

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH/CARDINAL**

BY-LAW NO. 2016-94

**"A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO EXECUTE AN
AGREEMENT WITH THE TOWN OF PRESCOTT FOR THE PROVISION OF
POTABLE WATER."**

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 9 gives the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this act;

AND WHEREAS the Municipal Act 2001, Chapter 25, Section 8(1) states that the Act shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS the Municipal Act 2001, Chapter 25, Section 8 (2) states that in the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality has on the day before this Act came into force;

AND WHEREAS the Council of the Corporation of the Township of Edwardsburgh/Cardinal deems it desirable to enter into an agreement with the Town of Prescott for the provision of potable water to New Wexford and the Johnstown Industrial Park in perpetuity;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh/Cardinal enacts as follows:

1. The Mayor and Clerk are hereby authorized to execute the agreement attached as Schedule "A" on behalf of the Township of Edwardsburgh/Cardinal.
2. That Schedule "A" attached hereto shall form part of this by- law.
3. That this by-law shall come into force and take effect upon date of passing.

Read a first and second time in open Council this 12th day of December, 2016.

Read a third and final time, passed, signed and sealed in open Council this 12th day of December, 2016.

Mayor

D. Clerk

**THE CORPORATION OF THE
TOWN OF PRESCOTT**

BY-LAW NO. 54-2016

**A BY-LAW TO AUTHORIZE AN AGREEMENT FOR THE PROVISION OF POTABLE
WATER TO THE TOWNSHIP OF EDWARDSBURGH/CARDINAL**

**Being a by-law to authorize an agreement for the provision of potable water to the
Township of Edwardsburgh/Cardinal**

WHEREAS Section 8 of the *Municipal Act*, S.O. 2001 allows every municipal corporation to enter into agreements; and

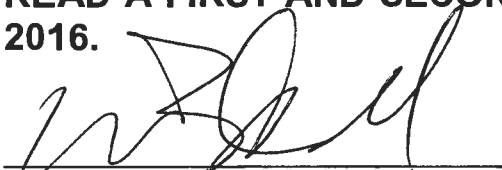
WHEREAS Section 391 of the *Municipal Act*, S.O. 2001 permits a municipality to pass by-laws imposing fees or charges for services provided; and

WHEREAS the previous agreement with the Township of Edwardsburgh/Cardinal has expired;


NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Town of Prescott enacts as follows:

1. That an agreement be entered into between the Corporation of the Town of Prescott and the Corporation of the Township of Edwardsburgh/Cardinal with respect to the provision of potable water in accordance with the agreement attached to this by-law as Schedule 'A' to By-law # 54-2016.
2. That the Mayor and CAO are hereby authorized to execute the said agreement.
3. That this by-law shall come into force and take effect upon being passed by Council.
4. That should any other existing by-laws, resolutions, or actions of the Corporation of the Town of Prescott be deemed to be inconsistent with the provisions of this by-law, the provisions of this by-law shall prevail.

**READ A FIRST AND SECOND TIME THIS 19th DAY OF DECEMBER,
2016.**

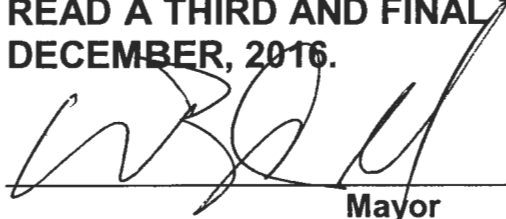


Mayor



Clerk

**READ A THIRD AND FINAL TIME AND PASSED THIS 19th DAY OF
DECEMBER, 2016.**



Mayor



Clerk

THIS AGREEMENT made as of the 19 day of December, 2016

B E T W E E N:

The Corporation of the Township of Edwardsburgh/Cardinal,
a Township in the United Counties of Leeds & Grenville
in the Province of Ontario

(the "Township")

and

The Town of Prescott,
a separated town in the United Counties of Leeds & Grenville
in the Province of Ontario

("Prescott")

WHEREAS:

1. Prescott wishes to sell to the Township, and the Township wishes to purchase from Prescott, water supply for New Wexford and the Johnstown Industrial Park in perpetuity;
and
2. The Township wishes to make a one-time contribution to Prescott's capital costs of infrastructure to supply the water to the eastern boundary of the Town of Prescott,

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants herein contained and the sum of \$1.00 in lawful money of Canada now paid by each of the parties hereto to each of the other parties hereto (the receipt and sufficiency whereof being hereby respectively acknowledged by each of the parties hereto), the parties hereto agree as follows:

1. Prescott shall supply 6,000 cubic meters per month of potable water of the same quality and treated in the same manner as that supplied to the residents of Prescott (the "Water") to the eastern boundary of the Town of Prescott, in perpetuity. Prescott shall construct, repair, and maintain in good condition any infrastructure required to supply the Water with a minimum pressure of 69 psi and at a rate of 1500gpm (94.62 L/s) for fire flow, for a period not less than 4 hours to the eastern boundary of the Town of Prescott. The Township of Edwardsburgh/Cardinal agrees, at its own expense, to provide, install and maintain a water consumption meter satisfactory to both parties in the valve chamber

located just east of the Boundary St./King St. intersection to monitor the quantity of water and shall assume responsibility for all infrastructure, from this point east, required to supply said potable water to the inhabitants of New Wexford and the Industrial Park.

2. The Township shall pay a one-time purchase price of \$562,988 to Prescott within 30 days of the date of execution of this Agreement.
3. The Township shall pay a one-time fee of \$7,927.00 to reimburse Prescott's costs to obtain engineering assistance in carrying out its obligations under this Agreement.
4. Prescott shall supply the Water to the eastern Boundary of the Town of Prescott at the same rate as charged to Prescott's residents and subject to the same rate adjustments as may be required by the Town from time to time, with no additional surcharges, administrative fees, or other costs, charges, taxes, or fees of any kind, in perpetuity.
5. In the event that more than 6,000 cubic meters of the Water are used by New Wexford and the Industrial Park in a month due to fire, line breakage, or force majeure, the Township shall pay for any amount of water more than 6,000 cubic meters used at a rate ten percent higher than the then current rate Prescott charges to its own residents, before surcharges, administrative fees, and other costs, charges, taxes, and fees.

In the event that the 12-month average usage of the Water by New Wexford and the Johnstown Industrial Park exceeds 85% of the allocated monthly capacity over a one (1) year period, the parties agree to increase the maximum allocation to 7000 cubic metres per month subject to available capacity and subject to a one-time contribution to Prescott's capital costs for infrastructure at that time.

Dispute Resolution

6. In the event of any dispute, claim, question or difference arising out of or relating to the management or supply of the Water, the application of this Agreement or the breach thereof, the Parties hereto shall use their best endeavours to settle such disputes, claims,

questions, or differences. To this effect, they shall consult and negotiate with each other, in good faith and understanding of their mutual interest, to reach a just and equitable solution satisfactory to all parties. If they do not reach such solution within a period of 60 days, then upon notice by any party to the other parties to the dispute, the disputes, claims, questions or differences shall be finally settled by arbitration in accordance with the provisions of the Arbitrations Act (Ontario) and any amendments thereto.

7. The arbitration tribunal shall consist of one arbitrator. The Parties will cooperate with one another with a view to selecting an arbitrator appropriate to the subject matter of the dispute. If the Parties fail to agree upon an arbitrator within a reasonable period of time then either party may apply to a judge of the Superior Court of the Province of Ontario sitting at Brockville to appoint an arbitrator. The arbitration will take place in the City of Brockville unless otherwise agreed by the Parties.
8. The arbitrator has the right to grant legal and equitable relief including injunctive relief and the right to grant permanent and interim injunctive relief. The arbitrator shall not amend or otherwise alter the terms and conditions of this Agreement. The arbitrator shall render a decision within 60 days after his or her appointment as arbitrator.
9. The final award of the arbitrator shall be final and binding on the Parties with no appeal to any court. The Parties hereby agree to carry out any decision or order of the arbitrator in good faith. The cost of the arbitration shall be determined by the Arbitrator.

General

10. The rights of either party under this Agreement shall not be assignable without the prior written consent of the other party which consent may not be unreasonably withheld.
11. This agreement shall be binding on and ensure to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer on any person, other than the parties hereto and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this agreement.

12. This agreement constitutes the entire agreement between the parties hereto and supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject-matter.
13. No modification or amendment to this agreement may be made unless agreed to by the parties hereto in writing.
14. The parties hereto agree that each shall with reasonable diligence proceed to take all actions, to do all things and provide such reasonable assurances as may be required to consummate the transaction contemplated herein, and the parties hereto agree to provide such further documents or instructions required by the other as may be necessary to effect the purpose of this Agreement, and to carry out its provisions.
15. The parties' addresses for service of notice are:

Township of Edwardsburgh/Cardinal
P.O. Box 129
18 Centre Street
Spencerville ON K0E 1X0
Fax: 613-658-3445
E-mail: dmckinstry@twpec.ca

Town of Prescott
360 Dibble Street West
P.O Box 160
Prescott ON K0E 1T0
Fax: 613-925-4381
E-mail: pmercier@prescott.ca

Any notice to a party sent to the above address by ordinary pre-paid post shall be deemed to have been received by that party on the 4th business day after mailing excluding the day of mailing. For example, notice posted on Thursday June 8, 2017 is deemed to be received on Wednesday June 14, 2017.

Any notice to a party sent by fax to the above number shall be deemed to be received by that Party on the next business day. Any e-mail sent to the above address shall be deemed to be received by that Party on the next business day. For example, a fax or e-mail sent or a courier package delivered on Friday June 9, 2017 is deemed to be received on Monday June 12, 2017.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto.

SIGNED, SEALED, AND DELIVERED in the presence of:

The Corporation of the Township of Edwardburgh/Cardinal

per: _____

Name: _____

Title: _____

per: _____

Name: _____

Title: _____

The Town of Prescott

per: _____

Name: _____

Title: _____

per: _____

Name: _____

Title: _____