

May 4, 2011



City Council Committee Report

To: Mayor & Council

Fr: Heather Kasprick, Deputy Clerk

Re: Rural Economic Development Program – Amending Agreement

Recommendation:

Whereas the City of Kenora entered into the Rural Economic Development Program agreement with the Minister of Agriculture, Food and Rural Affairs effective December 14, 2009; and

Whereas effective July 1, 2010 the harmonized sales tax (HST) came into effect and includes all taxable purchases, property and services provided to the Minister under the Agreement; and

Whereas the introduction of the HST requires an amendment to the original Agreement pursuant to section 28.2 of the Agreement;

Now therefore, let it be resolved that authorization be given for the Corporation of the City of Kenora and the Harbourtown Centre Business Improvement Zone (BIZ) to enter into an amending agreement with Her Majesty the Queen in Right of Ontario as represented by the Minister of Agriculture, Food and Rural Affairs; and further

That the Mayor, Clerk and Chairman of the Harbourtown Centre Business Improvement Zone be hereby authorized to execute the amended Agreement; and further

That by-law number 117-2010 be hereby repealed.

Background:

Canada and the Province of Ontario entered into a comprehensive integrated tax coordination agreement whereby Ontario has agreed to pay harmonized sales tax (HST) on its purchases effective July 1, 2010 including all taxable purchases, property and services provided to the Minister under any agreements for funding of projects.

In March of 2010 the City of Kenora and the Harbourtown Centre Business Improvement Zone (BIZ) entered into an agreement for funding with the Province of Ontario, for the "Rural Economic Development Program". The

impact of the HST (harmonized sales tax) on future agreements was not included in the agreements at the time as the new HST structure was not in place. The Province requires that the City and the BIZ group sign an amending agreement to ensure that services provided under the terms of the agreement, on or after July 1, 2010 shall be charged, collected and remitted in accordance with the Provincial and Federal tax laws, including HST. The Province requires that:

The Agreement shall be amended as follows:

(a) The Agreement is amended by deleting the definition of GST in the Definition section of the Agreement;

(b) Section 4.9 of the Agreement shall be amended by replacing:
GST. The Recipient shall not use the Funds for any GST cost.

With the following: The Recipient shall not use the Funds for any tax amounts to be paid by the recipient pursuant to the Excise Tax Act (Canada).

(c) Within any Schedule, or tables or forms attached to the Agreement or to any amendment to the Agreement prior to this amending agreement, where the term GST or "Goods and Services Tax(es)" is found, the term shall be deleted and shall be replaced with the term "Tax such as HST"; including but not limited to Table 2 under Schedule C "Claims Submission Part 2 -Claims Report" and Notes under Schedule E "Expenditure Forecast Report" of the Agreement.

These original amending agreements to reflect the HST were signed by the previous Council at a regular Council meeting held June 14, 2010 with by-law number 117-2010 being passed at this time. Administratively, once agreements are signed and passed by by-law all of the original agreements are sent to the appropriate Ministry for signature. By-law number 117-2010 was never returned to the City from the Ministry and we therefore have no amending agreements on file. We now need to start the process from the beginning with passing a new by-law and repealing the one passed in June 2010 to adopt these amending agreements.

Budget: N/A

Communication Plan/Notice By-law Requirements: general notice on the agenda of passing the new bylaw.