

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_,

**BETWEEN:**

**THE CORPORATION OF THE TOWN OF KINGSVILLE**  
(hereinafter called the "Town")

-and-

**KINGSVILLE HISTORICAL PARK INC.**  
(hereinafter called the "Recipient")

**WHEREAS** s.107 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that a municipality may make grants, on such terms and conditions as to security and otherwise as the council considers appropriate, to any person, group or body, including a fund, within or outside the boundaries of the municipality for any purpose that council considers to be in the interests of the municipality;

**AND WHEREAS** the Recipient is the owner and operator of Kingsville Historical Park Museum (the "Museum") located at 145 Division Street S, Kingsville ON N9Y 1P5;

**AND WHEREAS** the Recipient is an incorporated not-for-profit agency and a registered charity;

**AND WHEREAS** in years past the Town has provided grant funding to the Recipient through the Kingsville Community Grant Policy process (the "Grant Process") to offset some of the costs associated with operating the Museum;

**AND WHEREAS** the parties are desirous of entering into a long term funding agreement to help offset the costs associated with operating the Museum;

**NOW THEREFORE** in consideration of the mutual covenants, terms and agreements hereinafter expressed, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **Recitals**

1. The recitals as set out above are true in substance and in fact, and all terms referenced therein are incorporated into and form part of this Agreement.

## **Term**

2. This Agreement shall extend for a period of 5 years, commencing on the 1<sup>st</sup> day of January 2020 and ending on the 31<sup>th</sup> day of December 2024 (the “Term”), being more particularly described as follows:

Year 1:	January 1, 2020 to December 31, 2020
Year 2:	January 1, 2021 to December 31, 2021
Year 3:	January 1, 2022 to December 31, 2022
Year 4:	January 1, 2023 to December 31, 2023
Year 5:	January 1, 2024 to December 31, 2024

## **Grant**

3. Subject to the terms and conditions of this Agreement, the Town shall give a grant to the Recipient as set out below:

Year 1:	\$10,000.00
Year 2:	\$10,000.00
Year 3:	\$10,000.00
Year 4:	\$10,000.00
Year 5:	\$10,000.00

4. Payment of the grant in any given year of the Agreement, as listed above, shall be made to the Recipient within 60 days of Council’s adoption of the annual budget.

## **Repayment of Grant**

5. If the Recipient ceases to operate the Museum, this Agreement becomes void. Any funds advanced during the year in which the Museum ceases to operate shall be returned to the Town in proportion to the number of days it is no longer in operation.
6. The Town reserves the right to collect interest on any amount owing by the Recipient at the then current rate charged by the Town on accounts receivable.

## **Covenants, Agreements and Understandings of the KHPI**

7. Recipient covenants and agrees:
  - a) That it has read, understands and agrees to be bound by the terms and conditions in this Agreement;
  - b) That it will not apply for any additional funding through the Grant Process during the Term, save and except for any grant opportunities offered by Federal or Provincial agencies which require additional municipal funding. Any such requests are will be subject to Council’s approval. This approval should not to be assumed nor implied.

- c) That this Agreement is a funding agreement only and the Town's responsibilities in this regard, and subject to the provisions of this Agreement, are limited to providing a financial grant to the Recipient;
  - d) That nothing in this Agreement shall be construed as creating a partnership or agency relationship between it and the Town, and the Recipient shall not represent itself as an agent or partner of the Town. The Recipient is not in any way authorized to make a promise, agreement, or contract on behalf of the Town;
  - e) To abide by all applicable federal and provincial legislation, municipal by-laws, policies, guidelines, rules and regulations that may apply to the use and operation of the Museum;
  - f) To submit an annual budget to the Town within the first quarter of each calendar year; and
  - g) To appear before Council annually for the purposes of providing the Town with an update regarding the Museum's operation and activities.
8. The Recipient acknowledges that the terms of the this Agreement are public and the Recipient's name, the value of the Town's grant, and the terms of this Agreement may be publicized.
9. The Recipient acknowledges and understands that all records in the Town's control (including any documents provided by the Recipient to the Town) are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), and such records may be disclosed by the Town to the public upon request under MFIPPA. Therefore, the Town does not make any covenants, warranties, or guarantees with respect to maintaining the confidentiality of any records provided to the Town by the Recipient. The Recipient further acknowledges that pursuant to the *Municipal Act, 2001*, the proceedings of council are a matter of public record.

### **Indemnity and Insurance**

10. The Recipient shall be liable for and to hold harmless and indemnify the Town, its directors, officers, employees, agents and elected officials, from and against all actions, proceedings, claims, damages, costs, demands including legal fees and expenses, and liabilities of any nature or kind that the Town may suffer arising out of or in any way causally connected to this Agreement or the operation of the Museum by the Recipient or its officers, directors, employees, contractors, or agents
11. The Recipient shall have in effect and maintain, at its sole expense comprehensive general liability insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than two million dollars (\$2,000,000.00) per occurrence. Such comprehensive general liability insurance policy shall include:
- a) the Town, its directors, officers, employees, agents and elected officials as additional insureds;
  - b) a cross-liability clause

- c) contractual liability coverage; and
  - d) 30 days written notice of cancellation, termination or material change clause.
12. Upon execution of this Agreement and within 30 days after any change or renewal of its insurance coverage, the Recipient shall provide the Town with a valid certificate of insurance evidencing that it has met the requirements outlined in Provision 11.
13. The Recipient shall forthwith notify the Town of any lapse, cancellation or termination of the required insurance coverage.

### **Termination**

14. Despite any other provision in this Agreement, the either party may terminate this Agreement for any reason at its sole discretion, effective upon the giving of 30 days' prior written notice to other party.
15. In addition to any other specific provisions regarding termination of this Agreement, this Agreement may be terminated by the Town immediately:
- a) Upon the Recipient's failure to comply with any of the terms and conditions of this Agreement;
  - b) If any proceeding in bankruptcy, receivership, liquidation or insolvency is commenced against the Recipient or its property, and the same is not dismissed within 30 days; or
  - c) If the Recipient files a voluntary petition in bankruptcy or insolvency, makes any assignment for the benefit of its creditors, becomes insolvent, commits any act of bankruptcy, ceases to do business as a going concern, or seeks any arrangement or compromise with any or all of its creditors under any statute or otherwise.
16. Any termination by the Town under this Agreement shall be without compensation, penalty or liability on the part of the Town, and shall be without prejudice to any of the Town's legal or equitable rights or remedies.

### **Notice**

17. Any notice required to be given under this Agreement shall be in writing and provided by way of:
- a) hand delivery, in which case notice shall be effective on the date of delivery;
  - b) electronic mail, in which case notice shall be effective on the day on which the electronic mail is received; or
  - c) regular letter mail, in which case notice shall be effective on the fifth day following the date of mailing,

To the Town:

The Corporation of the Town of Kingsville  
2021 Division Road  
Kingsville ON N9Y 2Y9

Attention: Director of Corporate Services/Clerk

To the Recipient:

Kingsville Historical Park Inc.  
**[INSERT ADDRESS]**

Attention: **TBD**

### **Generally**

18. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, arrangements, negotiations, letters of intent, understandings, and discussions, whether oral or written, as between the parties relating to the operation of the Museum. This Agreement may not be amended or modified except by a written instrument executed by the parties.
19. The Recipient shall not assign this Agreement or any interest in this Agreement without the prior written consent of the Town, which consent may be unreasonably withheld.
20. Waiver by any party of any violation or breach of this Agreement in any instance shall not be taken or held to be a waiver of any subsequent violation or breach or as a waiver of the provision itself that is breached, nor shall any delay or omission on the part of any party to exercise any right arising from such violation or breach alter or impair that party's right as to the same or any future violation or breach. Nothing shall be construed or have the effect of a waiver except an instrument in writing signed by the party which expressly waives a right, power or condition under this Agreement.
21. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and all amounts referred to herein shall be in Canadian currency.
22. If any portion of this Agreement shall be held to be invalid or unenforceable by a court or forum of competent jurisdiction, the remaining portions of this Agreement shall remain in effect and enforceable.
23. The undersigned officer(s) of the Recipient represent and warrant that they have the authority to sign on behalf of and to bind the Recipient and that they have taken all necessary actions to execute of this Agreement.

**IN WITNESS WHEREOF**, the Town and the Recipient have duly executed this Agreement.

**THE CORPORATION OF THE TOWN  
OF KINGSVILLE**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Name:

Title:

*I/We have authority to bind the  
Corporation*

**KINGSVILLE HISTORICAL PARK INC.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

*I/We have authority to bind the  
Corporation*