

THE CORPORATION OF THE COUNTY OF GREY

BY-LAW #3844-2001

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF A
LOCAL SIDE AGREEMENT (Provincial Offences)**

WHEREAS the Corporation of the County of Grey and the Corporation of the County of Bruce, as Municipal Partners, are proposing to assume justice responsibilities under the Provincial Offences Act (POA) for the Owen Sound and Walkerton Court Services catchment areas;

AND WHEREAS the Corporation of the County of Grey is proposing to be the Service Provider for the purposes of administering the POA program;

AND WHEREAS a Local Side Agreement (LSA) is necessary to set out certain terms and conditions that are specific to the Owen Sound and Walkerton Court Services Areas;

NOW THEREFORE the Council of the Corporation of the County of Grey hereby enacts as follows:

1. The Warden and the Clerk are hereby authorized to execute a Local Side Agreement between Her Majesty the Queen In Right of Ontario as represented by the Attorney General, the Corporation of the County of Grey as a Municipal Partner and as the Service Provider, and the Corporation of the County of Bruce as a Municipal Partner.

The said Local Side Agreement is attached hereto as Schedule "A", and shall form and become part of this By-Law.

2. This By-Law shall come into force and effect on the date of final passing thereof.

ENACTED AND PASSED THIS 6th DAY OF FEBRUARY, 2001.


WARDEN: ROD KNOTT


CLERK: SHARON VOKES

LOCAL SIDE AGREEMENT

- b e t w e e n -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Attorney General

- a n d -

THE CORPORATION OF THE COUNTY OF GREY
THE CORPORATION OF THE COUNTY OF BRUCE

LOCAL SIDE AGREEMENT

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Attorney General

(herein referred to as the "Attorney General")

OF THE FIRST PART

- and -

THE CORPORATION OF THE COUNTY OF GREY
THE CORPORATION OF THE COUNTY OF BRUCE

(herein referred to collectively as the "Municipal Partner")

OF THE SECOND PART

WHEREAS the Attorney General has entered into a Memorandum of Understanding (the "MOU") pursuant to the *Streamlining of Administration of the Provincial Offences Act, 1998*, S.O. 1998, c.4, (Bill 108) (the "Act"), with respect to the transfer of *Provincial Offences Act* ("POA") functions to the Municipal Partner;

AND WHEREAS the MOU contains terms and conditions that apply to every Municipal Partner;

AND WHEREAS the Attorney General and the Municipal Partner recognize that there are certain terms and conditions that are specific to a Court Service Area;

AND WHEREAS the MOU contemplates that the Attorney General and the Municipal Partner will execute a Local Side Agreement (the "LSA") setting out those terms and conditions;

NOW THEREFORE in consideration of mutual covenants set forth below, the Attorney General and the Municipal Partner agree as follows:

1.0 DEFINITIONS

1.1 In this LSA,

- (a) "Court Service Area" means the Court Service Area as defined in Schedule 5 of the MOU;
- (b) "Effective Date" means the date on which this LSA is signed by or on behalf of the Attorney General after having been signed by the Municipal Partner;
- (c) "Implementation Date" means the date on which the responsibility for POA functions is assumed by the Municipal Partner;
- (d) "Exit Audit" means the Exit Audit as defined in the MOU;
- (e) "Transition Phase" means the Transition Phase as defined in the MOU; and
- (f) "Transfer Agreement" means the MOU, the LSA, their respective schedules and any amendments.

2.0 GENERAL

- 2.1 The obligations of the Municipal Partner pursuant to this LSA relate to the functions transferred to the Municipal Partner in the Court Service Area described in Schedule 5 of the MOU.
- 2.2 This LSA shall take effect on the Effective Date and shall remain in effect unless suspended, terminated or revoked, regardless of whether there is a change in the person of the Attorney General or in the council or councils of the Municipal Partner.
- 2.3 Schedule 1 and Schedule 2 attached are incorporated into and shall form part of the LSA.
- 2.4 If any one or more of the provisions of the LSA is held by a court of competent jurisdiction to be voidable or *ultra vires*, the provision or provisions shall be severed and the LSA shall continue in full force and effect according to its terms and conditions and, provided that the context allows, its provisions shall be interpreted in the same way as they would have been had the severance not taken place.
- 2.5 The LSA may be amended at any time during the term of the Transfer Agreement, in accordance with the process set out in paragraph 11.0 herein. The amendment shall be made in writing and executed by all parties. Any such

amendment or amendments shall be deemed to be incorporated into and become part of the LSA.

- 2.6 In the event of any conflict between the provisions of the LSA and the provisions of the MOU, the provisions of the MOU shall prevail.

3.0 FACILITY ARRANGEMENTS

- 3.1 The parties acknowledge that, as of the date of execution of the LSA,
- (a) the Ontario Realty Corporation ("ORC") leases space on behalf of the Attorney General at 215 Cayley Street, Upper Level, Walkerton, 209 Cayley Street, Walkerton, and 1133 - 2nd Avenue East, Owen Sound, for the conduct of POA and other matters;
 - (b) ORC leases space on behalf of the Attorney General at 12 Nelson Street, Meaford, ("Satellite Court"), for the conduct of POA and other matters.
- 3.2 Notwithstanding paragraph 3.1 of this LSA, for the purposes of the Municipal Partner's obligations under the Transfer Agreement:
- (a) the Municipal Partner shall perform POA administration functions at 595 – 9th Avenue East, Owen Sound;
 - (b) the Municipal Partner shall enter into a lease agreement with the landlord (County of Grey) for 215 Cayley Street, Upper Level, Walkerton, for the use of the courtroom, on a per diem basis, for POA matters;
 - (c) the Municipal Partner shall enter into a licence agreement with ORC or its agent for 215 Cayley Street, Upper Level, Walkerton, for the use of a courtroom for 30 days per year by the Attorney General for matters other than POA matters at such rent as is set out in the agreement;
 - (d) the parties agree that in the event matters are scheduled in the Satellite Court on or after the Implementation Date, the Municipal Partner shall be responsible for these matters and the Municipal Partner shall ensure that the necessary resources are allocated for the final disposition of these matters.

4.0 REVENUE AND FINANCIAL ARRANGEMENTS

- 4.1 Schedule 1 - County of Grey, and Schedule 2 - County of Bruce, which contains a summary of 1998 revenues, deductions, expenses and advances, are attached to this LSA and forms part thereof.

- 4.2 After completion of the Exit Audit, the Municipal Partner shall receive the revenue collected for the period from January 1, 1998 through December 31, 1998 inclusive, less eligible deductions, expenses and advances.
- 4.3 The Municipal Partner shall receive, after the Implementation Date, the fine revenue collected from January 1, 1999 to the Implementation Date, less eligible deductions and expenses, which sum is subject to adjustment to take into account the results of an Audit and a final reconciliation. The Attorney General shall request the delivery of such fine revenue as expeditiously as possible.
- 4.4 If the Municipal Partner or a serviced municipality is charged, convicted and fined under the POA, the Municipal Partner shall forthwith disclose the fine to the Attorney General and shall forthwith pay the fine to the Minister of Finance.
- 4.5 The Attorney General shall submit to the Municipal Partner, in a timely manner, invoices for services rendered in accordance with clause 165 (5)(c) of the POA.
- 4.6 Adjudication expenditures shall be paid by the Municipal Partner at the rate of \$160.00 per hour (which calculation is based on the total cost of providing adjudication) multiplied by the number of scheduled court hours spent on POA matters, as recorded on the ICON system. The parties acknowledge that the hourly rate for adjudication is subject to any increase in costs paid by the Attorney General for the provision of adjudication, on a cost recovery basis.
- 4.7 Part III prosecution expenditures incurred by the Ministry of the Attorney General, shall be paid by the Municipal Partner at the rate of \$90.00 per court hour (which calculation is based on the total cost for providing such services).
- 4.8 The Attorney General shall recover from the Municipal Partner, on a cost recovery basis relating only to the Court Service Area covered by this LSA, all ICON expenditures for POA transaction charges and programming requirements and all expenditures for postage and distribution of fine notices related to POA matters.
- 4.9 The parties acknowledge that the Attorney General is entitled, pursuant to clause 165 (5)(c) of the POA and the terms and conditions of the Transfer Agreement, to recover costs incurred in monitoring and enforcing the performance of the Transfer Agreement after the Implementation Date, but as of the Effective Date, these costs have yet to be ascertained.
- 4.10 The rates for recoverable adjudication, prosecution, monitoring and enforcement expenditures shall be subject to annual review by the Attorney General and may be adjusted at the sole discretion of the Attorney General, on a cost recovery basis.

- 4.11 The Attorney General shall transfer to the Municipal Partner, on the Implementation Date, all outstanding accounts receivable for the Court Service Area covered by this LSA to the Implementation Date. The accounts receivable up to March 31, 2000 are estimated at \$1,894,446.54 for the County of Grey, and \$1,558,506.07 for the County of Bruce and are subject to any necessary adjustments. The amount of the accounts receivable after March 31, 2000 to the Implementation Date will be provided within ninety (90) days of the Implementation Date.
- 4.12 Notwithstanding paragraph 4.11 of this LSA, the parties acknowledge that the transfer of these accounts receivable is subject to paragraph 3.1 of Schedule 4 of the MOU.

5.0 RECORDS TRANSFER

- 5.1 The Attorney General shall provide the Municipal Partner, on the Implementation Date, with the following:
- (a) a list of all files and records to be transferred to the Municipal Partner, together with the actual files and records;
 - (b) a list of all 1998 charges with fines paid and a list of all 1999 charges with fines paid to the Implementation Date;
 - (c) a list of cases purged after January 1, 1998 to the Implementation Date, after the purge on ICON is complete;
 - (d) a list of charges with unpaid fines at Central Collection Services (CCS) as of the Implementation Date;
 - (e) a list of charges with a completion date 90 days prior to the Implementation Date that have been converted to the transfer court ID number; and
 - (f) a list of all charges with a future court date.
- 5.2 The Attorney General shall provide to the Municipal Partner all available manuals necessary for the proper administration of the courts, including the Municipal Manager Manual, the ICON Operations Manual and the Prosecutor Training Manual, when completed.
- 5.3 The Attorney General shall provide to the Municipal Partner a list, current as of the Implementation Date, showing the names of court translators.

6.0 PART I PROSECUTIONS EXEMPT FROM TRANSFER

- 6.1 In accordance with paragraph 1.3.2 of the MOU, the prosecutions commenced under Part I of the POA conducted prior to the Implementation Date by a ministry, other than the Ministry of the Attorney General, or agency responsible for the offence creating statute, regulation or other enactment, shall continue to be conducted by the responsible ministry or agency, at its own expense.

7.0 CONTRACT PROSECUTORIAL EMPLOYEES

- 7.1 Further to Schedule 1, paragraph 2.5.5 of the MOU, the parties acknowledge that the Municipal Partner may contract out prosecutorial services to persons who personally, or through a partner in the practice of law, act as agent, counsel or solicitor for persons charged under the POA. The Municipal Partner agrees that where prosecution services are contracted out, the Prosecutor shall not address any matter for which he or she appears as agent, counsel or solicitor, on the same day that he or she appears as Prosecutor.

8.0 TECHNOLOGY ARRANGEMENTS

- 8.1 The Municipal Partner shall bear the costs of acquiring and using the Government of Ontario network data telecommunication services required by the Municipal Partner to implement the transfer and more particularly to enable the Municipal Partner to access the ICON system. Such services shall be acquired by the Municipal Partner through the Attorney General and the costs for such services shall be a one-time installation charge and applicable monthly fees.
- 8.2 The Municipal Partner shall acquire the MS SNA Gateway solution to enable the Municipal Partner to access the ICON system through the municipal network. The Attorney General shall provide, at no cost to the Municipal Partner, the DLL user software and the Municipal Partner shall be responsible for the costs, including material and labour costs, associated with the operation, maintenance and support of the hardware and the software required for the MS SNA Gateway solution.
- 8.3 The Attorney General shall not be liable for any injury or damages, whether physical or economic, attributable to the installation or use by the Municipal Partner of any hardware or software used by the Municipal Partner in accordance with paragraph 8.1 and 8.2 above.

9.0 YEAR 2000 READINESS

- 9.1 For the purposes of paragraph 4.0 of Schedule 2 of the MOU, the Attorney General states that the ICON system has been converted to comply with the Ontario government's definition of Year 2000 readiness.

The Ontario government's definition of Year 2000 readiness contains the following requirements:

- no value of current date will cause any interruption in the operation of or change in the functionality of the system or any misrepresentation of the information;
- date-based processing must behave consistently for dates prior to, during and after the Year 2000;
- the century in any date must be specified explicitly or by unambiguous algorithms or reference rules; and
- Year 2000 is recognized as a leap year.

10.0 AUDIT

- 10.1 The Exit Audit to be conducted on behalf of the Attorney General as required by the MOU, may not have been completed as of the Effective Date. If incomplete, the Exit Audit shall be completed as expeditiously as possible and the Attorney General shall present the Municipal Partner with a copy of the audit report within one week of its receipt by the Attorney General.
- 10.2 The execution of this LSA shall not be deemed to be an acceptance by either of the parties of the content of the audit. Any issue arising with respect to the results of the audit may be resolved in accordance with the dispute resolution mechanism set out in paragraph 13.0 of the MOU.

11.0 AMENDMENTS TO THE LSA

- 11.1 Either party may at any time make a written request to the other to amend the terms and conditions of the LSA.
- 11.2 Any request to amend the LSA shall set out the reason or reasons for the request and shall include any explanatory or supporting documents.

- 11.3 The recipient of the notice of a request to amend shall respond to the notice in writing within thirty (30) days.
- 11.4 Where the Attorney General and the Municipal Partner agree to amend the LSA, the amendment shall be made in writing and shall be incorporated into and form part of the Transfer Agreement.
- 11.5 Where the Attorney General and the Municipal Partner are unable to agree on the requested amendment, either party may invoke the dispute resolution provisions set out in paragraph 13.0 of the MOU.

12.0 TERMINATION OF THE LSA

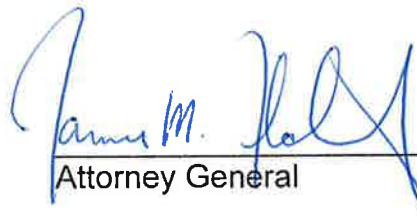
- 12.1 The term of this agreement shall be concurrent with the term of the MOU and in the event that the MOU is terminated in accordance with the provisions of the MOU or is revoked in accordance with subsection 171(2) of the Act, this LSA shall be terminated accordingly.

IN WITNESS WHEREOF the parties hereto have executed this Local Side Agreement.

DATED AT Toronto, this 6th day of February, 2001.

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Attorney General**

Witness



Attorney General

DATED AT Owen Sound, this 1st day of February, 2001.

THE CORPORATION OF THE COUNTY OF GREY

{Corporate Seal}



Warden



Clerk

DATED AT Walkerton, this 4th day of January, 2001.

THE CORPORATION OF THE COUNTY OF BRUCE

{Corporate Seal}


Warden


Clerk

SCHEDULE 1

NET REVENUE CALCULATION

(To be confirmed by Exit Audit)

County of Grey – Owen Sound

Gross POA Revenue	810,205
(January 1, 1998 to December 31, 1998)	

Deductions:

Victim Fine Surcharge	107,847
Dedicated Fines	10,841

Subtotal	118,688
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Gross Revenue net of deductions	691,517
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Expenses:

Prosecutions under Part 1	22,996
Adjudication and Part 3	
Prosecutions	22,736
Administration	83,036
Facilities	15,027

Subtotal	143,795
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Net Revenue	547,722
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Less: Advances	609,400
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Total Owing	0
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SCHEDULE 2

NET REVENUE CALCULATION

(To be confirmed by Exit Audit)

County of Bruce - Walkerton

Gross POA Revenue	515,656
(January 1, 1998 to December 31, 1998)	

Deductions:

Victim Fine Surcharge	68,514
Dedicated Fines	2,801
Subtotal	71,315

Gross Revenue net of deductions	444,341
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Expenses:

Prosecutions under Part 1	12,933
Adjudication and Part 3	
Prosecutions	14,944
Administration	41,868
Facilities	7,672
Subtotal	77,417

Net Revenue	366,924
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Less: Advances	402,100
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Total Owing	0
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