

HAMLET OF WHALE COVE

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Hamlet of Whale Cove By-Law No. 179

A by-law of the Municipal Corporation of the hamlet of Whale Cove in Nunavut to enter into a Quarry Administration Agreement with the Commissioner, pursuant to the provisions of Hamlets Act, R.S.N.W.T.1988, c.H-1 as amended by S.Nu.2003,c.3.S.53.91.

As the Council and the Commissioner are desirous of entering into an agreement with respect to the Quarry Administration Agreement.

NOW, THEREFORE, THE COUNCIL OF THE HAMLET OF WHALE COVE, in a meeting duly assembled, enacts as follows:

1. This by-law may be cited as the "Quarry Administration Agreement BY-LAW".
2. The Mayor and Senior Administrative Officer are hereby authorized to execute, on behalf of the Hamlet of Whale Cove, the Quarry Administrative Agreement referred to as Schedule A, attached to and forming part of this by-law.

Read a first time this 02 day of JULY, 2009

Read a second time this 02 day of JULY, 2009.

P. Karlsson
Mayor

B. Brucher
Senior Administrative Officer

Read a third time and finally passed this 16 day of JULY, 2009.

P. Karlsson
Mayor

B. Brucher
Senior Administrative Officer

QUARRY ADMINISTRATION AGREEMENT

THIS INDENTURE made in duplicate this 16 day JULY, 2009

BETWEEN:

THE COMMISSIONER OF NUNAVUT, hereinafter called "**the Commissioner**"

AND

THE MUNICIPAL CORPORATION HAMLET OF WHALE COVE, in Nunavut hereinafter called "**the Municipality**"

THIS AGREEMENT is to delegate quarry administration management to the Municipality of those quarries, lying in and being composed of all those parcels of land in the Municipal boundaries of Whale Cove, hereinafter called "**the land**" subject to the reservations and exceptions provided in law.

THIS AGREEMENT shall be in force and effect for a period of ten (10) years, beginning on August 1, 2009.

IN CONSIDERATION of this **AGREEMENT**, the **MUNICIPALITY** shall pay a nominal one (\$ 1.00) every year to the **COMMISSIONER OF NUNAVUT**.

THE PARTIES CONVENANT AND AGREE AS FOLLOWS:

DEFINITION

1. In this **AGREEMENT** "**Deputy Minister**" means the deputy Minister of the **Department of Community and Government Services** and any person authorized in writing by the Commissioner to act on behalf of the Deputy Minister.

TERMINATION

2. Termination of this Agreement shall not prejudice the Commissioner's right to unpaid fees or any other right with respect to breach of any covenant or Agreement herein contained.

SURVEY

3. The boundaries of the land are subject to such adjustment and alteration as may be shown to be necessary by survey.

LAND USE

4. The **Municipality** shall ensure the land is for quarry purposes only.

AUTHORITY

5. The **Municipality** is hereby authorized to exercise the power set out in **Sections 31, 33 and 33.1** of the **Commissioner's Land regulations**. Nothing in this **Agreement** shall grant the **Municipality** the authority to lease or otherwise dispose of the land to a third party.

6. Applicants will apply to the **Municipality**, who will be responsible for issuing a quarrying permit. The **Municipality**, upon receipt of payment, in advance of royalties and fees at rates set out in the **Commissioner's Land Regulations** may issue a quarrying permit to any person or corporation applying, therefore, authorizing the person or corporation to take such quantity of materials named in the permit from the area described in the permit subject to the conditions contained therein.

7. The **Municipality** will assume responsibility and liability for the operation of the quarries under this **Agreement** in accordance with the **Mine Health and Safety Act** and the **Mine Health and Safety Regulations** and the **Commissioner's Land Act** and the **Commissioner's Land Regulations** and all other applicable Territorial and Federal legislation.

QUARRY MATERIALS

8. Government and municipal requirements for granular material will be given precedence to private interests.

9. The Municipality will take all reasonable precautions to ensure that granular material is used for the purpose for which it is best suited, keeping in mind such factors as quality, quantity and the conservation of the same.

10. Except in the case of the material removed pursuant to s.32 of the **Commissioner's Land Regulations**, the **Municipality** will ensure that no material will be removed from the quarries under this **Agreement** by an individual, corporation, municipality, government or person unless a quarrying permit authorizing the removal has been issued.

QUARRY PERMITS

11. The **Municipality** shall issue complete and correct quarry permits in accordance with the form prescribed by the **Commissioner's Land Regulations**, as amended from time to time.

12. The fees for permits, fees and royalties are as established under the **Commissioner's Land Regulations**.

COMMISSIONER'S LAND REGULATIONS

13. The municipality shall retain the fee it collects in accordance with the **Commissioner's Land Regulations**.

14. The **Municipality** will not charge additional fees unless the **Commissioner's Land Regulations**, as amended from time to time, allow for such additional charges and the **Municipality** is authorized to do so under municipal legislation at the time. The **Municipality** will issue a receipt for all funds collected.

15. The **Municipality** shall establish and deposit all fees for quarry restoration into a Restoration Reserve Fund consistent with the provisions of the **Tax-Based Financial Handbook** published by the **Department of Community Government, Housing and Transportation**. The **Municipality** shall provide an audited report to the **Deputy Minister** within one hundred twenty (120) days of the end of the **Municipality's** fiscal year indicating the standing of the Restoration Reserve.

16. Subject to s.31.2 of the **Commissioner's Land Regulations**, the **Municipality** shall use the monies in the Restoration Reserve Fund to restore quarries, including the development of a restoration plan and for no other purposes. Should monies remain in the reserve fund after restoration is complete, the balance will be remitted to the **Commissioner**. If sufficient funds are not available in the Restoration Reserve Fund to complete the approved restoration, the **Commissioner** may assist the **Municipality** by approving up to fifty (50) percent of the additional funds to complete restoration.

17. The **Municipality** shall pay royalties collected pursuant to **Clause 12** to the **Commissioner** and shall deliver a statement indicating the types and quantities of materials quarried from all quarries under this **Agreement** to the **Deputy Minister** on or before the 31st day of March in each an every year of this **Agreement**. Granular materials shall be as defined by the **Commissioner's Land Act** and includes limestone, granite, slate, marble, gypsum, loam, marl, gravel, sand, clay, volcanic ash or stone but do not include minerals.

MANAGEMENT AND RESTORATION PLAN

18. The **Municipality** shall have a Management and Restoration Plan for each quarry under this agreement and without restricting the scope or contents of the plan, it shall include:

- a) a statement of estimated material in the quarry.
- b) a statement of the management of the site, including removal methodology, depth of excavation and sequence of extraction.
- c) a statement on the method of operation including stripping and location of overburden and topsoil materials, drainage and erosion control methods.
- d) a statement on the method of timing for restoration which will prevent substantial waterponding, include a final site contouring design an/or preparation of the land for a different design use and such a Management and Restoration Plan shall be prepared with the objective of and managing the land in an environmental safe manner.

19. Unless otherwise agreed, the **Municipality** shall manage and restore all quarries under this agreement in accordance with the Management and Restoration Plan prepared pursuant to **Clause 18** and quarries shall be restored within twelve (12) months of depletion of the quarry.

20. The **Deputy Minister** may, at any time during the term of the **Agreement**, request the **Municipality** to review and update the **Management and Restoration Plan**.

ENVIRONMENT

21. Notwithstanding anything herein to the contrary, the **Municipality** shall, at all times, keep the land in a condition satisfactory to the **Deputy Minister**.

RESTORATION

22. On the termination of this **Agreement**, the **Municipality** shall deliver up to possession of the land in a condition satisfactory to the **Deputy Minister**.

23. Where the **Municipality** fails to restore the land as required and within the time allowed by **Clause 19**, the **Deputy Minister** may order the restoration of all or any part of such land and any expenses thus incurred by the **Deputy Minister** shall be recoverable from the **Municipality** as a debt due to the **Commissioner**.

EASEMENT

24. The **Commissioner** may, where the **Deputy Minister** deems it necessary in the public interest, establish easements through, under or over any portion of the land for any public utility purpose but said easements shall not unreasonably interfere with the rights granted to the **Municipality** hereunder or with any improvements made by the **Municipality** on the land.

TIME

25. Time shall be of the essence in this **Agreement**

WAVER

26. Unless a waiver is given in writing by the **Deputy Minister**, the **Commissioner** shall not be deemed to have waived any breach by the **Municipality** of any of the covenants or agreements herein contained and a waiver relates only to the specific breach which it refers.

Address for notices

27. Wherever in this **Agreement** it is required or permitted that a notice or demand be given or served by any party to this **Agreement** to or on the other, such notice or demand shall be given or served in writing and forwarded by registered mail, addressed as follows:

To the **Government of Nunavut**:

Regional Director
Department of Community & Government Services
Government of Nunavut
Bag 002
Rankin Inlet, NU X0C 0C0

To the **Municipality**:

Municipality of Whale Cove
PO Box 120
Whale Cove, NU X0C 0J0

Or to such other address as either of the parties may from time to time notify the other in writing in the manner hereinbefore provided.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first above written.

SIGNED, SEALED and DELIVERED

By the Regional Director
The Commissioner of Nunavut
Department of Community and Government Services

SIGNED, SEALED and DELIVERED
By the Mayor *P. Koblentz*

and by the Senior Administrative Officer
of the Municipal Corporation of the Hamlet of Wiale Cove

S. J. Pouchon

