2007 - 2009

CONTRIBUTION AGREEMENT FOR THE CONTINUATION OF THE BAND CONSTABLE PROGRAM

AGREEMENT effective as of the 1st day of April 2007

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Public Safety and Emergency Preparedness
(lecreinafter referred to as "Canada")

AND

as represented by the Chief and Council (hereinafter referred to as the "First Nation")

WHEREAS the t Nation Band Constable Program was previously supported by Canada through a funding agreement between the respective First Nation and the Crown as represented by the Minister of Indian Affairs and Northern Development (Indian and Northern Affairs Canada ("INAC")):

WHEREAS Canada and the First Nation wish to continue the Shamattawa First Nation Band Constable Program in the Community; and

WHEREAS the Parties recognize that nothing in this Agreement shall abrogate or derogate from any Aboriginal, treaty, or other constitutional rights, which have accrued or may accrue to any of the Parties;

NOW, THEREFORE, in consideration of the covenants and warranties, and subject to the terms and conditions hercinafter set out, the Parties agree as follows:

SECTION 1: DEFINITIONS

- 1.1 Unless otherwise stated, the following terms shall, for the purposes of this Agreement, have the following respective meanings:
 - a) "Community" means the persons living on the reserve, represented by the Chief and Council of the First Nation and, for the benefit of whom, funds are provided under this Agreement;

- b) "Contribution" means a conditional transfer payment to a First Nation for a specified purpose pursuant to a contribution agreement that is subject to being accounted for and audited;
- c) "First Nation" means a band within the meaning of the Indian Act, R.S.C. 1985, c.I-5;
- d) "Fiscal Year" means the period beginning on April 1 in any year and ending on March 31 of the following year; and
- e) "Parties" means Canada and the First Nation.

SECTION 2: OBJECTIVE OF THIS AGREEMENT

2.1 The objective of this Agreement is to provide funding for the continuation of the First Nation Band Constable Program in the Community.

SECTION 3: SCHEDULES

3.1 The following schedules are hereby incorporated into and form part of this Agreement:

Schedule "A" - Budget for the eligible costs of the

First Nation Band

Constable Program;

Schedule "B" - Terms and Conditions of the

First Nation Band Constable

Program; and

Schedule "C" - Reporting Requirements.

SECTION 4: DURATION OF THIS AGREEMENT

- 4.1. This Agreement shall take effect upon signature by both Parties on the date of the last signature and shall cover the period from April 1, 2007 until March 31, 2009.
- 4.2 This Agreement is subject to the continuation of the Band Constable Program by Canada.

SECTION 5: RESPONSIBILITIES OF CANADA

5.1 Canada shall provide financial contributions to a maximum amount for the eligible costs as set out in Schedule "A", subject to and in accordance with this Agreement and more particularly section 7 and Schedule "B"

SECTION 6: RESPONSIBILITIES OF THE FIRST NATION

- 6.1 The First Nation shall continue to maintain overall responsibility for its Band Constable Program as employer of the Band Constable(s) in accordance with the program terms and conditions as set out in Schedule "B" of this Agreement.
- 6.2 The First Nation shall provide to Canada by June 1 of each Fiscal Year of this Agreement, an annual report on its Band Constable Program for the period from April 1 to March 31 of the previous Fiscal Year in accordance with the reporting requirements, as set out in Schedule "C" of this Agreement.
- Failure to submit the annual report on the First Nation Band Constable Program may result in its Band Constable Program funding being held back commencing with the July payment until the report is received and accepted or this Agreement being terminated by Canada.
- 6.4 For any asset purchased with funds provided under this Agreement (equipment, computer, vehicle, etc.) that has an initial purchase unit cost over \$1,000, the First Nation agrees:
 - a) to maintain the asset acquired during the term of this Agreement unless:
 - i) the replacement cost of the asset is less than the cost to maintain it; or
 - ii) the replacement of the asset is necessary due to wear or obsolescence;
 - b) that, during the duration of this Agreement, assets disposed of by the First Nation shall be sold at fair market value and the proceeds from the sale credited to Canada and the First Nation in a ratio equal to that of the initial expenditure and
 - i) set off against any payment that may still be owed to the First Nation under this Agreement; or
 - ii) if no amount is still owed to the First Nation under this Agreement, the proceeds shall become an amount owing to the Crown; and
 - c) that upon termination of this Agreement, unless Canada and the First Nation agree otherwise, any assets that have been acquired by the First Nation shall be sold at fair market value and the proceeds from the sale credited to Canada and the First Nation in a ratio equal to that of the initial expenditure and
 - i) set off against any payment that may still be owed to the First Nation under this Agreement; or
 - ii) if no amount is still owed to the First Nation under this Agreement, the proceeds shall become an amount owing to the Crown.

SECTION 7: FINANCIAL ARRANGEMENTS

- 7.1 Subject to the provisions of this Agreement and solely for the continuation and maintenance of the First Nation Band Constable Program, Canada shall contribute to the First Nation a sum not to exceed the Program Budget for the eligible costs as set out in Schedule "A" in a manner and at the times set out below:
 - a) 30% of the Program Budget will be paid on April 15 of each Fiscal Year;
 - b) 25% of the Program Budget will be paid on July 1 of each Fiscal Year;
 - c) 25% of the Program Budget will be paid on October 1 of each Fiscal Year; and
 - d) 20% of the Program Budget will be paid on January 1 of each Fiscal Year.
- 7.2 This Agreement is subject to an appropriation of resources by the Parliament of Canada for each Fiscal Year. In the event that such appropriation is changed by the Parliament of Canada for any Fiscal Year, then Canada may reduce or cancel its funding level under this Agreement.
- 7.3 The First Nation shall:
 - a) use all financial contributions paid under this Agreement solely towards the costs of its Band Constable Program, in conformity with this Agreement, and for no other purpose;
 - b) maintain financial records specific to this Agreement with respect to the costs of its Band Constable Program in accordance with generally accepted accounting principles as prescribed in the Canadian Institute of Chartered Accountants' Ilandbook, including proper records of all expenditures and commitments made by the First Nation and the invoices, receipts and vouchers related thereto;
 - within one hundred and twenty (120) days following March 31 of each Fiscal Year, provide to Canada an audited financial statement in a manner consistent with Schedule "B" and Schedule "C"; a copy of the annual audited financial report provided to Indian and Northern Assairs Canada (INAC) is acceptable if it is in conformity with Schedules "B" and "C" of this Agreement, or if it includes as a minimum.
 - i) a copy of the Auditor's Report (usually the first page),
 - ii) the page(s) or schedule(s) specific to the BCP Revenues and Expenditures,

- iii) the Notes applicable to the BCP in the Community, and
- iv) a detailed breakdown (that may not be audited) of the Revenues and the Expenditures associated with the BCP in conformity with Schedules "B" and "C" of this Agreement;
- d) retain all materials and financial records associated with this Agreement for a period of two (2) years following the termination or expiry of this Agreement; and
- e) consure that Canada has access, during the term of this Agreement and within two (2) years of its expiration or termination, to all financial records, written inventory and other records pertaining to this Agreement upon twenty-four (24) hours notice and during business hours.
- 7.4 Any deficits or additional costs or both, incurred in the first Nation Band Constable Program during the term of this Agreement that exceed the First Nation Budget for its Band Constable Program, as set out in Schedule "A", shall be the sole responsibility of the First Nation.
- 7.5 Upon receipt of the annual audited financial statement identified in 7.3(c) and Schedule "C", and at the expiry or carlier termination of this Agreement, the First Nation shall refund any ineligible reported expenditure and any unexpended or surplus funds provided by Canada under this Agreement. This amount shall be considered a debt due to the Crown and shall be reimbursed within thirty (30) days to Canada. Any such debt remaining owing and unpaid shall carry interest calculated and compounded monthly at the average bank rate, within the meaning of such expression as contained in the Interest and Administrative Charges Regulations, plus three (3) percent, from the due date to the settlement date.
- The Parties agree that Canada may appoint independent auditors, at its own expense, during the term of this Agreement or within two (2) years after its expiration or termination, to review the records maintained by the First Nation to ensure compliance with all financial and non-financial provisions of this Agreement and that generally accepted accounting principles and practices have been consistently applied in the maintenance of the financial records. The First Nation shall provide access without charge to all facilities for such audits during regular working hours and within seventy two (72) hours after receiving written notice. The results of such audits will be made available to the public lirough posting on the Internet site of the Department of Public Safety and Emergency Preparedness (www.PublicSafety.gc.ca).
- 7.7 Upon this Agreement taking effect, the First Nation shall declare to Canada any amounts owing to the Crown under legislation or any contribution agreement and hereby acknowledges and agrees that amounts due to the First Nation hereunder may be set off against any amounts owing to the Crown under such legislation or other contribution agreement.

SECTION 8: INDEMNIFICATION

- 8.1 Canada shall not be responsible for any bodily or personal injury or property damage of any nature whatsoever that may be suffered or sustained by the First Nation, including without restricting the generality of the foregoing, its members, employees, officers or agents in the performance of this Agreement.
- 8.2 The First Nation shall indemnify and hold harmless Canada, the Minister of Public Safety and Emergency Preparedness, and its employees and agents from any and all losses, claims, damages, actions, causes of action, legal proceedings, costs and expenses that may arise, directly or indirectly, out of any act or omission of the First Nation, including without restricting the generality of the foregoing, its members, employees, officers or agents in the performance of this Agreement. Such indemnity shall survive the expiry or termination of this Agreement.
- 8.3 The First Nation shall, without limiting its obligations herein, maintain insurance coverage that extends over the operations of its Band Constable Program under a contract of comprehensive or commercial general liability, with an insurer in the Province, in an amount of not less than \$2,000,000 per occurrence insuring against bodily injury, personal injury, and property damage including loss of use thereof. Such insurance shall include blanket contractual liability coverage and a cross-liability clause.
- 8.4 Proof of all required insurance in a form acceptable to Canada shall be provided by the First Nation to Canada within sixty (60) days of this Agreement taking effect and promptly upon request thereafter.

SECTION 9: NO EMPLOYEE OR AGENCY RELATIONSHIP

- 9.1 Nothing in this Agreement shall be read or construed as conferring upon the First Nation or its respective members, officers, employees, agents or contractors the status of officer, employee, servant or agent of Canada.
- 9.2 The First Nation shall not represent itself, in any agreement with a third party or otherwise, as a partner, joint-venturer, agent or employee of Canada. Canada shall have no responsibility for fulfillment of any obligation into which the First Nation enters in relation to the Agreement, including, without limitation, any loan, capital lease, or other long-term obligation.

SECTION 10: CONTINGENCY FEES AND LOBBYING

- 10.1 The First Nation has not paid and will not pay or agree to pay a contingency fee to any person or organization for soliciting, negotiating or obtaining this Agreement.
- 10.2 The First Nation may compensate a First Nation employee for services rendered in relation to this Agreement whose regular duties involve soliciting, negotiating or obtaining agreements of this type. The First Nation agrees to include the accounts and records of any payments to that employee as part of the financial records with respect to the costs of its Band Constable Program made available to the auditor.
- 10.3 Any person lobbying on behalf of the First Nation must be registered pursuant to the Lobbyist Registration Act.

SECTION 11: AMENDMENTS, EXTENSIONS OR RENEWAL

11.1 This Agreement may be amended, extended or renewed on such terms and conditions as the Parties may agree to in writing prior to the expiration of this Agreement.

SECTION 12: TERMINATION

- 12.1 Each Party has the right to terminate this Agreement at any time without cause upon providing the other Party with at least one hundred and twenty (120) days notice in writing of its intention to terminate this Agreement.
- 12.2 If the funds are not used for the approved purposes or if the First Nation Community breaches any provision of this Agreement, Canada may, at its option, terminate this Agreement by giving ten (10) days written notice of termination to the First Nation.
- 12.3 Upon termination of this Agreement by any Party,
 - a) the First Nation shall:
 - i) ensure that all outstanding accounts have been satisfied in full for Band Constable services rendered up to and including the date of termination; and
 - ii) refund any and all unexpended funds to Canada within ninety (90) days of the termination of this Agreement.
 - b) Canada shall not be under any further obligation to the First Nation Community except to pay for any costs that are, in the opinion of Canada, reasonably related to the termination of this Agreement.

SECTION 13: BANKRUPTCY

13.1 If the First Nation is declared insolvent or bankrupt, or if a trustee in bankruptcy or similar officer or receiver is appointed for the First Nation, then Canada may, at its option, upon ten (10) days written notice to the First Nation, terminate this Agreement and shall thereupon be relieved from all liabilities thereunder.

SECTION 14: NOTICE

- 14.1 Any document required under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or sent by prepaid registered mail or facsimile to the addresses indicated herein for the respective Parties:
 - a) to Canada:

Department of Public Safety and Emergency Preparedness
Aboriginal Policing Directorate
269 Laurier Avc. West
Ottawa, Ontario
K1A 0P8

FAX: (613) 991-0961 TELEPHONE: (613) 991-0241

b) to the:

address block and fax # of recipient

- 14.2 Each Party shall advise the other Party in writing of any change of address and fax number.
- 14.3 Any written notice given in the manner set out in subsection 14.1 of this Agreement shall be deemed given if and when personally delivered or, if mailed in the manner therein provided, shall be deemed given five (5) business days after posting. Any notice transmitted by facsimile shall be deemed given and received on the date of transmission if received during normal business hours of the recipient, or on the first business day after its transmission if it is received after the end of normal business hours on the date of its transmission.

In the event of disruption or threatened disruption of regular mail services by strike or threatened strike, all such notices, requests, demands or other documents shall be deemed to have been duly given only if personally delivered or sent by facsimile in the manner provided in subsections 4.1 and 14.3 of this Agreement.

SECTION 15: GENERAL PROVISIONS

- In this Agreement wherever the singular or masculine is used it will be constructed as if the plural or feminine, as the case may be, had been used where the context hereto so require.
- 15.2 All references in this Agreement to "Canada" shall be interpreted so as to include the Minister of Public Safety and Emergency Preparedness and, where appropriate, his duly authorized representatives.
- The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Agreement.
- This Agreement is governed by the laws in force in the Province of Manitoba and the Parties agree that the Courts of the Province of Manitoba and the Federal Court of Canada are competent to hear any case relating to a dispute under this Agreement.
- No current or former public office holder or public servant of Canada who is not in compliance with the Conflict of Interest and Post-employment Code for Public Office Holders or the Values and Ethics Code for the Public Service shall derive a direct benefit from this Agreement.
- 15.6 It is an express condition of this Agreement that no member of the House of Commons or the Senate be admitted to any share or part of this Agreement or any benefits therefrom.
- 15.7 Any information collected by Canada pursuant to this Agreement is subject to the rights and safeguards provided for in the relevant federal and provincial legislation relating to the freedom of information and protection of privacy.
- 15.8 All representations, warranties, covenants and limitation of liability in this Agreement shall continue in full force and effect after the termination or expiry of this Agreement.
- 15.9 A waiver of any breach of this Agreement or of any of the terms or conditions by any Party to this Agreement shall not be deemed a waiver of any continued or future breach. The failure of any Party to complain about a default of the terms of this Agreement shall not be construed as a waiver, irrespective of how long such failure to act continues.
- 15.10 Any dispute arising dut of, or relating to this Agreement shall be a matter of discussion among the respective representatives of the Parties, who shall attempt to resolve the dispute promptly.

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Councillor Date

A Quorum of Council consists of _3_ members.

SCHEDULE "A" BUDGET FOR THE ELIGIBLE COSTS OF THE BAND CONSTABLE PROGRAM AFRIL 1, 2007 TO MARCH 31, 2009

	Fiscal Year 2	2007-2008	
Item	APD Contribution	Income from Other Sources	Total Budget
Salaries / Benefits	\$48,380.80	\$52,000	\$100,380.80
Travel	\$0.00	\$0.00	\$0.00
Training	\$0.00	\$0.00	\$0.00
Office Equipment and Supplies	\$0.00	\$0.00	\$0.00
Uniforms and Personal Equipment	\$0.00	\$0.00	\$0.00
Rent for office space	\$0.00	\$0.00	\$0.00
Operation/Maintenance of Vehicles	\$6,750.20	\$0.00	\$6,750.20
Evaluation Activities	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0 .00	\$0.00
Total	\$55,131.00	\$52,000.00	\$107,131.00

	Fiscal Year 2	2008-2009	
Item	APD Contribution	Income from Other Sources	Total Budget
Salaries / Benefits	\$48,380.80	\$52,000	\$100,380.80
Travel	\$0.00	\$0.00	\$0.00
Training	\$0.00	\$0.00	\$0.00
Office Equipment and Supplies	\$0.00	\$0.00	\$0.00
Uniforms and Personal Equipment	\$0.00	\$0.00	\$0.00
Rent for office space	\$0.00	\$0.00	\$0.00
Operation/Maintenance of Vehicles	\$6750.20	\$0.00	\$6750,20
Evaluation Activities	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00
Total	\$55,131.00	\$52,000.00	\$107,131.00

NOTE: The funding provided for the applied first towards Salaries and Benefits paid to the Band Constables. Any other costs shall be consistent with the eligible costs identified in Schedule "C". All BCP expenditures shall be reported separately in the annual financial statement required in 7.3(c) and in accordance with Schedule "C".

SCHEDULE "B"

TERMS AND CONDITIONS OF THE

- In addition to the specific program terms and conditions noted below, the First Nation will continue to guide its Band Constable Program according to the Department of Indian Affairs and Northern Development Circular 55 Indian Bands' Policing Program dated September 24, 1971.
- 2. For more clarity, Band Constables are defined as follows:
 - a) Band Constable appointed "Special Constable" means a person employed by the First Nation as a Band Constable that has been sworn in as Special Constable pursuant to the *Provincial Police Act* (Manitoba) (R.S.M. 1987, c. P150) and any regulations made thereunder, in order to exercise his/her authority in accordance with the terms of the *Certificate of Appointment*; and,
 - b) Band Constable without appointment means a person employed by the First Nation as a Band Constable that has not been appointed as "Special Constable" and has no more jurisdiction in law enforcement than any ordinary Band member.
- 3. The objective of the !

First Nation Band Constable Program is:

- a) to provide the First Nation with an enforcement arm which will look after those areas of local concern which are not of the jurisdiction of the Royal Canadian Mounted Police (RCMP) including areas such as,
 - i) the enforcement of band by-laws of a "civil nature";
 - ii) maintaining order at various Band functions and at band elections;
 - iii) policing of band property; and
 - iv) other functions formally carried out by a community or town constable; and
- b) over and above the matters of Band jurisdiction, Band Constables, including Band Constables appointed Special Constable, to supplement (not supplant) locally the RCMP.
- 4. Band Constables are employees of the First Nation and take their direction from the Chief and Council in respect of duties, hours of work, leave, discipline and all matters relating to employment.
- Whenever possible, Band Constables should be appointed as Special Constables. A Band Constable without appointment should not attempt to act as a Band Constable duly

appointed because he/she has no more jurisdiction in law enforcement than any ordinary Band member.

- 6. Chief and Council, upon request to the Aboriginal Policing Directorate's Regional Office, shall receive information pertaining to the procedure for the First Nation to follow in regard to Special Constable appointment in the Province of Manitoba.
- 7. All Band Constables, even the Band Constables appointed Special Constable under the *Provincial Police Act* (Manitoba), are NOT authorized to carry or use a restricted and/or prohibited weapon in the performance of duties.
- 8. The jurisdiction of all Band Constables is on-reserve only and the powers of Special Constables are as defined in each respective Certificate of Appointment from the Province of Manitoba.
- 9. In cases where detention of an individual is required, the case shall be referred to the RCMP at the nearest detachment. First Nations, Band Constables without appointment and/or Band Constables appointed Special Constable under the Provincial Police Act (Manitoba) are NOT authorized to operate hand-owned detention cells on-reserve.

SCHEDULE "C"

REPORTING REQUIREMENTS

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Reporting Requirements	Information	Required To Be Contained In The Report	Due Date
Annual Report	1 The Annu	al Report can take the form of a letter, however it	Due
Annual Report		the following:	annually on June 1st
	(and and/o inclu	ames of any and all Band Constables employed whether they were employed full-time, part-time r casual) during the previous Fiscal Year, ling the dates that employment commenced or nated during that period;	
	indica provi	ch Band Constable, named in item 1(a) above, an tion of whether he/she has or does not have a acial appointment as a Special Constable pursuant Provincial Police Act (Manitoba), (R.S.M. 1987, 50);	
<u>.</u>	by exploration by exploration indicates the control of the control	s of all program-related training courses attended ch Band Constable, including the date(s) and on(s) of such training course(s) attended, the of the training supplier/organization and an tion of whether or not the training course was ssfully completed;	
	purch	s and inventory of all equipment and assets ased for the First Nation Band able Program in the Fiscal Year;	-
	t) proof	of insurance as identified in subsection 8.4; and	
,		other program information that the First Nation ders pertinent.	
Audited Financial Statement	by an inde identified in Expenditures Program for	d Financial Statement of the First Nation prepared pendent, qualified Chartered Accountant, as paragraph 7.3 (c), shall include a Statement of of the Shamattawa First Nation Band Constable the Fiscal Year and shall, at a minimum, include information where applicable:	annually

Audited Financial Statement (cont'd)

 a) salaries for full-time Band Constable(s): each Band Constable must be listed separately;

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- b) benefits for full-time Band Constable(s): benefits must be listed separately for each full time Band Constable;
- salaries for part-time or casual Band Constable(s): salaries must be listed separately for each part-time or casual Band Constable;
- d) costs for travel: the notes to the Statement of Expenditures should indicate how the travel costs were incurred;
- e) costs for training;
- f) costs for uniforms, equipment for Band Constable(s) or other office equipment: the type of uniform, equipment, or other must be clearly described with the unit cost of expenditure clearly shown;
- g) costs for telephone and/or fax, office supplies, and rental of office space, excluding any band-owned detention cell(s);
- h) costs for operation and maintenance of Band Constable vehicle(s): the number of vehicles must be indicated;
- i) costs for evaluation activities; and
- j) costs for Other expenditures (explain).
- 3. Where the First Nation has complemented its Band Constable Program funding out of its own revenue or other source revenue, the statement of expenditures should indicate how the First Nation has done so. For example, if the First Nation used its Tobacco Tax refund to complement the funding received from Canada, it should be stated clearly in the Statement of Expenditures.
- 4. Where the First Nation has purchased capital assets, as identified in subsection 6.4 (for example, a vehicle, computer, etc.) for the use of its Band Constable Program, this should be listed as an expense but treated as an asset in the financial statement.