

THE CORPORATION OF THE MUNICIPALITY OF WEST GREY
BY-LAW NUMBER 13 - 2012

BEING A BY-LAW OF THE CORPORATION OF THE MUNICIPALITY OF WEST GREY TO ENTER INTO AN AGREEMENT WITH THE ONTARIO CULTURAL ATTRACTIONS FUND; a not-for-profit corporation incorporated under the Corporations Act Ontario;

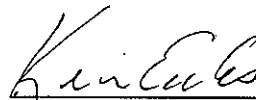
WHEREAS the Council of the Corporation of The Municipality of West Grey deems it desirable to enter into an agreement with the Ontario Cultural Attractions Fund;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST GREY HEREBY ENACTS AS FOLLOWS:

1. That an agreement be entered into between the Corporation of The Municipality of West Grey and the Ontario Cultural Attractions Act, for the purpose of providing funding for the Durham Homecoming 2012.
2. That the Mayor and CAO be and are hereby authorized to execute the said contribution agreement on behalf of the Corporation of The Municipality of West Grey.
3. That Schedule "A" attached hereto shall form part of this by-law.

READ a first and second time this 21st day of February, 2012.

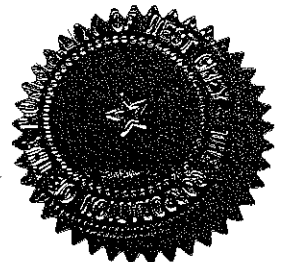
READ a third time and finally passed this 21st day of February, 2012.



Kevin Eccles, Mayor



Christine Robinson, CAO



SCHEDULE "A" TO BY-LAW NUMBER 13 - 2012

MUNICIPALITY OF

*West
Grey*

ONTARIO CULTURAL ATTRACTIONS FUND

THIS AGREEMENT made as of the 14th day of February, 2012.

BETWEEN:

CORPORATION OF THE MUNICIPALITY OF WEST GREY

(The), incorporated under the laws of Ontario

(hereinafter called the "Applicant")

OF THE FIRST PART

- and -

ONTARIO CULTURAL ATTRACTIONS FUND, a not-for-profit corporation incorporated under the *Corporations Act* (Ontario)

(hereinafter called "OCAF")

OF THE SECOND PART

WHEREAS the Ministry of Tourism, Culture and Sport (then known as the Ministry of Citizenship, Culture and Recreation and hereinafter referred to as the "Ministry") has established a framework for the financial support of various activities in the arts, heritage and cultural sectors and in furtherance thereof has agreed to establish the Cultural Attractions Fund (the "CAF") and has developed eligibility criteria for such support (the "Program");

AND WHEREAS the Ministry has entered into an agreement (the "CAF Agreement") with OCAF effective March 29, 1999 as amended by an agreement effective June 20, 2001 and by an agreement effective June 30, 2010, pursuant to which the Ministry has agreed to provide funding to be applied for the support of eligible projects involving cultural attractions held by eligible applicants under the Program, and OCAF has agreed to administer the Program and the CAF, all in accordance with various eligibility requirements and other criteria set out in the Program, which forms part of the CAF Agreement;

AND WHEREAS the Ministry and OCAF have agreed that each applicant seeking such support from the CAF will be required to apply to OCAF, as administrator of the CAF, and submit sufficient information to OCAF to permit a determination to be

made as to the eligibility of a particular project for which financial support is sought from the CAF;

AND WHEREAS the Ministry and OCAF have agreed further that each applicant whose Project is accepted will be required to enter into an agreement with OCAF (the "Project Agreement") in a form acceptable to the Ministry, setting out the terms upon which such financial support will be provided from the CAF, based on a business plan submitted by the Applicant to OCAF, and providing for the terms of repayment of a portion of such financial support to OCAF, without interest;

AND WHEREAS the Applicant has applied to OCAF under the Program for such support in connection with a particular proposed cultural attraction (the "Project") and OCAF has determined (based on the application) that the Project meets the eligibility requirements of the Program and that funding should be provided from the CAF to the Applicant for the Project;

AND WHEREAS the Applicant has accordingly agreed to enter into this Agreement with OCAF to evidence the terms upon which such financial support is to be provided from the CAF to the Applicant for the Project and a portion of such financial support is to be repaid by the Applicant to OCAF;

NOW THEREFORE WITNESSETH that in consideration of the covenants herein and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by each party from the other, the parties agree as follows:

1. The Applicant represents and warrants to OCAF that:
 - (a) it has reviewed and is familiar with all of the eligibility requirements in the Program for both applicants and projects;
 - (b) it is a not-for-profit organization within the meaning of those eligibility requirements and is recognized for purposes of paragraph 149(1)(l) of the *Income Tax Act* (Canada) (the "ITA") as such or as a registered charity within the meaning of the ITA and will continue to be operated so as to qualify as such during the term hereof;

- (c) it is involved in the arts, heritage or cultural sector within the Province of Ontario and has been in existence for at least one year prior to the date of its application, and its primary purpose is the presentation of arts or heritage or other cultural programming or the preservation and presentation of arts and heritage resources in Ontario as contemplated by the Program;
- (d) it has not received any funding from the CAF in the immediately preceding two calendar years;
- (e) it has appropriate management capability and/or programming track record to carry out the Project;
- (f) it and the Project meet the respective eligibility requirements in the Program;
- (g) the descriptions of the Project and the Applicant are true and accurate and all projections are reasonable given all available information;
- (h) it has all necessary legal capacity and power to enter into this Agreement and to meet all its obligations hereunder, and the execution and delivery of this Agreement have been properly authorized and approved.

2. A description of the Project and the business plan are set out in Schedule A annexed hereto. The Applicant shall provide to OCAF, before the first advance of any funds pursuant to this Agreement by OCAF under the Program to the Applicant and before any subsequent advances, a certificate substantially in the form annexed hereto to as Schedule B.

3. The amount of financial support to be provided from the CAF to the Applicant for the Project shall be Fifteen Thousand Dollars (\$15,000), to be advanced as set out in and subject to the terms in Schedule C annexed hereto. Four Thousand Five Hundred Dollars (\$4,500) shall be repayable as set out in Schedule C. The Applicant agrees to repay such amount to OCAF as herein provided. Repayments of financial support shall be made as set out in Schedule C until the required amount has been repaid, regardless of (i) the outcome of the Project (ii) whether any gross revenues or profits are received or earned or (iii) whether the Project proceeds. The Applicant

acknowledges that if it fails to comply with any of the terms of this Agreement with respect to the repayment of any such financial support, OCAF has the right to take such legal action as it deems to be appropriate in the circumstances to enforce its rights under this Agreement. OCAF shall not be required to advance any financial support if the Applicant fails to comply with any of the terms of this Agreement.

4. The key milestones for the Project set out in Schedule C shall be met by the Applicant. The opening date shall be August 3, 2012 and the closing date shall be August 6, 2012.

5. Applicant shall provide OCAF with all such financial and other information as may reasonably be requested from time to time by OCAF in connection with the Project and without limiting the generality of the foregoing, the Applicant shall within ninety (90) days after the closing date provide to OCAF a financial statement disclosing all revenues and expenses for the Project and pay the amount owing pursuant to section 3 and Schedule C, shall provide a final financial statement of all Project revenues and expenses to OCAF within ninety (90) days of the end of the year in which the Project concludes and shall provide monthly reports during the term of the Project, containing such information as OCAF may reasonably request, including, without limitation, information concerning cash flow. OCAF shall, at any time or times, be permitted to audit all or any part of the Applicant's revenues and expenses.

6. The Applicant acknowledges that pursuant to the CAF Agreement, OCAF may be required to disclose information about the Applicant and about the Project to the Ministry from time to time and that such information may be made publicly available if requests are received under the *Freedom of Information and Protection of Privacy Act* or other legislation that requires such disclosure.

7. The Applicant shall notify OCAF in writing forthwith if it becomes aware of any event or circumstances which might have a material adverse effect on the business plan or on the Project, or that might result in the revenues from the Project being less than contemplated in the business plan submitted to OCAF or in any other material adverse change in the Project or revenue projections therefor.

8. This Agreement shall take effect upon the date first mentioned above and shall continue until terminated in accordance with its terms.

9. Time shall be of the essence and if the Applicant fails to perform its obligations at the time or times fixed for performance under the terms of this Agreement, OCAF may elect to terminate this Agreement. No variation of this Agreement shall operate as a waiver of any provision hereof by OCAF, including this provision.

10. If the OCAF Agreement is terminated by the Ministry, if for any other reason OCAF is unable to perform its obligations hereunder, or if the Applicant breaches the terms of this Agreement, and in particular if it fails to meet its obligations to repay any of the financial support as set out hereunder, OCAF may, in its sole discretion, without liability, cost or penalty, be relieved of its obligations under this Agreement at any time, upon giving at least ten (10) days notice in writing to the Applicant. For greater certainty, the Applicant shall continue to be required to perform its obligations hereunder, including the obligation to repay financial support, and in the event of such breach by the Applicant all such financial support that has not been repaid shall become immediately payable.

11. Representatives of the Applicant shall, upon reasonable notice and on reasonable terms at the request of OCAF, meet from time to time with representatives of OCAF to discuss any matters or issues arising from this Agreement or the Project.

12. The Applicant acknowledges that:

- (a) pursuant to the CAF Agreement, the Ministry may authorize OCAF to, and when so authorized OCAF may, suspend, waive or vary the whole or any part of the eligibility requirements under the Program for inclusion in the Program or any other provisions of the CAF Agreement, to organizations in the arts, heritage and cultural sector to participate in the Program;
- (b) in the event of any such suspension, waiver or variation, this Agreement (including the schedules) shall be construed and the parties shall be bound as if such terms and conditions formed part hereof, including the schedules attached hereto, notwithstanding any other provisions of this Agreement or any of the schedules;
- (c) without limiting the generality of the foregoing, OCAF may, if in its discretion it deems it necessary to do so, but with the agreement of the Applicant, which shall not be unreasonably withheld, attach further terms and conditions

in connection with the administration and management of the Program and the financial support to be provided hereunder for the Project, provided such terms and conditions do not cause undue hardship to the Applicant.

13. For greater certainty, it is agreed and acknowledged that all schedules attached to this Agreement shall form a part of this Agreement.

14. The Applicant agrees that the Project and each event that forms a part thereof shall be acknowledged by the Applicant as being supported by the CAF in all public advertisements, signage, programs and other public materials as outlined in the recognition grid annexed hereto as Schedule D, and shall include the following wording, or some other wording approved from time to time by OCAF:

"This event has been financially assisted by the Ontario Cultural Attractions Fund of the Government of Ontario through the Ministry of Tourism, Culture and Sport, administered by the Ontario Cultural Attractions Fund Corporation."

15. OCAF is administering the CAF and the Program on behalf of the Ministry. Neither OCAF nor its employees or agents shall be considered to be an agent, employee or partner of the Applicant or to be acting as a trustee of any funds held in the CAF.

16. The Applicant shall not infringe any provision of the *Human Rights Code*, R.S.O. 1990 c.H-19, as amended from time to time, in the course of carrying out the Project.

17. Where notice is required to be given under this Agreement, it shall be effectively given if sent by prepaid registered mail, personal delivery, ordinary prepaid mail or fax to the following representatives as provided hereunder.

To OCAF:

Ontario Cultural Attractions Fund
151 Bloor Street West, 5th Floor
Toronto ON M5S 1T6
Attn: Executive Director
Fax number: (416) 969-7450

To the Applicant: Corporation of the Municipality of West Grey
402813 Grey Road 4
R.R. # 2
Durham, ON N0G1R0
Attn: Kerri Mighton, Director of Finance
Fax number: (519) 369-5962

Either party may designate a different representative, address or fax number at any time by written notice to the other.

18. Any notice, request, demand, consent, report or other communication required pursuant to or permitted under this Agreement shall be given in writing.

19. Notice by mail shall be deemed to have been received on the fourth business day after the date of mailing. Notice by personal delivery or by fax shall be deemed to have been received at the time of delivery or transmission. In the event of an interruption in postal service, notice shall be given by personal delivery or fax.

20. The Applicant shall not assign this Agreement or retain subcontractors for the performance of the Project, either in whole or in part, without the prior written consent of OCAF, unless the assignee or subcontractor is directly supervised by employees of the Applicant, such as in the case of a lead designer. No assignment or subcontract will relieve the Applicant from the obligations under this Agreement or impose any liability or obligation upon OCAF to any assignee or subcontractor.

21. This Agreement shall extend to and be binding upon the parties hereto and upon the successors and assignees of OCAF and the successors and permitted assignees, if any, of the Applicant.

22. This Agreement and the rights and obligations and relations of the parties shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable to it. The parties agree that the courts of Ontario shall have jurisdiction to entertain any action or any other legal proceeding based upon any provisions of this Agreement and the parties attorn to the jurisdiction of the Province of Ontario.

23. No change, modification or addition to this Agreement shall be valid unless it is in writing and signed by both parties. Without limiting the generality of the foregoing,

the parties agree that if circumstances so warrant, the Applicant may, with the prior written consent of OCAF, amend the Project in whole or in part.

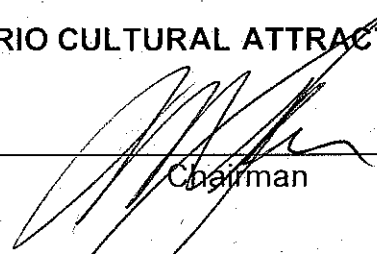
24. The Applicant acknowledges that the terms of the Program have been established by the Ministry and may be modified or varied from time to time. If any changes in the Program or in the CAF are made by the Ministry, OCAF shall not be responsible for any loss of the Applicant, notwithstanding any reliance that may have been placed by the Applicant on the terms of the Program prior thereto.

25. The Applicant acknowledges that if it fails to comply with the terms of this Agreement with respect to the repayment of any financial support, OCAF has the right to take such legal action as it deems to be appropriate in the circumstances to enforce its rights under this Agreement.

This Agreement has been signed on behalf of OCAF and on behalf of the Applicant by their proper signing authorities.

ONTARIO CULTURAL ATTRACTIONS FUND

by:

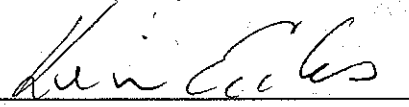


Chairman

Date

CORPORATION OF THE MUNICIPALITY OF WEST GREY (The)

by:



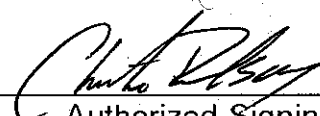
Authorized Signing Officer

(I have authority to sign this Agreement on behalf of the Applicant)

Date

February 21, 2012

by:



Authorized Signing Officer

(I have authority to sign this Agreement on behalf of the Applicant)

Date

February 21, 2012

SCHEDULE A

Attached to and forming part of an Agreement (the "Project Agreement") made as of the 14th day of February, 2012 between the Corporation of the Municipality of West Grey (the "Applicant") and Ontario Cultural Attractions Fund ("OCAF")

Pursuant to section 2 of the Project Agreement, the following is a description of the Project and a summary of the projections of the Applicant (it is understood that a detailed business plan has been submitted and assessed by the board and management of OCAF):

Durham Homecoming 2012 - Project Summary

This application is for the "Durham Homecoming 2012". Every ten year, the small town of Durham (population: 2,500) holds a community festival to celebrate the community, its natural environment, and its current and former residents. The organizing committee has planned a broader and more arts and heritage oriented celebration for 2012 with over 50 events scheduled for the weekend.

Cultural events include (1) a travelling exhibition from the Grey Roots Museum and Archives, showcasing the development of the furniture industry in the area since the 1800s; (2) historical tours and celebration of the 100th anniversary of the Durham Public Library as part of Doors Open Durham; (3) musical performances by local artists, bands and choirs as well as a live music dance each evening; (4) performances by the OPP Marching Band and The Shriner's Band; and (5) displays and short performances by the local schools, in partnership with the Durham Art Gallery.

Other events taking place over the weekend include (a) a hockey tournament; (b) sports demonstrations; (c) nature walks and Park activities; (d) performance by the OPP Golden Helmets Motorcycle Team and the Farmall Square-Dancing Tractors; (e) fireworks display; and (f) helicopter and hot-air balloon rides.

Target market is composed of (1) local audiences from the municipality of West ~~Bruce~~ ^{Grey} and adjacent communities; (2) Southwestern Ontario (Guelph, Cambridge, Kitchener-Waterloo, London); (3) the Western Golden Horseshoe area (Hamilton); and (4) the GTA (Barrie, etc.). Projected paid attendance is 2,000 and projected free attendance: 6,000.

SCHEDULE B

Attached to and forming part of an Agreement (the "Project Agreement") made as of the 14th day of February, 2012 between the Corporation of the Municipality of West Grey (the "Applicant") and Ontario Cultural Attractions Fund ("OCAF")

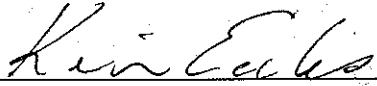
CERTIFICATE

Pursuant to section 2 of the Project Agreement, the Applicant hereby certifies that:

1. the Applicant is familiar with the Ontario Cultural Attractions Program (the "Program") and qualifies as an eligible applicant within Category C thereunder;
2. the Applicant will notify OCAF in writing, when and as required, in accordance with the Project Agreement, if there are any material changes in the Project.

DATED the 14th day of February, 2012.

CORPORATION OF THE MUNICIPALITY OF WEST GREY (The)

Per: 
Authorized Signing Officer

Per: 
Authorized Signing Officer

SCHEDULE C

Attached to and forming part of an Agreement (the "Project Agreement") made as of the 14th day of February, 2012 between the Corporation of the Municipality of West Grey (the "Applicant") and Ontario Cultural Attractions Fund ("OCAF")

Pursuant to section 3 of the Project Agreement, the following are the amount of financial support to be provided to the Applicant, the terms of repayment and the key milestones, including opening and closing dates.

1. Financial Support

Total amount of grant: Fifteen Thousand Dollars (\$15,000)

Dates on which grant to be advanced:

February 15, 2012 \$15,000

2. Repayment Terms

Amount of financial support to be repaid:

Four Thousand Five Hundred Dollars (\$4,500)

Date of Repayment:

Within Ninety (90) days of the closing date or, if the exhibition is not held or does not otherwise have a closing date, within sixty (60) days of the scheduled opening date. The Applicant acknowledges that OCAF may take legal proceedings to enforce collection if payment is not received in full on a timely basis.

3. Key Milestones

Opening date: August 3, 2012

Closing date: August 6, 2012

SCHEDULE D

Attached to and forming part of an Agreement (the "Project Agreement") made as of the 14th day of February, 2012 between the Corporation of the Municipality of West Grey (the "Applicant") and Ontario Cultural Attractions Fund ("OCAF")

Recognition of Ontario Cultural Attractions Fund ("OCAF")

OCAF undertakes to provide the Applicant with any and all recognition material as required (for instance, logo recognition text, etc.) in a timely fashion.

The Applicant will provide OCAF with reasonable recognition on all printed materials, on its web site and on all promotional material produced by electronic media.