

ONTARIO COMMUNITY INFRASTRUCTURE FUND – APPLICATION-BASED COMPONENT AGREEMENT

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Minister of Agriculture, Food and Rural Affairs

(the “**Province**”)

– and –

The Corporation of the Town of Kingsville
(CRA# 108127523)

(the “**Recipient**”)

BACKGROUND

The Province created the Ontario Community Infrastructure Fund to: (1) provide stable funding to help small communities address critical core infrastructure needs in relation to roads, bridges, water and wastewater; (2) further strengthen municipal asset management practices within small communities; and (3) help small communities use a broad range of financing tools to address infrastructure challenges and provide long-term support for rehabilitation and repair of core infrastructure for those in most need.

The Ontario Community Infrastructure Fund is composed of two (2) components: (1) the Application-Based Component; and (2) the Formula-Based Component.

The Recipient has applied to the Application-Based Component of the Ontario Community Infrastructure Fund for funding to assist the Recipient in carrying out the Project and the Province wishes to provide funding for the Project.

The Recipient is eligible to receive funding under the Application-Based Ontario Community Infrastructure Fund to undertake a Project.

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, the Parties agree as follows:

1.0 ENTIRE AGREEMENT

1.1 This Agreement, including:

Schedule “A” – General Terms And Conditions,
Schedule “B” – Additional Terms And Conditions,

Schedule "C" – Operational Requirements Under The Agreement,
Schedule "D" – Project Description,
Schedule "E" – Eligible And Ineligible Costs,
Schedule "F" – Financial Information,
Schedule "G" – Aboriginal Consultation Requirements,
Schedule "H" – Communications Protocol, and
Schedule "I" – Reports,

constitutes the entire agreement between the Parties with respect to the subject matter contained in this Agreement and supersedes all prior oral or written representations and agreements.

2.0 COUNTERPARTS

2.1 This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

3.0 AMENDING AGREEMENT

3.1 This Agreement may only be amended by a written agreement duly executed by the Parties.

4.0 ACKNOWLEDGEMENT

4.1 The Recipient acknowledges and agrees that:

- (a) By receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *BPSAA*, the *PSSDA* and the *AGA*;
- (b) Her Majesty the Queen in Right of Ontario has issued expenses, perquisites and procurement directives and guidelines pursuant to the *BPSAA* that may be applicable to the Recipient;
- (c) The Funds are
 - (i) To assist the Recipient to carry out the Project and not to provide goods or services to the Program, and
 - (ii) Funding for the purposes of the *PSSDA*; and
- (d) The Province is not responsible for, nor does the Province have a managerial role in, the undertaking, implementation, completion, operation and/or maintenance of the Project. The Recipient will not seek to hold the Province responsible for the undertaking, implementation, completion, operation and/or maintenance of the Project through recourse to a third party, arbitrator, tribunal or court.

[REST OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates set out below.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Minister of Agriculture, Food and Rural Affairs

Name:	Randy Jackiw	Date
Title:	Assistant Deputy Minister, Economic Development Division	

I have the authority to bind the Province pursuant to delegated authority.

THE CORPORATION OF THE TOWN OF KINGSVILLE

Signature:	_____	_____
Name:	_____	Date
Title:	_____	

AFFIX CORPORATE
SEAL

Signature:	_____	_____
Name:	_____	Date
Title:	_____	

I/We have the authority to bind the Recipient.

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SCHEDULE “A” GENERAL TERMS AND CONDITIONS

ARTICLE A1 INTERPRETATION AND DEFINITIONS

A1.1 Interpretation. For the purposes of interpreting this Agreement:

- (a) Words in the singular include the plural and vice versa;
- (b) Words in one gender include all genders;
- (c) The headings do not form part of this Agreement; they are for reference purposes only and will not affect the interpretation of the Agreement;
- (d) Any reference to dollars or currency will be in Canadian dollars and currency;
- (e) Any reference to a statute means a statute of the Province of Ontario, unless otherwise indicated;
- (f) Any reference to a statute is to that statute and to the regulations made pursuant to that statute as they may be amended from time to time and to any statute or regulations that may be passed that have the effect of supplanting or superseding that statute or regulation unless a provision of this Agreement provides otherwise;
- (g) All accounting terms will be interpreted in accordance with the Generally Accepted Accounting Principles used in Canada and all calculations will be made and all financial data to be submitted will be prepared in accordance with the Generally Accepted Accounting Principles used in Canada; and
- (h) The words “include”, “includes” and “including” denote that the subsequent list is not exhaustive.

A1.2 Definitions. In this Agreement, the following terms will have the following meanings:

“**Aboriginal Group**” includes the Indian, Inuit and Métis peoples of Canada or any other group holding Aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*.

“**Additional Provisions**” means the terms and conditions referred to in section A10.1 of Schedule “A” to this Agreement and specified in Schedule “B” of this Agreement.

“**AGA**” means the *Auditor General Act*.

“**Agreement**” means this agreement entered into between the Province and the Recipient and includes all of the Schedules listed in section 1.1 of this Agreement and any amending agreement entered into pursuant to section 3.1 of this Agreement.

“**Arm’s Length**” has the same meaning as set out in the *Income Tax Act (Canada)*, as it read on the Effective Date of this Agreement.

“**Auditor General**” means the Auditor General of Ontario.

“**BPSAA**” means the *Broader Public Sector Accountability Act, 2010*.

“**Business Day**” means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year’s Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any other day on which the Province is closed for business.

“Communications Protocol” means the protocol set out under Schedule “H” of this Agreement.

“Conflict Of Interest” includes any circumstances where:

- (a) The Recipient; or
- (b) Any person who has the capacity to influence the Recipient’s decisions, has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the Recipient’s objective, unbiased and impartial judgment relating to the Project, the use of the Funds or both.

“Consultant” means any person the Recipient retains to undertake any part of the work related to this Agreement.

“Contract” means an agreement between the Recipient and a third-party whereby the third-party provides a good or service for the Project in return for financial consideration that the Recipient wants to pay from the Funds under this Agreement.

“Effective Date” means the date on which this Agreement is effective, as set out under section C1 of Schedule “C” of this Agreement.

“Eligible Costs” means those costs set out under section E1 of Schedule “E” of this Agreement.

“Event of Default” has the meaning ascribed to it in section A16.1 of Schedule “A” this Agreement.

“Expiration Date” means the date on which this Agreement will expire, as set out under section C2 of Schedule “C” of this Agreement unless amended or terminated prior to this date in accordance with the terms and conditions of this Agreement.

“FAA” means the *Financial Administration Act*.

“Failure” means a failure to comply with any term, condition, obligation under any other agreement that the Recipient has with Her Majesty the Queen in Right of Ontario or one of Her agencies.

“FIPPA” means the *Freedom of Information and Protection of Privacy Act*.

“First Nation” means a band, as defined under section 2(1) of the *Indian Act* (Canada).

“Funds” means the money the Province provides to the Recipient pursuant to this Agreement.

“Holdback” means the amount, set out under section F2 of Schedule “F” of this Agreement, that the Province may withhold from any payment owing to the Recipient under this Agreement.

“Indemnified Parties” means Her Majesty the Queen in Right of Ontario, Her Ministers, agents, appointees and employees.

“Ineligible Costs” means those costs set out under section E2 of Schedule “E” of this Agreement.

“Interest Earned” means the amount of money earned by the Recipient from placing the Funds in an interest bearing account as set out under section A4.4 of Schedule “A” of this Agreement.

“Local Services Board” means a board established under the *Northern Services Boards Act*.

“MA” means the *Municipal Act, 2001*.

“Maximum Funds” means the amount set out under section F1 of Schedule “F” of this Agreement.

“Notice” means any communication given or required to be given pursuant to this Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default, and includes any such period or periods of time by which the Province considers it reasonable to extend that time.

“Parties” means the Province and the Recipient collectively.

“Party” means either the Province or the Recipient.

“Project” means the undertaking described in Schedule “D” of this Agreement.

“Project Completion Date” means the date set out under section C3 of Schedule “C” of this Agreement.

“PSSDA” means the *Public Sector Salary Disclosure Act, 1996*.

“Reports” means the reports set out under Schedule “I” of this Agreement.

“Requirements of Law” means all applicable statutes, regulations, by-laws, ordinances, codes, official plans, rules, approvals, permits, licenses, authorizations, orders, decrees, injunctions, directions and agreements with all authorities that now or at any time hereafter may relate to the Recipient, the Project, the Funds and this Agreement. Without limiting the generality of the foregoing, if the Recipient is subject to the *BPSAA*, the *PSSDA* or any other type of broader public sector accountability legislative provisions, the *BPSAA*, the *PSSDA* and those broader public sector accountability legislative provisions are deemed to be a Requirement of Law.

“Substantial Completion” has the same meaning as “substantially performed”, as defined under section 2(1) of the *Construction Lien Act*.

“Term” means the period of time beginning on the Effective Date of this Agreement and ending on the Expiration Date unless terminated earlier pursuant to Articles A14, A15 or A16 of this Agreement.

A1.3 Conflict. Subject to section A10.1 of Schedule “A” of this Agreement, in the event of a conflict between the terms and conditions set out in this Schedule “A” of the Agreement and the terms or conditions set out in any other Schedule of this Agreement, the terms and conditions set out under this Schedule “A” of the Agreement will prevail.

ARTICLE A2 EFFECTIVE DATE AND DURATION OF AGREEMENT

A2.1 Effective Date Of Agreement. This Agreement will take effect on its Effective Date.

A2.2 Expiration Date Of Agreement. This Agreement will expire on its Expiration Date.

ARTICLE A3 REPRESENTATIONS, WARRANTIES AND COVENANTS

A3.1 General. The Recipient represents, warrants and covenants that:

- (a) It is, and will continue to be for the Term of this Agreement, a validly existing legal entity with full power to fulfill its obligations under this Agreement;
- (b) It has, and will continue to have for the Term of this Agreement, the experience and expertise necessary to carry out the Project;
- (c) It has the financial resources necessary to carry out the Project and is not indebted to any person to the extent that that indebtedness would undermine the Recipient’s ability to complete the Project;
- (d) It is in compliance with all Requirements of Law and will remain in compliance with all Requirements of Law related to any aspect of the Project, the Funds or both for the Term of this Agreement; and
- (e) Unless otherwise provided for in this Agreement, any information the Recipient provided to the Province in support of its request for Funds, including any information relating to any eligibility requirements, was true and complete at the time the Recipient provided it.

A3.2 Execution Of Agreement. The Recipient represents and warrants that it has:

- (a) The full power and authority to enter into this Agreement; and
- (b) Taken all necessary actions to authorize the execution of this Agreement.

A3.3 Governance. The Recipient represents, warrants and covenants that it has, and will maintain, in writing for the Term of this Agreement:

- (a) A code of conduct and ethical responsibilities for all persons at all levels of the Recipient’s organization;
- (b) Procedures to ensure the ongoing effective functioning of the Recipient;
- (c) Decision-making mechanisms for the Recipient;
- (d) Procedures to enable the Recipient to manage the Funds prudently and effectively;
- (e) Procedures to enable the Recipient to successfully complete the Project;
- (f) Procedures to enable the Recipient to, in a timely manner, identify risks to the completion of the Project and develop strategies to address those risks;
- (g) Procedures to enable the preparation and delivery of all Reports required under this Agreement; and

- (h) Procedures to enable the Recipient to deal with such other matters as the Recipient considers necessary to ensure that the Recipient carries out its obligations under this Agreement.

A3.4 Approvals, Licenses And Permits. The Recipient represents, warrants and covenants that it has or will apply for any approval, license, permit or similar authorization necessary to carry out the Project before carrying out the Project. For greater clarity, the Recipient acknowledges and agrees that the entering into this Agreement does not in any way obligate any regulatory authority established under an Act of the Ontario Legislature to issue any type of approval, license, permit or similar authorization that the Recipient may need or want in relation to undertaking the Project or to meet any other term or condition under this Agreement.

A3.5 Supporting Documentation. Upon request, and within the time period indicated in the Notice, the Recipient will provide the Province with proof of the matters referred to in Article A3 of this Agreement.

A3.6 Additional Covenants. The Recipient undertakes to advise the Province within five (5) Business Days of:

- (a) Any changes that affect its representations, warranties and covenants under sections A3.1 to A3.4 of Schedule "A" of this Agreement during the Term of the Agreement; and
- (b) Any actions, suits or other proceedings which could or would reasonably prevent the Recipient from complying with the terms and conditions of this Agreement.

A3.7 Recipient's Representations, Warranties And Covenants For The Benefit Of The Province. The Recipient acknowledges and agrees that the representations, warranties and covenants set out in this Article A3 of Schedule "A" of the Agreement are for the sole benefit of the Province.

A3.8 Provincial Reliance On Recipient's Representations, Warranties And Covenants. The Recipient acknowledges and agrees that the Province is relying on all of the representations, warranties and covenants set out in this Article A3 of Schedule "A" of this Agreement.

ARTICLE A4 FUNDS AND CARRYING OUT THE PROJECT

A4.1 Funds Provided. The Province will:

- (a) Provide the the Recipient up to the Maximum Funds for the sole purpose of carrying out the Project.
- (b) Provide the Funds to the Recipient in accordance with section F3 of Schedule "F" of this Agreement;
- (c) Deposit the Funds into an account designated by the Recipient, provided that account:
 - (i) Resides at a Canadian financial institution, and
 - (ii) Is in the name of the Recipient.

A4.2 Limitation On Payment Of Funds. Despite section A4.1 of Schedule "A" of this Agreement:

- (a) The Province is not obligated to provide any Funds to the Recipient until the Recipient provides the insurance certificate or other proof as the Province may request pursuant to section A14.2 of Schedule "A" of this Agreement;

- (b) The Province is not obligated to provide any instalments of Funds until the Province is satisfied with the progress of the Project;
- (c) The Province may adjust the amount of Funds it provides to the Recipient without liability, penalty or costs based upon the Province's assessment of the information provided by the Recipient pursuant to Article A8 of Schedule "A" of this Agreement;
- (d) The Province may withhold the Holdback from each payment made under this Agreement and is not obligated to pay the Holdback to the Recipient for thirty (30) days after the Expiration Date of this Agreement; and
- (e) If, in the opinion of the Minister of Agriculture, Food and Rural Affairs, the Province does not receive the necessary appropriation from the Ontario Legislature for any payment under this Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) Reduce the amount of Funds and, in consultation with the Recipient, change the Project without liability, penalty or costs; or
 - (ii) Terminate the Agreement pursuant to section A15.1 of Schedule "A" of this Agreement.

A4.3 Use Of Funds And Project. The Recipient will:

- (a) Only use the Funds being provided under this Agreement toward the Project;
- (b) Carry out and complete any Projects in accordance with the terms and conditions of this Agreement;
- (c) Use the Funds only for Eligible Costs that are necessary to carry out the Project; and
- (d) Not use the Funds for Ineligible Costs.

A4.4 Interest Bearing Account. If the Province provides Funds to the Recipient before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest-bearing account in the name of the Recipient at a Canadian financial institution. The Recipient will hold the Funds in trust plus any Interest Earned thereon for the Province until the Recipient needs the Funds for the Project.

A4.5 No Provincial Payment Of Interest. The Province is not required to pay interest on any Funds under this Agreement. For greater clarity, this includes interest on any Funds that the Province has withheld paying to the Recipient pursuant to a term or condition set out in this Agreement.

A4.6 Rebates, Credits and Refunds. The Recipient acknowledges and agrees that the amount of Funds available to it pursuant to this Agreement is based on the actual costs to the Recipient, less any costs, including taxes, for which the Recipient has received, will receive or is eligible to receive, a rebate, credit or refund.

A4.7 Maximum Funds. The Recipient acknowledges and agrees that the Funds available to it pursuant to this Agreement will not exceed the Maximum Funds.

A4.8 Project Financing. The Recipient acknowledges and agrees that:

- (a) It is solely responsible for making any alternative arrangements that may be required to obtain additional financing for the Project in the event that its original financing situation changes;
- (b) It is solely responsible for covering any unapproved expenditures and cost overruns; and
- (c) It is solely responsible for securing any additional financing required to complete the Project.

A4.9 No Changes To The Project. The Recipient will not make any changes to the Project without the prior written consent of the Province.

A4.10 Project Completion. The Recipient will Substantially Complete the Project by the Project Completion Date.

A4.11 Disposal Of Assets. The Recipient will not, without the Province's prior written consent, sell, lease, encumber or otherwise dispose of any asset purchased, rehabilitated or built with the Funds or for which Funds were provided for a period of five (5) years after the date in which the Project was completed.

A4.12 Funding, Not Procurement. For greater clarity, the Recipient acknowledges and agrees that:

- (a) It is receiving Funds from the Province for the Project and is not providing goods or services to the Province; and
- (b) The Funds the Province is providing under this Agreement is funding for the purposes of the PSSDA.

ARTICLE A5 ABORIGINAL CONSULTATION

A5.1 Provision Of Funds Dependent Upon The Province Meeting Its Duty To Consult Obligations. The Recipient acknowledges and agrees that the provision of any Funds under this Agreement is strictly conditional upon the Province satisfying any obligations it may have to consult with and, if appropriate, accommodate any Aboriginal Group with an interest in the Project for the Project to proceed.

A5.2 Recipient Is The Province's Delegate For Purposes Of Consultation With Aboriginal Groups. By entering into this Agreement, the Province delegates the procedural aspects of any consultation obligations the Province may have with any Aboriginal Group in relation to the Project to the Recipient as set out in Schedule "G" of this Agreement. The Recipient, by signing this Agreement acknowledges that the Province has delegated the procedural aspects of any consultation obligations that the Province may have with any Aboriginal Group in relation to the Project and accepts said delegation and agrees to act diligently as the Province's delegate so as to preserve the Honour of the Crown in relation to any consultation obligations that the Province may have in relation to the Project.

A5.3 Recipients Obligations In Relation To Consultations. The Recipient will:

- (a) Be responsible for consulting with any Aboriginal Group that has an interest in the Project on behalf of the Province in accordance with Schedule "G" of this Agreement;
- (b) Take directions from the Province in relation to consulting with any Aboriginal Group with an interest in the Project as well as any other directions that the Province may issue in relation to consultations, including suspending or terminating any Project in which Funds are directed; and
- (c) Provide a detailed description of any actions it took in relation to consultation with any Aboriginal Group with an interest in the Project in its Reports.

A5.4 Recipient Will Not Start Construction On Project Until Recipient Provides Evidence To The Province That Notice Of Project Has Been Given To Identified Aboriginal Groups. Despite anything else in this Agreement, the Recipient will not commence or allow a third party to commence construction on any aspect of the Project for forty-five (45) Business

Days, or such other longer or shorter time as the Province may direct, after it has provided the Province with written evidence that the Recipient has sent notice about the Project to the Aboriginal Groups the Province has identified in accordance with Schedule "G" of this Agreement.

ARTICLE A6

RECIPIENT'S ACQUISITION OF GOODS AND SERVICES AND DISPOSAL OF ASSETS

- A6.1 Acquisition Of Goods And Services In Competitive Procurement Process.** The Recipient will acquire any goods and services for the Project through a transparent, competitive process that ensures the best value for any Funds expended and at no greater value than fair market value, after deducting trade discounts and/or other discounts available to the Recipient. Without limiting the generality of the foregoing, where the Recipient is a municipal entity to which the *MA* applies, the Recipient will follow its procurement policies required under the *MA*. Where the Recipient is a Local Services Board, the Recipient will obtain a minimum of three (3) written quotes for any goods or services exceeding twenty-five thousand dollars (\$25,000.00), unless the Province provides its prior written approval to obtain such goods or services in another manner. The Province may waive the requirements of this section A6.1 of Schedule "A" of the Agreement in writing if:
- (a) The goods or services the Recipient is purchasing are not readily available; or
 - (b) The Recipient has researched the market for a similar purchase within the last two (2) years and knows prevailing market costs for those good or services being purchased.
- A6.2 BPSAA.** For greater clarity, if the Recipient is subject to the *BPSAA* and there is a conflict between the *BPSAA* and a requirement under this Article A6 of the Agreement, the *BPSAA* will apply and prevail to the extent of that conflict.
- A6.3 Contracts.** The Recipient will ensure that all Contracts:
- (a) Are consistent with this Agreement;
 - (b) Do not conflict with this Agreement;
 - (c) Incorporate the relevant provisions of this Agreement to the fullest extent possible;
 - (d) Require that any parties to those Contracts comply with all Requirements of Law; and
 - (e) Authorize the Province to perform audits of the parties to those Contracts in relation to the Project or any Funds provided to those parties.
- A6.4 Use Of Consultants.** The Province recognizes and acknowledges that the Recipient may engage one or more Consultants for the purposes of carrying out the Project. The Recipient will have sole responsibility for hiring and terminating the employment of said Consultants. The Recipient further acknowledges and agrees that the Recipient will be responsible for all acts and actions of the Recipient's Consultants and that all such acts and actions will be treated as acts and actions of the Recipient for the purposes of this Agreement.
- A6.5 Trade Agreements.** If the Recipient is subject to any provincial or federal trade agreements to which the Province is a party, the Recipient will comply with the applicable requirements of such trade agreements. In particular, and without limitation, if the Recipient is subject to Annex 502.4 of the *Agreement on Internal Trade*, the Recipient will comply with all applicable requirements of Annex 502.4. In the event of any conflict between any requirement under Annex 502.4 and a requirement under this Article 6 of the Agreement, Annex 502.4 will apply and prevail to the extent of that conflict.

A6.6 *Costs Of Contracts Not Awarded In Compliance With This Article May Be Deemed Ineligible.* If the Province determines that the Recipient has awarded a Contract in a manner that is not in compliance with any requirement set out under this Article 6 of Schedule “A” of the Agreement, the Province may without liability, penalty or costs deem the costs associated with the Contract as being ineligible and will have no obligation to pay those costs.

ARTICLE A7 CONFLICT OF INTEREST

A7.1 *No Conflict Of Interest.* The Recipient will ensure that any Person associated with the Project in whatever capacity carries out the administration of any Funds in all its aspects without an actual, potential or perceived Conflict of Interest.

A7.2 *Disclosure To The Province:* The Recipient will:

- (a) Disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential or perceived Conflict Of Interest; and
- (b) Comply with any terms and conditions that the Province may impose as a result of the disclosure.

ARTICLE A8 REPORTS, RECORDS, INSPECTION, AUDITS AND THE PROVISION OF INFORMATION

A8.1 *Preparation And Submission.* The Recipient will:

- (a) Submit to the Province at the address referred to in section C6 of Schedule “C” of this Agreement all Reports in accordance with the timelines set out in Schedule “I” of this Agreement and in the form specified by the Province;
- (b) Ensure that all Reports are completed to the satisfaction of the Province; and
- (c) Ensure that any compliance attestation that must be submitted with any Reports is completed and signed by the Recipient’s Administrative Officers/Clerk or Treasurer.

A8.2 *Records Maintenance.* The Recipient will keep and maintain:

- (a) All financial records, including invoices, relating to the Funds or otherwise to the Project in a manner consistent with generally acceptable accounting principles; and
 - (b) All non-financial documents and records relating to the Funds or otherwise to the Project in a manner consistent with all Requirements of Law,
- for a period of seven (7) years after the Expiration Date of this Agreement.

A8.3 *Inspection.* The Province, its authorized representatives or an independent auditor identified by the Province may, at its own expense, upon twenty-four (24) hours’ Notice to the Recipient during normal business hours, enter the Recipient’s premises or site of the Project to review the progress of the Project and the Recipient’s allocation and expenditure of the Funds and, for these purposes, the Province, its authorized representatives or an independent auditor identified by the Province may take one or more of the following actions:

- (a) Inspect and copy the records and documents referred to in section A8.2 of Schedule “A” of this Agreement;
- (b) Remove any copies made pursuant to section A8.3(a) of Schedule “A” of this Agreement from the Recipient’s premises; and
- (c) Conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project or both.

- A8.4 Disclosure.** To assist in respect of the rights set out under section A8.3 of Schedule “A” of this Agreement, the Recipient will disclose any information requested by the Province, its authorized representatives or an independent auditor identified by the Province and will do so in the form requested by the Province, its authorized representatives or an independent auditor identified by the Province, as the case may be.
- A8.5 No Control Of Records.** No provision of this Agreement will be construed so as to give the Province any control whatsoever over the Recipient’s records.
- A8.6 Auditor General.** For greater certainty, the Province’s rights under this Article of the Agreement are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the AGA.
- A8.7 Provision Of Information.** The Recipient will provide to the Province, within the time period set out in the Notice, such information in respect of this Agreement or the Project as the Province requests.

ARTICLE A9 COMMUNICATIONS

- A9.1 Recipient To Follow Communications Protocol.** The Recipient will follow the Communications Protocol.
- A9.2 Publication By The Province.** The Recipient agrees the Province may, in addition to any obligations the Province may have under *FIPPA*, publicly release information under this Agreement, including the Agreement itself, in hard copy or in electronic form, on the internet or otherwise.

ARTICLE A10 ADDITIONAL PROVISIONS

- A10.1 Additional Provisions.** The Recipient will comply with any Additional Provisions set out under Schedule “B” of this Agreement. In the event of a conflict or inconsistency between any of the requirements of the Additional Provisions and any requirements of this Schedule “A” of this Agreement, the Additional Provisions will prevail.

ARTICLE A11 DISCLOSURE OF INFORMATION PROVIDED TO THE PROVINCE

- A11.1 FIPPA.** The Recipient acknowledges that the Province is bound by the *FIPPA*.
- A11.2 Disclosure Of Information.** Any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with *FIPPA* and any other Requirements of Law.

ARTICLE A12

INDEMNITY, LIMITATION OF LIABILITY AND DUTY TO DEFEND

- A12.1 Indemnification.** The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all direct or indirect liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with this Agreement, unless solely caused by the gross negligence or wilful misconduct of the Province.
- A12.2 Exclusion Of Liability.** The Recipient acknowledges and agrees that in no event will the Province be liable for any general, compensatory, incidental, special or consequential damages, or any loss of use, revenue or profit by the Recipient or the Recipient's officers, servants, employees and agents arising out of or in any way related to this Agreement.
- A12.3 Recipient's Participation.** The Recipient will, at its expense, to the extent requested by the Province, participate in or conduct the defence of any proceeding against any Indemnified Parties and any negotiations for their settlement.
- A12.4 Province's Election.** The Province may elect to participate in or conduct the defence of any proceeding by providing Notice to the Recipient of such election without prejudice to any other rights or remedies of the Province under this Agreement, at law or in equity. Each Party participating in the defence will do so by actively participating with the other's counsel.
- A12.5 Settlement Authority.** The Recipient will not enter into a settlement of any proceeding against any Indemnified Parties unless the Recipient has obtained the prior written approval of the Province. If the Recipient is requested by the Province to participate in or conduct the defence of any proceeding, the Province will co-operate with and assist the Recipient to the fullest extent possible in the proceeding and any related settlement negotiations.
- A12.6 Recipient's Co-operation.** If the Province conducts the defence of any proceedings, the Recipient will co-operate with and assist the Province to the fullest extent possible in the proceedings and any related settlement negotiations.

ARTICLE A13

INSURANCE

- A13.1 Recipient's Insurance.** The Recipient represents and warrants that it has, and will maintain for the for a period of ninety (90) days after the Province has approved the Recipient's Final Report attesting that the Project is complete, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than the amount set out under section C5 of Schedule "C" of this Agreement per occurrence. The policy will include the following:
- (a) The Indemnified Parties as additional insureds with respect to liability arising in the course or performance of the Recipient's obligations under, or otherwise in connection with, the Project or under this Agreement;

- (b) A cross-liability clause;
- (c) Contractual liability coverage;
- (d) Products and completed operations liability coverage;
- (e) Employer's liability coverage;
- (f) Tenant's legal liability coverage (for premises/building leases only); and
- (g) Non-owned automobile coverage with blanket contractual and physical damage coverage for hired automobiles; and
- (h) A thirty (30) day written notice of cancellation provision.

A13.2 Proof Of Insurance. The Recipient will provide the Province with certificates of insurance, or other proof as the Province may request within the time limit set out in that request, that confirms the insurance coverage as required under section A13.1 of Schedule "A" of this Agreement. For greater clarity, the Province may also request that the Recipient provide the Province with a copy of its insurance policy or insurance policies that relate to the Project.

A13.3 Right Of "First Call" On Insurance Proceeds. The Recipient will provide the Indemnified Parties with a right of "first call" or priority over any other person, including the Recipient, to use or enjoy the benefits of the proceeds from the insurance policy required under section A13.1 of Schedule "A" of this Agreement to pay any suits, judgments, claims, demands, expenses, actions, causes of action and losses (including without limitation, reasonable legal expenses and any claim for a lien made pursuant to the *Construction Lien Act* and for any and all liability, damages to property and injury to persons (including death)) that may be brought against the Indemnified Parties as a result of this Agreement.

ARTICLE A14 TERMINATION ON NOTICE

A14.1 Termination On Notice. The Province may terminate this Agreement at any time without liability, penalty or costs upon giving at least thirty (30) days' Notice to the Recipient.

A14.2 Consequences Of Termination On Notice By The Province. If the Province terminates this Agreement pursuant to section A14.1 of Schedule "A" of this Agreement, the Province may take one or more of the following actions:

- (a) Direct that the Recipient does not incur any costs for the Project that are Eligible Costs under this Agreement without the Province's prior written consent during the notice period set out under section A14.1 of Schedule "A" of this Agreement;
- (b) Cancel any further installments of the Funds;
- (c) Demand the repayment of any Funds, plus any Interest Earned thereon, remaining in the possession or under the control of the Recipient; and
- (d) Determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) Permit the Recipient to offset such costs against any amount owing to the Recipient; and/or
 - (ii) Subject to section A4.2(e) of Schedule "A" of this Agreement, provide Funds to the Recipient to cover such costs.

ARTICLE A15

TERMINATION WHERE NO APPROPRIATION

A15.1 Termination Where No Appropriation. If, as provided for in section A4.2(e) of Schedule “A” of this Agreement, the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to this Agreement, the Province may terminate the Agreement immediately without liability, penalty or costs by giving Notice to the Recipient.

A15.2 Consequences Of Termination Where No Appropriation. If the Province terminates this Agreement pursuant to section A15.1 of Schedule “A” of this Agreement, the Province may take one or more of the following actions:

- (a) Cancel any further installments of the Funds;
- (b) Demand the repayment of any Funds, plus any Interest Earned thereon, remaining in the possession or under the control of the Recipient; and
- (c) Determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section A15.2(b) of Schedule “A” of this Agreement.

A15.3 No Additional Funds. For greater clarity, if the costs determined pursuant to section A15.2(c) of Schedule “A” of this Agreement exceed the Funds remaining in the possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

ARTICLE A16

EVENT OF DEFAULT, CORRECTIVE ACTION AND TERMINATION FOR DEFAULT

A16.1 Events Of Default. Each of the following events will constitute an Event of Default:

- (a) In the opinion of the Province, the Recipient breaches any representation, warranty, covenant or other term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of this Agreement:
 - (i) Carry out the Project,
 - (ii) Use or spend the Funds,
 - (iii) Provide any Reports required under this Agreement, or
 - (iv) The Recipient fails to follow any directions that the Province provides under this Agreement;
- (b) The Recipient has provided false or misleading information to the Province;
- (c) The Recipient is unable to continue the Project or the Recipient is likely to discontinue the Project;
- (d) The Recipient’s operations, or its organizational structure, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;
- (e) The Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application or an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or
- (f) The Recipient ceases to operate.

A16.2 Consequences Of Events Of Default And Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) Initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) Provide the Recipient with an opportunity to remedy the Event of Default;
- (c) Suspend the payment of Funds for such a period as the Province determines appropriate;
- (d) Reduce the amount of Funds;
- (e) Cancel any further installments of the Funds;
- (f) Demand the repayment of any Funds plus any Interest Earned thereon remaining in the possession or under the control of the Recipient;
- (g) Demand the repayment of an amount equal to any Funds the Recipient used plus any Interest Earned thereon, but did not use in accordance with the terms and conditions of this Agreement;
- (h) Demand the repayment of an amount equal to any Funds the Province provided to the Recipient plus any Interest Earned thereon, even though the Project is partially completed; and
- (i) Terminate this Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A16.3 Opportunity To Remedy. If, in accordance with section A16.2(b) of Schedule "A" of this Agreement, the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will provide Notice to the Recipient of:

- (a) The particulars of the Event of Default; and
- (b) The Notice Period.

A16.4 Recipient Not Remediating. If the Province has provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A16.2(b) of Schedule "A" of this Agreement, and;

- (a) The Recipient does not remedy the Event of Default within the Notice Period;
- (b) It becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) The Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A16.2(a), (c), (d), (e), (f), (g), (h) and (i) of Schedule "A" of this Agreement.

A16.5 When Termination Effective. Termination under this Article A16 of Schedule "A" of this Agreement will take effect as set out in the Notice.

ARTICLE A17 LOBBYISTS AND AGENT FEES

A17.1 Lobbyists And Agent Fees. The Recipient represents and warrants:

- (a) Any person hired by the Recipient to speak or correspond with any employee or other person representing the Province concerning any matter relating to any Funds under this Agreement or any benefit hereunder is registered, if required to register, pursuant to the *Lobbyists Registration Act, 1998*;
- (b) It has not and will not make a payment or other compensation to any other legal entity that is contingent upon or is calculated upon the provision of any Funds hereunder or negotiating the whole or any part of the terms or conditions of this Agreement; and
- (c) No money from the Province was used or will be used to lobby or otherwise secure the provision of any Funds in relation to this Agreement.

ARTICLE A18 FUNDS UPON EXPIRY

A18.1 Funds Upon Expiry. The Recipient will, upon the expiry of the Agreement, return to the Province any unspent Funds plus any Interest Earned thereon remaining in its possession or under its control.

ARTICLE A19 REPAYMENT

A19.1 Repayment Of Overpayment. If at any time during the Term of this Agreement the Province provides Funds in excess of the amount to which the Recipient is eligible to receive under this Agreement, the Province may:

- (a) Deduct an amount equal to the excess Funds plus any Interest Earned thereon from any further installments of the Funds; or
- (b) Demand that the Recipient pay an amount equal to the excess Funds plus any Interest Earned thereon to the Province.

A19.2 Debt Due. If, pursuant to this Agreement:

- (a) The Province demands the payment of any Funds plus Interest Earned or an amount equal to any Funds plus Interest Earned from the Recipient; or
- (b) The Recipient owes any Funds plus Interest Earned or an amount equal to any Funds plus Interest Earned to the Province, whether or not their return or repayment has been demanded by the Province,

such Funds plus Interest Earned or other amount will be deemed to be a debt due and owing to the Province by the Recipient and the Recipient will pay or return the amount to the Province immediately, unless the Province directs otherwise. For greater clarity, in the event that the Recipient makes an assignment, proposal, compromise or arrangement for the benefit of creditors or a creditor makes an application for an order adjudging the Recipient bankrupt or applies for the appointment of a receiver, this section A19.2 of Schedule "A" of this Agreement will not affect any Funds that the Recipient is holding in trust for the Province under section A4.4 of Schedule "A" of this Agreement.

A19.3 Interest Rate. The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

A19.4 Payment Of Money To Province. The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province at the address referred to in section C6 of Schedule "C" of this Agreement.

A19.5 Repayment. Without limiting the application of section 43 of the FAA, if the Recipient does not repay any amount owing under this Agreement, Her Majesty the Queen in Right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in Right of Ontario.

A19.6 Funds Are Part Of A Social Or Economic Program. The Recipient acknowledges and agrees that any Funds provided under this Agreement are for the administration of social or economic programs or the provision of direct or indirect support to members of the public in connection with social or economic policy.

ARTICLE A20 NOTICE

A20.1 Notice In Writing And Addressed. Notice will be in writing and will be delivered by email, postage-paid mail, personal delivery or fax and will be addressed to the Province and the Recipient respectively as set out in section C6 of Schedule "C" of this Agreement or as either Party later designates to the other by written Notice.

A20.2 Notice Given. Notice will be deemed to have been given:

- (a) In the case of postage-paid mail, five (5) Business Days after the Notice is mailed; or
- (b) In the case of email, personal delivery or fax, one (1) Business Day after the Notice is delivered.

A20.3 Postal Disruption. Despite section A20.2(a) of Schedule "A" of this Agreement, in the event of a postal disruption,

- (a) Notice by postage-paid mail will not be deemed to be received; and
- (b) The Party giving Notice will provide Notice by email, personal delivery or fax.

ARTICLE A21 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A21.1 Consent. When the Province provides its consent pursuant to this Agreement, that consent will not be considered valid unless that consent is in writing and the person providing the consent indicates in the consent that that person has the specific authority to provide that consent. The Province may also impose any terms and conditions on the consent and the Recipient will comply with such terms and conditions.

ARTICLE A22 SEVERABILITY OF PROVISIONS

A22.1 Invalidity Or Unenforceability Of Any Provision. The invalidity or unenforceability of any provision in this Agreement will not affect the validity or enforceability of any other provision of this Agreement. Any invalid or unenforceable provision will be deemed to be severed.

ARTICLE A23 WAIVER

A23.1 Waivers In Writing. If a Party fails to comply with any term or condition of this Agreement that Party may only rely on a waiver of the other Party if the other Party has provided a written waiver in accordance with the Notice provisions in Article A20 of Schedule "A" of this Agreement. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply. For greater clarity, where the Province chooses to waive a term or condition of this Agreement, such waiver will only be binding if provided by a person who indicates in writing that he or she has the specific authority to provide the waiver.

**ARTICLE A24
INDEPENDENT PARTIES**

A24.1 *Parties Independent.* The Recipient acknowledges and agrees that it is not an agent, joint venturer, partner or employee of the Province and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is or take any actions that could establish or imply such a relationship.

**ARTICLE A25
ASSIGNMENT OF AGREEMENT OR FUNDS**

A25.1 *No Assignment.* The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under this Agreement.

A25.2 *Agreement Binding.* All rights and obligations contained in this Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors and permitted assigns.

**ARTICLE A26
GOVERNING LAW**

A26.1 *Governing Law.* This Agreement and the rights, obligations and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with this Agreement will be conducted in the Courts of Ontario, which will have exclusive jurisdiction over such proceedings.

**ARTICLE A27
FURTHER ASSURANCES**

A27.1 *Agreement Into Effect.* The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of this Agreement to their full extent.

**ARTICLE A28
JOINT AND SEVERAL LIABILITY**

A28.1 *Joint And Several Liability.* Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under this Agreement.

**ARTICLE A29
RIGHTS AND REMEDIES CUMULATIVE**

A29.1 *Rights And Remedies Cumulative.* The rights and remedies of the Province under this Agreement are cumulative and are in addition to, and not in substitution of, any of its rights and remedies provided by law or in equity.

**ARTICLE A30
JOINT AUTHORSHIP**

A30.1 *Joint Authorship Of Agreement.* The Parties will be considered joint authors of this Agreement and no provision herein will be interpreted against one Party by the other Party because of authorship. No Party will seek to avoid a provision herein because of its authorship through recourse to a third party, court, tribunal or arbitrator.

**ARTICLE A31
FAILURE TO COMPLY WITH OTHER AGREEMENT**

A31.1 *Other Agreements.* If the Recipient:

- (a) Has committed a Failure;
 - (b) Has been provided with notice of such Failure in accordance with the requirements of such other agreement;
 - (c) Has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
 - (d) Such Failure is continuing,
- the Province may suspend the payment of Funds under this Agreement without liability, penalty or costs for such period as the Province determines appropriate.

**ARTICLE A32
SURVIVAL**

A32.1 *Survival.* The provisions of this Agreement that by their nature survive the expiration or early termination of this Agreement will so survive for a period of seven (7) years from the Expiry Date expiry or date of termination. Without limiting the generality of the foregoing, the following Articles and sections, and all applicable cross-referenced sections and schedules will continue in full force and effect for a period of seven (7) years from the Expiry Date or the date of termination: Article A1 and any other applicable definitions, section A4.2(e), A4.7, section A5.2, Article A7, section A8.1 (to the extent that the Recipient has not provided the Reports to the satisfaction of the Province), sections A8.2, A8.3, A8.4, A8.5, A8.6, Article A12, section A14.2, sections A15.2 and A15.3, sections A16.1, A16.2(d), (e), (f), (g) and (h), Article A18, Article A19, Article A20, Article A22, section A25.2, Article A26, Article A28, Article A29, Article A30, Article A31 and Article A32.

A32.2 *Survival After Creation.* Despite section A32.1 of this Agreement, section A8.2 of this Agreement, including all cross-referenced provisions and Schedules, will continue in full force and effect for a period of seven (7) years from the date in which that document or record referred to in section A8.2 of this Agreement was created.

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SCHEDULE “B” ADDITIONAL TERMS AND CONDITIONS

- B1.1 *The Province May Impose Additional Conditions On The Recipient.*** The Province may impose, at any time, such additional terms or conditions on the Recipient in terms of the Recipient’s operations, behaviour or responsibilities that relate to the use of any Funds which the Province considers, acting reasonably, appropriate for the proper expenditure and management of the Funds. For greater certainty, any additional terms or conditions the Province may impose shall be supplements to the existing terms and conditions of this Agreement as opposed to amendments to the terms and conditions of this Agreement.
- B1.2 *Behaviour Of Recipient.*** The Recipient will carry out any Project to which Funds are directed in an economical and business-like manner, in accordance with the terms and conditions of this Agreement, subject to any additional conditions the Province may impose under section B1.1 of Schedule “B” of this Agreement or any reasonable amendments the Province may agree to or require from time to time in writing.
- B1.3 *New Information.*** In the event of new information, errors, omissions or other circumstances affecting the determination of the amount of any Funds being provided under this Agreement, the Province may, in its sole and absolute discretion, adjust the Funds being provided under this Agreement.

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SCHEDULE “C” OPERATIONAL REQUIREMENTS UNDER THE AGREEMENT

- C1 *Effective Date.*** The Effective Date of this Agreement is the date in which the Province signs the Agreement.
- C2 *Expiration Date.*** Unless this Agreement is terminated earlier, this Agreement shall expire on March 31, 2020.
- C3 *Project Completion Date.*** The Project will be completed no later than December 31, 2018. For clarity this means Substantial Completion must have occurred.
- C4 *Submission Of Reports.*** All Reports under this Agreement will be submitted to the Province using the address supplied under section C6 of Schedule “C” or any other person identified by the Province in writing.
- C5 *Insurance Amount.*** The amount of insurance the Recipient will have for the purposes of section A13.1 of Schedule “A” of this Agreement no less than two million dollars (\$2,000,000.00).
- C6 *Providing Notice.*** All Notices under this Agreement will be provided to:

TO THE PROVINCE	TO THE RECIPIENT
Ministry of Agriculture, Food and Rural Affairs Rural Programs Branch 1 Stone Road West, 4NW Guelph, Ontario N1G 4Y2 Attention: Manager, Infrastructure Renewal Programs Fax: 519-826-3398 Email: OCIFApps@ontario.ca	The Corporation of the Town of Kingsville 2021 Division Road North Kingsville, ON N9Y 2Y9 Attention: Peggy Van Mierlo-West, CAO Fax: (519) 733-8108 Email: pvmwest@kingsville.ca

or any other person identified by the Parties in writing.

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SCHEDULE “D” PROJECT DESCRIPTION

The project is for the replacement of 693m of road on Park Street. This includes up-sizing the water main, hydrants and all appurtenances, new asphalt, curb and gutter, driveway aprons, base, geotextile, wider sidewalks and street lighting. The current silty-clay base will be replaced with a granular base of 150mm of Granular A. The asphalt design has been expanded to include; 60mm of HL4 and 40mm of HL3. The current 1 metre sidewalks will be expanded to a 3 metre concrete sidewalk and the streetlight poles will be replaced. Output: Asset has been renewed and meets any relevant conditions and regulatory approvals. Outcomes: Increased traffic safety and flow; Improved road drainage; Increased pedestrian and cyclist safety.

[REST OF PAGE INTENTIONALLY LEFT BLANK – SCHEDULE “E” FOLLOWS]

SCHEDULE "E" ELIGIBLE AND INELIGIBLE COSTS

E1 Eligible Costs. Subject to the terms and conditions of this Agreement and section E2 of this Schedule "E" of the Agreement, Eligible Costs shall only include all direct and incremental costs that are attributable to the development and implementation of the Project and are in the Province's sole and absolute discretion, properly and reasonably incurred as well as necessary for the Project. Eligible Costs must also be actual, verifiable cash outlays to third party vendors that are documented through invoices, receipts or other records that are acceptable to the Province.

Without limiting the generality of the foregoing, Eligible Costs will only include the following:

- (a) The capital costs of constructing, rehabilitating, replacing or improving, in whole or in part, the tangible core infrastructure asset noted in the Project Description in Schedule "D" of the Agreement;
- (b) All planning and assessment costs, such as the costs of environmental planning, surveying, engineering, architectural supervision, testing and management consulting services;
- (c) The costs for permits, approvals, licences and other authorizing documents, as well as inspections and other fees directly attributable to obtaining a permit, approval, license or other authorizing document, provided those costs are directly attributable to the construction and implementation of Project,
- (d) The costs for consulting with an Aboriginal Group, including the Recipient's legal fees, provided they are reasonable, on matters pertaining to the Project, including the translation of documents into languages spoken by the affected Aboriginal Group, but does not include any capacity-building funding unless specifically approved by Ontario in writing prior to being incurred;
- (e) The costs of Project-related signage, lighting, Project markings and utility adjustments;
- (f) The costs of joint communication activities, such as press releases, press conferences, translation and road signage recognition, as described in Schedule "G" of this Agreement; and
- (g) Other costs that are, in Ontario's sole and absolute discretion, direct, incremental and necessary for the successful implementation of the Project, provided those costs have been approved by Ontario in writing prior to being incurred.

E2 Ineligible Costs. The following costs are Ineligible Costs and are therefore ineligible to be paid from the Funds being provided under this Agreement:

- (a) Costs incurred not in accordance with section A6.1 of Schedule "A" of this Agreement;
- (b) Costs incurred prior to July 4, 2016 or after the Project Completion Date;
- (c) Costs associated with the acquisition or leasing of:
 - (i) Land,
 - (ii) Buildings,
 - (iii) Equipment,
 - (iv) Other facilities, and
 - (v) Obtaining easements, including the costs or expenses for surveys, and includes real estate fees and other related costs;

- (d) Costs associated with moveable/transitory assets (e.g. portable generators, etc.) or rolling stock (e.g. trucks, graders, etc.)
- (e) Costs related to recreational trails.
- (f) Legal fees, other than those associated with consultation with Aboriginal Groups (provided such legal fees are reasonable;
- (g) Taxes, regardless of any rebate eligibility;
- (h) The value of any goods and services which are received through donations or in kind;
- (i) Employee wages and benefits, overhead costs as well as other direct or indirect operating, maintenance and administrative costs incurred by the Recipient for the Project, and more specifically, but without limiting the generality of the foregoing, costs relating to services delivered directly by permanent employees of the Recipient;
- (j) Unreasonable meal, hospitality or incidental costs or expenses of Consultants;
- (k) Costs associated with completing applications for the Ontario Community Infrastructure Fund;
- (l) Costs of accommodation for any Aboriginal Group; and
- (m) Costs incurred contrary to section A17.1 of Schedule "A" of this Agreement.

E3 ***Costs Of Non-Arm's Length Parties.*** The costs or expenses of goods or services acquired from parties that are not Arm's Length from the Recipient must be valued at the cost of the supplying entity and shall not include any mark up for profit, return on investment or overhead costs and shall not exceed fair market value. The Province may not consider the eligibility of any of these costs unless access is provided to the relevant records of the supplying entity.

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SCHEDULE "F" FINANCIAL INFORMATION

F1 *Maximum Funds.* Subject to the terms and conditions of this Agreement, Ontario will provide the Recipient with an amount up to Nine Hundred and Thirty-seven Thousand and Eighty-two Dollars (\$937,082) in Funds for Eligible Costs for the Project.

Project's Estimated Total Net Eligible Costs: \$1,892,810
(Original budget from application)

Percentage of Provincial Support

The Percentage of Provincial Support is fixed at Fifty (50%) for the Term of the Agreement.

The percentage noted above is rounded to a whole number. Note that for payment purposes the percentage is calculated to 10 decimal places and is based on the Maximum Funds against the Project's Estimated Total Net Eligible Costs as provided above.

"Total Net Eligible Costs" means all direct costs that are, in Ontario's sole and absolute discretion, properly and reasonably incurred as per Schedule "E" of this Agreement by the Recipient under a contract for goods or services necessary for the implementation of the Project, less any HST rebate or any other rebates the Recipient has received, will receive or is eligible to receive from any government source.

F2 *Holdback.* The Province may withhold up to ten (10) percent from each payment of Funds the Province makes to the Recipient under this Agreement as a Holdback.

F3 *Provision Of Funds.* The Province will provide the Funds to the Recipient, subject to the terms and conditions of the Agreement, in accordance with the following:

MILESTONE PAYMENT SCHEDULE

Project Milestone Payment	Recipient Expected Date
Milestone 1: Agreement Execution	March 15, 2017
Milestone 2: Submission and Acceptance of Revised Budget Report (Submitted after 70% of the Project costs are awarded)	March 28, 2017
Milestone 3: Submission and Acceptance of Final Report	January 31, 2018

MILESTONE PAYMENT	AMOUNT	REQUIRED DOCUMENTATION
Subject to the terms and conditions of the Agreement:	-	-
<p>Milestone 1:</p> <p>Execution of the Agreement by both Parties.</p>	<p>An amount up to fifty-five percent (55%) of the Maximum Funds</p>	<p>An executed Agreement and a Council by-law / Board resolution authorizing the Recipient's entry into the Agreement.</p>
<p>Milestone 2:</p> <p>Upon receipt and acceptance by Ontario of required reports.</p> <p>If there is a variance between the date noted in Recipient Expected Date for Milestone 2 (noted above) and the actual date Milestone 2 will be submitted by the Recipient, notification must be provided as soon as possible to Ontario.</p>	<p>Provided it is not a negative figure, an amount up to seventy-five percent (75%) of either</p> <p>(i) The Maximum Funds, less the amount paid at Milestone 1;</p> <p style="text-align: center;">or</p> <p>(i) An amount calculated by multiplying the percentage of Maximum Funds against the Recipient's Revised Total Net Eligible Costs, less the amount paid at Milestone 1.</p>	<p>Construction Contract Award Report as described in Schedule "I" of this Agreement</p> <p>Revised Budget Report</p> <p>Progress Report</p>

<p>Milestone 3: Upon receipt and acceptance by Ontario of the Final Report. The Final Report shall be submitted within sixty (60) Business Days of the completion of the Project and no later than February 15, 2019 whichever is earliest.</p> <p>If there is a variance between the date noted in Recipient Expected Date for Milestone 3 (noted above) and the actual date Milestone 3 will be submitted by the Recipient, notification must be provided as soon as possible to Ontario.</p>	<p>Using the same method of calculation as in Milestone 2,</p> <p>(i) The balance of the Funds, if any, to the limit of the Maximum Funds</p> <p style="text-align: center;">or</p> <p>(ii) The balance, if any, of the Funds calculated by multiplying the Percentage of Provincial Support against the Recipient's Total Net Eligible Costs as certified in the Final Report,</p> <p>whichever aggregate amount is smaller.</p>	<p>Final Report</p>
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SCHEDULE “G”

ABORIGINAL CONSULTATION REQUIREMENTS

G1.1 Purpose. This Schedule sets out the responsibilities of the Province and the Recipient in relation to consultation with Aboriginal Groups on the Project, and to delegate procedural aspects of consultation from the Province to the Recipient.

G1.2 Definitions. For the purposes of this Schedule:

“**Section 35 Duty**” means any duty the Province may have to consult and, if required, accommodate Aboriginal Groups in relation to the Project flowing from section 35 of the *Constitution Act, 1982*.

G2.1 The Province’s Responsibilities. The Province is responsible for:

- (a) Determining the Aboriginal Groups to be consulted in relation to the Project, if any, and advising the Recipient of same;
- (b) The preliminary and ongoing assessment of the depth of consultation required with the Aboriginal Groups;
- (c) Delegating, at its discretion, procedural aspects of consultation to the Recipient pursuant to this Schedule;
- (d) Directing the Recipient to take such actions, including without limitation suspension as well as termination of the Project, as the Province may require;
- (e) Satisfying itself, where it is necessary to do so, that the consultation process in relation to the Project has been adequate and the Recipient is in compliance with this Schedule; and
- (f) Satisfying itself, where any Aboriginal or treaty rights and asserted rights of Aboriginal Groups require accommodation, that Aboriginal Groups are appropriately accommodated in relation to the Project.

G3.1 Recipient’s Responsibilities. The Recipient is responsible for:

- (a) Giving notice to the Aboriginal Groups regarding the Project as directed by the Province, if such notice has not already been given by the Recipient or the Province;
- (b) Immediately notifying the Province of contact by any Aboriginal Groups regarding the Project and advising of the details of the same;
- (c) Informing the Aboriginal Groups about the Project and providing to the Aboriginal Groups a full description of the Project unless such description has been previously provided to them;
- (d) Following up with the Aboriginal Groups in an appropriate manner to ensure that Aboriginal Groups are aware of the opportunity to express comments and concerns about the Project, including any concerns regarding adverse impacts on hunting, trapping, fishing, plant harvesting or on burial grounds or archaeological sites of cultural significance to the Aboriginal Groups, and immediately advising the Province of the details of the same;
- (e) Informing the Aboriginal Groups of the regulatory and approval processes that apply to the Project of which the Recipient is aware after reasonable inquiry;
- (f) Maintaining the Aboriginal Groups on the Recipient’s mailing lists of interested parties for environmental assessment and other purposes and providing to the Aboriginal Groups all notices and communications that the Recipient provides to interested parties and any notice of completion;
- (g) Making all reasonable efforts to build a positive relationship with the Aboriginal Groups in relation to the Project;

- (h) Providing the Aboriginal Groups with reasonable opportunities to meet with appropriate representatives of the Recipient and meeting with the Aboriginal Groups to discuss the Project, if requested;
- (i) If appropriate, providing reasonable financial assistance to Aboriginal Groups to permit effective participation in consultation processes for the Project, but only after consulting with the Province;
- (j) Considering comments provided by the Aboriginal Groups regarding the potential impacts of the Project on Aboriginal or treaty rights or asserted rights, including adverse impacts on hunting, trapping, fishing, plant harvesting or on burial grounds or archaeological sites of cultural significance to an Aboriginal Group, or on other interests, or any other concerns or issues regarding the Project;
- (k) Answering any reasonable questions to the extent of the Recipient's ability and receiving comments from the Aboriginal Groups, notifying the Province of the nature of the questions or comments received and maintaining a chart showing the issues raised by the Aboriginal Groups and any responses the Recipient has provided;
- (l) Where an Aboriginal Group asks questions regarding the Project directly of the Province, providing the Province with the information reasonably necessary to answer the inquiry, upon the Province's request;
- (m) Subject to section G3.1(o) of this Schedule "G" of the Agreement, where appropriate, discussing with the Aboriginal Groups potential accommodation, including mitigation of potential impacts on Aboriginal or treaty rights, asserted rights or associated interests regarding the Project and reporting to the Province any comments or questions from the Aboriginal Groups that relate to potential accommodation or mitigation of potential impacts;
- (n) Consulting regularly with the Province during all discussions with Aboriginal Groups regarding accommodation measures, if applicable, and presenting to the Province the results of such discussions prior to implementing any applicable accommodation measures;
- (o) Complying with the Province's direction to take any actions, including without limitation, suspension or termination of the Project, as the Province may require; and
- (p) Providing in any contracts with Third Parties for the Recipient's right and ability to respond to direction from the Province as the Province may provide.

G3.2 Acknowledgement By Recipient. The Recipient hereby acknowledges that, notwithstanding section A5.2 of the Agreement, the Province, any provincial ministry having an approval role in relation to the Project, or any responsible regulatory body, official, or provincial decision-maker, may participate in the matters and processes enumerated therein as they deem necessary.

G3.3 Recipient Shall Keep Records And Share Information. The Recipient shall carry out the following functions in relation to record keeping, information sharing and reporting to the Province:

- (a) Provide to the Province, upon request, complete and accurate copies of all documents provided to the Aboriginal Groups in relation to the Project;
- (b) Keep reasonable business records of all its activities in relation to consultation and provide the Province with complete and accurate copies of such records upon request;
- (c) Provide the Province with timely notice of any Recipient mailings to, or Recipient meetings with, the representatives of any Aboriginal Group in relation to the Project;
- (d) Immediately notify the Province of any contact by any Aboriginal Groups regarding the Project and provide copies to the Province of any documentation received from Aboriginal Groups;

- (e) Advise the Province immediately of any potential adverse impact of the Project on Aboriginal or treaty rights or asserted rights of which it becomes aware;
- (f) Immediately notify the Province if any Aboriginal archaeological resources are discovered in the course of the Project;
- (g) Provide the Province with summary reports or briefings on all of its activities in relation to consultation with Aboriginal Groups, as may be requested by the Province; and
- (h) If applicable, advise the Province if the Recipient and an Aboriginal Group propose to enter into an agreement directed at mitigating or compensating for any impacts of the Project on Aboriginal or treaty rights or asserted rights.

G3.4 Recipient Shall Assist The Province. The Recipient shall, upon request lend assistance to the Province by filing records and other appropriate evidence of the activities undertaken both by the Province and by the Recipient in consulting with Aboriginal Groups in relation to the Project, attending any regulatory or other hearings, and making both written and oral submissions, as appropriate, regarding the fulfillment of Aboriginal consultation responsibilities by the Province and by the Recipient, to the relevant regulatory or judicial decision-makers.

G4.1 No Acknowledgment Of Duty To Consult Obligations. Nothing in this Schedule shall be construed as an admission, acknowledgment, agreement or concession by the Province or the Recipient, that a Section 35 Duty applies in relation to the Project, nor that any responsibility set out herein is, under the Constitution of Canada, necessarily a mandatory aspect or requirement of any Section 35 Duty, nor that a particular aspect of consultation referred to in section G3.1 of this Schedule “G” of the Agreement is an aspect of the Section 35 Duty that could not have lawfully been delegated to the Recipient had the Parties so agreed.

G5.1 No Substitution. This Schedule shall be construed consistently with but does not substitute for any requirements or procedures in relation to Aboriginal consultation or the Section 35 Duty that may be imposed by a ministry, board, agency or other regulatory decision-maker acting pursuant to laws and regulations. Such decision-makers may have additional obligations or requirements. Nonetheless, the intent of the Province is to promote coordination among provincial ministries, boards and agencies with roles in consulting with Aboriginal Groups so that the responsibilities outlined in this Agreement may be fulfilled efficiently and in a manner that avoids, to the extent possible, duplication of effort by Aboriginal Groups, the Recipient, the Province, and provincial ministries, boards, agencies and other regulatory decision-makers.

G6.1 Notices In Relation To Schedule. All notices to the Province pertaining to this Schedule shall be in writing and shall be given sent to the person identified under section C6 of Schedule “C” of this Agreement.

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SCHEDULE "H" COMMUNICATIONS PROTOCOL

H1 ***Application Of Protocol.*** This Protocol applies to all communications activities related to any funding the Recipient receives under this Agreement. Communications activities may include, but are not limited to:

- (a) Project signage
- (b) Media events and announcements, including news conferences, public announcements, official events or ceremonies, news releases
- (c) Printed materials
- (d) Websites
- (e) Photo compilations
- (f) Award programs
- (g) Awareness campaigns

H2 ***Project Signage.*** The Province may require that a sign be installed at the site of the Project. If the Recipient installs a sign at the site of a Project, the Recipient will, at the Province's request, provide acknowledgement of the provincial contribution to the Project. Sign design, content and installation guidelines will be provided by the Province.

Where the Recipient decides to install a permanent plaque or other suitable marker with respect to a Project, it must recognize the provincial contribution to the Project and be approved by the Province prior to installation.

The Recipient is responsible for the production and installation of Project signage, unless otherwise agreed upon in writing prior to the installation of the signage.

H3 ***Media Events.*** The Province or the Recipient may request a media event, announcement or recognition of key milestones related to Project.

In requesting a media event or an announcement, the Party requesting the event will provide at least twenty-one (21) Business Days' notice to the other Party of its intention to undertake such an event. The event will take place at a date and location that is mutually agreed to by the Parties. The Parties will have the opportunity to participate in such events through a designed representative. Each participant will choose its designated representative.

All joint communications material related to media events and announcements must be approved by the Province and recognize the funding provided by the Province.

Media events and announcements include but are not limited to:

- (a) News conferences
- (b) Public announcements
- (c) Official events or ceremonies
- (d) News releases

H4 ***Awareness Of Project.*** The Recipient may include messaging in its own communications products and activities with regards to the Project. When undertaking such activities, the Recipient will provide the opportunity for the Province to participate and will recognize the funding provided by the Province.

H5 **Issues Management.** The Recipient will share information immediately with the Province should significant emerging media, Project or stakeholder issues relating to a Project arise. The Province will advise the Recipient, when appropriate, about media inquiries concerning the Project.

H6 **Communicating Success Stories.** The Recipient agrees to communicate with the Province for the purposes of collaborating on communications activities and products including but not limited to success stories and features relating to the Project.

The Recipient acknowledges and agrees that the Province may publicize information about the Project. The Province agrees it will use reasonable efforts to consult with the Recipient about the Province's publication about the Project prior to making it.

H7 **Disclaimer.** If the Recipient publishes any material of any kind relating to the Project or the Ontario Community Infrastructure Fund, the Recipient will indicate in the material that the views expressed in the material are the views of the Recipient and do not necessarily reflect the Province's views.

[REST OF PAGE INTENTIONALLY LEFT BLANK – SCHEDULE “I” FOLLOWS]

SCHEDULE "I" REPORTS

- 11 Reports.** The Recipient will submit the following Reports in accordance with the reasonable directions provided by the Province by the date indicated in the chart immediately below and with such content as is satisfactory to the Province. The Province will provide the contents of the Report at a later date.

	Name of Report and Details Required	Due Date
1.	Construction Contract Award Report - a Report from council including a resolution or other municipal document recognizing the awarding of the Project tender(s)	Within fifteen (15) Business Days of a council resolution and no later than June 29, 2018.
2.	Revised Budget Report must be based on tenders awarded to complete the Project. The Recipient shall use the form provided by the Province.	Within fifteen (15) Business Days of a council resolution awarding the tender(s) and no later than June 29, 2018.
3.	Progress Report - The Recipient shall use the form provided by the Province.	Twice a year by May 15 and October 15 for the Term of the Agreement or until sixty (60) Business Days after the Project Completion Date. A Progress Report is also required as part of the submission for Milestone Two (2).
4.	Final Report - including statement of final incurred eligible expenses validated by invoices and/or payment certificates. The Recipient shall use the form provided by the Province.	Within sixty (60) Business Days of the Project Completion or no later than February 15, 2019 whichever is earliest.
5.	Other Reports or information as may be directed by Ontario from time to time, if any	On or before a date directed by Ontario.