

CORPORATION OF THE COUNTY OF DUFFERIN


BY-LAW NUMBER 2020-58


A BY-LAW TO AUTHORIZE THE WARDEN AND THE CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CORPORATION OF THE COUNTY OF DUFFERIN AND SOUTHWEST INTEGRATED FIBRE TECHNOLOGY INCORPORATED. (Additional Project Agreement)

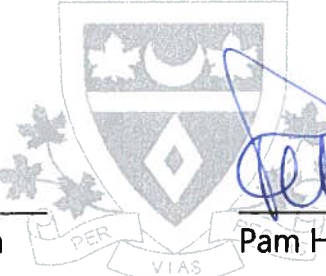
BE IT ENACTED BY THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE COUNTY OF DUFFERIN AS FOLLOWS:

1. That the agreement between the County of Dufferin and Southwest Integrated Fibre Technology Incorporated, in a form substantially the same as attached hereto as Schedule "A" be approved.
2. That the staff of the County of Dufferin is hereby authorized to take such actions as are appropriate, and the Warden and Clerk are hereby authorized to execute such documents as are appropriate to implement the agreement referred to herein.

READ a first, second and third time and finally passed this 13th day of August, 2020.


John Creelman, Acting Warden


Pam Hillock, Clerk



THIS AGREEMENT MADE THIS 13 DAY OF August, 2020 BETWEEN:

CORPORATION OF THE COUNTY OF DUFFERIN

(hereinafter referred to as the "County")

- and -

SOUTHWESTERN INTEGRATED FIBRE TECHNOLOGY INC.

(hereinafter referred to as "SWIFT")

WHEREAS, Southwest Integrated Fibre Technology Incorporated ("SWIFT") tendered a request for proposal bearing number SWF 20-03-001 on March 9, 2020 for certain fibre network works within the geographic boundaries of Dufferin County;

AND WHEREAS, SWIFT received ten (10) bids in response thereto and the 4 bids (proposals) were accepted and to be completed by December 31, 2022;

AND WHEREAS, the North Frontenac Telephone Company Ltd ("NFTC") submitted the fifth (5th) highest scoring proposal on May 15, 2020 (hereinafter, "DUF_13_NFTC"), which is summarized in the summary of the project attached hereto as Appendix "A" and the map of the affected area attached as Appendix "B", but, despite a community need, DUF_13_NFTC did not proceed at that time due to lack of funding;

AND WHEREAS, there is now an opportunity to have the works described in DUF_13_NFTC completed utilizing additional financial contributions from Dufferin County;

AND WHEREAS, this serves to confirm the County's funding contribution towards expenses actually incurred in completing all of the works contemplated in DUF_13_NFTC;

AND WHEREAS, the County is prepared to provide additional financial support towards the \$4,021,974 (exclusive of H.S.T.) total project costs to complete DUF_13_NFTC;

NOW THEREFORE, the Parties agrees as follows:

1. **Contract Tendering.** SWIFT will accept and issue a contract to NFTC for NFTC to complete DUF_13_NFTC and to complete those works by no later than December 31, 2022, so that the assets and technology is functional and available for use by that date. The contract for those works will be strictly between SWIFT and NFTC.
2. **NFTC Contribution to DUF_13_NFTC.** The contract between SWIFT and NFTC is to specify that NFTC is to contribute \$1,729,449 towards eligible costs and \$311,217 towards ineligible costs for a total of \$2,040,666 (exclusive of H.S.T.) and

any other funds (other than those noted in paragraph 3 below) required from its own funds to complete DUF_13_NFTC.

3. **County Financial Commitment.** SWIFT will contribute the remaining \$1,036,346 (plus \$provincial balance currently held by SWIFT and the County will contribute \$1,305,673 (inclusive of H.S.T.) of additional new monies towards DUF_13_NFTC, provided that those funds are required for NFTC to complete DUF_13_NFTC in its entirety. By no later than sixty (60) days after DUF_13_NFTC has been fully completed, SWIFT agrees to confirm to the County in writing that DUF_13_NFTC has been fully completed and the total sum, not to exceed \$1,305,673, that SWIFT required the County to contribute towards DUF_13_NFTC. In doing so, SWIFT is to confirm the following in writing to the County:
 - a. total expenses incurred in completing DUF_13_NFTC; and
 - b. the sums expended by SWIFT (and/or NFTC, as applicable) for labour, equipment and assets actually carried out, utilized and installed in completing DUF_13_NFTC; and
 - c. that NFTC's financial contribution stipulated in paragraph 2 above has been fully expended on DUF_13_NFTC; and
 - d. that the \$1,036,346 provincial balance has been fully expensed and disbursed towards DUF_13_NFTC.
4. **SWIFT Invoice to County.** SWIFT is to invoice the County in writing on a quarterly basis for payment of the County's contribution, not to exceed \$1,305,673 in the aggregate, and the County agrees to pay said invoice within twenty-one (21) days of the date of its receipt of SWIFT's invoice. All invoices must show evidence of supporting invoice from NFTC of eligible expenses incurred and paid.
5. **Audit Rights.** The County reserves the right to audit any and all of SWIFT's records in its possession and or control relevant to DUF_13_NFTC to confirm, to its reasonable satisfaction:
 - a. that the works carried and invoiced for were done in accordance with the specifications of DUF_13_NFTC;
 - b. that NFTC has first expensed its own funds (being the sums noted in paragraph 2 above) towards completing DUF_13_NFTC before any sums are invoiced to (and payable by) the County;


- c. that SWIFT has expended the \$1,036,346 in provincial and federal funds remaining from phase 1 of the project; and
- d. that the funds requested and/or otherwise invoiced by SWIFT to the County for DUF_13_NFTC have actually been expended solely on DUF_13_NFTC.


SWIFT agrees to grant the County, its employees and contractors access to such records, including permitting the County to make reproductions thereof, up until expiry of the period that is six (6) months after DUF_13_NFTC has been completed (as confirmed by SWIFT's notice provided to the County pursuant to paragraph 3 above) during SWIFT's regular business hours and as otherwise reasonably requested by the County.

- 6. **No Liability to the County.** Save and except as expressly stipulated otherwise herein, the County bears and assumes no responsibility or liability whatsoever in regard to DUF_13_NFTC including, for greater certainty, no responsibility and liability in regard to design, specifications and the carrying out of any works in relation to DUF_13_NFTC. It is understood and agreed that the County's sole and exclusive obligation hereunder is to disburse its financial contributions to SWIFT for expenses actually incurred to complete DUF_13_NFTC, on the terms and conditions set out herein.
- 7. **Counter-signed Agreement.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Communication of an executed copy of this Agreement, or of any counterparts thereto, by facsimile transmission or electronically in portable document format (PDF) shall constitute good and effective delivery.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year as set out above.

CORPORATION OF THE COUNTY OF DUFFERN

Per: 
Name: ~~Darren White~~ John Creeman
Title: Warden ^{Acting}
Date: August 13, 2020

Per: 
Name: Pam Hillock
Title: Clerk
Date: August 13, 2020

I/We have the authority to bind the Corporation.

SOUTHWESTERN INTEGRATED FIBRE TECHNOLOGY INC.

Per: _____
Name: David Mayberry
Title: _____
Date: _____

Per: _____
Name: Barry Field
Title: _____
Date: _____

I/We have the authority to bind SWIFT.

Appendix "A" - DUF_13_NFTC Summary

NFTC is proposing a new pure fibre optic Network designed to pass approximately 460 potential subscribers with a dedicated fibre allocated to each individual connecting back to their Central Office to be located in Shelburne, ON. This Network will be connected to their Core Network located at 151 Front Street, Toronto, ON via leased backhaul fibre optic circuit.

The proposed network architecture is based on an Active Ethernet architecture with dedicated fibre connections for each individual subscriber. The network will offer pure fibre optic connectivity. The proposed design includes 50% spare capacity in; Central Office, and fibre strands. The system will offer multiple points of access for interconnection. The point to point fibre design facilitates efficient scalability of the network electronics which are centralized in the Central Office and in our Core.

Appendix "B" - DUF_13_NFTC Map

