

Provincial Archival Development Program (PADP) Project Funding Agreement

BETWEEN:

HER MAJESTY THE QUEEN in Right of the Province of Nova Scotia as represented by the Minister of Communities, Culture and Heritage, hereinafter referred to as the “Province”

- and -

Insert name of successful eligible applicant, hereinafter referred to as the “Applicant”

WHEREAS the Province has developed the Provincial Archival Development Program (PADP) to provide cost shared project funding to institutional members of the Council of Nova Scotia Archives (CNSA) and to the CNSA to achieve the objectives of the PADP and thereby assist in supporting and strengthening the provincial archival community;

AND WHEREAS the Applicant has made an application for project funding through the PADP and is prepared to expend and account for the use of such project funding;

THEREFORE, the Province and the Applicant agree as follows:

PADP PROJECT FUNDING

1. In order to work towards the PADP objectives and subject to the terms and conditions of this agreement, the Province will provide PADP project funding to the Applicant in the amount of \$ insert total of PADP funds to be provided for eligible expenses incurred with respect to the insert project title as described in the Approved PADP Project Application, attached hereto as Schedule “A” to this Agreement.
2. Payment of the PADP project funding referred to in Article 1, minus a 10% holdback, will be made in July 2020.
3. The amount of \$ _____ representing 10% of the total amount of the PADP project funding will be held back by the Province until completion of the project and receipt and acceptance of the project final report by the Province.

OBLIGATIONS OF THE APPLICANT

4. The Applicant shall:

- (a) complete the work described in the Approved PADP Project Application, taking all necessary action to carry it out successfully within the approved project budget and by the projected completion date;
- (b) use the PADP project funding only for eligible expenses as outlined in the PADP Guidelines for 2020/21 and as specified in the Approved PADP Project Application;
- (c) keep proper accounts and records including hours of work of each paid project staff member and volunteer involved in the project, purchase orders, invoices, receipts, bank statements and cheques for all financial transactions related to the project;
- (d) allow representatives of the Province to examine and audit the accounts referred to in Article 4(b) above at all reasonable times for up to five years after the expiration of this Agreement;
- (e) before breach of any obligation, consult with and report to the Province without delay, any fact, condition or circumstance which the Applicant knows or has reasonable cause to believe could become a breach of the Applicant's obligations under the Agreement.

5. The Applicant shall not make any substantive change in the scope or activities of an approved project that would result in accomplishing appreciably less than was stated or projected in the Approved PADP Project Application unless the Applicant has requested permission in writing from the Province and the Province has provided written approval for the change.

6. Any reallocation of PADP project funding within an approved project budget, amounting to 10% or more of the total PADP project funding provided, must be requested in writing by the Applicant and approved in writing by the Province.

7. All descriptions or re-descriptions made at the fonds, collection, series or sub-series levels during the project must be entered into MemoryNS by the Applicant in accordance with the Rules for Archival Description (RAD).

8. The Applicant must notify the Province of any anticipated unexpended PADP project funding by December 31, 2020. The Applicant shall return any unexpended PADP project funding to the Province within 30 days of completing the project.

REPORTS AND DEADLINES

9. The Applicant shall complete all projects on or before March 31, 2021.
10. The Applicant shall provide the completed project final report, using the PADP final report template provided by the Province, within 30 days of the projected completion dated specified in the Approved PADP Application, or before April 30, 2021 whichever date occurs first.
11. If practicable a paper and electronic copy of the final product generated by the project shall accompany the project final report.
12. If the Applicant does not provide the project final report to the Province by April 30, 2020, the Applicant shall forfeit the 10% holdback in PADP funds.
13. If the Applicant does not provide the project final report to the Province by May 31, 2021, the Applicant will not be eligible for any PADP project funding in 2021/22, or for any fiscal year thereafter so long as the project final report remains outstanding.
14. The Province reserves the right to use the project final report and its content as it considers appropriate.

DEFAULT AND REMEDIES

15. The following constitute events of default:
 - (a) the Applicant becomes bankrupt or insolvent or is placed in receivership;
 - (b) the Applicant is dissolved based on an order or resolution passed for winding up the Applicant;
 - (c) in the Province's opinion, there is a material adverse change in risk which would jeopardize successful completion of the project;
 - (d) the Applicant, either directly or through its representatives, makes or has made a false or misleading statement to the Province; and/or
 - (e) a term, condition or undertaking of this Agreement is not complied with.
16. Where there is a default of this Agreement or where, in the Province's opinion, there is likely to be a default, the Province may avail itself of one or more of the following remedies:
 - (a) adjust or revise the amount of the PADP project funding and inform the Applicant accordingly;

- (b) suspend any payment of the PADP project funding not already paid;
- (c) terminate this Agreement and any financial obligation arising from it; and/or
- (d) require repayment of amounts already paid; the amount claimed becomes a debt owing to the Province as soon as the demand is made on the Applicant.

17. The fact that the Province refrains from exercising a remedy it is entitled to exercise under this Agreement shall not be considered to be a waiver of such right and, furthermore, partial or limited exercise of a right conferred on the Province shall not prevent the Province in any way from later exercising any other right or remedy under this Agreement or other applicable law.

18. In the event of dispute, between the Province and the Applicant, during the project, both parties shall make an attempt in good faith to settle the dispute. If the parties are unable to resolve the dispute through negotiation, they shall submit the dispute to a mutually agreed upon mediator and shall agree to remunerate the mediator, if required, a cost shared basis. The decision taken by the mediator on the matter shall be final.

TERMINATION

19. Notwithstanding any other provision of this Agreement, the Province may at any time, following a 30 day written notice, in its sole discretion, terminate the Agreement or suspend or reduce its scope by means of a notice in writing given to the Applicant.

20. If the Agreement is terminated or suspended pursuant to Article 19, the Province shall compensate the Applicant for eligible costs, expenses and charges incurred to the date of project cancellation. However, such amounts shall not exceed PADP project funding already provided to the Applicant for the project.

ACKNOWLEDGMENT

21. The Applicant shall not announce or publicize that it has been successful in receiving PADP project funding until after the Minister of Communities, Culture and Heritage announces successful PADP Applicants.

22. In any public announcements or promotional activities concerning the project or any products resulting from the project the Applicant shall acknowledge the financial assistance provided by the Province through the PADP.

NOTICE

23. Any notice, information or document required under this Agreement shall be considered given if it is delivered, sent by fax or mail. All notices and communications to the Province in connection with this Agreement shall be addressed to:

Provincial Archivist/ Director, Nova Scotia Archives
Department of Communities, Culture and Heritage
6016 University Avenue
Halifax, Nova Scotia
B3H 1W4

Fax: (902) 424-0628

GENERAL

24. Nothing in this agreement shall be deemed to authorize the Applicant to contract for or incur any obligation on behalf of the Province.

25. If PADP project funds are financially administered by another party on behalf of the Applicant, the Applicant retains full responsibility for all financial transactions undertaken in support of the project.

26. No amendment to this Agreement nor any waiver of its terms and provisions shall be deemed valid unless made in writing and approved by the Province.

27. The Applicant shall not assign this Agreement, in whole or in part, without the prior written permission of the Province.

28. The signatories of this agreement personally warrant that they have the full power and authority to enter into this agreement on behalf of their respective principals and that the person signing this agreement on behalf of each has been properly authorized and empowered. Each party further acknowledges that it has read the agreement, understands it, and agrees to be bound by it.

29. The Province shall not be liable for any injury or damage (including death) to the person or for the loss or damage to the property of the Applicant in any manner based upon, occasioned by, or in any way attributable to the Applicant unless such injury, loss or damage is caused solely and directly by the negligence of an officer or servant of the Province while acting within the scope of his or her employment.

30. The Applicant shall indemnify and save harmless the Province from and against all claims, losses, damages, costs and expenses related to any illness, injury or death of a person, or loss or damage to property caused or alleged to be caused by the Applicant or its staff, volunteers or agents in carrying out PADP project activities.

31. This Agreement shall be construed and interpreted in accordance with the laws of the Province of Nova Scotia.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed by their respective officers duly authorized in that behalf on the ____ day of _____, 2020

SIGNED, SEALED AND DELIVERED)
in the presence of)

_____))
Witness

HER MAJESTY THE QUEEN in right of
the Province of Nova Scotia as represented
by the Minister of Communities, Culture
and Heritage
Per: _____

_____) Per: _____
Witness)

ENTER NAME OF APPLICANT

**Enter name and position/title
authorized to sign on Applicant's
behalf**

SCHEDULE "A"

APPROVED PADP PROJECT APPLICATION