other parties as an additional insured with respect to any claim arising out of the obligations under this Agreement; and
 - (c) Include a Non-Owned automobile endorsement.
19. During the term of this Agreement, the Administering Municipality shall obtain and maintain in full force and effect, automobile liability insurance in the amount of two million dollars (\$2,000,000.00) for injury, loss or damage resulting from any one occurrence.
20. If the Administering Municipality receives a notice of claim, action, application, order, or any other insurance or legal proceeding, it shall, within five (5) Business Days provide a copy of such to the other Member Parties.

EMERGENCY SITUATIONS

21. From time to time Emergencies may arise and in such circumstances the Member Parties shall cooperate to the best of their abilities with regard to public communication about the impact of the Emergency and the Administering Municipality shall take the lead on the response to the Emergency.

RESOLUTION OF DISPUTES

22. Where a disagreement or dispute arises between any or all of the Member Parties with respect to the interpretation, construction, meaning or effect of this Agreement an ACEDDB Meeting shall be scheduled by the Administering Municipality for the sole purpose of discussing the disagreement or dispute in an attempt to resolve such disagreement or dispute.
23. The Member Parties shall have six (6) months from the date of the above described ACEDDB Meeting to resolve any disagreement or dispute.
24. After six (6) months if a disagreement or dispute is not resolved the Member Parties shall appoint a mediator to hear arguments and resolve the disagreement or dispute. If the Parties cannot agree on a mediator, the mediator shall be appointed by a majority vote of the Member Parties. The cost of the mediator shall be shared equally between the Member Parties.
25. The Member Parties agree that they will work cooperatively with the mediator and each other and that they will take any recommendation of the mediator to an ACEDDB meeting to be called as soon as possible after the end of the mediation session whereupon any decision carried by a majority of quorum at such meeting will prevail.

TERMINATION OF AGREEMENT/WITHDRAWAL

26. If any Member Party wishes to withdraw from participation in the shared delivery of Economic Development Services and wishes to terminate the Agreement it shall give such notice in writing, as provided for in section 3 of this Agreement, to the other Member Parties, accompanied by a resolution indicating such decision to withdraw.
27. If notice to terminate this Agreement/withdraw from the shared delivery of Economic Development Services is given, the Member Party giving such notice may reverse such decision within the notice period provided for in section 3 of this Agreement.

DISSOLUTION

28. If one or more of the Member Parties wishes to be removed from the sharing of Economic Development Services such that this Agreement is terminated and the shared Services arrangement is dissolved, in accordance with the provisions of this Agreement, the assets and liabilities shall be distributed in accordance with the provisions set out in **Schedule "B"** to this Agreement.

NOTICE

29. Any notice or communication required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been properly given when delivered personally, by facsimile transmission, or by electronic mail with the sender's name, address, electronic mail address and telephone number included and confirmation of receipt is provided (which confirmation shall not be unreasonably withheld by any Member Party) as follows:

Township of Perry
 Attention: Clerk
 1695 Emsdale Road, P.O. Box 70
 Emsdale, ON P0A 1J0
 Fax: 705-636-5759
 Email: info@townshipofperry.ca

Township of Armour
 Attention: Clerk
 56 Ontario St, P.O. Box 533
 Burk's Falls, On P0A 1C0
 Fax: 705-382-2068
 Email: clerk@armourtownship.ca

Township of Ryerson
 Attention: Clerk
 28 Midlothian Road
 Burk's Falls, ON P0A 1C0
 Fax: 705-382-3286
 Email: clerk@ryersontownship.ca

Village of Sundridge
 Attention: Clerk
 110 Main Street, Box 129
 Sundridge, ON P0A 1Z0
 Fax: 705-384-
 Email: admin@sundridge.ca

Chamber of Commerce
 Attention:
 113B Yonge Street, Box 544
 Burk's Falls, ON P0A 1C0
 Fax: 705-
 Email: almaguinhighlandschamber@gmail.com

Municipality of Magnetawan
 Attention: Clerk
 4304 Hwy 520, P.O. Box 70
 Magnetawan, On P0A 1P0
 Fax: 705-387-4875
 Email: clerk@magnetawan.com

Village of Burk's Falls
 Attention: Clerk
 172 Ontario Street, P.O. Box 160
 Burk's Falls, ON P0A 1C0
 Fax: 705-382-2273
 Email: clerk@burksfalls.ca

Township of Strong
 Attention: Clerk
 28 Municipal Lane, P.O. Box 1120
 Sundridge, ON P0A 1Z0
 Fax: 705-384-5892
 Email: clerk@strongtownship.com

Village of South River
 Attention: Clerk
 63 Marie St, P.O. Box 310
 South River, ON P0A 1X0
 Fax: 705-386-0702
 Email: info@southriverontario.com

Municipality of Powassan
 Attention: Clerk
 250 Clark St, P.O. Box 250
 Powassan, On P0H 1Z0
 Fax: 705-724-5533
 Email: office@powassan.net

Township of Joly
 Attention: Clerk
 28 Municipal Lane, P.O. Box 519
 Sundridge, ON P0A 1Z0
 Fax: 705-384-0845
 Email: clerk.administrator@townshipofjoly.com

30. Any notice or communication delivered personally shall be deemed to have been received by the addressee on the day upon which it is delivered. Any notice delivered or sent by facsimile or electronic mail transmission shall be deemed to have been received by the addressee on the next business day after the notice is sent by facsimile or electronic mail transmission. Any Member Party may change its notice information for the purpose of this Agreement by directing a notice in writing of such change to the other Member Parties at the above addresses and thereafter such changed information shall be effective for the purposes hereunder.

FORCE MAJEURE

31. Whenever and to the extent that the Administering Municipality is unable to fulfil, or is delayed or restricted in the fulfilment of, any obligation hereunder in respect of the supply or provision of Economic Development Services because of circumstances beyond its reasonable control, the Administering Municipality shall be relieved from the fulfilment of such obligation so long as such cause continues. In such event the Administering Municipality will immediately notify the Member Parties, and each will work together to communicate with the public and explore options for the provision of the Economic Development Services.

GENERAL PROVISIONS

Severability and Jurisdiction

32. If any provision of this Agreement is determined by a Court of competent jurisdiction to be illegal or beyond the power, jurisdiction, or capacity of any Member Party bound hereby, such provision shall be severed from this Agreement and the remainder of this Agreement shall continue in full force and effect and in such case, the parties agree to negotiate in good faith to amend this Agreement in order to implement the intentions as set out herein. It is agreed and acknowledged by the Member Parties that each is satisfied as to the jurisdiction of each Member Party to enter into this Agreement. The Member Parties agree that they shall not question the jurisdiction of any Member Party to enter into this Agreement nor question the legality of any portion hereof, nor question the legality of any obligation created hereunder and the Member Parties, their successors and assigns are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction or any administrative tribunal.

Legislative Change

33. References in this Agreement to any legislation (including but not limited to regulations and by-laws) or any provision thereof include such legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

Entire Agreement

34. This Agreement constitutes the entire agreement between the Member Parties hereto with respect to the subject matter hereof and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof.

Laws of Ontario

35. This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

Headings and Wording

36. The inclusion of headings in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
37. In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
38. Any section, clause or provision in this Agreement shall be deemed to be severable should it be declared invalid by a court of competent jurisdiction and said severed section, clause or provision shall not be taken to invalidate the remaining provisions of this Agreement.
39. It is agreed that the Member Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Member Parties, and no presumption or burden of proof shall arise favouring or disfavouring any Member Party by virtue of the authorship of any of the provisions of this Agreement.
40. This Agreement shall not be modified or amended except with the written consent of a majority of Member Parties and no modification or amendment to this Agreement binds any Member Party unless in writing and executed by the Member Party intended to be bound.

- 41. No Member Party shall assign or transfer any of the rights, benefits and obligations in or under this Agreement without the prior written consent of the other Member Parties. Any such assignment shall not relieve any Member Party of its obligations herein. This agreement shall be binding upon and enure to the benefit of the parties and their successors and permitted assigns and heirs.
- 42. No Member Party shall call into question, directly or indirectly, in any proceedings whatsoever, in law or in equity, before any court or before any administrative tribunal, the right of the Member Parties, or any of them, to enter into this Agreement, or the enforceability of any term, agreement, provision, covenant or condition contained in this Agreement, and this clause may be pled as estoppel as against any such Member Party in such proceedings.
- 43. This Agreement may be executed in counterparts and delivered by facsimile transmission and each such counterpart, whether delivered executed in its original form or by facsimile transmission, shall be, and be deemed to be, an original instrument and all such counterparts when taken together, shall constitute one and the same document.
- 44. The Schedules attached hereto which form part of this Agreement are as follows:
 - Schedule "A" - Costing Sharing
 - Schedule "B" - Dissolution of Assets

IN WITNESS WHEREOF the parties hereto have hereunto executed this Agreement, made and effective as of the ___ day of _____, 2019.

The Corporation of the Township of Perry

The Municipal Corporation of the Township of Armour

Reeve or Mayor

Reeve or Mayor

Clerk

Clerk

The Corporation of the Township of Ryerson

The Corporation of the Village of Sundridge

Reeve or Mayor

Reeve or Mayor

Clerk

Clerk

The Almaguin Highlands Chamber of Commerce

The Corporation of the Municipality of the Magnetawan

Reeve or Mayor

Reeve or Mayor

Clerk

Clerk

**The Corporation of the
Municipality of the
Village of Burk's Falls**

Reeve or Mayor

Clerk

**The Corporation of the
Township of Strong**

Reeve or Mayor

Clerk

**The Corporation of the
Village of South River**

Reeve or Mayor

Clerk

**The Corporation of the
Municipality of Powassan**

Reeve or Mayor

Clerk

**The Corporation of the
Township of Joly**

Reeve or Mayor

Clerk

**SCHEDULE A
COSTING SHARING**

The Net Cost of the Economic Development Services shall be divided equally between the Member Parties except for the Township of Joly which shall contribute one half of a share.

SCHEDULE B

DISSOLUTION OF ASSETS

Upon dissolution of shared Economic Development Services or termination of the Agreement, the assets for the Economic Development Services shall be evaluated and liquidated. The proceeds from the liquidation of the assets shall be distributed to the Member Parties on the same share basis as the cost sharing described in Schedule A.