

# **THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI**

**BY-LAW NO. 07-734**

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**Being a by-law to authorize the Mayor and Chief Administrative Officer/Clerk to execute a Contractor Services Agreement with Ontario Northland for the Dream Catcher Express.**

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**AND WHEREAS** under Section 8. (1) (a) and (b) of the Municipal Act, 2001, S.O., 2001, c.25, as amended, the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

**WHEREAS** under Section 9 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;


**NOW THEREFORE the Council of the Corporation of the Municipality of Temagami hereby enacts as follows:**

1. That the Mayor and the Chief Administrative Officer are hereby authorized and directed to execute the agreement attached hereto as Schedule "A" to this bylaw.
2. This bylaw shall come into force and take effect upon final passing thereof.

BE TAKEN AS READ A FIRST time on this 23<sup>rd</sup> day of August, 2007.

READ A SECOND AND THIRD time and finally passed this 23<sup>rd</sup> day of August, 2007.

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CAO/Clerk



**Ontario  
Northland**

555 Oak Street East, 555, rue Oak est  
North Bay, Ontario P1B 8L3 North Bay (Ontario) P1B 8L3  
Telephone: (705) 472-4500 Téléphone: (705) 472-4500  
Fax: (705) 476-5598 Télécopieur: (705) 476-5598

Direct Fax Line: (705) 472-1051  
Voice Mail Extension: 353  
E-mail: [dproctor@ontc.on.ca](mailto:dproctor@ontc.on.ca)

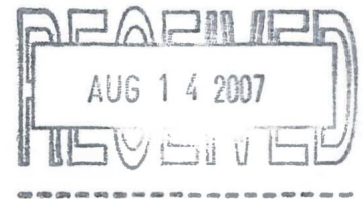
10 August 2007

The Corporation of the Municipality of Temagami  
PO Box 220  
Temagami, ON P0H 2H0

Attention: Brian Koski

Dear Sir:

**RE: Dream Catcher Express  
Contractor Services Agreement  
Our File Number: 7517-1044**



Please find enclosed the above captioned document, in duplicate.

Please follow the instructions below on the proper execution of this document:

1. The document must be signed by the corporation's proper signing officers on the line located underneath the corporate name.
2. Indicate the name and title of each of the signing officers below their signatures.
3. Affix the corporate seal over the signatures. In the absence of a corporate seal you must indicate, *"I [or We] have the authority to bind the corporation"* near the signatures.
4. Return both copies to my attention for completion by Ontario Northland.
5. Please arrange to have your insurance broker provide us with a certificate of insurance outlining the insurance coverage as set out in the attached document.

Once executed by Ontario Northland, the duplicate completed document will be returned to you for your records.

If you have any questions, please contact the Legal Department.

Yours^veryfnJly,

Dale W. Proctor  
Legal Assistant

DWP/krd

c.c. M. Carson



**THIS AGREEMENT** made in duplicate this

day of

1 d Sept 7/07  
nX

**BETWEEN:**

**ONTARIO NORTHLAND TRANSPORTA'**

(hereinafter referred to as "ONTC")

ui- THE FIRST PART

**AND:**

**THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI**

(hereinafter referred to as the "Contractor")

**OF THE SECOND PART**

### **DREAM CATCHER EXPRESS - CONTRACTOR SERVICES AGREEMENT**

**WHEREAS** ONTC is operating the Dream Catcher Express fall colour excursion train on September 21, 22, 23, 28, 29 and 30, 2007;

**AND WHEREAS** ONTC's Dream Catcher Express excursion package offers options for day trips to several tourist attractions in the Temagami area;

**AND WHEREAS** the Contractor operates the Temagami Fire Tower and Interpretive Centre;

**AND WHEREAS** the Contractor has agreed to provide access to the Temagami Fire Tower and Interpretive Centre together with golf cart transportation as a part of the package options in ONTC's Dream Catcher Express excursion train tour.

**IN CONSIDERATION OF** the recitals and the provisions contained in this Agreement, the parties agree as follows:

1. **TERM**

The term of this Agreement shall be for a period of six days comprising September 21, 22, 23, 28, 29 and 30, 2007, subject to the provisions for termination hereinafter contained.

2. **CONSIDERATION**

- (a) ONTC shall pay to the Contractor, in arrears, within 30 days of receipt of invoice, the sum of \$3.00 per passenger, plus applicable G.S.T.

The Contractor agrees that children under two years of ages shall be admitted free of charge. The Contractor further agrees to provide ONTC with complimentary services for those passengers it has provided complimentary travel to (e.g. tour group leaders, drivers, media representatives).

- (b) This invoice is to be forwarded to ONTC, attention of Ms. Michelle Carson, Manager of Passenger Care, 555 Oak Street East, North Bay, Ontario, P1B 8L3.
- (c) Invoices must be accompanied by the tickets collected from all passengers, where applicable.
- (d) Payment of any amounts due under this Agreement shall be made by ONTC to the Contractor at the address set out for notice in paragraph 8 or at such other address and to such other person as the Contractor may direct ONTC in writing.

### 3. **OBLIGATIONS OF THE CONTRACTOR**

- (a) In conjunction with the arrival of the Dream Catcher Express in Temagami, the Contractor shall provide the following services (the "Services"):

Experience Aboriginal Culture: The Contractor shall provide access to the Temagami Fire Tower and Interpretive Centre. The Contractor will also make available one golf cart with driver to transport individuals from the Interpretive Centre to the Fire Tower lookout.

- (b) The Contractor shall make full and complete compensation for any damage caused to ONTC's physical property or that of any other user of ONTC's property by the Contractor's act or omission or that of any of its officers, employees, servants, agents, contractors or invitees or those for whom it is at law responsible or for damage attributable to the equipment owned or operated by the Contractor, its officers, employees, servants, agents, contractors or invitees or those for whom it is at law responsible.
- (c) The Contractor shall make full and complete compensation for any property damage, bodily injury or death to any person caused by the Contractor's act or omission or that of any of its officers, employees, servants, agents, contractors or invitees or those for whom it is at law responsible or for bodily injury or death attributable to the equipment owned or operated by the Contractor, its officers, employees, servants, agents, contractors or invitees or those for whom it is at law responsible.
- (d) The Contractor agrees to indemnify ONTC and save it harmless from and against any and all actions, suits, claims, damage, costs, liability and expenses (including the effect of any applicable environmental legislation) which may arise by reason of the exercise of the obligations contained herein by the Contractor or as a result of any breach of the terms of this Agreement by the Contractor or by any act or omission of the Contractor or those for whom the Contractor is at law responsible, including all legal costs and expenses reasonably incurred by ONTC in connection with the defence or settlement of any such claim.

- (e) The Contractor shall waive against ONTC, its officers, employees, agents, or contractors any claims of any kind whether directly or indirectly arising out of or connected with the existence of this Agreement and for any injury to or death of any person or for any loss of or damage to any property belonging to the Contractor or its employees, servants, agents, invitees, contractors or visitors.

4. **INSURANCE**

The Contractor shall provide and maintain general liability insurance. The policy shall have a limit of not less than \$2 Million dollars per occurrence and shall include ONTC as an additional insured. Such insurance shall contain cross liability coverage and preclude subrogation claims by the insurer against ONTC. The Contractor agrees to provide proof of such insurance to ONTC, upon request, in the form of a certificate of insurance.

5. **TERMINATION**

If the Contractor is in default or breach in respect of any conditions or provisions of this Agreement ONTC may in its sole discretion terminate this Agreement forthwith.

6. **ASSIGNMENT**

The rights contained in this Agreement may not be transferred, assigned or disposed of in any manner whatsoever without ONTC's prior written consent.

7. **RELATIONSHIP**

Nothing in this Agreement constitutes the Contractor or any personnel of the Contractor an employee, agent or servant of ONTC, for the greater certainty of the relationship of the Contractor to ONTC is that of independent contractor. ONTC shall not be liable for the acts, omissions, neglect or default of the Contractor or its personnel in connection with this Agreement or the performance or non-performance of services provided.

8. **NOTICE**

Any notice required by this Contract Agreement shall be in writing and shall be deemed to have been sufficiently given when personally delivered, telefaxed or sent by prepaid registered post to ONTC to:

Manager of Passenger Care  
555 Oak Street East  
North Bay, ON P1B8L3

And addressed to the Contractor to:

PO Box 220  
Temagami ON POH 2H0

Any notice made or given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof, or if made or given by telefax, on the first business day following the transmittal thereof, or, if sent by prepaid registered post, on the third business day following the day of mailing thereof except in the case of the interruption or anticipated interruption in the mail service in which case such notice shall be given by personal delivery or telefax.

9. **CONFIDENTIALITY**

The Contractor will not disclose, nor shall it permit any person employed by it to disclose (except for the proper performance of the Services) any information of a private or confidential nature gained by it in the performance of the Services.

10. **SUCCESSORS**

Subject to paragraph 6, this Agreement and the covenants, provisions and obligations herein contained shall enure to the benefit of and be binding upon the Contractor, its successors and assigns.

**IN WITNESS WHEREOF** the said parties hereto have signed these presents and affixed their respective seals under the hands of their respective officers duly authorized in that behalf.

**SIGNED, SEALED and DELIVERED**

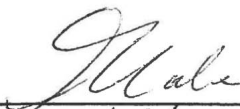
**ONTARIO NORTHLAND  
TRANSPORTATION COMMISSION**

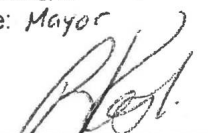
in the presence of:

per \_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**THE CORPORATION OF THE  
MUNICIPALITY OF TEMAGAMI**

per  \_\_\_\_\_  
Name: Irene Laba  
Title: Mayor

 \_\_\_\_\_  
Name: Brian Koski  
Title: Ate- Cfto/Cler K