



INTERNATIONAL FUND FOR IRELAND

RURAL DEVELOPMENT PROGRAMME

Department of Agriculture for Northern Ireland
Dundonald House, Upper Newtownards Road, Belfast BT4 3SB
Telephone: Belfast 520100 Fax: Belfast 659856

The Directors
Ardglass and District Development Association

9/9/94

Dear Directors

LETTER OF OFFER TO ARDGLASS AND DISTRICT DEVELOPMENT ASSOCIATION UNDER THE IFI RURAL DEVELOPMENT PROGRAMME (FISHING VILLAGES INITIATIVE)

1. Preliminary

- i. I refer to the application by Ardglass and District Development Association trading as Phennick Cove Developments Ltd ("the Applicant") dated 4 February 1994 to the International Fund for Ireland ("The Fund") for Financial Assistance under the Fund's Rural Development Programme towards the implementation of the Project as hereinafter defined.
- ii. The Department of Agriculture for Northern Ireland ("the Department") acting as an agent for the Fund is prepared on the terms and conditions contained in this letter to offer the Applicant, the Financial Assistance specified in paragraph 4 of this letter.

2. Definition of Words and Expressions used in this Letter

"the Approved Plans and Specifications" means the plans and specifications for the Project marked "approved by the Department of Agriculture for Northern Ireland" and initialled by and on behalf of the parties hereto for identification purposes, a set of which shall be retained by each of the parties hereto and shall include any amendments from time to time approved by the Department in writing.

"the Bank Facilities" means bank facilities afforded the Applicant by the [redacted] expressly for and limited to the purposes of the project.

"Financial Assistance" means the Financial Assistance specified in paragraph 4 of this letter or any part or parts thereof as the case may be.

"the Project" means the two-phased development of a Boat Park with associated environmental improvements as set out in paragraphs 1.4 to 1.6 in the Applicant's application for Financial Assistance to the Fund dated 4 February 1994.

"Qualifying Expenditure" means the sums, expended by the Applicant in carrying out the Project and admitted by the Department for the purpose of payment of Financial Assistance including the necessary and reasonable costs of site acquisition, sub-soil investigation, building and equipment costs, professional fees, interest charges, agents letting fees, running, insurance, marketing and promotional costs together with all non-reclaimable taxes on expenditure.

"the Property" means the land and premises either owned or leased by the Applicant.

3. Pre-Conditions

Prior to the payment of any Financial Assistance under this letter the Applicant shall:-

- i. provide evidence satisfactory to the Department of the title of the Applicant to the Property.
- ii. provide evidence satisfactory to the Department that all necessary statutory approvals for the carrying out of the Project, (including planning approval and building control approval) have been obtained;
- iii. obtain the written approval of the Department to the selection of any tender relating to the carrying out of the Project;
- iv. execute in favour of the Department a security, satisfactory to the Department in respect of the liabilities of the Applicant to the Department under the terms of this letter;
- v. furnish to the Department a copy of the Memorandum and Articles of Association of the Applicant which shall (a) generally be in terms satisfactory to the Department and (b) shall be in terms which the Department is satisfied are consistent with the purposes of the Fund's Rural Development Programme;

- vi. establish in conjunction with a Project Monitoring Team (comprising representatives of the Project and senior representatives of the Department, The Northern Ireland Rural Development Council and the Fund) a plan and works schedule for the Project (specifying stages and conditions on which payment can be made);

4. Payment of Financial Assistance

- i. The Financial Assistance which shall be payable in respect of Qualifying Expenditure for Phase I of the project shall consist of a Grant ("the Grant") not exceeding £305,805 and a Loan ("the Loan") not exceeding £133,870 and for Phase II of the project shall consist of a Grant not exceeding £148,875.
- ii. The Grant and the Loan for Phase I of the project shall be advanced as composite payments and accordingly 30.4% of each payment of the Financial Assistance shall be taken as an advance of the Loan for the purpose of this letter.
- iii. Financial Assistance will be paid as follows:-

Running Costs

- (a) In quarterly instalments in advance in relation to the estimated costs of running the Project as approved by the Department, and, in the case of second and subsequent instalments, on production by the Applicant of a certificate of disbursement from a qualified Auditor relating to the expenditure of the previous instalment.

Capital Works

- (b) In relation to the costs of capital works, in instalments on production by the Applicant of a certificate from the Applicant's professional building consultant (Project Architect) to confirm satisfactory completion of work.

Other Goods and Services

- (c) In relation to other goods and services comprised in the application, in arrears, on production by the Applicant of verification of expenditure as required by the Department. Claims under this heading should be made at intervals of not less than 28 days.
- iv. Payment of the Financial Assistance under this offer shall be made into a specified bank account with the [REDACTED] approved by the Department and any sums in respect thereof received by the Applicant shall be applied by the Applicant

firstly in discharging the Bank facilities except where the sum is paid to the Applicant for a specific purpose.

- v. Each claim for the Financial Assistance shall be made in writing to the Department by the Applicant on the appropriate official claim forms. Each claim form shall be accompanied by such supporting documentation as the Department may require.
- vi. Subject to prior written approval by the Department the amounts listed in Column 2 against the items listed in Column 1 of the Costs Schedule (appended to this letter of offer) may be varied provided that as a result of such variations the total of the amounts listed in Column 2 is not exceeded.
- vii. Any approval of expenditure for the purposes of this letter shall be at the absolute discretion of the Department.
- viii. No more than 90% of the total eligible Financial Assistance will be paid prior to the final completed claim for the Project. Final payment will be made on receipt of the certificate of practical completion from the Project architect together with such supporting documentation as the Department may require.
- ix. Final claims for Financial Assistance must be submitted on or before 31 May 1995.
- x. The Applicant shall provide to the Department its best estimates of the amounts of Financial Assistance to be claimed and the dates of claims.
- xi. The Applicant shall provide the Department with such further information and clarification in relation to any claim as the Department may from time to time request.

5. General Conditions

For so long as the Applicant is under any liability to the Department under the terms of this letter, the Applicant shall:-

- i. carry out and complete on or before 31 May 1995 the Project in accordance with the Approved Plans and Specifications submitted to the Department;
- ii. not make any material alterations to the Approved Plans and Specifications without the prior written approval of the Department;
- iii. not seek or make application for any Financial Assistance from any other Government Department,

public body or agency in respect of expenditure for which Financial Assistance is or may become payable under the terms of this letter without the written approval of the Department;

- iv. maintain its records (financial and otherwise) in such a way as to identify clearly all expenditure and income related to the Project;
- v. submit to the Department for prior approval proposals for appointing staff to implement the Project;
- vi. furnish the Department with such information in relation to the organisation and management of the Project as the Department may from time to time require;
- vii. provide the Department with such documents, information and papers relating to the Project as the Department may from time to time request and afford the Department, its servants or agents, such facilities for the purpose of inspecting the Project and all invoices, receipts, accounting records and any other documents relating to expenditure of the Financial Assistance as the Department may from time to time require for audit purposes;
- viii. provide the Department with reports on the progress of the Project. The first of such reports shall be provided within 3 months of the date of acceptance of this letter and thereafter at intervals of not more than 3 months. The Applicant shall also produce for the Department an annual progress report in a form acceptable to the Department for a ten year period commencing with the year ending 31 December 1994; +
- ix. notify the Department in advance of any proposed change in its status and membership;
- x. not alter or vary its Memorandum and Articles of Association without the prior written consent of the Department;
- xi. maintain in good condition all property, equipment, machinery, furniture, fixtures and fittings and assets of every kind owned or used by the Applicant in connection with the Project;
- xii. provide the Department with copies of every annual statement of account of the business of the Applicant, certified by an independent member of a recognised professional accountancy body, no later than 5 months after the end of the year to which the statement relates;
- xiii. fully insure and keep insured the operation and its assets against all risks appropriate to the

business of the Applicant including public liability. Such insurance shall include the full reinstatement value of the property and the Applicant shall arrange to have the interest of the Department noted thereon. Satisfactory written evidence that all such insurance cover has been effected shall be supplied to the Department as and when required by the Department;

- xiv. indemnify the Department against all actions, proceedings, costs, claims, demands and liabilities whosoever arising from all or any activities associated with the Project;
- xv. ensure that any works which are related to fire safety are carried out only after agreement and verification of the NI Fire Authority have been received.

6. The Loan

- i. The Loan shall be repaid by the Applicant to the Department on or before 31 May 2005;
- ii. the Loan shall be free of interest until 9 months after 31 May 1995 and thereafter the balance of the principal from time to time outstanding shall bear interest at 50% of the combined rate of the First Trust Bank Base Rate from time to time in force plus 2% per annum until such balance has been repaid to the Department;
- iii. the interest referred to in sub-paragraph (ii) above shall be paid by means of instalments on 1 June and 1 December (interest payment dates) in each year, the first such instalment being payable on the interest payment date falling immediately after 31 May 1995;
- iv. the terms and conditions relating to the repayment of the principal of the loan shall be agreed by the Department.

7. Disposal of the Property

- i. the Applicant shall not for a period ("the restricted period") commencing on the date hereof and expiring on 31 May 2005 dispose of any interest in the Property (other than an interest the disposal of which is permitted or contemplated under the provisions of this letter) except in accordance with and subject to the succeeding provisions of this paragraph 7;
- ii. If the Applicant requires to dispose of any interest in the Property during the restricted period any such disposal shall be either (i) on terms and in accordance with arrangements (including but not limited to arrangements as to

the application of the proceeds of disposal) which the Department is satisfied are consistent with the purposes of the Fund's Rural Development Programme, or (ii) on terms and conditions under which the Applicant shall (a) repay to the Department the full amount of the Grant, or a part thereof proportionate to the value of the interest being sold, paid to the Applicant under this letter together with the balance of the Loan then outstanding and any accrued interest thereon or a part thereof proportionate to the value as aforesaid, and (b) pay to the Department an amount equal to 50% of the net proceeds as that term is defined in sub-paragraph (iii) below.

- iii. For the purposes of sub-paragraph (ii) above "net proceeds" means an amount equal to the price agreed to be paid for the Property by a purchaser from the Applicant less the aggregate of (a) the sums repayable to the Department in respect of the Loan and interest thereon (b) the amount of the Grant and (c) the reasonable amount of any costs and fees payable by the Applicant in connection with the sale of the Property.

8. Repayment of Financial Assistance on Default

i. If:-

- (a) the Applicant fails to comply with any of the terms and conditions contained in this letter of offer and any such breach is incapable of remedy or if capable of remedy remains unremedied for more than 30 days after written notice by the Department;
- (b) any receiver shall be appointed over or any encumbrancer shall take possession of the property of the Applicant or any part of the property of the Applicant provided, however that this provision shall not apply when any such action is taken against a tenant of the Applicant in occupation of any part of the Property as a tenant;
- (c) the Applicant passes an effective resolution or an Order of the Court is made for the winding-up of the Applicant;
- (d) the Applicant ceases to carry on its undertaking for the purposes for which it was established;
- (e) the Applicant is unable to pay its debt within the meaning of Article 480 of the Companies (NI) Order 1986;

- (f) any information given to the Department by or on behalf of the Applicant in connection with the application for Financial Assistance is found to be false or misleading or there has been a failure to disclose any material fact which would have had a bearing on the Department's consideration of the application;

then on the happening of any such event or events the Department shall be under no obligation to make any further payment or payments of the Financial Assistance and the Applicant shall forthwith on written demand by the Department

- (a) repay to the Department the balance of the Loan then outstanding together with interest thereon specified in paragraph 6 hereof to the date of payment, and

- (b) repay to the Department the full amount of the Grant made to the Applicant hereunder.

- ii. In the event that the Department has made a written demand under paragraph 8(i) above for repayment, the Department shall be entitled to interest on the amount due from the date 30 days after the date of the written demand until payment, at 50% of the combined rate of the First Trust Bank Base Rate from time to time in force plus 2% per annum.

- iii. Any failure, delay or omission by the Department to exercise any right or remedy to which it is entitled by virtue of this paragraph 8 shall not be construed as a waiver of such right or remedy.

9. Other Conditions

- i. The Applicant shall not without the prior written consent of the Department transfer any of its rights or obligations under this letter.
- ii. The Applicant shall give reasonable publicity to the support of the Fund for the Project, and to consult the Fund about any publicity or public announcements associated with the Project; the Fund reserves the right to publicise details of the Financial Assistance. The Applicant confirms that the Fund will receive first mention in any publicity associated with the Project, and undertakes in those circumstances where construction work is involved, to permit the display of a Fund signboard throughout the construction period the form and content of which shall be acceptable to the Fund.

- iii. Any letter, notice or demand by the Department shall be sufficiently served on the Applicant if it is delivered by hand or left at the Applicant's last known address or sent by post addressed to the Applicant at that last known address.
- iv. The Applicant undertakes to adhere to the requirements of the Fair Employment Acts then in force in Northern Ireland and to observe the spirit of that legislation. In observing that legislation and without prejudice to the generality thereof the Applicant will observe the spirit of the US Anglo-Irish Support Act 1986 which governs the US contribution to the Fund and provides that disbursement from the Fund "will be distributed in accordance with the principle of equality of opportunity and non-discrimination in employment, without regard to religious affiliation".
- v. The Applicant shall ensure that all facilities used in the operation are open to the general public on terms equal to those applicable to any other person or body and shall ensure that the facilities are advertised only on that basis.
- vi. No aspect of the Project being funded shall be party political in intention, use or presentation.
- vii. Payment of Financial Assistance shall be subject to the Government's policy, as outlined by the then Secretary of State in his Parliamentary statement of 27 June 1985, that Financial Assistance shall not be used to support groups which have sufficiently close links with paramilitary organisations as to give rise to the grave risk that to give support to them would have the effect of improving the standing and furthering the aims of a paramilitary organisation. Where such conditions prevail the Department shall be entitled to withhold payment of Financial Assistance.
- viii. This letter is issued in duplicate and if the Applicant is prepared to accept the foregoing offer on the terms and conditions stated, the form of acceptance appended hereto should be completed on the original of this letter and returned to the Department.
- ix. The offer contained in this letter shall be deemed to have been withdrawn if it is not accepted within one month of the date of this letter.


G L T McWHINNEY

FORM OF ACCEPTANCE

The Applicant being the organisation referred to in the attached letter of offer hereby concurs in and accepts the said offer of assistance upon the terms and conditions contained therein. The Applicant also undertakes in accordance with the said offer of Financial Assistance, and in the event of any breach by the Applicant of the conditions thereof, on receipt of a written demand from the Department of Agriculture for Northern Ireland (Department), to repay to the Department within the period specified in the demand, the amount so demanded.

Dated this Day of

on behalf of Ardglass and District Development Association
trading as Phennick Cove Developments Ltd.

Signature Position held

Signature Position held

This form of acceptance should be signed by authorised
representatives of the Applicant (ie) authorised Directors.

ARDGLASS AND DISTRICT DEVELOPMENT ASSOCIATION

COSTS SCHEDULE

Column 1	Column 2
	(£)
<u>Pre-Trading/Start-up costs</u>	
Start-up costs	9,780
Pre-trading costs	66,100
Marketing & Publicity	28,500
Environmental Impact Assessment	6,000
Sonar Site Investigation	6,600
Model Study	<u>12,500</u>
	129,480
<u>Capital costs</u>	
Construction costs (Phases 1 & 2)	1,150,000
Professional fees	<u>57,620</u>
	1,207,620
TOTAL COSTS	1,337,100

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Dated this 6TH Day of OCTOBER 1994

on behalf of Ardglass and District Development Association
trading as Phennick Cove Developments Ltd.

Signature *P. McLean* Position held COMPANY SEC

Signature *R. White* Position held DIRECTOR

This form of acceptance should be signed by authorised representatives of the Applicant (ie) authorised Directors.